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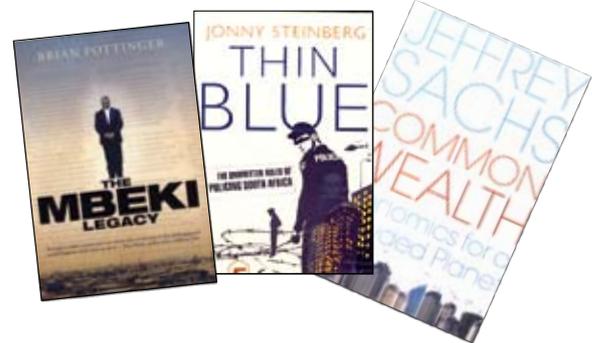
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By Raenette Taljaard

POLLS AND CHANGE

South Africa is rapidly approaching its fourth democratic poll and there is a tangible and undeniable Obama-esque sense of change in the air. Voters registered in record numbers during the Independent Electoral Commission's first bout of voter registration in November. One could almost hear the silent chants of 'Yes we can!' echo through the very firmament of our democracy as younger generations of voters lined up, free of the demons of the past.

To paraphrase: Can We, the People of South Africa, uphold Constitutional Democracy? YES WE CAN!

The historic and inspiring election of Barack Hussein Obama to the presidency of the United States of America has filled voters the world over with a sense of awe and ownership of electoral processes. It has renewed their commitment to making their mark, literally, on their countries' destinies. It is with a renewed sense of ownership over the electoral process that many South Africans are approaching this fourth poll.

In the United States Obama and his team ran a campaign that will change the face of campaigning as much as the slogan of change altered the view of what is possible. While radio and traditional forms of door-to-door campaigning will remain core to South African electoral politics, the 2009 campaign will also see politics meet new voters, new technology and new forms of media in unprecedented ways. Expect an unusual 2009 campaign!

The South African electorate are ready for change in both the form and substance of our electoral politics. After years of stultifying dominance, the internal demons of the African National Congress (ANC) have set the party, and the country, on an irreversible path of change. With the existing opposition largely analysing how to confront the new tactical environment and look to coalition formation,

fundamental change has arrived for them as well. The entire existing political spectrum is grappling with change within and with marketing change to the electorate.

A new political party has been formed (whatever its final name will be when the ANC ceases to be litigious), and will be launched in Bloemfontein on 16 December – national Reconciliation Day.

It was clear that the ANC had not fully anticipated the consequences of the party "recalling" a President. In its wake questions have arisen about the electoral system that allowed these events to occur and the need to alter course nearly 15 years after the most fundamental and historic change swept apartheid away from our beloved country.

On 15 November, the Democratic Alliance's relaunch amid much colourful fanfare and celebration at Constitution Hill, with a new approach both to itself and to the electorate, hoping to sell a new message and new party leader for the first time at electoral level, marked a new chapter for the party.

And while the dominant ANC grapples with responses to unprecedented events, the electorate is watching and waiting in quiet anticipation for voting day.

Political parties may come and go, but the Helen Suzman Foundation believes that a change to our electoral system is crucially necessary to deepen democracy, and that efforts to emphasise the importance of our constitutional state to the survival of our democracy are key as we aim to consolidate our progress as a nation.

As we approach this fourth poll it seems that a real message of change will inspire voters to go to cast their ballot.

As our 'Gogo of the Nation' Tannie Evita Bezuidenhout reminds us in this edition of FOCUS, only those who vote really have a voice. Make your mark, vote in 2009. FOCUS

Tracing Political Trends

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It's about time

As incidents of anarchic protest suggest, reform of South Africa's electoral system is long overdue

The Electoral Task Team (ETT) appointed by Cabinet to explore alternative electoral systems for South Africa tabled its report to the South African Cabinet in March 2003 – this was after the ETT was constituted in early 2001. From all accounts the report was not read by the members of the Cabinet, with the exception of one or two. A decision was taken that the new government/Cabinet could revisit the report after the 2004 election, if it so wished. So far there is no indication that there is any desire to do so.

And yet the current electoral system – which is a closed-list proportional system, combined until now with floor-crossing – disempowers the voter to the extent that he/she has no way of calling public representatives as individuals in Parliament to account for their actions or lack of such. In fact, the process of the floor-crossing deprived the voter of any guarantee that the public representatives who are on the list of the party that a voter votes for will remain on that list until the next election. A closed-list proportional representative (PR) system combined with the floor-crossing almost guarantees non-accountability of public representatives to the individual voter. Fortunately, floor-crossing has now been scrapped.



© AP. Photo/Themba Hadebe

A deserted polling station in Khutsong stands as a chilling reminder of failures to ensure a clear connection between the electorate and public representatives.

It is important to keep in mind that South Africa's constitution, which is that of a classic liberal democracy, is not there to celebrate the unrestrained power of the majority, but to constrain the abuse of power by those who are elected to government. As such, institutions and procedures exist that are meant to constrain the abuse of power, no matter how large the governing majority. These institutions and procedures are written up in Chapter 9 of the Constitution and refer to the separation of powers, an independent judiciary, freedom of the press, and individual civil liberties enshrined in a Bill of Rights, as well as a Constitutional Court to oversee these constraints, and how and when they may be abused.

However, the vote is a very important right that a citizen can use to constrain the abuse of power – that is, if this right forms part of an electoral system which enables a voter to call public representatives to account for their actions (or lack of them) between and at elections.

When South Africa's current constitution was adopted in 1996, all negotiating parties decided that the finalisation of the

electoral system should be postponed until the 1999 election. As it happened, the electoral system was not finalised even with the tabling of the ETT's report in March 2003. The upcoming 2009 general election will mark 13 years after the adoption of the current constitution, and the electoral system has still not been finalised. Is it not time now, before the 2009 election, to finalise our electoral system?

In September 2002 the Konrad-Adenauer-Stiftung (KAS) hosted a two-day workshop to which experts and representatives of parties came to give their views on an appropriate electoral system for South Africa. The proceedings of this workshop have been published and widely distributed. In addition, the ETT heard representations from all the parties in Parliament.

The findings of the ETT consisted of a minority and a majority report. The minority report supported the current electoral system, finding that it was not undemocratic or unfair. This the majority report conceded: however, the major difference between the two reports concerned the involvement of voters in the process of electing public representatives and voters' ability to

© PictureNet Africa/Johann van Tonder/



South Africa's voting public need to feel more involved and connected to the electoral system and democratic institutions.

call public representatives to account during and at elections. It was therefore the view of the majority of the ETT that some form of constituency input and accountable representation was necessary. The system proposed was a multiple-member closed-list proportional system spread over 69–70 constituencies where there would be, depending on the number of voters in the constituency, not less than three and not more than seven public representatives. Importantly, the voters in the constituency must have a say as to who these representatives are and, if at all possible, the representatives should come from the constituency which they represent.

The time is now long overdue for a restructuring of the current electoral system. The longer the delay, the more difficult it is going to become.

There is a clear need to revisit the ETT's report given the experience of elections since 2004. There are signs of growing voter apathy in South Africa. This is obvious when one considers the number of eligible voters who do not register to vote, or the complaints of some local community leaders who say they are powerless in influencing the actions of public representatives in Parliament. The most concerning form of apathy is when it turns into vigilantism vis-à-vis the maintenance of law and order

and the provision of essential services such as electricity, water and housing.

There is awareness on the part of the governing African National Congress that constituency involvement is becoming a problem – hence the frequency of imbizos and the appointing of Members of Parliament post elections to take responsibility for certain areas. This in itself is not a bad development, but it is no substitute for an entrenched electoral system that makes provision for active voter participation and, in particular, calls to account those representatives who claim to represent these interests.

The lack of accountability to voters as a result of the current electoral system is increasingly beginning to assert itself in the form of aggressive anarchy, for example, Khutsong, Orange Farm, the burning of 20 Putco buses etc. This is simply a way for voters to say: we have no way of calling public representatives to account in our area because there is no constituency representation – Members of Parliament are put on a list by party bosses and voters can simply vote for a party. This leads to increasing voter apathy and even a groundswell of local anger.

It is perhaps too late to change the electoral system before the next election. For example, if a constituency system were to be decided on, this would imply a great deal of organisation and drawing up of geographic boundaries. However, the time is now long overdue for a restructuring of the current electoral system. The longer the delay, the more difficult it is going to become. **FOCUS**

Dr Frederick Van Zyl Slabbert is the co-founder of the Institute for Democracy in South Africa (IDASA) and former Leader of the Opposition in Parliament. He chaired the Electoral Task Team and he is Vice Chancellor of Stellenbosch University.



Images in this article are courtesy of Mark Wessels



Interview by Raenette Taljaard

Towards the democratic ideal

Former Minister of Education Professor Kader Asmal considers possible developments and evident stumbling blocks in the process of building a more mature democracy

Q: What are your broad thoughts on electoral reform?

A: Single-seat constituencies, with PR [proportional representation], would be a problem. In the old Zambia, before the one-party state, the mining companies owned MPs. And in an incipient democracy you have the problem that, as we saw on floor-crossing, people show a degree of opportunism in relation to public life, debilitating democracy.

And a directly elected President would be a mistake. It doesn't mean that the ANC candidate wouldn't win, but what would happen is a huge internal fight where money would play a big part. Everyone says it's cost Barack Obama \$100 million to get where he is now, so it's hardly a very democratic choice.

