

## ***Accountable to Themselves: Predominance in Southern Africa***

by KENNETH GOOD\*

WHILE public attention has focused on the stature of Nelson Mandela, there has been at a deeper level in South Africa since 1990 a steep decline in state capacity, and a marked deterioration in democratic practice. The participatory democracy which had so characterised the decade of the 1980s was brought to a sharp end after the return of the nationalist leaders, and the workings of even a liberal, representative democracy have also suffered under the rise since 1994 of a predominant party system and élitism. The latter features are present too in Namibia, with similar consequences. Democracy which is understood merely as electoralism, as Botswana earlier had shown, has few defences against predominance. The voters' brief electoral act is wide open to manipulation and containment. Power is shared by élites, while popular participation is rendered moribund, and concern for justice and equality ceases.

### STATE CAPACITY

South Africa possessed in the early 1990s a relatively industrialised and diversified economy. Around 1994, the year which ushered in majority rule, industry contributed some 37 per cent of the gross domestic product (GDP), of which manufacturing represented 25 per cent.<sup>1</sup> This had come about, not through market forces, but from the rôle of the state, which was in consequence, strongly interventionist, 'administratively pervasive, bureaucratically complex and extremely large'.<sup>2</sup> There was a well developed infrastructural system, and a technological and scientific capacity superior to anything else in Africa. The state possessed a high degree of social autonomy, and its administrative reach, at least until the Township uprisings of the mid-

\* Associate Professor of Political Studies, University of Botswana, Gaborone.

<sup>1</sup> Total GDP was R385,000 million in 1994, and the exchange rate at the end of that year was approximately Rand 3.5 to the US dollar. The Economist, *Pocket World in Figures* (London, 1995), p. 186.

<sup>2</sup> Tom Lodge, 'South Africa: democracy and development in a post-apartheid society', in Adrian Leftwich (ed.), *Democracy and Development: theory and practice* (Cambridge, 1996), p. 196.

1980s, was extensive. Despite the manifold distortions and duplications engendered by *apartheid*, South Africa had then, deems Tom Lodge, 'fairly effective governance' and a 'relatively efficient bureaucracy'. Though this capacity had been directed towards the domination of the black majority, it represented none the less 'an effective instrument for the implementation of reformist programmes'.<sup>3</sup> High state capacity was a prime acquisition for the new African National Congress (ANC) Government.

While there have been important deliveries in state-sponsored programmes in health and in the provision of water and electricity,<sup>4</sup> the period since April 1994 has seen a significant decline in state capacity. Human, financial, organisational, and material resources have been dissipated on a very large scale. The Government, in the assessment of the Minister of Public Service and Administration, decided 'unscientifically' on a target of cutting 300,000 civil service jobs in three years, and wasted R1,000 million on programmes which robbed the bureaucracy of its best brains, but retained those, whom, Zola Skweyiya said, 'you would like to have retrenched'. The costs were still rising in early 1997 as further severance applications for top civil servants went through. The public service, reported Auditor-General Henri Kluever, a little earlier, was being crippled by a skills crisis, and the 'quality of financial management and administration in many institutions ha[d] deteriorated'.<sup>5</sup>

Governmental capacity was even worse at the provincial level. According to the Director-General of the Public Service, Paseka Ncholo, administration in some Provinces was 'quite terrible', and 'really bad', with disintegration of the public service imminent in Eastern Cape, KwaZulu-Natal, and Northern Province.<sup>6</sup> In the Eastern Cape, for instance, the Health and Welfare Department had been affected by theft, armed robbery, and fraud involving losses of more than R30 million over 1995 and 1996. Some 22 officials were among those found guilty of these offences, but no one had been prosecuted or dismissed, and no money was recovered.<sup>7</sup>

Though the Northern Province employed 125,000 public officials in

<sup>3</sup> Ibid.

<sup>4</sup> A useful three-year summary of reconstruction and development programmes was offered by Marlene Burger in the *Sunday Times* (Johannesburg), 27 April 1997.

<sup>5</sup> Ibid. 6 April 1997. There had been, the Auditor-General reported, unauthorised government expenditures of R150 million between March 1995 and March 1996, with the Ministry of Health, headed by Dr Nkosanzana Zuma, accounting for R58 million of this amount. *The Star* (Johannesburg), 27 March 1997.

<sup>6</sup> *Business Day* (Johannesburg), 24 April 1997.

<sup>7</sup> Parliamentary statement by the Provincial Minister, Trudy Thomas, in *ibid.* 4 March 1997.

1997, their administrative capacities were such that the provincial government planned to spend R790 million that year on wages for consultants and 'special services'. The Province's total budgeted salary bill for 1997–8 was R6,000 million.<sup>8</sup> A classic expression of the new consultancy tendency was that of Eugene Nyati, employed to investigate waste and inefficiency in Mpumalanga Province in 1995, and paid R1.2 million for just two months work.<sup>9</sup>

There was already growing concern in South Africa, as expressed by the Auditor-General, about the Government's use of consultants; in the financial year ending March 1996, more than R50 million in unauthorised expenditures had gone in this direction.<sup>10</sup> However, a Presidential Review Commission had been established in March 1996 to overhaul the bureaucracy. It had a budget of R16 million, of which R12 million had come from Britain, Sweden, and Canada. But it did no work for six months, and was only expected to begin operations after June 1997.<sup>11</sup>

Falling state capacity was accompanied, and worsened, by rising crime. In 1995, South Africa's murder rate was perhaps six times larger than that of the United States and five times that of Russia. In that year, some 19,000 people were murdered in South Africa, around 52 each day. Violent crime of this intensity touched all; a survey at this time showed that 58 per cent of whites, and 41 per cent of blacks, said crime was the country's most serious problem. The criminal-justice system was also gravely weak: for every 450 crimes reported, a study indicated, there were 100 prosecutions, 77 convictions, and only 36 imprisonments. Such lawlessness, it was reasonably concluded, 'feeds the feeling that the government is not in control'.<sup>12</sup>

Clearly it wasn't. By the following year the situation was even worse. The murder rate for 1996 was 71 a day, some seven times America's. In Gauteng, wherein Johannesburg is located, the killing level was one-third higher than the national rate. Car hijacking, rape, and armed

<sup>8</sup> *Mail and Guardian* (Johannesburg), 2 May 1997.

<sup>9</sup> Consultant Eugene Nyati and his 25-year-old assistant were allowed to set their own salaries, calculate their own hours of work, and sub-contract as they wished. Asked about his remuneration of some R540 an hour, Nyati declared that it was 'peanuts', which he accepted only because 'he was a patriot'. The Province's Acting Premier, Jacques Modipane, later confirmed that this manipulation occurred because the Government permitted it. *Business Day*, 13 September 1995, *Mail and Guardian*, 22 September 1995, and *The Star*, 6 June 1997.

<sup>10</sup> *The Star*, 27 March 1997. The Rand exchanged then at around R4.50 to the US dollar. *Mail and Guardian*, 2 May 1997.

<sup>11</sup> The saga of the Presidential Review Commission's stagnation included the rejection of its business plan and the subsequent resignation of its chairman. *Business Day*, 20 May 1997.

<sup>12</sup> *The Economist* (London), 12 October 1996.

robbery were part of it all. In the first five months of 1997 there were 184 armed bank robberies in Gauteng, in which 14 people were killed; in the last week of May the banks closed for two hours as their employees marched in protest.<sup>13</sup> The Johannesburg *Star* created a 'wall of remembrance' at a main intersection, and in days it was covered in hand-painted portraits of friends and relatives who had been murdered.<sup>14</sup>

The rape and murder of seven-year-old Mamokgethi Malebane – her body being found in July 1997, her hands tied behind her back, in a shallow grave on the East Rand – and the furore which followed, highlighted a string of similar cases. They represented, said Gustav Thiel, a 'systematic official failure to protect vulnerable children, or act against their abusers'.<sup>15</sup> Mamokgethi's rapist and subsequent killer had appeared in court in November 1996, and been released on R2,000 bail. Between January and March 1997, 9,376 cases of abuse were reported to the police, 40 per cent more than in the same period during the previous year. (Studies presented by the Johannesburg-based Child Abuse Alliance included the case of a three-year-old girl in Soweto repeatedly raped by her father, despite desperate efforts by her mother to protect their little child. The father appeared in court in April 1997, and was released unconditionally.) The Minister of Justice, Dullah Omar, and some 20,000 mourners, attended Mamokgethi's memorial service. But her mother, Joyce Malebane, said she had lost all faith in the authorities to protect innocent children. Proposals to tighten bail conditions for those accused of serious crime had been discussed for two years, and the police and prosecutors were often unprepared to oppose bail.<sup>16</sup>

The Government's inability to prevent crime affected even its own very important people. The President of the Constitutional Court, Arthur Chaskalson, and his wife, were overpowered and robbed in their Johannesburg home early one evening in August 1996.<sup>17</sup> The police force, and supposedly élite crime-prevention units, were themselves a source of the criminality. In 1996, around 8,000 police

<sup>13</sup> Ibid. 31 May 1997.