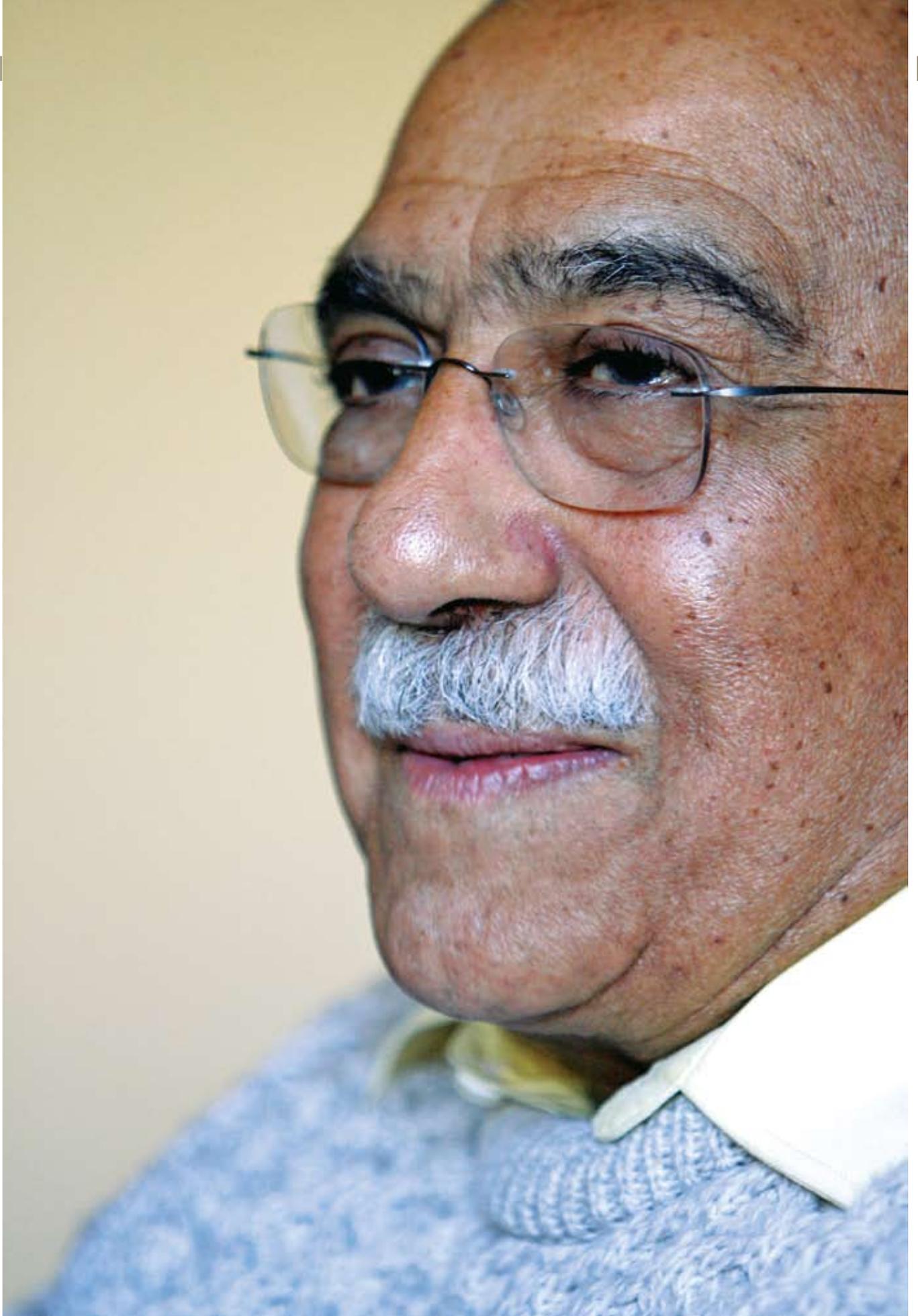
Once the election takes place, you have the President saying to Parliament, "I've got a direct mandate, you have

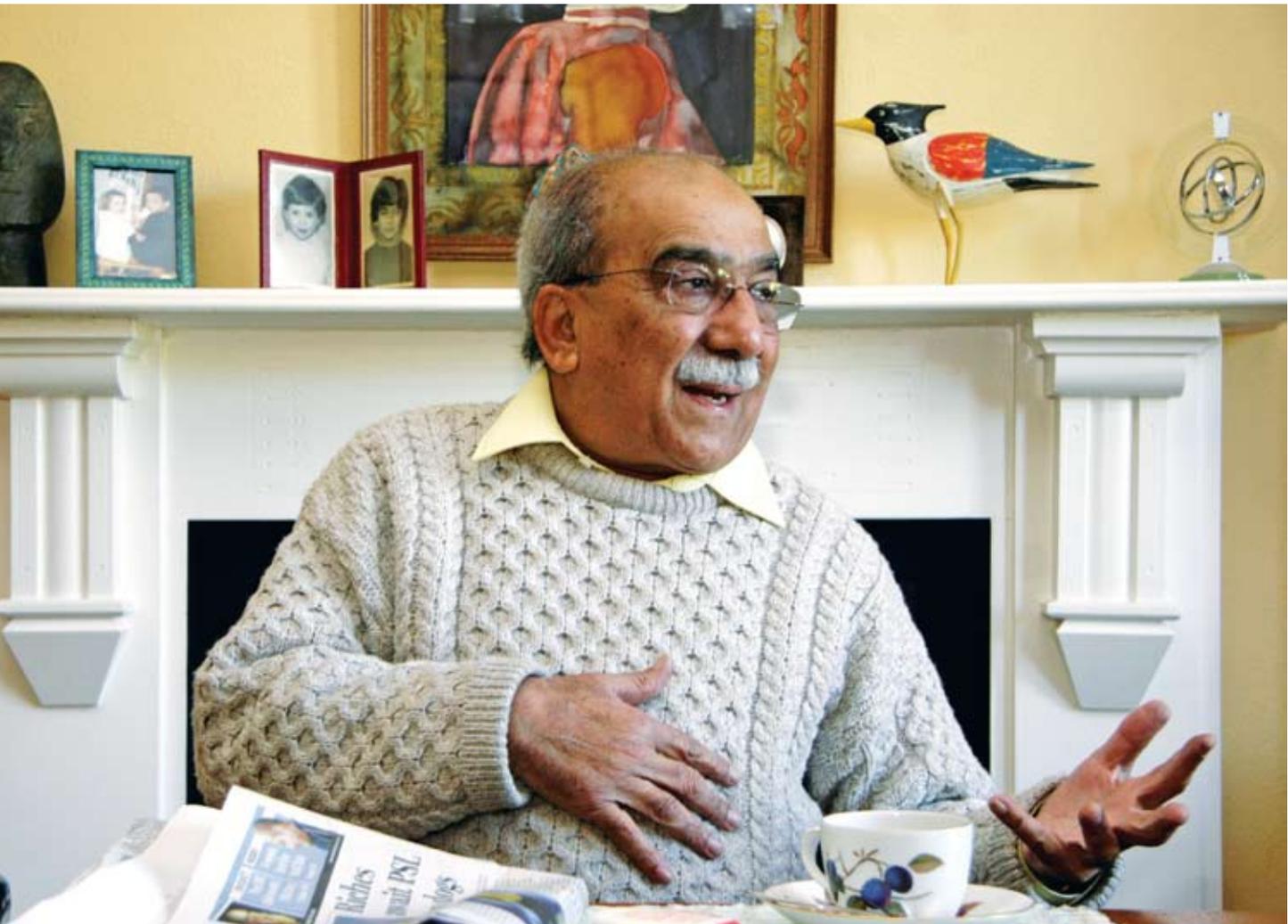
an indirect mandate, and you can't stand in my way" – like France. There's a real possibility of a clash of the legislature and the executive when the President wants to do something which, rightly, Parliament's resisting. While we want a strong executive, we want also a democratic basis for it, and in the ANC we didn't want a constitutional crisis where you have the executive against the legislature.

These are things that we need to tease out much more, really.

Q: What do you think the optimum outcome of electoral reform in South Africa would be, and what are your views on the Van Zyl Slabbert Electoral Task Team (ETT)?

A: The implications of the [ETT recommendations] are too complex. If you get multi-seat constituencies you'll have the





Irish problem, constituencies where electoral representatives from the same party fight each other to be re-elected next time round. That's a recipe for warfare within the party.

Secondly, it means that the candidates will not be chosen openly, which is the important thing in democracy. For the 1994 and 1999 elections, the ANC had secret ballots and the lists were not doctored, absolutely not. I sat on the National Executive Committee and it was done absolutely correctly.

I think that we should go to the German or Australian system, with the qualification that there can be no floor-crossing. If the members want to change loyalties they must resign. With the German system, 60% are elected by fairly large constituencies. Although it was an ANC proposal originally, everybody agrees that proportionality is the most important thing in South Africa. It gives small parties a chance.

But the debate should then be how the constituency basis is to be worked out, and I think the Van Zyl Slabbert one is

too complicated. And from the Irish experience, if you have 30-member constituencies you will have warfare.

The quality of MPs is enormously important for democracy. And we should be able to attract real workers with their extraordinary insights, intellectuals and businesspeople and real trade unionists. Whereas we're attracting people who become professional politicians, frankly, too early in life.

This is why the provinces are important. You cut your teeth in local government first and then the province, by and large, in other countries too. We need more powers in the provinces, we need to push them to discuss legislation much more. It's a scandal that people are drawing salaries and the province passes one piece of legislation a year. I am a strong believer in provinces for [building] the democratic network from bottom up. At present there's no way [to get to Parliament] except for fighting to be on the lists, which is a political battle. You see the battle taking place now, which is very regrettable.

Veteran former politician, Prof. Kader Asmal, has experienced the electoral system's consequences both as a member of Parliament and as a Minister in both the Mandela and Mbeki Administrations.

So I think it's very important that we should look at the overall thing.

I think that 2009 may be too soon for the new electoral system. Who would draw the constituencies? It's a huge battle. In England, you can marginalise the opposition by taking away large chunks of their support and putting them next door where they have a huge majority in any case, minimising them.

The ANC could have won a 100% of the seats, really, in a first-past-the-post system. I was the one who proposed the list system at the conference in Stellenbosch in February 1991. I presented my paper and Mr Mandela asked me, "Kader, can you tell me crisply what this system is?" "Well, sir," I said, "it's like President Johnson said when there was a dissident in his party and his adviser said they should kick him out. And he said, 'If he exists I'd rather have him inside than outside.'" Mr Mandela used that system to go to Constand Viljoen in January 2003, you remember? He asked him: "Can you get 1% of the votes?" He got 2% of the votes. With 2% of the votes, you get eight seats. And it was the electoral system. My argument was that sooner or later you would have had civil war if people with genuine points of view were not elected. That's why floor-crossing was a disaster. When I write my memoirs I'll tell you who pushed for the floor-crossing. The quality of MPs is central to this. I do not believe that you need a degree; you need to be intelligent. We must give the younger people opportunity, and political parties don't encourage that.

You know, I think that the health of democracy lies not so much with dissidents, because you have to accept party discipline in most cases. It depends on the extent to which MPs can perform their functions.

Q: What are your views on the Chapter 9 process that you chaired?

A: It's more than a year since the report was done. The pioneering work was done at the request of the Speaker of the House. And, for the first time in my experience, public servants working in Parliament devoted their attention to it single-mindedly. So it's a severe disappointment. Not the

question of adoption, because parties must work out their own positions first on this. I regret that all the parties haven't worked out their positions.

The main thing is that the Constitution says these are bodies to assist in the maintenance of democratic honour. The plain fact of the matter is, apart from the Auditor General, they're not functioning to the maximum level. Some may as well not exist.

There's a major recommendation to merge the Human Rights body; that's a red herring. We said in the report it requires major constitutional amendment, but the Constitution should be only amended for very serious reasons; urgent, necessary reasons. So we can postpone that indefinitely. But the proposals about how they're appointed, how the money is to be allocated to them, and how they're responsible and accountable to Parliament are all important factors. It seems to me that the heart of those who believed in Chapter 9 bodies is no longer strong about these matters.

In my own party one person who plays a very important role said it was too little, which I regret very much because he hadn't read the report. He tried to make sure the press conference wasn't held, either. This raises to the ideological level something which is purely functional.

So I think it's disgraceful, frankly. If people care for democracy they should be pushing very hard to get people and parties to say what their reasons are for not debating it.

We've spent hundreds of thousands of rands, and we got the first real opinion survey, and the whole report has fallen into the mists of time, as it were. By the way, it's been seen by at least five parliaments in the world, who have said it is a wonderful proposal. They particularly like the idea of a super über Human Rights Commission.

I must say, as both an MP and Minister, that by and large those who have power don't like countervailing institutions. It's a very human thing in politics. It's a question of surveillance of your power; people don't like that. This is why the present controversy about the Constitutional Court is totally mistaken. You may not like the judgement but you've got to accept the integrity, otherwise the order is destroyed. I believe that



A report on the reform and redesign of some key Chapter 9 Constitutional institutions, a process chaired by Prof. Asmal, has not been adopted by Parliament yet.

every organ of state is obliged to respect the status of the court system, it says so in the Constitution. If you don't want to, then you should resign. These are institutions established in the Constitution and everyone should support them publicly. Silence is surrender to more politics and silence is wrong.

Q: There's an interesting debate emerging about what one does post elections where there's pressure to resolve a potentially violent situation. Do you think there's a disjuncture between trying to craft the kind of arrangements we've seen in Kenya and Zimbabwe, and the fundamental principles of democracy and human rights?

A: We have to work out exactly which has priority. In South Africa, we were threatened that we could not rely on the loyalty and support of the defence force and the police. Of course we didn't know how weak the National Party's position was, so there was a tension and we settled it .

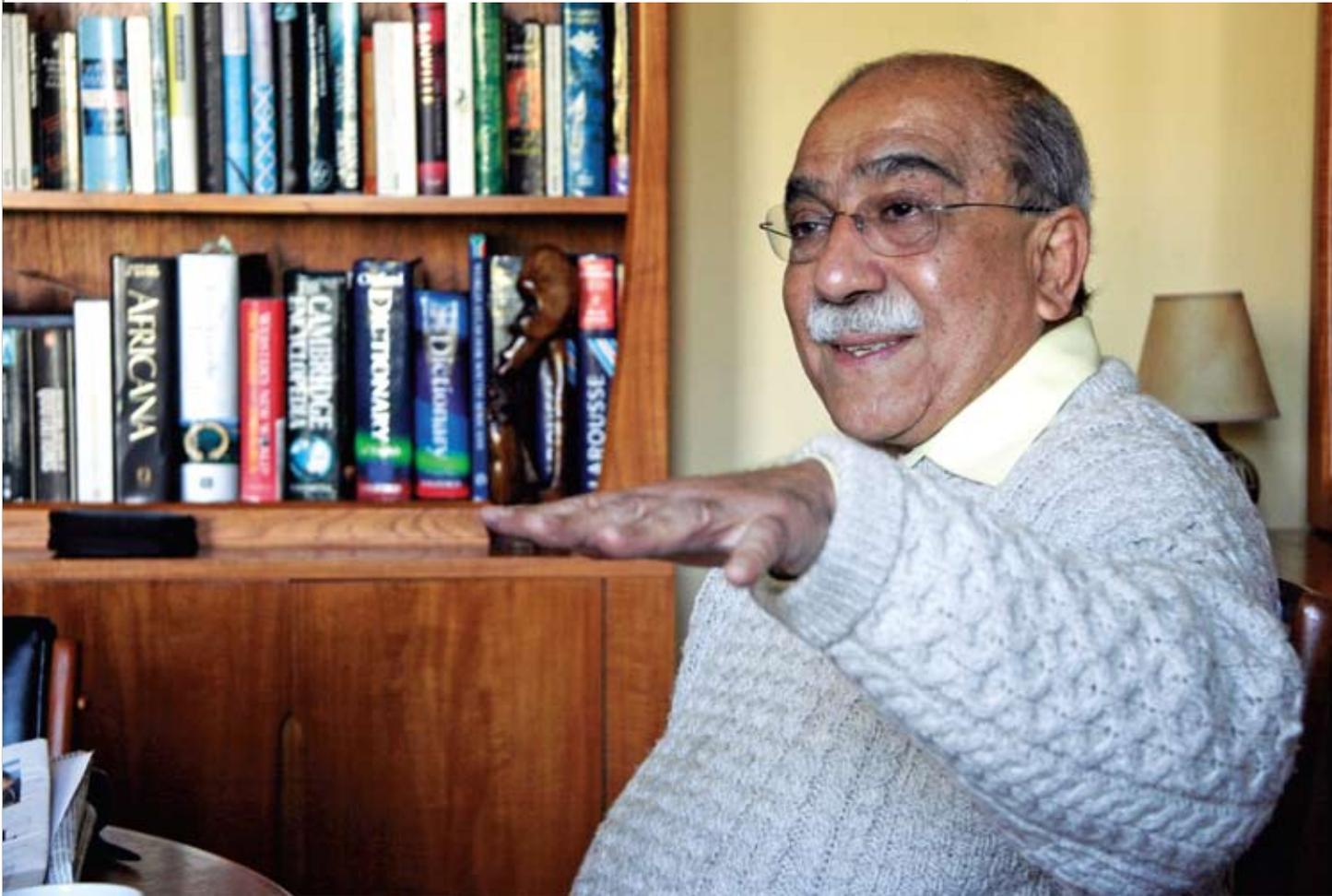
As with Kenya, my instinct [with Zimbabwe] is to say we shouldn't allow this kind of thing, because every tyrant will say "election results won't bind me." Which means, therefore, that the only valid election is one where I am elected.

But how do you bring peace when 2 000 people are killed? This is again the dilemma between peace on the one hand and the consequence of democratic election – that the results should be observed. If you're a Kenyan and you're living in possibly the biggest slum in Africa, outside Nairobi, I think you opt for the first approach.

There's no single answer, really. For example, SADC has failed in Zimbabwe. The pressure should have been to say that the election results in April were a mandate, whether there was a majority of 10 or 5 is irrelevant. For the first time, a mandate was withdrawn.

Our election in 1994 was a mandate for self-determination, so if there were irregularities it didn't matter a damn, frankly. It showed, for the first time, the people of South Africa had a right to determine their future, and they made their views very clear. It was a mandate election.

The most important thing is, what's the will of the people? In Zimbabwe the will of the people was quite clear although



Prof. Asmal believes the post-election complexities in Zimbabwe and Kenya set concerning precedents.

there was a huge amount of intimidation. The flow of opinion was quite clear. Regrettably, it didn't come with one party in the majority.

Anything that results in Mr Mugabe holding the reins of power, and headship of the security agencies and the intelligence body, means that the mandate given to the head of the majority party means nothing.

So in these kinds of places I think democrats should work out arrangements so that, after the event, if there's doubt about electoral results, then there should be international intervention. But the primary thing in democracy is to save lives. I don't have any ideology on things like that, and I don't wish to have 2 000 die.

The African Union has a very good policy which works: if a government is overthrown, there is no recognition. If you're not recognised you don't get World Bank assistance, you don't get technical or development assistance and all the normal benefits of intercourse with other communities. That's the sanction I would use, rather than military sanction.

Q: Which is very clear when this happens through the barrel of a gun and a coup d'état, but not when it happens through a ballot box.

A: Yes, except it's worse. [The Kenyan situation] demobilised democracy. The other one is a violation of democracy. If people express their views, and their new mandate is frustrated, why should they believe in democracy?

In Burma, where there was a clear winner, 20 years later there's no movement towards recognising the fruits of that victory. You can understand why people turned to violence, because they don't wish to have these lugubrious, fat generals running them and destroying their country.

They moved towards violence because there was no benefit from non-violence. I mean, how long, humanely, can people, the MDC, put up with the violence against women as members? And if they get the impression that the international committees and SADC are much more concerned with having a closer relationship with Mr Mugabe – how long? **FOCUS**



By Donwald Pressly

What's the score?

This year's municipal by-election results show, at most, some slight signs of ANC vulnerability

While municipal by-elections may not be the perfect barometer of shifts in public political opinion, in South Africa they are the only measure – apart from notoriously urban-biased opinion polls – between national and provincial elections to draw a somewhat imperfect picture of trends.

There have been over 46 by-elections across the country since the beginning of the year. The most obvious conclusion to be drawn is that the African National Congress (ANC) – which rules all nine provinces and the national government – is headed, despite its internal dissension over its leadership, for another strong national election win when the nation goes to the polls, probably in April or May next year. Here and there, however, are some signs that black-led opposition parties, notably Chief Mangosuthu Buthelezi's Inkatha Freedom Party (IFP) and General Bantu Holomisa's United Democratic Movement (UDM), are making some headway against its hegemony in African black areas of the country.

The mainly white official opposition Democratic Alliance (DA) – which has been led by Cape Town Mayor Helen

Zille for a year – looks unlikely to be shifted from the official opposition benches either. In mainly coloured areas it is under pressure from Patricia de Lille's Independent Democrats (ID). However, the ANC is also under pressure in mainly coloured areas by De Lille's party, particularly in the Northern and Western Cape provinces.

On September 10, the ANC was unopposed in a Westonaria, Gauteng ward. In the countrywide municipal election of 2006 the ANC received 92,2%, while the DA got a paltry 3,3%, and a variety of small parties the rest. In Camperdown/Mkhambathini in KwaZulu-Natal, the ANC snatched a ward with 68,2% against the IFP's 30%. In 2006, the IFP won a small majority of 53,2% against the ANC's 44%. At Limpopo's Greater Letaba/Duiwelskloof municipality, the ANC retained a ward with 92% against the UDM's 4,2%. In 2006 the ANC got 96,6% in this ward against the 3,3% of the Rev Kenneth Meshoe's African Christian Democratic Party (ACDP).

On July 16 a slew of by-elections were held. The DA retained a ward in Cape Town – its heartland – with a





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As indicators, by-election results show that the ANC retains significant swathes of support though stay-aways and shifts have occurred. The “Shikota” factor is a new unknown force.

whopping 92,3% against the ACDP’s 7,7% in a 22% poll. In 2006 the DA won less overwhelmingly, with 85% against the ACDP’s 7,4% in a 60% poll. At Ngquza Hill/Flagstaff in the Transkei, Eastern Cape, the ANC comfortably retained a seat with 89,5% against the Pan-Africanist Congress (PAC) of Azania’s 8,6% in a 24,5% poll. This result was pretty much unchanged from 2006, when the ANC received 88,8% in a 53% poll, with 9% going to the UDM, which did not stand this time.

Over to KwaZulu-Natal, where the IFP retained a seat in Pietermaritzburg/Msunduzi with 68,6% (up from 61,3% in 2006) against the ANC’s 29,5% (slightly down from 32,4%) in a 29% poll. Last time the poll was 51,4%, with the DA getting 4%. Four by-elections were held in July in Bergville in KwaZulu-Natal. All four were retained by the IFP. In ward one it received 69% (up from 52,5%) in a 32% poll against the ANC’s 28,5% (down from 30,7%). The National Democratic Convention (NDC) – a party formed from floor-crossing from the IFP in 2005 – polled a paltry 27 votes or 2,1%. In 2006 the percentage poll was 55%. In ward five, the IFP gained a strong 64,3% (58,3% last time) against the

ANC’s 23,6% (36,7% last time), with the NDC getting just 15 votes or 1% (18 votes and 1% last time). An independent got 10%. The percentage poll was 41% (2006: 53%). At ward eight in Bergville the IFP gained 66,4% (down from 77%) against the ANC’s 20,8% (only slightly up from 20,07%), with the NDC getting just nine votes or 0,6% (it did not stand last time). An independent gained 12%. The percentage poll was 42% (2006: 51%). In Bergville ward 11, the IFP gained 55% (slightly down from 59%) against the ANC’s 43% (slightly up from 35%), with an independent gaining 1%. The NDC gained just six votes, 0,32%. The percentage poll this time was 46% (2006: 60%). In a black and white ward at Endumeni/Dundee in KwaZulu-Natal, the DA snatched a seat from the IFP with 43% against the IFP’s 32,5%, with the ANC trailing with 18%. The NDC gained just 2,5%. Last time, the IFP gained 37%, and the DA came second with 34%, with the ANC getting 24% in a 51% poll. Meanwhile, at Newcastle, the IFP retained a seat with an increased majority of 51,7% (2006: 40,9%) against the ANC’s 39% (36,7%). The NDC got 1,4% (2006: 14,3%). At Pongola and Melmoth the IFP also retained seats

it had won in 2006. These results indicate the NDC is unlikely to gain a seat in KwaZulu-Natal's legislature in the next election.