<sup>14</sup> The wall with the faces of men and women of all races, and the dates of their killing, was depicted in *The Star*, 15 May 1997, which noted that 'callers from Soweto to Sandton...condemned the Government's inability to stop the mayhem'. Later, photos of walls on Jan Smuts Avenue and Empire Road were presented full-page, with the stories of 46 of the pictured victims, and the names of another 25 whose details the newspaper could not trace. Ibid. 27 May 1997.

<sup>15</sup> Gustav Thiel, *Mail and Guardian*, 1 August 1997.

<sup>16</sup> Ibid. and reports in *The Star*, 1 August 1997.

<sup>17</sup> In June 1997, the Witwatersrand Attorney-General, André de Vries, was mugged in his car at an intersection on his way to work. *The Star*, 12 June 1997.

officers in Gauteng alone were reported to have committed crimes.<sup>18</sup> The Cape Town house of the Correctional Services Minister, Sipo Mzimela, was burgled in February 1997, and a constable with the Groote Schuur Estate police protection service was subsequently arrested. The heavily guarded house of Deputy President Thabo Mbeki, on the same estate, was broken into next month. This prompted the Minister of Safety and Security, Sydney Mufamadi, to call for 'drastic steps' to be taken to reorganise the VIP protection unit.<sup>19</sup>

In late May 1997, however, the Government admitted that of the 1,800 members of the VIP-protection service, no fewer than 198 were facing criminal charges, 22 of which were for murder.<sup>20</sup> The incapacity of the anti-crime forces frequently reached farcical levels. In January 1997 an automatic teller machine containing R22,000 was stolen from the fourth floor of police headquarters in Pretoria, the thieves making off without anyone noticing.<sup>21</sup>

Many of the country's 200 licensed airports are without radar, customs, or police controls, and represented, in 1997, a 'paradise' for the contraband of 'international crime rings' operating Russian-made cargo aircraft illegally.<sup>22</sup> In a survey of the World Economic Forum, South Africa by 1997 was in the grip of organised crime and ranked globally behind only Colombia and Russia in this condition.<sup>23</sup> On the specific issue of the inability of the police to safeguard personal safety, it was fourth worst.<sup>24</sup>

Corruption is obviously a closely related matter, and it too was widespread by this time at both the general and the élite levels of government. In 1995, 2,000 police officers defrauded their medical aid scheme of R60 million, and in 1997, as Lodge further reports, 1,076 police nationally were under investigation for corruption. Cars worth R5 million were stolen in Gauteng during 1996, 'most likely by policemen', from the pounds in which the police kept already stolen vehicles. Colluding with employees of the Justice Department, police

<sup>18</sup> Tom Lodge, 'And the Corruption Goes On and On', in *The Saturday Star*, 17 May 1997.

<sup>19</sup> *Business Day*, 13 February 1997, and *Sunday Times*, 23 March 1997.

<sup>20</sup> *The Economist*, 31 May 1997.

<sup>21</sup> An immediate enquiry was ordered, on the instructions of Police Commissioner George Fivaz, focused on 'security aspects and whether any negligence was involved'. *The Star*, 29 January 1997.

<sup>22</sup> South Africa's radar system was inadequate, operating only in defined corridors which air-smugglers were aware of. Report by Blackman Ngoro, in *Sunday Independent* (Johannesburg), 29 June 1997.

<sup>23</sup> For an indication of what organised crime and state collapse in Russia is like, see Tatyana Tolstaya, 'The Way They Live Now', in *The New York Review of Books*, 24 April 1997.

<sup>24</sup> *Business Day*, 21 May 1997.

officers 'massively expand the scope of public corruption' through 'the wholesale theft and deliberate loss' of police docket in return for bribes from criminals. 'Several thousand cases each year' did not reach court. Dishonesty in the main agencies of law enforcement and administration promoted the prevalence of corruption elsewhere.<sup>25</sup>

Lodge states that corruption in the central government is rife in Home Affairs, involving, for example, major driving licence scams, in the Revenue Service, and in the tendering processes of the Ministry of Health, which have allowed private contractors lavish enjoyment of public funds.<sup>26</sup> A litany of irregularities occurred in the *Sarafina 2* case in 1996, and the Minister of Health, Dr Nkosazana Zuma, had knowingly permitted an unauthorised expenditure of R14 million.<sup>27</sup> Thirteen officials in Home Affairs were arrested in June 1997 for corruptly supplying forged permits and certificates, valued on the street at around R13 million, to organised international criminals.<sup>28</sup> Subsequent reports detailed how corrupt officials in Home Affairs in Johannesburg extorted hundreds of Rand a day from individual immigrants seeking residence and work permits.<sup>29</sup>

The 'real citadels of official self-enrichment' are however found, says Lodge, in Social Welfare, Safety and Security, and Justice. Many new sources of private enrichment have come into being since 1994: certain kinds of affirmative action which ignore merit values; tendering principles favouring small businessmen (which therefore demanded heightened financial management); new sources of public finance including foreign development aid; and increasing shortages of skilled manpower, especially in financial control.<sup>30</sup>

In June 1997, a parliamentary committee approved amending legislation to facilitate affirmative action by Ministers without, as it was put, merit being deemed the 'overriding principle'.<sup>31</sup> The Office for Serious Economic Offences (OSEO) is the main state agency for combating corruption,<sup>32</sup> but its director, Jan Swanepoel, reported to Parliament, in the same month, that the OSEO was unable to fulfil its investigatory functions because of a lack of staff and funding.<sup>33</sup>

<sup>25</sup> Lodge, loc. cit.

<sup>26</sup> Ibid.

<sup>27</sup> Kenneth Good, *Realizing Democracy in Botswana, Namibia and South Africa* (Pretoria, Africa Institute, 1997), pp. 81–3.

<sup>28</sup> *Sunday Independent*, 15 June 1997.

<sup>29</sup> Reports by Lungile Madywabe, noting that immigrants paid R40 or R50 on each visit to an official, some of whom were named. Ibid. 29 June and 6 July 1997.

<sup>30</sup> Lodge, loc. cit.

<sup>31</sup> *Business Day*, 12 June 1997.

<sup>32</sup> The Public Protector, appointed for a non-renewable period of seven years, tends to investigate individual cases of wrong-doing at a less 'serious' level.

<sup>33</sup> *Business Day*, 19 June 1997. This was not the first time that Jan Swanepoel had spoken of OSEO's inadequate resources.

Referring simply to the official reports on corruption over the past three years, Lodge believes the recorded amount lost totals some R3,000 million. This excludes local government corruption.<sup>34</sup> As regards the Provinces, he remarks reasonably that Mpumalanga's ANC administration 'is led by some deeply dishonest people'.<sup>35</sup> Its Minister for Safety and Security, Steve Mabona, attests to this. He admits to lavish public expenditure on luxury hotels and travel costs, and says it is just what he deserves: 'Of course I did ... People want to meet you. They want to have dinner and stuff. So I'd book myself into a hotel [in Johannesburg, near where he lives] to do this, then stay overnight. It's part of the job'.<sup>36</sup>

Lodge notes that the Justice Minister has recognised that administrative corruption has grown since 1994.<sup>37</sup> Omar none the less made flippant public reference to 'struggle book-keeping', in March 1997, when welcoming Rev. Allan Boesak back to Cape Town to answer fraud and misappropriation charges totalling R9 million. The Justice Minister declared that he was instructed by President Mandela to welcome 'Comrade Allan', and he spoke 'on behalf of the whole [ANC]'.<sup>38</sup> Replying to a parliamentary question in June, Omar revealed that the state, through the Legal Aid Board, anticipated expending some R650,000 on the defence of the former ANC Western Cape leader.<sup>39</sup>

Lodge recognises that the ANC leadership and government are not in fact very bothered about corruption.<sup>40</sup> The hotel magnate, Sol

<sup>34</sup> Lodge's estimates could well be on the low side. A major investigation – 350 pp. with details of the research methodology and supporting documentation – released by the National Party (NP) in August 1997, claimed that corruption in the public sector had cost the taxpayer between R13.5 to 20 billion over the past three years. The party's executive director, Marthinus van Schalkyk, said the NP could only conclude that the Government was soft on corruption. Report by Wyndham Hartley, in *Business Day*, 11 August 1997. <sup>35</sup> Lodge, loc. cit.

<sup>36</sup> *Sunday Times*, 18 May 1997. Steve Mabona also abused his position to obtain a fraudulent driver's licence for the Deputy Speaker of Parliament, and was forced to resign as a Provincial Minister when this was officially reported. Baleka Mbete-Kgositsile, the beneficiary of the fraud, did not resign her office, and was not asked to do so by the ANC.

<sup>37</sup> Lodge, loc. cit. President Nelson Mandela, in March 1996, noted the existence of what he called widespread corruption, but claimed in a written response in the Senate that it was endemic under *apartheid*, and has merely continued. *Sunday Times*, 3 March 1996.