Also significant on July 16 was the strong win by the ANC in Mosweng/Kgalagadi in the Northern Cape, where it gained 66% (2006: 88,3%) against former Bophuthatswana president Lucas Mangope's United Christian Democratic Party, which polled 11,5% (2006: 11,7%).

The DA retained a seat in the Nelson Mandela Metropolitan/Port Elizabeth with 97% of the vote (2006: 81,4%) against the ACDP, which polled 2,6% (2006: 1,8%). The ANC did not stand this time, but gained 14% in 2006. The DA, however, came under pressure in Pretoria (Gauteng) from Dr Pieter Mulder's Freedom Front Plus (FF+), which polled a strong 44,4% against the DA's winning 47,8% in a 30% poll. In 2006 the FF+ came third with just 9,2%, while the DA got 65% in a 42% poll.

At Mquma/Butterworth, Eastern Cape, the UDM polled strongly with 36,9% against the ANC's 55% in a 55% poll. In 2006 the ANC received 60% against the UDM's 33,2% in a 44% poll.

The IFP pulled off a significant victory in Mtubatuba municipality in KwaZulu-Natal, taking a seat from the ANC when it won a by-election in ward 3 on May 7 this year. It gained 50,2% in a 40,8% poll against the ANC's 46,4% in a 40% poll. In 2006 the ANC won a slender majority with 46,5% against the IFP's 45,5% in a 50% poll.

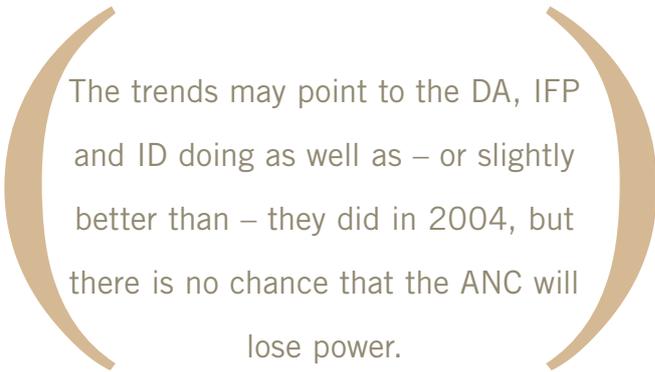
Overall, the IFP's performance has indicated that it is doing a little better, here and there, a little worse, here and there, in its KwaZulu-Natal heartland. The jury must therefore be out on whether Chief Mangosuthu Buthelezi's party can take back its pole position – lost in 2004 to the ANC, which gained 47% against the IFP's nearly 35% – in that province next year.

The swath of by-elections on May 21 saw the ID win a seat from the DA in George (Western Cape), with the former DA mayor Bazil Petrus as its candidate. The ID vote was 872 or 51,9% to the DA's 519 votes. The ID, however, failed to dislodge the DA in another George ward and also failed to dislodge the ANC in De Aar – although the vote was close, with the ID gaining 757 against the ANC's 863, and at Keimoes (ID 604, ANC 687) and Upington (ID 591, ANC 1 498), all in the Northern Cape. While the ID dislodged the ANC in Paarl, Western Cape, and at Uitenhage, Eastern Cape – in largely coloured wards – at the end of last year, it has not carried through a run of victories against the ANC this year. The ID snatched a seat in Cape Town (Macassar) from the DA on March 19, winning 42,7% compared to 39%. The ANC was pushed into third place with 10,7% (2006: DA 45,7%, ANC 28,9% and ID 18,2%).

However, the DA snatched a seat from the ANC in Welkom, Free State, on April 2. The DA got 68,8% or 1 461 votes to the ANC's 647 in a 35% poll (2006: ANC 48,5% or 1 104 votes, DA 43,6% or 992 votes, FF+ 6% or 140 votes). Noticeably, in mainly white areas, the DA was overwhelmingly predominant, and in black areas, the ANC was overwhelmingly predominant.

Overall, the picture confirms the broad trends that the opposition parties are doing reasonably well in their traditional – mainly racially and ethnically defined – heartlands. Yet, there appears to be no evidence of a large post-Polokwane revolt against the ANC reflected in by-elections. There also has been little evidence that the election of Jacob Zuma, a Zulu speaker, has boosted ANC support in KwaZulu-Natal. Since the beginning of the year, the ANC has won 18 municipal by-elections while losing three and gaining one seat; the DA won nine, lost three and gained two; the IFP won 11, lost none and gained one; the ID won two seats, which were both gains from the DA; the Independent Civic Organisation of South Africa retained three seats in Beaufort West; the Minority Front retained one seat in Durban; and an independent and the PAC gained one each. The PAC gained a seat when the ANC failed to stand in Parys, Free State, on April 2.

The trends may point to the DA, IFP and ID doing as well as – or slightly better than – they did in 2004, but there is no chance that the ANC will lose power. For the opposition, including new

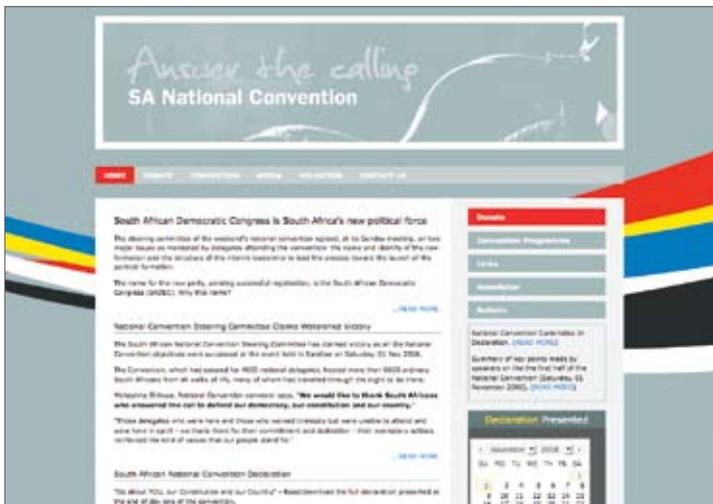


The trends may point to the DA, IFP and ID doing as well as – or slightly better than – they did in 2004, but there is no chance that the ANC will lose power.

entrants the best they can hope for is that the ANC is reduced from a national two-thirds majority. The ID and DA appear to have a chance of dislodging the ANC in the Western Cape – especially if they are not fighting each other. In the last provincial poll in 2004, the ANC got 46,2% in that province, with its then ally, the New National Party, getting 9,44% while the DA got 26,9% and the ID 7,97%. If the ID can shift a significant portion of ANC voters into its camp – as it has demonstrated it can do in municipal by-elections – this province is one for opposition plucking. It is far from clear, however, that the IFP will reverse the ANC tide in KwaZulu-Natal. All the other provinces have large ANC majorities of 68% (Gauteng and Northern Cape) to 89% (Limpopo), indicating that only a sizeable stayaway – or shift – of ANC voters will alter the ruling party's stranglehold there. **FOCUS**



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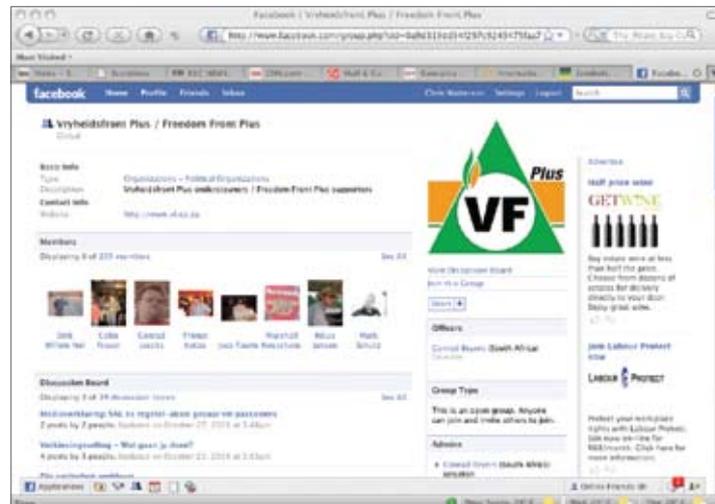


By Pam Sykes

The birth of the e-campaign

The new media probably have the potential to spread a message with more personal impact than any mode of campaigning political parties have previously been able to harness

The 2008 United States presidential campaign has been notable for many things, among them the fact that this was the first in which the candidates made extensive use of new media to communicate with voters. Barack Obama in particular used email, text messaging, online video, blogs, microblogs and sites such as Facebook and MySpace to spread his message through social networks, below the traditional media radar and at little or no advertising cost. In a traditional media environment saturated with conflicting, confusing and frequently mistrusted messages, this is a potent campaigning tactic. A link to a YouTube video or blog post, forwarded by a personal friend with a line or two of recommendation, is more likely both to be followed and to be taken seriously. At the time of writing there was no way of knowing whether new media would help Obama to a win or not; but whatever the outcome of the election, the nature of campaigning has probably changed forever. The new "Shikotas" have indicated they will use technology extensively to connect to born-free voters.



Still an understated force in South African politics, the use of technology and social-networking sites and other forms of media looks set to surge in future.

South Africa is a long way from being either as media-saturated or as constantly online as the United States, and our communications landscape is and will be shaped far more by the mobile phone than by the personal computer; but the lessons of this year's United States election campaign are worth pondering. What relevance do new media forms have for our own election in 2009, what impact might they have, which parties are most likely to benefit and what dangers might occur?

For those readers who are not intimately familiar with the constantly shifting new media landscape, some brief explanation may be in order, especially as last year's "new" is often this year's has-been.

Older (but far from defunct) technological platforms – radio, television, print – are best suited for both economic and technical reasons to broadcast communication from a centralised locus of power to a mass audience. New media forms based on the internet, by contrast, are not only cheap or free, they're also easy enough for individuals to use: the barriers to entry are very, very low.

The resulting shift in the balance of power between producers and consumers of media is profound. It's become almost trite to say that anybody can now be a publisher; but perhaps more significantly, new media platforms have very quickly asserted themselves as essentially conversational: the audience talks back.

Not only that, they talk among themselves. They comment, criticise, pass on, alter, combine, re-use, research, synthesise and go off in new directions faster than anybody can keep track of (although Google tries). It's no accident that "new media" and "social media" are often used interchangeably, or that their rise has coincided with a rise in concerns about the ownership and control of intellectual property and "content" more broadly. For those whose livelihoods and profits depend on controlling access to information, new media are a threat. On the other hand, for those whose success depends rather on how widely and deeply their messages can spread, it's a gift of enormous power.

It's easy, of course, to be too starry-eyed about the extent of this democratisation. Yes, anybody can publish online; but winning an audience outside the circle of immediate family and friends is another thing altogether. Now as ever, the voices that carry furthest and have the most influence are those of the well-resourced, if not in cash then in time, and depend on their credibility, the power of their social networks and their skill in using those networks.

Traditional media organisations also retain much of their power, with more and more moving online. New media have not superseded old media, most especially not in a country like South Africa where the tools required to access new media, apart from



Despite gains being made by cellphone technology and the use of sms outreach efforts, radio remains a key medium for our electoral politics.

the mobile phone, are not widely distributed. Television and radio are still, despite the preferences of a mostly youthful urban elite, by far our most important communications media and will continue to be so for some time to come.

All these caveats notwithstanding, several forms of new media are currently very powerful in South Africa and likely to play at least some role in 2009 election campaigns, if not because they have massive audiences, then because their audiences are relatively influential.

The one new media platform that does have mass penetration in South Africa is the mobile phone. The humble SMS can be a very effective organising tool, as can Mxit – at least as far as the youth are concerned. There is also some preliminary research suggesting that township youth are increasingly using their own and friends' mobile phones to get around their supposed lack of access to the internet. Opera, the developers of popular phone-based web browser Opera Mini, releases a monthly report on the state of the mobile web in which South Africa consistently features as one of the world's top ten mobile web markets. For the month of August 2008 the most popular mobile web site in South Africa was Facebook, closely followed by Google and Wikipedia, all of them ahead of Mxit at number six.

Facebook is also among South Africa's most popular destinations for desktop internet users and has become for many young people the primary means by which they manage their social relationships. Facebook allows them to broadcast their activities; share pictures, notes and internet links; organise events; exchange private or public messages; create and join groups; and support causes, among other things.

This mobilisation of people around groups, causes or events is low-risk and takes little or no effort or expense. It is, of course, also low-commitment activity – only a tiny fraction of those who are happy to click "join this group" will ever volunteer to do anything more significant – but because the action of clicking on the link is automatically broadcast to a user's entire network, it has an effect disproportionate to the effort involved.

Given the demographic realities of internet access in South Africa, the tone and direction of Facebook political activity so far is fairly predictable. At the time of writing the Democratic Alliance (DA) group on Facebook had more than 6 000 members and was growing fast; "Let's vote 4 the DA in 2009 ... ANC has failed the country!!" had around 3 000 members and "Democratic Alliance Youth" had just over 100 members. "All Hands on the Deck ... ANC" had 124 members, "ANC Campaign" had 42 members



The new break-away faction of the ANC spearheaded by Terror Lekota and Sam Shilowa used technology extensively to launch their National Convention in early November.

and several groups named “African National Congress” had up to 500 members each. Most of these groups were started by party supporters rather than officials, although in several cases party officials now actively support and engage with the groups.

Facebook is the best known, but there are scores of other online networks to suit every interest, with more being created all the time. There are active networks for car fanciers, pet lovers, knitters, business owners and so on, within which conversations can cover just about any topic, including the political. And in every single one of these networks the same principles of message propagation apply. Add the fact that most people belong to multiple networks and carry messages between them, and if you have a sufficiently compelling message it cannot help but spread.

Crafting those compelling messages is the hard part, of course. It is pretty much impossible to predict which messages will take and which will not – who could have foreseen the runaway success of Vernon Koekemoer? But throw enough out there, and some of it is bound to stick.

For the moment, blogs are unlikely to be as important in the campaign toolbox as social networks. The DA’s Helen Zille does have a blog (also originally started by a supporter), and former president Thabo Mbeki’s weekly newsletter resembled a blog although, crucially, it did not allow comments.

Taking the step to welcome comments or other public interaction with your audience is the critical hurdle, at which many traditionally trained campaigners (commercial as well as political) stumble. It requires relinquishing control over your messages – and those who do best are the ones who not merely accept this loss of control, but actively embrace

it. Monitoring of and participation in conversations wherever they may be happening is not necessarily expensive, but it does take a modicum of expertise and a great deal of time. The only parties that are likely to be able to deploy teams of the size

The election in 2009 will provide an early indication, but the real power of social media will only become apparent in five years’ time.

required are the DA and the ANC, and the latter may well decide that its key constituencies are insufficiently engaged with new media, or that new media are not sufficiently controllable, for the effort to be worthwhile.

The election in 2009 will provide an early indication, but the real power of social media will only become apparent in five years’ time. By then the price of bandwidth will probably have plummeted, access devices will be more widely distributed, and far more people will be experienced social media users with high expectations. It promises to be an interesting journey. **FOCUS**

Pam Sykes is an independent researcher and writer with a current focus on social media.

By Gwede Mantashe

Focus on development

Not only must economic growth be accelerated, but the quality of that growth must be transformed in the interests of overcoming unemployment, poverty and inequality

The African National Congress's (ANC's) vision of economic transformation takes as its starting point the Freedom Charter's call that the people shall share in the country's wealth. Since 1994 the ANC has made substantial progress in transforming the economy to benefit the majority, but serious challenges of unemployment, poverty and inequality remain.

We know that millions of South Africans want to know what we will do together to create decent work, overcome poverty and inequality, and address rural marginalisation. Linked to this are the challenges of transforming the health and education sectors and the strengthening of the criminal justice system.

Answering the challenges of unemployment, poverty and inequality means that we must simultaneously accelerate economic growth and transform the quality of that growth. The skewed patterns of ownership and production, the spatial legacies of our apartheid past and the tendencies of the economy towards inequality, dualism and marginalisation will not recede automatically as economic growth accelerates.

Decisive action is required to transform the economic patterns of the present in order to realise our vision for the future. There are many policies and programmes on which we can build. Other policies require review, which relate to poor institutional coherence and co-ordination within the state.

Accelerating growth and transforming the economy both require an effective, democratic and developmental state that is able to lead in the definition of a common national agenda, mobilise society to take part in the implementation of that agenda, and direct resources towards realising those objectives.

The ANC's understanding of a developmental state is that it is located at the centre of a mixed economy. It is a state that leads and guides that economy and that intervenes in the interest of the people as a whole.

There is an appreciation that the recent global economic crisis will certainly impact upon South Africa's economic growth prospects over the next years and pose challenges for job creation and other development goals. The global crisis will also impact upon the country's persisting systemic points of vulnerability – currency volatility, the current account and inflationary pressures.



The ANC will go to the electorate in 2009 to seek popular approval to implement the resolutions of its Polokwane conference on the steps needed to develop our country to create decent jobs, to mobilise the resources and capabilities of the state, to stimulate higher levels of economic growth, and to tackle poverty.

It will seek the electorate's approval of its assertion that education and health should be at the centre of the country's social-development programme for the next five years. It is an assertion that we need to make a concerted effort now to develop our human potential, developing the skills and creating the conditions for South Africans to respond to the needs of a changing society and world. This is central to improving the lives of all our people, and finally eradicating poverty and underdevelopment in our country.

The ANC will also seek a mandate to continue work to establish a comprehensive and sustainable social-security system that responds to the immediate needs of the poor, advancing from survival interventions to ones that enable the poor and vulnerable to enter the mainstream of economic activity.

Complementing these efforts, the ANC will seek a mandate to intensify the fight against crime. Not only does crime undermine the right to life and dignity, it also weakens efforts to tackle poverty and grow the economy. This problem needs to be solved by addressing the weaknesses in the criminal justice system, acting on the factors that contribute to crime, and mobilising communities to take a lead in this fight.

South Africa's international engagements will remain a priority. We will work to ensure that Southern Africa becomes a significant economic bloc. We will remain involved in efforts to prevent and resolve conflicts and assist the development of democracy in the continent. We will also improve South-South co-operation and relations with other developing countries to strengthen our economic advantage.

Since 2004, the ANC has demonstrated its capacity to respond to the needs of the people. The achievements of the past five years provide a solid foundation for a mandate that advances the country's transformation still further. **FOCUS**

(Gwede Mantashe is the Secretary-General of the ANC .)

From the ground, looking up

Bowing to neither Left nor Right, the IFP stands for both aspiration and compassion

The currency of politics, the Inkatha Freedom Party (IFP) believes, is public service. It's simply about working with people to help deliver the things they value and desire.

The public-policy programme of any party is the key to what that party would do in government. Political parties seek political power in order to implement their public programme. The IFP is no different. We aim to offer the best programme for government.

But how do we determine what the people's needs are? What do people value and desire? And how does a progressive political party, like the IFP, meet these needs?

These are the crucial questions facing us in the 2009 General Election: a truly watershed moment in our country's teenage democracy. The IFP launched its draft policy programme in January. The programme deals crisply with the questions: what are the country's needs, and how should we go about addressing them?

These range from combating the HIV/AIDS pandemic, fighting rampant crime, and the provision of adequate healthcare and welfare grants, to dealing with the crisis in education.

We are quite clear about what kind of country we would like South Africa to be. We want a thriving economy that creates the wealth to deliver rising living standards



and better public services to all. We want a caring society that gives people the freedom to live the lives they want, but which supports families and protects the vulnerable. That is why we support measures such as the Basic Income Grant (BIG) and the resuscitation of rural agriculture.

And we want to be part of a strong, self-confident and outward-looking country, a country with a good reputation in the region and the wider world, a country we can be proud of.

Throughout 2008, we have carried out a clear and uncompromising evaluation of the magnitude and nature of the fundamental challenges facing modern South Africa by listening directly, in the form of public consultations, to the South African people.

The IFP recognises that government, like the IFP, does not have all the answers, but we instinctively assume the best in people. Our starting point is that people are decent and care about others. We trust people. We trust the South African people.

We don't see people as a problem to be handled by government like an anonymous statistic. We see people who have problems needing to be helped by government: a hand up, not a hand down.

We don't view society from above, from Pretoria and Cape Town, like some national project to be managed, directed and monitored. We know that 21st-century South Africa is a more complex and diverse wonder than that.

We look at society from the bottom upwards. We view individuals, families, communities, voluntary organisations, faith groups and businesses as the foundation of a modern, diverse, cosmopolitan country. This is the clear blue water between us and the ANC.

We believe profoundly that there is an "all" in politics as well as an "I", and we believe they do not exist as mutually exclusive aims.

The IFP stands for aspiration and compassion in equal measure, breaking out of the old Left versus Right mould. Some trees, of course, will grow taller than others, but the IFP says no one should be left behind. This is the approach we take to education policy, especially for the poor.

In essence our approach is to engage citizens, strengthen democracy and deliver effective services, and pursue them as unified, and not, as they too often are, separate policies. **FOCUS**

(Prince Mangosuthu Buthelezi MP is the President of the IFP.)



From a Christian point of view

The strategy of the ACDP encompasses tackling five main challenges with a specific series of actions based on the party's avowed value system

The African Christian Democratic Party (ACDP) offers real hope for South Africans. Our hope lies in God Almighty and in our Christian democratic value system which upholds laws promoting personal morals, the integrity of the family and neighbourliness. The ACDP opposes gambling, pornography, homosexuality, prostitution and the murder of preborn children through abortion.

The top five country challenges the ACDP will address are as follows.

Crime

The ACDP believes the most effective deterrent to crime is when criminals know they will be swiftly apprehended, tried, convicted and sentenced to imprisonment. The ACDP's innovative policy of restorative justice will address punishment and individual responsibility, and restoration of victim and offender.

The ACDP will implement a zero-tolerance anti-crime strategy that includes:

- stiffer sentences, minimum sentences for certain crimes and making parole less easy to obtain;
- not granting bail under certain circumstances, including murder, rape, armed robbery and car hijacking;
- prisoners bearing the costs of their board and lodging through prison labour;
- restorative justice with restitution to victims; and reinstatement of capital punishment for extreme cases of murder and rape, particularly of children.