<sup>38</sup> *The Star*, 17 March 1997, and *Business Day*, 15 April 1997.

<sup>39</sup> The Democratic Party (DP) MP, Douglas Gibson, asked Dullah Omar if anyone else allegedly involved in white-collar crime was being given 'a similar Rolls Royce defence'. The Legal Aid Board is an independent statutory body established in 1969 to help indigent defendants. It is funded through the state, but has to claim money from the Justice Department for each case it handles. A fifth of its total staff resigned in 1995–6, and it has difficulty meeting its workload. Gibson was concerned by the fact that Omar had permitted Rev. Allan Boesak to retain his own expert and very costly defence team. *The Star*, 20 and 30 June 1997.

<sup>40</sup> Lodge, loc. cit.



Kerzner, would probably agree. Despite vehement denials that the ANC had received a donation from him to its 1994 election campaign, Mandela declared in 1996, soon after Bantu Holomisa's allegations of corruption within the ANC, some two years after the event in question, that he personally had accepted R2 million from the hotel magnate on conditions of strict confidentiality. Not even the top party leadership knew of this sizeable gift, he claimed – rank-and-file ANC members, and ordinary voters, had not entered into the picture.<sup>41</sup> In 1997, soon after Kerzner learnt that he would escape being charged in connection with an alleged bribery payment of R2 million in the former Transkei, and just days after returning to South Africa, the President met Kerzner for talks over lunch.<sup>42</sup>

South Africa has experienced a rapid and steep decline in state capacity across the board, but particularly concentrated in Social Welfare, Safety and Security, Justice, Home Affairs, Health, and the police services; performance and standards in at least four of these Ministries have ramifications throughout government and society. Crime and corruption have escalated, closely interconnected with the debasement of the justice system. The centrality of Justice is not to be underestimated. Minister Omar's failure to retain experienced prosecutors while needing to attract skilled and motivated black personnel, has created 'a department which is the weakest link in a chain made up of weak links'.<sup>43</sup>

It is important to consider who might gain and, alternatively, who loses from institutional erosion and resource dissipation. An élite of politicians, bureaucrats, and businessmen appear to have made significant material gains. Between 1991 and 1996, black capitalists acquired control of almost 9 per cent of the market capitalisation, worth R2,700 million, of the Johannesburg Stock Exchange, and by mid-1997 a small group of top black executives were receiving average salary packages of some R1 million a year, said to be considerably more than their white counterparts.<sup>44</sup> Mashudu Ramano is chairman of the

<sup>41</sup> Mandela saw 'nothing unusual' in this secret transaction, and offered no other information; not as regards the date of the gift, conditions other than confidentiality that possibly accompanied the transaction, nor the direction and use of the money later. *The Star*, 13 August 1996, and *Business Day*, 13 and 14 August 1996.

<sup>42</sup> *Sunday Times*, 1 June 1997.

<sup>43</sup> Editorial, *Business Day*, 27 June 1997. The OSEO, for example, is responsible to the Justice Minister, and must rely on the Attorney-General's offices for its prosecutions. They are as depleted of human and financial resources as is the OSEO.

<sup>44</sup> This rate of acquisitions by black South Africans on the Stock Exchange was said to be higher than that achieved in earlier decades by other investors, English, Jewish, or Afrikaners. Robin McGregor, 'How the Guard has Changed Since Rhodes Stormed the SA Economy', in *Sunday Times*, 15 December 1996, and *Sunday Independent*, 22 June 1997.



National Empowerment Corporation and a director of many companies. 'The patriotic bourgeoisie have the interests of the country at heart and are not motivated by self-interest alone', he states. It is inevitable that some blacks will become super rich, and 'there is nothing to be ashamed of' in that. 'Now is the time. If ever there was a chance, we have it now'.<sup>45</sup>

Boesak is being charged thanks to investigatory work carried through by an under-resourced OSEO, but is being simultaneously cosseted by the ruling élite.<sup>46</sup> Kerzner is off scot-free though he had publicly admitted to paying R2 million to the Mantanzima government in Transkei for a casino-rights monopoly. The corps of new entrepreneurial consultants like Nyati acquire big salaries when and how they can at huge cost to the public purse. Even in 1994, 'the Mandelas and the Mbekis and the Meyers', said Breyten Breytenbach, 'already live[d] hand-in-pocket with the Oppenheimers and the Gordimers and the Motlanas'.<sup>47</sup>

The losers, on the other hand, appear to be those who might gain from the continued existence of a strong state. South Africa's capitalist development manifests to the decidedly positive rôle of an interventionist state, and definite material benefits accrued to Afrikaners who had themselves been earlier a deprived peasantry and working class. The broad situation suggests that there is no alternative to the state as 'prime organizer of change', as Crawford Young once emphasised. 'Escape from poverty', in particular, 'is impossible without collective societal intervention through the state'.<sup>48</sup>

Capacity involves competency, rationality, and efficacy as indispensable attributes of a state which aims at poverty reduction. Probity, integrity, and responsiveness are also important.<sup>49</sup> Atul Kohli focused directly on the rôle of the state in poverty reform in India, like South Africa since 1994, a democratic capitalist country.<sup>50</sup> He stressed too the significance of the autonomy of the state in relation to the

<sup>45</sup> Mashudu Ramano, in an interview with Thabo Leshilo, in *Sunday Independent*, 20 April 1997.

<sup>46</sup> Boesak's closeness to Mandela, and the earlier situation with his Foundation for Peace and Justice, is examined in Good, *op. cit.* chs. 6 and 7.

<sup>47</sup> Breyten Breytenbach, 'Dog's Bone', in *The New York Review of Books*, 26 May 1994. The 'hand-in-pocket' analogy is rather apt. A cartoon by Zapiro in the *Mail and Guardian*, 18 August 1996, pictured Sol Kerzner reclining, drink and bank-notes in hand, at his leading local casino, while Mandela, Mbeki, and Ministers Sigcau and Tshwete sit comfy in his open pocket, the bored magnate exclaiming, 'same place I used to keep the Nats...'. At the bottom an agitated Holomisa is blowing a whistle and pointing.

<sup>48</sup> Crawford Young, *Ideology and Development in Africa* (New Haven and London, 1982), p. 19.

<sup>49</sup> *Ibid.* pp. 19–20. Young does not fully explain the lesser importance of responsiveness and probity.

<sup>50</sup> Atul Kohli, *The State and Poverty in India* (Cambridge, 1989).

blocking and diversionary powers of the property-owning classes, and its ability to plan, implement, and manipulate change to meet altered circumstances.

Almost all the attributes identified by Young and Kohli appear to have deteriorated in South Africa, even if one takes a neo-liberal view of the state as facilitator and creator of the enabling environment, and not as an ethically-oriented provider of goods. In a country emerging from *apartheid* through the popular, participatory struggles of the 1980s associated with the United Democratic Front (UDF), the relevant aspect of state capacity with majority rule was poverty reduction – perhaps the nub of the mass movement’s goals of justice and equality. The burden of the loss of state capacity now is experienced most heavily by the poor and the voiceless. While the influential and affluent entrench themselves or personally prosper, it is they who need what only a strong and responsive state can command and provide.<sup>51</sup>

#### THE PREDOMINANT PARTY SYSTEM

The fall in state capacity, with its deleterious consequences for the majority, is dangerously associated with the rise of a predominant party system which functions to firmly entrench political élites. At Namibia’s second national elections in 1994, the official opposition, the Democratic Turnhalle Alliance (DTA), performed worse than in 1989, gaining 20.5 per cent of the votes and 15 seats in the National Assembly, while the South West Africa People’s Organisation (Swapo), the ruling party, got 72.7 per cent of the votes and 53 seats out of the total of 72; three smaller parties shared four per cent of the votes and four seats between them. Swapo’s predominance was more marked in the presidential race; Mishake Muyongo of the DTA polled 23.66 per cent, while Sam Nujoma was re-elected as President with 76.33 per cent of the votes.<sup>52</sup>

While voting trends in Botswana suggest that predominance is in decline there,<sup>53</sup> it is strong and seemingly rising in the two neighbouring countries. Both Namibia and South Africa operate party-list systems of proportional representation with, in addition, no provision for

<sup>51</sup> Most blacks in South Africa have living standards like those in Congo-Brazzaville, according to the UN’s Human Development Index. The daily lives of the poor in rural areas in 1997 are no better than they were in 1994 – *The Star*, 6 July 1997, and *Business Day*, 8 July 1997 – and if this is left to the market to decide, they will stay that way.

<sup>52</sup> André du Pisani, ‘Limited Choice’, in *Africa Institute Bulletin* (Pretoria), 35, 1, 25 January 1995, pp. 2–3.

<sup>53</sup> Good, op. cit. pp. 45–9.

constituencies in their national assemblies, no by-elections, and a prohibition on MPs crossing the floor. There is no doubt that the first-past-the-post electoral system distorts the linkage between votes won and seats gained by winning parties.<sup>54</sup> It is also true that there were no adequate census data in South Africa in 1994 and electoral rolls did not exist. But the party-list proportional system operating in both countries has profound anti-democratic effects.