Poverty and unemployment

The ACDP believes that industrial strategy must support small businesses and labour-intensive industries in order to improve the levels of employment and the empowerment of the poorest. Investment in the maintenance and building of infrastructure is crucial to ensure competitiveness and growth.

The ACDP will also:

- implement entrepreneurship programmes, education and skills development;
- encourage labour-intensive initiatives and support small-business development, especially in rural areas;
- focus on investment in infrastructure;
- introduce incentives for local investment, while ensuring that local manufacturers can compete fairly against heavily subsidised importers;
- encourage a culture of savings, investment and hard work and provide social-protection policies.

HIV/AIDS

With HIV prevalence in South Africa exceeding 15%, and up to 500 000 people being infected with HIV/AIDS annually, the ACDP will implement routine, mandatory testing for HIV/AIDS, with counselling, and urgently attend to community-based solutions in caring for orphans.

The ACDP will also implement:

- factual public-awareness campaigns to de-glamorise AIDS and risky lifestyles;
- morally based life-skills programmes that promote



- abstinence and fidelity;
- training facilities and recruitment drives to increase the capacity of health workers;
- improved home-based care;
- integrated nutrition programmes;
- expanded anti-retroviral treatment programmes, greater access to prevention of mother-to-child transmission, and easier access to post-exposure prophylactic treatment for rape survivors, especially at point of rescue, and for medics; and
- investment in scientific research, including natural medicine.

Education

Education develops a nation's character and determines its future prosperity.

Development of the intellectual, physical, emotional and spiritual virtues of our nation is a primary focus for the ACDP. We are committed to providing quality education for all, through subsidies where needed, by promoting, training, attracting and retaining skilled and experienced teachers; re-establishing the central role of parents in education; and strengthening school governing bodies.

The ACDP will also:

- encourage the development of skills and knowledge within a value-based environment, with a particular emphasis on mathematics and science, and prioritise early childhood learning;
- protect freedom of religion in schools, and place decisions of language and religion on the community affected;
- ensure that student financial aid schemes promote a more vibrant higher education sector;
- encourage engineering, environmental and health sciences through subsidies;
- develop learning services such as drama, dance, music, sport, and languages and expand adult education;
- ensure that special education needs are provided for;

- empower educators to deal with disruptive children; and remove gangsterism, weapons, drugs, alcohol etc from schools.

Housing

The ACDP believes in the dignity of persons, which is affirmed through decent housing, accessible home ownership and family housing close to employment opportunities.

The ACDP will:

- promote the development of affordable housing with community-owned self-help schemes and foster a culture of responsibility;
- encourage settlements with health, education, socio-economic and recreational facilities;
- monitor freedom from party-political bias and interference in service delivery;
- improve delivery of houses, and renovation and managing of existing housing for rent, through broad consultation with stakeholders;
- encourage joint efforts among state, private and community entities to enable investment in mass housing schemes;
- monitor retention of standards and beef up capacity and funding; and
- counter mass migration by encouraging economic development and infrastructure in rural and high-population growth points through business incentives.

The ACDP sees a shift in voter attitudes, with people disillusioned with the ruling party and floor-crossing, and hungering for moral and caring governance. We are launching a campaign to counter voter apathy and believe the challenges facing our nation will be seen to have their solution in the ACDP. **FOCUS**

(Reverend Kenneth Meshoe MP is the President of the African Christian Democratic Party.)



By Bantu Holomisa

Burning issues and a matter of style

The UDM believes that style of governance is as important as policy issues if South Africa is to prosper as a democratic nation

The United Democratic Movement (UDM) will be focusing on a variety of burning issues in the coming elections. Before I highlight five of them, it is necessary to address the question of the manner of government, as distinct from the policies of a prospective government. Under the African National Congress (ANC), South Africans have been exposed to a style of governance that is not serious about consultation; it is also unaccountable and unresponsive. We understand that South Africans need certain things from their government:

- South Africans want a sense of ownership of their government;
- South Africans want direct control of their government;
- South Africans want an accountable, ethical and incorruptible government;
- South Africans want decisive leadership on issues of national importance;

- South Africans want mutual trust between them and their government;
- South Africans want to be in charge of their own destiny and
- South Africans want a say in the management of the country's resources.

Thus the UDM manifesto will be underscored by a theme of inclusiveness, consultation and accountability.

Another over-arching concept that will underpin our policy responses on all the burning issues is the defence of the institutions of the democratic state. The ANC and its alliance partners have systematically been devaluing these institutions with their constant attacks against any person or organisation that they perceive as obstacles to Jacob Zuma's rise to power. The UDM firmly believes that no policy promises made in the coming months in any of the party manifestos will amount to anything if the institutions of the democratic state have been undermined. That is why the UDM is, for instance, currently engaged in the battle for the survival of the Scorpions.

Five of the burning issues that the UDM will address during the election campaign are:

1. Jobs and the economy

A UDM government will focus on getting the economy on to a higher growth path. We realise that job creation remains the single most important concern for all South Africans; jobs and economic growth translate into real freedom for all South Africans. Therefore a UDM government will focus on creating more opportunities for new entrepreneurs to enter the market, and reduce the cost and administration for existing businesses to operate here. A UDM government will invest in the economy through infrastructure development, because the economy cannot grow without functioning roads, electricity, and water irrigation and reticulation etc.

2. Crime

A UDM government will immediately begin the long overdue revamp of the entire criminal justice system. The reality is that the South African Police Service (SAPS) is not catching enough criminals, the few that are caught are not properly prosecuted, and then our dysfunctional prisons don't work the way they should. A UDM government will provide the SAPS with the resources and support to focus on the prevention and investigation of crime. An immediate intervention is required to deal with the current overload of dockets per investigator. Another vital step that the UDM will take is to ensure that police management is appointed from the best and brightest who have risen through the ranks, instead of the current dysfunctional situation where a National Police Commissioner was parachuted in from outside – look where that left us. The justice department, especially the courts, requires a large investment in resources and personnel in order to clear the backlog of cases, and also to deal with the increase in cases that can be expected once the SAPS starts improving. Finally, we need to build more prisons in order to accommodate all the criminals, and also to keep the petty criminals and the hardened criminals apart.

3. Education

A UDM government will revive the ailing education system. Currently there is a lack of consistency in the schools curriculum. South Africa's education budget provides more money per capita than other developing countries, but it is sinking into a quagmire of maladministration and squandering.

There is a shortage of skilled teachers, due to an inability to recruit and keep the best teachers. Only 20% of schools

attain successful mathematics and natural science results. Lack of dedication and discipline of learners and teachers negatively affects productive teaching and learning. Tertiary institutions receive students ill equipped for higher learning.

To address these challenges a UDM government will reinstate teachers' training colleges. We will appoint people with technical, managerial and financial skills in the department to monitor implementation of policy. A new policy will be developed to reduce the number of children per class. An inspectorate will be introduced to inspect and monitor schools consistently, especially secondary schools, where the worst under-performance and ill-discipline occurs.

4. Electoral reform

A UDM government will immediately start the process of reforming the electoral system of South Africa. The current government's arrogance and lack of consultation stems from our electoral system not giving enough power to the voters. The UDM will introduce constituencies into the PR electoral system to ensure that every public representative has a specific, well-defined constituency to which they will account. The UDM will also introduce separate elections for the President of the country, to allow South Africans to elect the President of their choice directly. These two electoral reforms, along with other necessary reforms, will bring a halt to the current situation where a single unelected faction in the ruling party can impose its will on South Africans, irrespective of what the voters' wishes are.

5. Fighting corruption

The UDM will continue with its strong track record of exposing corruption wherever we find it. A UDM government will immediately bring an end to the ANC's distortions of civil-service norms. The era of nepotism must come to an end; a UDM government will appoint the best people for the job, not just those that carry the "right" party membership card. A UDM government will also establish the correct relationship between politicians and the officials; the current culture of political interference in daily administration is the reason for much of the bureaucratic chaos and corruption we witness.

Once we have ended the practice of political meddling in administration, the continuous tender fraud currently being experienced will also be radically reduced. **FOCUS**

(Bantu Holomisa MP is the President of the UDM.)

By Lance Greyling

Proposals to bridge the divide

With more than half of South Africa living in poverty, the ID's policies focus on fostering social equity and development

The overall policy goal of the Independent Democrats (ID) is to bridge the enormous divides that still plague our country 14 years after the advent of democracy. These divides are reflected in our high unemployment rate, massive levels of income inequality, and over half of our population still living in poverty. In addition, it is clear that the state machinery suffers from a critical lack of capacity in delivering basic services to all South Africans, making the concept of a developmental state a presently unachievable goal.

While the so-called fundamentals of our economy are good, it is clear to the ID that sufficient investment has not been made in both infrastructural and human resource development. The ID's policy platform speaks to all of these

challenges and proposes concrete solutions to address them.

A number of measures are needed to deal with unemployment. Firstly, a wage subsidy should be introduced, particularly for young South Africans who are currently unable to gain a foothold in the job market. Our competition policy should be more proactive so as to reduce economic concentration, which often acts as a barrier to entry for small businesses. The cost of doing business in South Africa must be reduced, through the state making key infrastructural investments in areas such as public transport, and opening up the market in telecommunications and energy generation. On the latter point, the ID has consistently advocated for the electricity grid to be opened to independent power



independent DEMOCRATS

producers with preferential tariffs given to producers of renewable energy. A massive renewable energy industry can be fostered in South Africa with positive spin-offs for both job creation and sustainable development.

In terms of poverty, the ID advocates the introduction of a minimum income grant, which would ensure that the social assistance net is expanded to include all South Africans who are living in poverty. The party would extend the school nutrition scheme to high schools to ensure that no child goes hungry, and that our school drop-out rates can be reduced.

The ID believes in people-led development, whereby the latent capacity and knowledge within our communities is unlocked so as to augment the state's delivery of basic services. In this regard, the ID would look into professional recognition of child and youth care workers, and ensure that unemployed people are trained to provide for this critical need in our communities. The party would train and hire teacher assistants to help teachers with a variety of tasks, including keeping discipline in classes, particularly those that are overcrowded.

In terms of securing our communities, the ID believes that both the causes of crime and the failings of the criminal justice system need to be addressed simultaneously. There is a need

to implement a comprehensive plan to address the underlying factors that lead many children and youth to engage in criminal activity. We need to address the shortcomings in our criminal justice system by hiring more police, with special emphasis on detectives and forensic scientists, and ensure that they are properly trained and resourced. In addition, the ID would provide proper government assistance to community police forums and strengthen all partnerships in the fight against crime. We will continue to play a leading role in rooting out corruption and would ensure that all of those who are implicated in corruption in the Arms Deal and other scandals are brought to justice.

The ID has a full range of alternative policy proposals that give life to our progressive social democratic agenda. These policies range from economics, health and education, through to issues such as arts and culture, and the environment. We are therefore confident that South Africans will support us in increasing numbers in driving forward the progressive change needed to confront the huge challenges we continue to face as a country. **FOCUS**

(Lance Greyling MP is the Policy Convener of the Independent Democrats.)

By Helen Zille

For an open, opportunity society

To equip citizens to develop their full potential, the DA's policies are aimed at fostering better health and education, waging war against poverty and crime, and defending the Constitution

The Democratic Alliance's (DA's) 2009 election campaign is based on a package of carefully costed and mutually reinforcing policies that give practical expression to our vision of an "open, opportunity society" for all. In the open, opportunity society, citizens are equipped with the tools they need to exercise their freedom, take advantage of their opportunities, and develop their full potential.

Our policies address our top five priorities, which are to: eradicate poverty; improve the quality of education; improve the quality of health care; fight crime; and protect and defend the Constitution. These are all equal priorities and should not be seen as a ranked list.

The only way to eradicate poverty is through sustained job-creating economic growth and a significantly improved education system. These are the focus of the DA's policies.

Our economic policy promotes low inflation, a minimal budget deficit, lower taxation, a deregulated labour market, enterprise zones, and opportunity vouchers. To assist new entrants into the labour market, we will provide all grade-12 school leavers with a wage subsidy of R3 600 to subsidise employment for 12 months. We will also boost labour-intensive export-orientated manufacturing industries to help lower-skilled workers find employment.

Quality education and skills development are essential tools without which no-one can be empowered to take charge of their own lives in a modern economy. To improve the quality of education, we will set performance targets for teachers and schools, and reward good performance. We will focus on making dysfunctional schools work better by establishing task teams and implementing a mentoring programme. To ensure that pupils from poor families have



access to quality education, we will introduce a per-child pre-school state subsidy (weighted according to parental income) and encourage a national network of community-based early childhood education centres.

Our policy on social development is also aimed at breaking the cycle of poverty. But for the DA, welfare is a hand-up, not a hand-out. Our approach to welfare emphasises opportunity and responsibility. For example, to ensure that children living in poverty benefit from a Child Support Grant, the legal guardian of a child would have to prove that the child has attended school at least 85% of the time; been taken to a clinic for regular health check-ups; and received all of his or her vaccinations.

Disease destroys lives and opportunities. Our health policy aims to attract more qualified health-care personnel into the public service and improve the quality of public health care by adopting the methods and management skills of the private health-care sector. We will bring private, public, community and non-governmental organisation health-care providers together under an umbrella system in order to meet specific targets within three years. Our chief goals are to increase: the percentage of children vaccinated against common childhood illnesses; the number of clinics offering HIV testing; the TB smear conversion rate; and the number of HIV-positive pregnant women receiving Nevirapine.

Crime is an enemy of opportunity. It destroys lives, families and communities, and a nation's economy. To prevent crime before it occurs, we will increase the total number of police officers to 250 000. To improve detection rates, we will employ 30 000 more detectives. To ensure that there is sufficient evidence to prosecute cases effectively, we will increase the number of forensic experts by eliminating all vacancies within six months. To solve the resource crisis, we will establish a national register of police resources to identify those areas where shortages are most acute. To reduce court backlogs, we will employ 500 more prosecutors and establish 24-hour courts.

Finally, during our campaign, the DA will continue to emphasise the need to protect and defend the Constitution, which is currently under assault by the ANC. Whatever else happens, we will strive to prevent the ANC from attaining a two-thirds majority because this is the essential minimum required to protect the Constitution, and prevent a shrinking cabal entrenching itself in power. We will also strive to win provincial power to demonstrate the policies of the open, opportunity society in practice and show it is the clear alternative for all South Africans. **FOCUS**

(Helen Zille is the national leader of the DA and Mayor of Cape Town.)

Beware of the bite

Enough with snakes, dead, live or fast asleep – here comes the Jack Russell, and her name is Evita's People's Party

I am an African. I love saying that because I am. And watching Barack Obama accept the overwhelming support of the majority of voters on 4 November, I also feel like an African-American. Because we also can! Secretly I was hoping he would lose. Then we could get him back, because we need leadership more than ever before. And that doesn't mean by a politician. I do not belong to a political party. I think we have had too many parties in the last 14 years. We must now stop having parties; we must start working. And working together.

My political entity known as Evita's People's Party is not about politics. It's about people. It's about what people do to make politics work. It is about elections. It is about the vote. Before 1994, our democracy was too good to share with just anyone, and as a result there were only 4 million people in South Africa. When apartheid ended in 1994, suddenly there were 27 million more people – in the maid's quarters and behind the garage. People who had all the reason in the world to say: 'Take the farms, eliminate the whites.' But no one said those words. Nelson Mandela came out of 27 years in jail and smiled and said: 'Tannie Evita, give me another koeksister.'

Nelson Mandela gave truth to that old saying: 'Love your enemy. It will ruin his reputation.'

Thank heavens our reputation as white racists was destroyed by his generosity and the compassion of a liberation movement that did not allow revenge. And so we changed. In fact everyone changed. The legacy of that first election of 27 April 1994, when millions of South Africans queued to vote for the first time, and many voted many times – that legacy is simply this: we got a second chance then. We will not get a third chance.

We have been spending a fascinating time replacing a president, premiers, parties and politicians. Our fourth general election is due within months. There is turmoil in the financial markets as well as behind the political fire-curtains. Never before have so many people been so scared by the words of so few. It is time to stand up and say: enough talk of war and killing and replacements. It is time to look beyond the political roundabout and see who really matters.

The people matter. Their opinion matters. Their vote matters. Without them, we have no democracy. The fact that we have



witnessed so many unexpected changes in our political geography is enough proof that South Africa will never become Somalia. Evita's People's Party will focus on the vote; on voter registration that gives you the key to the future. Without that key you can't get beyond the back door. The vote is secret. The vote is sacred. Even voting is a choice. People say they will spoil their papers. But that is to vandalise your opinion. Nothing comes from nothing. If you don't cast your vote for the future, you lose the right to complain about that future.

I say to every father and mother, grandfather and grandmother, gogo and tata: Vote. It's not only about you. It's also about your children and your grandchildren. They need you to care, so that they can make their dreams come true in a country that is free and fair. Our Constitution gives us freedom of choice: so choose. It gives us freedom of speech: so ask questions. It gives us freedom of expression: so laugh, when it all threatens to fall apart. If you can't decide whom to vote for, find out what they all stand for. Get the facts, then be empowered by your opinion – and vote. The cross on a ballot is a worthy cross to bear with pride.

Evita's People's Party will invite each party who intends to contest the upcoming election to publish their manifesto on our website (www.epp.org.za) so that the nation can study all the menus. Think about it as food. At present we are all mesmerised by the arguments coming from the ANC kitchen. So much so, that we forget to focus on the dining room of democracy. Our dining

room has many kitchens: ANC, DA, ID, IFP, UDM, ACDP, FF+ and believe me within days even the SPCANC. Each party manifesto will present their best recipes for a future. Shop around and find the dish to your taste.

We have a Constitution that is arguably the greatest in the world. Evita's People's Party will focus the attention of the people on what the Constitution offers us all. We must make each aspect of the Constitution as familiar as the songs in Mama Mia. The EPP is not about politics. There are excellent committed politicians, professional and dedicated, who lead political parties with passion and vision. They deserved the vote that they deserve. There are some who don't deserve the vote. I have no comment to make to those, other than to say: "Oppas boeties, Tannie hou julle dop! As from today, you're being watched."

Evita's People's Party will be the Jack Russell terrier at the gates of our democracy to bark loudly when our Constitution is threatened or insulted, to howl when our Constitutional rights are demeaned. And with other democrats to ensure a fair and free election, where all South Africans can positively contribute their choice for robust multi-party alternatives to an honest committed government.

Let the people lead and the politicians will follow. **FOCUS**

(Evita Bezuidenhout is leader of "Evita's People's Party" and Gogo to the Nation.)



By Bantu Holomisa

The IEC and the 2009 poll: key questions

A forum open to all political parties finds a variety of issues that require attention before South Africa goes to the polls next year

Last year the Independent Electoral Commission (IEC) hosted a conference on the state of electoral democracy in South Africa, in which all major political parties participated. As political parties we realised that the issues raised during the conference required follow-up to ensure concrete action being taken, since the conference itself had no decision-making powers.

We therefore established a Multi-Party Forum (MPF) open to all political parties. This forum has been meeting regularly and has engaged the IEC about transforming the electoral system.

The MPF has taken a number of resolutions that relate to the IEC and the general administration of elections, issues that will in turn affect the running of the upcoming polls. I will highlight three of broad IEC-related matters on which the MPF has taken resolutions.

The IEC's level of independence

The IEC is, by name, an independent institution, in accordance with generally accepted democratic norms. Such independence can be defined as:

- a) insulation from control by the government or any external body; and
- b) guaranteed access to adequate resources to be able to carry out its mandate.

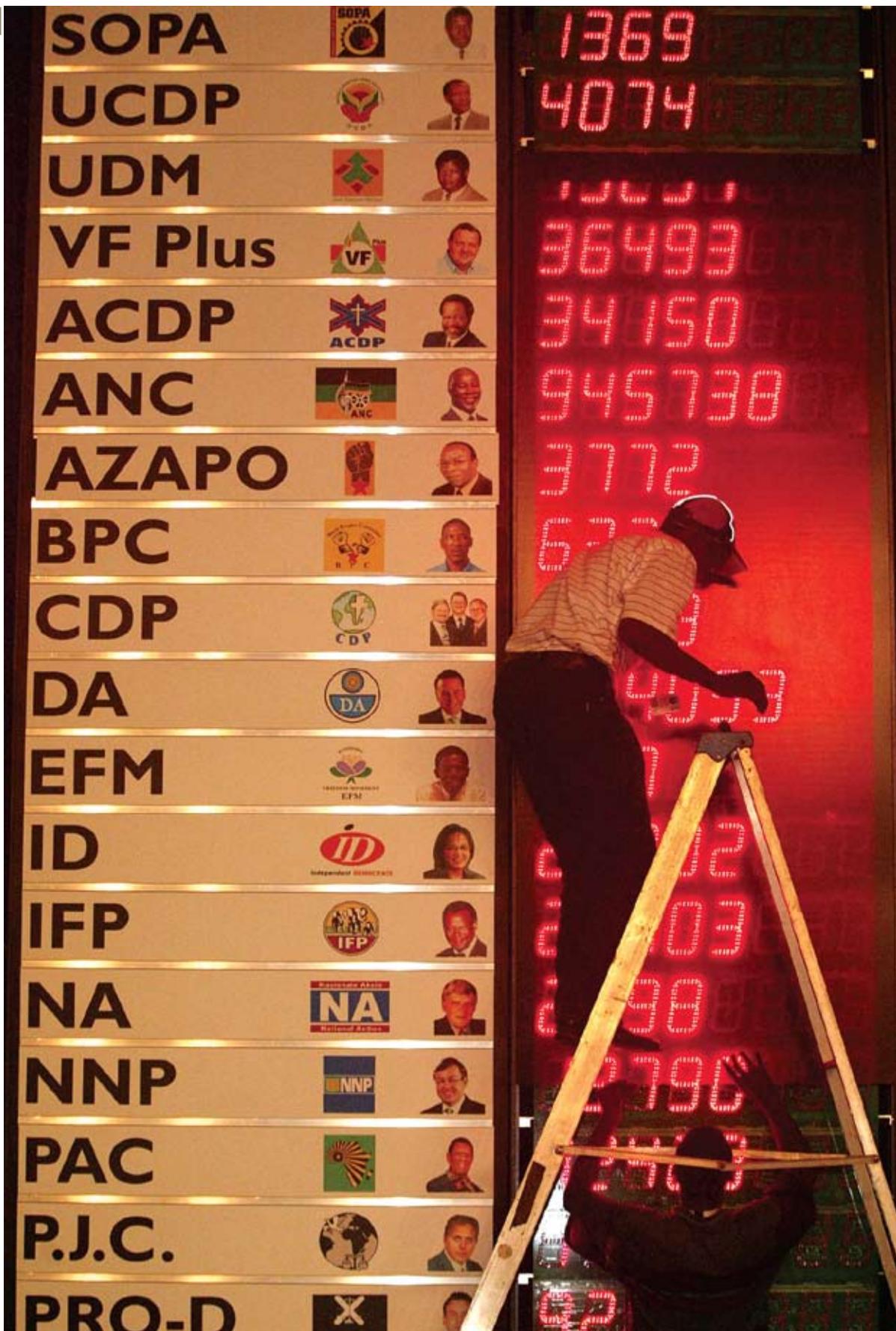
Neither of these conditions are fully met

In 1993 the IEC commissioners were nominated by the African National Congress (ANC), the New National Party (NNP) and Inkatha Freedom Party (IFP). Since then the political landscape has changed, with new players arriving and the NNP disappearing, yet now the commissioners of the IEC are drawn almost exclusively from the ruling party or recycled from the 1993 era.