Liberalism, defining democracy as periodic voting in open, competitive elections, places necessarily great weight on the direct link between the person who votes and his/her parliamentary representative. Whatever influence the citizen has over government, outside the brief election period every five or so years, is exercised largely along this dimension. Accountability, if it is to occur, is the executive answering to representatives in parliament, in the voter's name.

The list-system of proportional representation fairly allocates the shares of votes cast for each party, but it negates the link between citizen and parliament. As could be seen in Namibia no later than 1995, 'members are in effect representatives not of voters but of the party machine', dependent on its goodwill for their parliamentary position.<sup>55</sup> The combination of party list and no constituency or territorial representation is particularly destructive of citizenship.<sup>56</sup> Artificial constituencies were introduced by the ANC leadership after the 1994 elections, and MPs and provincial legislators were assigned to so-called constituency offices not necessarily in the place they came from.

The ANC's national executive committee 'took a decision' to hold regular 'people's weekends', at which 'we will involve our members and supporters in, among other things, the national budgeting process', said party spokesman, Ronnie Mamoepa, with no apparent irony, in March 1997.<sup>57</sup> 'Constituency weeks' are held by the major parties, when MPs and provincial legislators supposedly spend two weeks in

<sup>54</sup> At the 1997 elections in Britain, for example, Labour got 43.2 per cent of all votes and two-thirds of seats; the Conservatives gained 30.7 per cent of votes, but only 25 per cent of seats; and the Liberal Democrats got 16.8 per cent of votes but a mere 7 per cent of seats. The same system in Canada saw votes for the Conservatives fall from 43 per cent in 1988 to 16 per cent in 1993, but their seats plummeted from 170 to just 2; however, the *Bloc quebécois* gained 54 seats on 13 per cent of the votes.

<sup>55</sup> A Report to Parliament by a Working Party of the National Assembly and the National Council, *Agenda for Change: consolidating parliamentary democracy in Namibia* (Windhoek, July 1995), p. 32.

<sup>56</sup> The above-mentioned Working Party in Namibia notes that proportional representation is combined with constituencies in Germany and New Zealand under what is called the 'additional member system'. Alternatively, first-past-the-post can be made more proportional through the preferential vote system, as in Australia. <sup>57</sup> *The Star*, 4 March 1997.

their wards. During one such occasion in March 1997, a *Star* reporter visited south Johannesburg, and found that at the ANC office in La Rochelle four people had been waiting for hours without any parliamentarian appearing,<sup>58</sup> and that the National Party (NP) office in Rosettenville was inhabited by a single councillor who explained that most voters preferred to report problems by phone.<sup>59</sup> Though members of the National Assembly will not be elected in South Africa on a constituency basis in the next (1999) elections either,<sup>60</sup> each has already acquired R3,000 a month to look after the needs of their 'constituents'.

One of the implications of the list system in both Namibia and South Africa is that an MP who resigns from his or her party, or who is dismissed by it, may be removed from the National Assembly and replaced by an alternative party member, with no reference by the party élite or the member, old and new, to the voters – who with no by-elections provided for them are irrelevant. This is what happened when Holomisa was deprived of his ANC membership, though there is evidence that he has popular support in the Transkei, and the former leader of the Pan-Africanist Congress (PAC), Clarence Makwetu, went the same way later. When Roelf Meyer, an experienced parliamentarian and negotiator, resigned from the NP in May 1997, his departure from the National Assembly immediately followed.<sup>61</sup>

The ANC reinforces this electoral principle with its own anti-democratic notion, 'redeployment'. This became a key element of the party's Code of Conduct adopted in November 1994.<sup>62</sup> Patrick Terror Lekota was removed as Premier of the Free State in late 1996, 'redeployed', and replaced by an unelected parastatal bureaucrat by

<sup>58</sup> Wyndham Hartley noted that some ANC parliamentarians 'allocated' by the party to such constituencies were reporting 'enormous queues of people who need an MP to intercede for them' in struggles with the bureaucracy. These MPs, he said, were members of 'the same grouping that is seen beaver away in the committees', writing in *Business Day*, 27 March 1997. But the allocation of MPs to particular districts by party chiefs remains a totally different process from voters choosing their own MP to represent them. <sup>59</sup> *The Star*, 4 and 6 March 1997.

<sup>60</sup> Colin Eglin of the DP has claimed that the continued exclusion of constituencies resulted from a deal brokered between the ANC and the NP. *Business Day*, 18 April 1996.

<sup>61</sup> According to South Africa's 1996 Constitution, Schedule 6, 'Transitional Arrangements', Annexure A, 13, 'A person loses membership of a legislature to which this Schedule applies if that person ceases to be a member of the party which nominated that person as a member of the legislature.'

<sup>62</sup> Relevant clauses of the ANC's Code of Conduct state: 'All elected representatives... shall accept allocation by the organisation to specific constituencies or areas or organisational functions', and 'Members of the assemblies shall be subject to recall from these structures for violation of the ANC constitution'. While the Code was initially presented publicly as an ethical instrument – 'Keep Your MP Off the Gravy Train', *Mail and Guardian*, 17 March 1995 – its subsequent function appears more as a control and disciplinary device for the leadership.

the ANC leadership, without reference to the people of the Province at any stage. Lekota had embarked on an anti-corruption drive in the Free State, and there was evidence of his strong popularity both within the ANC membership and among voters there.<sup>63</sup> Redeployment does not always operate against the wishes of individuals, but when such effective MPs as Carl Niehaus, Tony Yengeni, and Raymond Suttner were redeployed into diplomacy – all were active chairmen of important portfolio committees – it was at some cost to Parliament's effectiveness.<sup>64</sup>

MPs of possibly all parties have themselves indicated the frailty of their relationship to the voters by resigning in large numbers less than three years into the life of the first Parliament. Of the 490 MPs and Senators who took their seats after April 1994, some 70 had left, usually for reasons of personal advancement, by January 1997. The editor of the *Sunday Times* felt that this constituted a 'huge betrayal of voters', who had every reason to expect that the people chosen would serve a full term.<sup>65</sup>

The existing electoral system in Namibia also inhibits MPs from performing what the Windhoek Working Party has termed 'the central task of legislators, calling the executive to account and scrutinising its actions and policies'.<sup>66</sup> Yet the members of the National Assembly are constitutionally deemed to be 'the servants of the people' of Namibia, and towards the fulfilment of their democratic rôle Parliament was accorded notable controls over the executive: Ministers are required to attend meetings of the Assembly, and to be answerable to 'queries and debates' on the 'legitimacy, wisdom [and] effectiveness of government policies'. It is empowered to 'require any senior official... to appear before any of [its] committees'. The President too is obliged to 'report' on policies during the budget debate, and to 'be available to respond to questions'.<sup>67</sup>

But in the situation of Swapo's predominance where, in 1995, as many as 40 Assembly members were Ministers or their Deputies, where

<sup>63</sup> In November 1996, grassroots opposition to the removal of Patrick Lekota was reported to be growing, and a group called the Crossroads Democratic Movement campaigned in his support under the slogan: 'Mandela made an error with Terror'. *Business Day*, 18 November 1996.

<sup>64</sup> Raymond Suttner, for example, was chairman of the Foreign Affairs Committee, but was appointed ambassador to Sweden in May 1997.

<sup>65</sup> When Saki Macozoma, ANC chairman of the Communications Committee, resigned as an MP, his salary entitlements totalled some R246,000, but as managing director of Transnet he subsequently obtained at least R920,000. Cyril Madlala, 'The Grass is Greener', and Editorial, *Sunday Times*, 12 January 1997. Others, such as Cyril Ramaphosa, would have done even better.

<sup>66</sup> *Agenda for Change*, 1995, p. 32.

<sup>67</sup> From sections of Namibia's 1990 Constitution, Good, *op. cit.* pp. 68–70.

the Government undertakes pre-legislative consultations outside the parliamentary framework, and where Parliament's research and committee systems are undeveloped, and its sittings infrequent, MPs have largely chosen not to exercise the critical powers they possess. Senior bureaucrats have simply missed appointments with the Public Accounts Committee, or they have refused to answer MPs questions properly. Parliamentarians have lacked the confidence, says the Working Party, to scrutinise the Executive and bureaucracy.<sup>68</sup> The 'servant of the people' became instead the handmaids of the Party and the Government.

Parliament in Cape Town is much better resourced and organised, but the ANC gained just short of a two-thirds vote in the Founding elections, and a similar leadership-predominance is gathering pace. The committee system has powers of scrutiny and accountability, and the ANC moved quickly to open their proceedings – unless a chairman ruled otherwise – to the public. But committees are dominated by ANC MPs, who have often seemed reluctant to put hard questions to their own Ministers.

This was noticeable during the *Sarafina 2* affair in 1996. Health Minister Zuma faced stiffest questioning from the media, and from DP, NP, and PAC parliamentarians, over her lavish expenditures on this musical play, 'while ANC members were largely silent'. As early as 1 March, President Mandela publicly backed his Minister, and apparently anticipated that that would be that. Mike Ellis, the DP's spokesman, declared that the Health Committee had been 'stifled from the top', and at the end of the month it was reported by John MacLennan that the ANC leadership had steamrolled and manipulated parliamentarians in a successful attempt to protect its Minister. Deputy Minister Essop Pahad, for example, attempted to weaken the criticism of Ellis by accusing him of being in the service of pharmaceutical monopolies.<sup>69</sup>

This continued even after the Public Protector – the only other avenue of enquiry then available – reported that unauthorised and improper expenditure of R14 million had indeed occurred. The Minister's mismanagement and lack of accountability were ignored both by herself and by her senior colleagues, as Deputy President Mbeki, and Water Affairs Minister and ANC ethics supremo, Kader Asmal, gave her their endorsement. Speaking in the Senate on 18 June

<sup>68</sup> *Agenda for Change*, pp. 21–2 and 29.

<sup>69</sup> *Sarafina 2* is considered in more detail in Good, *op. cit.* pp. 80–3.

1996, the President again expressed his unequivocal support for his Minister and announced that *Sarafina 2* was 'closed for ever'.

In the early days after the 1994 elections, the ANC parliamentary caucus was famed 'for taking independent positions', but by late 1996, according to Stephen Friedman, this was 'no more', and there was then 'little caucus debate on policy'.<sup>70</sup> Gaye Davis stated also that the party's MPs were increasingly concerned about authoritarian leadership, a consolidation of central control, and a clamp-down on internal dissent; she quoted an unnamed MP as saying: 'You don't think about sticking your neck out for fear of getting your head chopped off'.<sup>71</sup>

Despite constitutional provisions and the earlier practice of openness, parliamentary committees, by early 1997, were being increasingly closed to the public. Defence Minister Joe Modise, for one, called for a closed meeting of the Defence Committee when his departmental budget was being discussed.<sup>72</sup> According to Wyndham Hartley, the Health Committee was continuing to be managed 'so as to deflect criticism, rather than address it', and the intelligence oversight committee 'had always been secret[ive]', with members being obliged to sign the oath of secrecy; opposition MPs had complained bitterly that key intelligence reports were still being denied to that Committee despite the oath. The Deputy Defence Minister, Ronnie Kasrils, had insisted that certain military information should remain confidential, over the objections of Tony Yengeni, the chairman of the Defence Committee, which had been forced to toe the line.<sup>73</sup>

One-party predominance not only promotes élitism and stifles open and critical parliamentary processes, but it can also lead still further to facilitate expedient constitutional amendments favourable to existing élites. The Constitution of Namibia, adopted in Windhoek in February 1990, was a landmark for new democratic and accountable government in Africa. Not the least of its progressive principles were those which broke with the baneful presidentialism that had inflicted much of the continent until then. Article 29 restricted the powers of the President in a number of important ways, and section 3 ensured that no President for Life/Helmsman/Redeemer – those old 'Toad-Kings of Africa' in Wole Soyinka's recognition – would arise in the new Republic: 'A person shall hold office as President for not more than two terms'.

<sup>70</sup> Stephen Friedman, *Business Day*, 14 October 1996.

<sup>71</sup> Gaye Davis, *Mail and Guardian*, 4 October 1996.

<sup>72</sup> Statement by the Parliamentary Monitoring Group, in *Business Day*, 13 February 1997.

<sup>73</sup> Hartley, *ibid.* 30 May 1997.



But after 1994 Swapo commanded, as noted, more than 70 per cent of the votes cast in the national elections, and 53 of the 72 seats in the Assembly, its members have shown a greater proclivity to serve the leadership than the people. A constitutional amendment can be fairly confidently envisioned by Swapo, since it requires support from two-thirds of all members in the Assembly and in the National Council for its passage.<sup>74</sup>

Half-way through his second term in office, President Nujoma indicated that he contemplated a third term for himself. He told Parliament in March 1997: 'I am still young and if the people of Namibia want me to continue making a contribution I will continue to do so'. Aged 67, he readily contrasted himself with the older President of South Africa, ignoring the fact that Mandela had already excluded the possibility of his serving even a second presidential term: 'You can see the difference between me and President Nelson Mandela', he said. The MPs of the predominant party were reported to have greeted these words with vigorous table thumping.<sup>75</sup>

Swapo had anticipated the President's wishes, and correctly set the tone of the discussion, when a party council the previous month called on Nujoma to serve 'as long as he was medically fit'. Yet there was little evidence that 'the people of Namibia' wanted the President to continue and, in fact, the opposition, human rights groups, and former Swapo detainees, as well as Western diplomats, criticised Nujoma for making a third term an issue of age rather than constitutional principle. The chairman of the Breaking the Wall of Silence Group, Samson Ndeikwila, said it was a myth that the country had nobody capable of taking over from Nujoma. As executive predominance allowed, the President was said to have made his announcement without consulting the leadership of his party.<sup>76</sup>

The issue had already the air of an accomplished fact. In Windhoek at the end of May 1997, Swapo endorsed the earlier proposal of its central committee that the constitution be changed. The party's Elders Council and the Swapo Youth League had also called on Nujoma to lead the country beyond the year 2000. Civil society continued to protest, but Swapo's central committee cited Nujoma's long history of tested leadership, and his rôle as 'founding father of the nation'.<sup>77</sup>

<sup>74</sup> According to the Constitution of Namibia, Chapter 19, if two-thirds support is not obtained in the National Council, the President is empowered to take the bill to a national referendum where, if it gains two-thirds of all the votes cast, the amendment is deemed to have passed.

<sup>75</sup> *Mail and Guardian*, 11 April 1997.

<sup>76</sup> *Ibid.*

<sup>77</sup> *Business Day*, 5 June 1997.

Against the President's preferences and his party's predominance, it was as if the 1990 Constitution did not exist.

In South Africa the ANC holds less than a two-thirds parliamentary majority, and its predominance cannot therefore lead on to expedient constitutional amendments. But the belief that the ruling party, and thus its leadership, is the foremost institution in the land already exists in important quarters. Jacob Zuma is national chairman of the ANC and is of its top-most echelons. Addressing delegates at a Durban congress in November 1996, he criticised independent-minded members like, by implication, ex-Premier Lekota. ANC leaders in government should not regard South Africa's 1996 Constitution, he was quoted as saying, as 'more important' than the ANC. 'No political force can destroy the ANC'. But 'once you begin to feel you are above the ANC you are in trouble', he said.<sup>78</sup> Legality and democracy both collapse under such enormous pretensions.

#### EXECUTIVE NON-ACCOUNTABILITY

The political traditions of the ANC were not really favourable to open, participatory, and critical democracy. On the eve of 1990, it enjoyed overwhelming support from the oppressed majority but, according to Michael Neocosmos, 'was directly accountable to no one'. This position, he adds, was 'never explicated', though it bore heavily upon the future of popular democracy in the country.<sup>79</sup>

The responsibility, or rather loyalty, of ANC Ministers moves upwards to the leadership, and when this is supported by a record of devotion, the leadership extends its support downwards to them. The President declared his full support for Dr Zuma at the very beginning of the *Sarafina 2* controversy in 1996, and did not alter his position when the facts of her mismanagement became known. The personal decision of the loyal Minister and the leadership in this enclosed relationship is quite large. After *Sarafina*, Dr Zuma decided to support a supposed anti-AIDS drug, Virodene, on her own volition, without regard for standards, procedures, and evaluation. She arranged for the scientists involved to appear before the Cabinet to request financial support of R3.7 million. When subsequent outside tests showed that Virodene contained chiefly a toxic industrial solvent, the Minister was quite unabashed: 'What should I have done?...I don't think it's my

<sup>78</sup> As quoted by Farouk Chothia and Hartley, in *ibid.* 18 November 1996.

<sup>79</sup> Michael Neocosmos, 'Intellectual Debates and Popular Struggles in Transitional South Africa', in Peter Gibbon et al. (eds.), *State and Civil Society in Africa*, forthcoming.

responsibility as minister to check their credentials', she said.<sup>80</sup> Similarly, the President's relations with Kerzner seem entirely subject to his own volition.

Mandela's autocratic tendencies are particularly notable in the broad area of foreign relations. Returning from meetings with corporate leaders in Germany in May 1996, he announced that privatisation was a 'fundamental policy' of the ANC when debate on the question was supposedly continuing inside the party, the trade unions, and the South African Communist Party (SACP).<sup>81</sup> He declared, in May 1997, that Yasser Arafat is an 'outstanding leader', when the brutality and extortion of his Palestinian presidentialist régime was being publicised,<sup>82</sup> and said that friendship with Libya and Syria 'is the moral code that I respect above everything else'.<sup>83</sup>

The President also stressed in early 1997, perhaps more problematically, South Africa's supposed similarities with Malaysia, saying that the people there 'have gone through similar experiences as we have done', and 'overcome many problems from the colonial era which also confronted South Africa'; and he accepted a Malaysian gift of R1.1 million for the ANC Youth League.<sup>84</sup> But Mandela ignored in such perspectives the special features of popular struggle in his own country in the 1980s, as well as its existing democracy, and how they contrasted with the problems of 'money politics' – a euphemism for corruption – in symbiotic state-corporate relations in Malaysia. That country's money politics might presumably enter South Africa along with its burgeoning trade and investment funds, worsening what exists. It might already have been doing so. Umno, the ruling party in Kuala Lumpur, is said to have begun an 'aggressive courtship' of the ANC after 1990, and estimates by 'ANC insiders', according to Mark Gevisser, suggest that Malaysian support in cash for the party before the elections totalled about R10 million, with a further R23 million

<sup>80</sup> *Sunday Times*, 9 February 1997.

<sup>81</sup> *Mail and Guardian*, 4 October 1996.

<sup>82</sup> *The Star*, 5 May 1997. David Hirst, for instance, wrote that 'Arafat and his [fellow returnee] "Tunisians" have turned the Palestinians' homeland into a ramshackle, nepotistic regime of extortion'. *Mail and Guardian*, 25 April 1997.

<sup>83</sup> Mandela's purported justification was that these countries 'helped us to be where we are today', and that 'America's enemies are not South Africa's enemies'. *The Star*, 5 May 1997. But his code appears more personal than moral, and does not accommodate weaker former friends, such as the leaders of the Sahrawi Democratic Republic (SADR), themselves in need of help today. Mandela had written to its President, in mid-1995, expressing 'bonds of friendship' and declaring that 'steps [were] to be taken immediately to establish diplomatic relations'. But by 1997 the Deputy Foreign Minister, Aziz Pahad, said that South Africa was doing more for the SADR by not recognising it. Morocco like Libya had also helped the ANC, donating some R3 million to its 1994 campaign fund. *Sunday Independent*, 16 February, and *Business Day*, 25 May 1997.

<sup>84</sup> *Business Day*, 11 March 1997, and *The Star*, 14 March 1997.

being extended in kind, sometimes to individuals they thought they could influence.<sup>85</sup>

The ANC leadership seems also disinclined to participate in open parliamentary debate. Responsible ordinary MPs who tried to use question time in the National Assembly to probe executive action, were finding, in mid-1997, that Ministers were frequently absent. Questions were being deferred, and ‘substantive motions’ from the opposition ‘remain[ed] unanswered’.<sup>86</sup> Though F. W. de Klerk had expanded the ambit of question time to include questions to himself as President without notice, Mandela never appeared before the Assembly to answer in the same way. Initially, Mbeki stood in for him, then the new practice ‘fell into disuse’. In early June, when the DP leader, Tony Leon, attempted to ask Mandela how much money he had raised for the ANC while on state visits, the question was deferred to the Minister for Constitutional Affairs, Valli Moosa, who simply said that it was a private affair.<sup>87</sup>

#### INTRA-ÉLITISM, SECRECY, AND MYSTIFICATION

Open government existed earlier, as noted, in parliamentary committee proceedings, reinforced and extended by certain juridical decisions and procedures.<sup>88</sup> Ministries themselves utilise openness still, albeit in instrumental fashion. According to Kasrils, the important defence policy review of 1997 operated in a ‘transparent and consultative way’, and Jakkie Cilliers, of the Institute for Security Studies, added that through this wide consultation the military had acquired increased legitimacy. What did not arise, he said, was new thinking, and the military remained orientated towards conventional external defence, oblivious to the need to control rampant organised crime.<sup>89</sup>

Defence Minister Modise seems himself deeply opposed to openness. In August 1997 he attacked the press for trying to publish details of a proposed large arms-sale to Saudi Arabia and Kuwait: ‘I gave them my word it would remain confidential’, he angrily admitted. He

<sup>85</sup> *Sunday Independent*, 20 April 1997.

<sup>86</sup> Report by Hartley, *Business Day*, 30 April 1997.

<sup>87</sup> *Ibid.* 6 June 1997.

<sup>88</sup> Thus, Justice Joffe’s decision that the Government’s attempt to prevent the *Sunday Times* from publishing details from a report on corruption was unconstitutional, and Judge Cameron’s ruling that secret documents on the arms industry could be made public, both at the end of 1994. There were also open public hearings in 1996 to select the members of the new Constitutional Court.

<sup>89</sup> Ronnie Kasrils writing on 6 June 1997, and Jakkie Cilliers on 15 June 1997, in *Sunday Independent*.

claimed that the revelations had been in fact a deliberate ploy to 'undermine us in this field', and added: 'I don't think our people want to know' about such matters 'not at [the] price' of seeing 'thousands of people jobless in the streets'. If the situation continued, South Africa's enemies would not need spies but could 'simply read the newspapers'.<sup>90</sup>

An important new freedom of information act had been promised by the Deputy President as early as October 1994. By March 1996 the bill had been before a Cabinet committee and was said to have both teeth and substance. But it had also made 'many enemies among politicians and public servants' along the way. In early 1997 Mbeki's bill was reported as being 'still at a developmental stage', and not ready for presentation to the Cabinet.<sup>91</sup>

The ANC leadership's support for openness and debate is deeply qualified by history. As an insurgent body in exile it became less tolerant of diversity and criticism, and more ready to discipline its members; the exiles returned home, says Lodge, 'with a well-developed set of authoritarian and bureaucratic reflexes'.<sup>92</sup> Attitudes towards democratic participation have been further qualified since then by an ongoing preference for limiting decision-making to an intra-élite level.

While South Africa's transition to majority rule has been popularly interpreted as a 'miracle' realised by outstanding individuals of goodwill, power brokerage played a larger rôle. The negotiations that preceded the 1994 elections and 'power sharing' were initially very diverse and complex, but were soon narrowed considerably around the acceptance of the principle of 'sufficient consensus'. What this meant, said Cyril Ramaphosa, the ANC's general secretary and chief constitutional negotiator, was that 'if we and the NP agree everyone else can get stuffed' – including, adds F. van Zyl Slabbert, the bulk of the ANC's own supporters. The élites of both parties co-operated together, says the latter, 'to keep their respective constituents in the dark about how they were bargaining away fundamental policy positions'.<sup>93</sup>

Much the same occurred again, more precipitatively, around 3–5 May 1994 in order to save the election process from complete collapse

<sup>90</sup> *The Star*, 8 August 1997.

<sup>91</sup> A Justice Department spokesman, *Business Day*, 22 January 1997.

<sup>92</sup> Lodge, 'Democracy and Development', pp. 191–2.

<sup>93</sup> Review by F. van Zyl Slabbert of Patti Waldmeir's *Anatomy of a Miracle: the end of apartheid and the birth of the new South Africa* (Norton, 1997), in *Sunday Independent*, 25 May 1997. Ramaphosa's statement is quoted by Waldmeier on p. 41 of her book.

and produce results acceptable to the leaders of the ANC, NP, and now the *Inkatha* Freedom Party (IFP) also.<sup>94</sup> The chairman of the independent Electoral Commission, Judge Johann Kriegler, readily admitted what happened: ‘Let’s not get overly squeamish about it... [The parties] are in a power game with each other, and if they want to settle on the basis that they withdraw objections there’s nothing wrong with it’. Votes were ‘awarded’ – key word – by and among the party chiefs, with the technical assistance of auditors and accountants. The final results were perfect mathematically, and a Government of National Unity was born.<sup>95</sup> The people might have spoken but it was not their voice that had been heard.

Ongoing negotiations for peace and reconciliation operate in ways favourable to élites and at the expense of democracy and justice. Mbeki for the ANC presented a lengthy document to the Truth and Reconciliation Commission (TRC) in May 1997 which dealt frankly with crimes committed by the party during the armed struggle. But it skirted some parts of the recent past which continue to influence politics.<sup>96</sup> It ignored the actions of Winnie Madikizela-Mandela – a leading figure still in the party hierarchy – though published material and the testament of witnesses before the TRC pointed to her wide criminality in Soweto in the late 1980s.<sup>97</sup> The document also avoided criticisms of the armed actions of the IFP against the UDF and other ANC supporters through the 1980s and later. It was instead supportive of the party leadership’s efforts to reconcile with the IFP and its leader. The message to Buthelezi, said Stephen Laufer, ‘was clear: ANC and IFP can find and solidify common ground’.<sup>98</sup> Gross violations of the

<sup>94</sup> Due to the intransigence of Mangosuthu Buthelezi, the IFP had boycotted the negotiations process and only entered the 1994 elections at the very last moment.

<sup>95</sup> The ANC obtained 62.7 per cent of the votes, reassuringly short of the two-thirds necessary to write the permanent constitution alone. The NP got 20.4 per cent, and hence six seats in the Cabinet and a Deputy Presidency; and the IFP gained 10.5 per cent of the national vote, with three seats in the Cabinet. Some highlights of the election process are in Good, *op. cit.* pp. 114–18.

<sup>96</sup> The phraseology used by Stephen Laufer, ‘ANC Document Could be Watershed for SA History’, in *Business Day*, 13 May 1997.

<sup>97</sup> Good, *op. cit.* pp. 80–110. Joyce Seipei, mother of the murdered young boy, Stompei, appeared before the Truth and Reconciliation Commission in May 1996 to testify that she had found his decomposed body, and that doubts about his death were the result of rumours spread by Madikizela-Mandela that he was alive and living in Botswana. By June 1997, fresh allegations before the TRC went far beyond, according to Commissioner Dumile Nsebeza, what was publicly known about the Mandela United football club and Winnie Madikizela-Mandela. The possible scale of her activities is suggested by the fact that one of the former club members who had applied for amnesty, Charles Zwane, had been convicted of nine murders. *The Star*, 9 May 1996, and *Business Day*, 24 June 1997.

<sup>98</sup> Laufer, *loc. cit.* Buthelezi has been Minister for Home Affairs since 1994, and sometimes Acting President.

recent past – though significantly initiated by Buthelezi in collaboration with Pretoria – were said to be largely the work of outsiders.<sup>99</sup>

In its negotiations with the *Inkatha*, the ANC leadership seems ready to make very large concessions. Existing amnesty laws might be drastically changed, and Buthelezi would be offered a position in the Government ‘befitting his stature’, if necessary through a constitutional amendment. Farouk Chothia reported that these proposals had not been canvassed, by mid-1997, in the party’s national executive committee, nor with the Congress of South African Trade Unions (Cosatu) and the SACP. The latter’s national leadership was known in fact to have rejected the plan to elevate Chief Buthelezi as ‘mystifying’, and Cosatu’s executive in KwaZulu-Natal was believed to have opposed this too. But the proposals ‘had the backing’, said Chothia, of Mandela and Mbeki, and there was also agreement among the ANC’s leaders in that Province.<sup>100</sup>

Mandela had personally boosted the elevation of the Chief by naming him as a joint peace advocate to strife-torn Africa.<sup>101</sup> This deeply ‘mystifying’ offer came a few days after his *Inkatha* party had staged a march in Johannesburg in which three people were killed and more injured, and three years after the party’s first march on the city when 50 people died in the Gauteng area.

The editor of *Business Day* noted that a new amnesty proposal created an impression that forgiveness for political violence was always in prospect; that Buthelezi might be offered a Deputy Presidency; and

<sup>99</sup> Buthelezi’s initiation of ‘Operation Marion’ is looked at in Good, *op. cit.* pp. 87–116. The Steyn Report, only made public at the beginning of 1997, noted that *Inkatha* hit-squads were trained and equipped by South Africa’s military intelligence until the early 1990s. *Mail and Guardian*, 31 January 1997. Evidence acquired by the Investigative Task Unit and available to the TRC further substantiates the fact that ‘Marion’ created a paramilitary elite for *Inkatha* at the request of Buthelezi, and that it was subsequently responsible for many attacks on people associated with the United Democratic Front. According to a report by a board headed by Howard Varney on official hit-squads, quoted by Carmel Rickard, ‘Armed With Information’, in *Sunday Times*, 30 March 1997, ‘Marion’ originated in early 1986, and members of the then Security Council – which included the Cabinet – were aware that *Inkatha* forces, when armed, would launch attacks on ANC-aligned groups. According to Daluxolo Luthuli, who was drawn into the covert training of *Inkatha* squads in the Caprivi, and in their subsequent deployment, in close association with Zakhele Khumazo, personal assistant to Chief Buthelezi, ‘I have absolutely no doubt whatsoever that Dr Buthelezi was fully aware of every aspect of our operation’. From his interviews with Same Sole, and his evidence to the Investigative Task Unit, in *Sunday Independent*, 8 June 1997.

Testimony by Luthuli, Varney, and others before the TRC in August 1997 provided further evidence concerning Buthelezi’s bloody and collaborative past, and the defection of his former stalwart, Walter Felgate, to the ANC that month, might be expected to add more.

<sup>100</sup> Cosatu’s provincial secretary, Paulos Ngcobo, reportedly observed that ‘if you give Buthelezi a finger he wants your hand’. Chothia, *Business Day*, 13 June 1997.

<sup>101</sup> Buthelezi was said to be ‘very enthusiastic’ about the offer to act jointly with the President. *Ibid.* 19 March 1997.



that the ANC might also agree not to push too hard to win in elections in KwaZulu-Natal in 1999.<sup>102</sup> In other words, the deepening of ‘a culture of impunity’ for crime when criminal justice was gravely threatened,<sup>103</sup> and the proposed rigging of the next general elections. But the proposals might also have a dangerous, institutionalised permanency. They amounted to, said the editor, ‘a power-sharing arrangement for the next millennium’.<sup>104</sup>

Jacob Zuma, the ANC’s provincial as well as national chairman, was the chief negotiator with the IFP. The views and rôle which he brought to this work were consistent with his earlier claim that the ANC was above the Constitution. The party had always maintained, he said in mid-June 1997, that certain issues could only be resolved in talks involving national leaders.<sup>105</sup> Even then, the intra-élitist deal which Mandela, Mbeki, and he desired, was fraught with uncertainties concerning precisely what arrangements the ANC leadership might be obliged to concede in their efforts to conciliate Buthelezi. The ‘peace envoyship’, the marginalisation of the party’s national executive committee, Cosatu, and the SACP, and the distortion of the next elections, might not prove enough. Unity with the ANC would be an ideal thing, Buthelezi told an interviewer, but the party’s established relationship with the trade unions and the SACP was itself an obstacle.<sup>106</sup>

The ANC protects with secrecy, obscurity, and mystification various senior figures. Peter Mokaba is a Deputy Minister and, as the former boss of the Youth League, ‘perhaps did more than any other individual to crown Thabo Mbeki as Crown Prince’.<sup>107</sup> He also was Winnie Madikizela-Mandela’s ‘long-time ally’ from her Mandela United days.<sup>108</sup> But according to Gavin Evans, journalist and former ANC activist, Mokaba was also ‘working with the [*apartheid*] system’. Further: ‘Everyone knew what he had done but no action was taken – instead there was a cover-up’.<sup>109</sup>

The ANC’s second submission to the TRC contained a list of names of former government spies, but as a confidential appendix. When Commissioner Wynand Malan asked why the party opposed naming

<sup>102</sup> Ibid. 13 May 1997.

<sup>103</sup> Graeme Simpson, *The Star*, 21 January 1997.

<sup>104</sup> *Business Day*, 13 May 1997.

<sup>105</sup> Jacob Zuma, reported by Chothia, in *ibid.* 17 June 1997.

<sup>106</sup> Interview with Cyril Madlala, in *Sunday Times*, 1 June 1997.

<sup>107</sup> According to Mark Gevisser, ‘Of Politics and Hairdressing’, in *Mail and Guardian*, 23 August 1996, the Youth League delivered a large constituency to Mbeki which he otherwise lacked.

<sup>108</sup> Emma Gilbey, Winnie Mandela’s biographer, quoted in Good, *op. cit.* p. 103.

<sup>109</sup> Gavin Evans, *Sunday Independent*, 13 April 1997.

these people, Minister Mac Maharaj replied: 'Government is a high office. People need to trust the Government.'<sup>110</sup> Trust, apparently, was what the leadership deserved, not what it earned through its openness and honesty. Cheryl Carolus, acting secretary-general of the ANC, had earlier mixed incomplete honesty with frankness about the view taken towards former collaborators. 'We're not talking [about] senior levels in the ANC Government', she claimed, and the ANC 'would not get hysterical' about revelations to the TRC.<sup>111</sup> As Winnie Mandela's sustained criminality was covered-up by the party leadership, so might the collaboration of the otherwise loyal servant Mokaba, as well as the enormities of Buthelezi, be disguised and forgotten in the cause of contrived and stultifying consensus.<sup>112</sup>

In Namibia, the Swapo leadership continues to maintain 'The Wall of Silence' around the suppression and brutalities it practised on its own members in exile in the 1970s and 1980s. The head of Swapo's security service, re-organised in 1983, was Solomon Hawala, who was responsible only to the party's President, Nujoma. This unit, according to Rev. Siegfried Groth, mercilessly hunted down its victims, in Zambia, Tanzania, Angola, and elsewhere. Hundreds of Swapo members were imprisoned and tortured, and about half of those jailed were killed.<sup>113</sup> The security service and the Swapo leadership 'especially the inner core (or old guard) shrouded themselves in mystery'. Everything that happened 'became more and more unfathomable to grassroots members'. Even leading politicians were prevented from glimpsing the underground prison camps.<sup>114</sup>

The effect of this denial of vital truths led to the creation, after 1990, of a kind of 'popular disempowerment', say Colin Leys and John Saul, inside the liberal-democratic constitutional arrangements.<sup>115</sup> In October 1990, President Nujoma named Hawala, then commander of the Namibian army, as head of the country's security service.<sup>116</sup> When Groth's book appeared and it was discussed on national television,

<sup>110</sup> *The Star*, 13 May 1997.

<sup>111</sup> *Saturday Star*, 15 March 1997.

<sup>112</sup> Winnie Mandela's immunity to criticism and prosecution has a long history, as Emma Gilbey recognised. Michael Neocosmos has noted in loc. cit. p. 171, that when an attempt was made by the UDF and Cosatu to publicly censure 'The Lady' in early 1989, it was blocked by ANC headquarters in Lusaka. He also records a famous graffito in Johannesburg then: 'Free Nelson, Lock up Winnie'.

<sup>113</sup> Siegfried Groth, *Namibia. The Wall of Silence: the dark days of the liberation struggle* (Wuppertal, 1995), p. 101. An article by Kevin Toolis in the *Mail and Guardian*, 15 August 1997, states that the purge 'claimed between 800 and 2,500 lives. Some of the brightest and best of Namibia's young people were among them, killed...for dissenting from the autocratic rule of Nujoma'.

<sup>114</sup> Groth, op. cit. pp. 100–1.

<sup>115</sup> Colin Leys and John S. Saul, *Namibia's Liberation Struggle: the two-edged sword* (London, 1995), p. 4.

<sup>116</sup> Groth, op. cit. p. 182.

Nujoma broadcast an unprecedented attack on the writer's motives and probity in March 1996. No truth and reconciliation has been offered to the Namibian people, no rehabilitation of former Swapo prisoners, who remain branded as traitors, and no compensation for Swapo's victims.<sup>117</sup>

In South Africa and Namibia, democracy as well as justice suffers when the predominant party élite set out to falsify big political issues. Mystification, concerning Swapo and Hawala, or *Inkatha* and Buthelezi, or Winnie Mandela, for example, disempowers the people. Suppression of the truth about the armed struggle and its leading figures on all sides leads to the distortion of public debate, the effects of which may already be seen in the very low levels of recorded popular support for, or understanding of, democracy.<sup>118</sup> The losers will not be, says Stephen Friedman, those who have the resources to discover the truth and outlets for their views. The 'real losers' within the élite-contrived obscurity and silence are 'the poor and the voiceless'.<sup>119</sup>

#### PARTICIPATORY DEMOCRACY

The passivity of power-sharing among élites is a far cry from the democratic dynamism in South Africa in the 1980s. Originating with new trade unions in the 1970s, according to Friedman, and continuing strongly through the next decade, as Neocosmos emphasises, people succeeded in controlling their own lives, and gave rise to a unique form of mass democracy.<sup>120</sup> As described by Murphy Morobe, acting publicity secretary of the U.D.F., in 1987:

We are engaged in a 'national democratic struggle', as opposed to a regional or local one, and it 'involves all sectors of our people – workers... youth, students, women and democratic-minded professionals.' We are 'seeking to create a new nation... [and] democracy is the *means* by which we conduct our struggle... When we say that the people shall govern, we mean at all levels and in all spheres, and we demand that there be a real, effective control on a daily basis... The rudimentary organs or people's power that have begun to emerge... (street committees, defence committees, shop-steward structures,

<sup>117</sup> Groth describes particular stages and incidents in the suppression, and presents case-studies of victims. On 19 July 1989, a representative of the Parents' Committee presented the press with a list of 439 missing persons still held in Swapo camps in Angola. *Ibid.* p. 149.

<sup>118</sup> In a survey conducted by Market Research Africa in October 1996, 34 per cent of respondents preferred a parliamentary democracy with opposition parties, but 37 per cent favoured a government of national unity, and 27 per cent supported a one-party government with no opposition in Parliament. The findings were reported in *Business Day*, 19 February 1997.

<sup>119</sup> Friedman, *ibid.* 11 November 1996.

<sup>120</sup> The burden of Stephen Friedman's book is expressed in its title, *Building Tomorrow Today: African workers in trade unions, 1970–1984* (Johannesburg, 1987).

student representative councils, parent/teacher/student associations) represent... the beginnings of the kind of democracy that we are striving for.<sup>121</sup>

Neocosmos adds that the form of this new democracy stressed in particular a 'detailed system of controlling leaders to be accountable to the rank and file'. Its techniques included: elected leadership, collective leadership, mandates and accountability, reporting back, and criticism and self-criticism. The practices of 'mandates and report-backs' had been adopted from the trade unions, and they, with criticism of leadership, were taken seriously in the 1980s, says Neocosmos. That some ANC personages were, however, above criticism was seen at the end of the decade with Winnie Mandela.

The relatively powerful trade union movement was 'instrumental' in pressuring big business 'to push towards a negotiated transition to democracy'.<sup>122</sup> The popular democratic movement of the UDF and Cosatu arguably did most, drawing in sanctions in their support, to force the NP to begin to dismantle *apartheid* in 1990. Simultaneously with its success, however, came its defeat, as the returning ANC leaders placed the acquisition of state power at the front of the national agenda, far ahead of the making of democracy. In a move combining abdication with demobilisation, the UDF was disbanded in 1990. Neither the strong trade unions nor the panoply of vibrant civic groups were able to retain their popular political character. Mass action became merely a tactic employed by the ANC leadership – 'tap mobilisation' – to wrest concessions from the NP Government and advantage the ANC's negotiators. When Cosatu attempted to gain a place at the negotiating table, the Government rigidly resisted, and the ANC – and perhaps Cosatu itself – did not press the issue.<sup>123</sup>

The organised grass-roots 'civics' gave up their democratic political content, and the way was opened for Comrade Boesak and his ilk. The élitist and power-orientated nature of the negotiations process had, by late 1993, 'a dissolving effect on mass organisation, a tendency for our constituency to become spectators', as Raymond Suttner then observed. 'If we conduct the election campaign in a narrow electoralist manner', he continued, 'the dissolution could be deepened'.<sup>124</sup>

The dinner held at the Top of the Carlton in Johannesburg in May 1997 to consummate Anglo American's sale of Johnnic for R3,000 million to a black consortium was an occasion of corporate and governmental celebration. The task fell to Anglo's Michael Spicer to

<sup>121</sup> Quoted in full in Neocosmos, loc. cit. p. 16.

<sup>122</sup> Ibid. pp. 16–17 and 20.

<sup>123</sup> Ibid. pp. 31 and 34–5.

<sup>124</sup> Quoted in *ibid.* p. 37.

introduce the new Johnnic chairman. ‘I think we can call you Chairman Cyril now rather than Comrade Cyril’, he said, and Ramaphosa replied, ‘Thank you, Comrade Spicer’. Labour Minister Tito Mboweni then recalled ‘the days before [he and Ramaphosa] wore suits. We were in jeans then’, and held different views of capitalism. Then, in what was called a roar of awkward laughter, he exclaimed: ‘Cyril Ramaphosa! My, how things have changed’. Now it was necessary to develop a ‘black *volkskapitalisme*’, with a new rôle for the trade unions in investment, offering services such as housing schemes and scholarships to their members. ‘Perhaps this will be building socialism in practice’, Mboweni suggested.<sup>125</sup>

The new authoritarianism, built on predominance and power-sharing among the élites, backed by corporate power and the ‘patriotic bourgeoisie’, has potentially greater permanency than *apartheid*.<sup>126</sup> Electoral democracy, on the analogy of Japan, Italy, and perhaps Botswana, cannot be expected to check predominance in much less than a 30-year period, assisted by splits in the ruling party. When socialism and equality are talked of seriously today in South Africa it is chiefly within the trade unions.<sup>127</sup> If the black bourgeoisie is as patriotic as its self-assessments proclaim, that is the extent of its political orientation. It is the working class that is different. Comparatively and historically, in the conclusions of Dietrich Rueschemeyer et al., ‘the working class was the most consistently pro-democratic [social] force’.<sup>128</sup> The experience of the unions and Cosatu in South Africa from the mid-1970s to 1990 supports this proposition.

<sup>125</sup> *Sunday Times*, 20 May 1997.

<sup>126</sup> As Mark Swilling wrote in 1991: ‘if the old racial authoritarianism is replaced by a new populist authoritarianism, then all that will be initiated is a new era of stagnant, unimaginative, fear-driven uniformity’. Quoted by Neocosmos, loc. cit. p. 3.

<sup>127</sup> Cosatu’s Commission chaired by Connie September stresses, for instance, the links between income redistribution and poverty alleviation, and also sees state-directed redistribution as a strategy for economic growth. ‘A reduced state’, it adds, ‘cannot meet the needs of social transformation and development, and is inappropriate in a society with our levels of unemployment.’ Report by Sechaba ka’Nkosi, in *Mail and Guardian*, 8 August 1997.

<sup>128</sup> Dietrich Rueschemeyer and Evelyne and John Stephens, *Capitalist Development and Democracy* (Cambridge, 1992), p. 8.