The commissioners must be appointed with the involvement of all political parties in a manner that is equitable and fair.

Decision-making level of the Political Liaison Committee (PLC)

The IEC currently tends to make unilateral decisions which are forced upon political parties; the PLC should be given decision-making powers.



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South Africa's 2009 ballot paper will have many new entrants. The challenge for the IEC is to liaise with all players satisfactorily and independently.

Elections

The running of a modern democratic electoral process is a complicated matter; depending upon a wide range of variables and the assistance of a large group of people. The MPF recognises that the actual logistical implementation of the electoral process is particularly vulnerable to abuse; people who are appointed in critical positions in the electoral process may have party-political loyalties that affect their performance, and/or may be beholden for their employment to the continued electoral success of the ruling party. However, Congress of South African Trade Unions (COSATU) affiliates, in particular South African Democratic Teachers' Union (SADTU) members, are employed as election staff and presiding officers while COSATU is openly campaigning for the ANC and is represented at national executive committee level in the ANC.

Regarding Section 24A of the Electoral Act, "Voting in voting district where not registered", until the act is amended, the IEC must assure the MPF that measures are in place to stop the abuse (in the form of "bussing in" of voters) of this provision. Such measures must be tabled at the national PLC for input and approval by political parties.

Taking into consideration that the IEC has the power to determine the date of an election, the MPF asks that the election not be held in school holidays so as to minimise the need for voters to travel on election day.

Political parties should specifically mandate their respective voting agents to assist each other in monitoring the voting process and specifically to report "voting en masse".

Regarding the appointment of all IEC staff (and voter educators and presiding officers in particular), the IEC must ensure that such appointees have no declared and/or open alliances with organised labour and/or political parties.

Given the impracticality of political parties being involved in the interview and appointment of presiding officers, the IEC must ensure that such appointees sign a code of conduct that binds them to the impartial administration of an election. It is requested that such a code of conduct should be tabled at a national PLC meeting. The MPF asks that after the appointment of presiding officers, the IEC give the assurance that all appointees have signed the code of conduct and that the signed documents should be made available for inspection upon request. A disciplinary process should be in

place should presiding officers be found in contravention of the code of conduct.

Past presiding officers that have a proven record of impartiality and proper administration of elections should be re-employed where possible.

Regarding the rights of party voting agents on election day, the MPF requests that a clear directive should be issued from the national level of the IEC, for example from the office of the IEC Chairperson, on exactly what the rights of party voting agents are and how they should be treated on election day – thus establishing a national benchmark.

The MPF believes that the training of party voting agents is a matter of priority and should start as soon as possible. The Voting and Training Directorate of the Electoral Commission should clarify its responsibility in this regard (that is, when, where, how, etc such training will take place). The tools, such as counting manuals, rules and regulations, used by party voting agents should be made available timeously and in sufficient quantity to address the total need.

Political parties should mandate their party voting agents to establish inter-party connections/relationships so that political parties may share the load of monitoring the electoral processes on election day – especially at voting stations where it is difficult for each of the political parties to have several voting agents to work in shifts: in other words, sharing the load and protecting each other's interests.

The quality of information on the voters' roll is seriously questioned. The MPF asks that the IEC ensure that the data captured on the voters' roll is up to date, accurate and clean (poor capturing of information leads to a poor database). Political parties should be satisfied that the voters' roll meets the basic requirements for proper database administration.

The MPF asks that there should be a total review of the IT service providers the IEC employs. The IT systems used for capturing election results should receive special attention. The MPF wants the tendering process itself to be screened by political parties to ensure that credible service providers are appointed in a credible fashion. The MPF wants to screen the IT companies appointed by the IEC as well, to be satisfied that they are not front companies for organisations and/or individuals who have a vested interest in the election results.

Political parties should pool resources with regard to the whole issue of the IEC's IT service providers. Because of the highly

technical nature of the matter, political parties must ensure that qualified experts express an opinion on the quality of the IEC's service providers. Such experts must express an opinion on the technology employed (including hardware, software, databases, communication systems, etc) and on the security of such systems, so as to ensure that the IT systems are tamper-proof.

The MPF will request government and the IEC to make a clear public statement specifically committing to withdrawing and preventing any influence the National Intelligence Agency (NIA), and other security bodies, may have or may have had over any aspect of the management or logistics (especially the role of IT service providers) of the electoral process or the IEC as institution.

Given that the IEC has to ensure the safety of voting material (specifically looking at the security of ballot papers) on the eve of election, the MPF asks that more must be done to ensure that voting material is kept safe and secure. Anecdotal examples of voting material being kept in the cars of presiding

The IEC must assure political parties that voting material is safe and secure at all times before, on and after election day.

officers suggest that not enough is done in this regard. We want the IEC to provide clear directives regarding the measures to ensure the security of voting material and who exactly is made responsible. The IEC must assure political parties that voting material is safe and secure at all times before, on and after election day.

It is the considered opinion of the Multi-Party Forum that the MEC7 (Sworn or affirmed statement of registration) form should no longer be used. **FOCUS**

Bantu Holomisa MP is the President of the UDM and chairs the MPF.



By Andrew Feinstein

Let's see who pays the piper

The current political turmoil has its roots in the arms deal, which in turn had at least some of its roots in the ability of parties to hide the sources of their funding

After years of internecine warfare, the African National Congress (ANC) is on the verge of a split that could remake the South African political landscape.

However, before rejoicing thoroughly in a much needed shake-up of the political status quo it is worth remembering that the split appears to be motivated by what has driven the warfare: the loss of personal power and patronage through marginalisation within the ruling party.

It is rich for Lekota and his fellow travellers to bemoan the anti-democratic, intolerant nature of the post-Polokwane ANC when they were, for over eight years, enforcers of the subversion of internal democracy and debate that was the hallmark of Mbeki's leadership of the party. It was this intolerant, autocratic mien that enabled AIDS denialism, the protection of Robert Mugabe, and arms deal corruption and the consequent cover-up to flourish. In the process a number of South Africa's institutions of democracy, including



© PictureNET Africa/Christiaan Kotze

In a dramatically ironic, iconic image two Gripen fighters fly over Robben Island. The ANC lost its innocence during the strategic defence procurement process

Parliament, investigative bodies, the intelligence services and the prosecutorial authorities were trampled underfoot.

But the dire failings of Mbeki's tragic rule don't negate the criticisms of the post-Polokwane ANC. A good number of Jacob Zuma's supporters have illustrated a disturbing lack of respect for the judiciary (unless it does their bidding), the media and the Constitution. Their behaviour has given licence to ordinary ANC members to behave appallingly. Barely a week goes by without an incident of violence at an ANC gathering. The attitude to supporters of Mbeki varies from disrespect to outright hatred.

This is what characterised the precipitous toppling of Mbeki in the midst of the world's worst financial crisis for over 70 years.

That this happened just days after Zuma himself made clear publicly that he didn't want Mbeki removed raises a raft of worrying questions about exactly who is in control of the ANC.

Not that Jacob Zuma, an often charming man, has exactly behaved with decorum over the past few troubled years. His sexist, uninformed utterings during his rape trial and his refusal to criticise the repulsive behaviour of his supporters at that trial reflect dreadfully on his basic values and instincts. Similarly, his failure to admonish his supporters' invocation of violence to ensure he becomes President has been deafening.

A man with serious allegations of corruption hanging over him, regardless of his grassroots popularity, is the last person a country reeling under an almost permanent epidemic of violent crime and dependent on significant inflows of foreign investment needs as a President as the world enters economically uncertain times.

The legal case against Jacob Zuma is substantial. His financial advisor has failed in three attempts to overturn a 15-year sentence for, in essence, soliciting bribes for Zuma. And the case against the two men is so similar that prosecutors wanted to charge them together before political intervention forced them to charge Shaik on his own. Ruling on the forfeiture of Shaik's ill-gotten assets, the Constitutional Court opined that "Shaik's legal team correctly accepted that Mr. Shaik, with the intention to corrupt, bribed Mr. Zuma... for the purpose of promoting Mr. Shaik's business interests. ... and, in attending the meeting with Thomsons in London in July 1988, Mr. Zuma did, as a matter of fact, promote Mr. Shaik's interests".

The court is referring to a meeting arranged by Shaik with Thomson-CSF, the French arms company now known as Thales. The company was considering ending its business association with Shaik. Zuma was brought in to reassure them that Shaik was acceptable to the ANC leadership. As a consequence of



A Gripen flies over the ARMSCOR complex. Questions remain about the role the arms deal played in raising funds for the ANC's 1999 election effort nearly a decade ago.

the meeting, Thomson's reaffirmed its business relationship with Shaik, with both benefiting from a significant sub-contract in the multi-billion rand arms deal. Zuma allegedly benefited from an arrangement to pay him half a million rand a year to further Thomson's interests in South Africa, including protecting them from any investigation into the arms deal, a task he performed admirably together with then President Mbeki and his henchmen.

The arms deal is not only at the centre of Jacob Zuma's legal worries and questions about his suitability to lead. For if the Nicholson judgement is overturned on appeal, not only will the ANC leadership look ridiculous for its recent actions, but the National Prosecuting Authority will be honour-bound to recharge Zuma. The deal is also, to use Mark Gevisser's phrase, the well that poisoned Thabo Mbeki's leadership of the ANC and the country. It was the moment at which the ruling party was prepared to use state contracts to enrich senior individuals and the party itself, rather than pursue what was in the best interests of the nation. And it was the point from which the party leadership undermined key institutions of our hard-won democracy to protect themselves and the party from meaningful scrutiny.

This subversion of the national interest created the fecund environment for Oilgate, the awarding of the third cellular licence, Travelgate, Chancellor House and many other instances of ruling-party abuse that has led to the moral morass in which the ANC now finds itself.

Underpinning these dubious actions is not only personal greed but also the financial needs of the ANC, as it travelled from material destitution in the late 1990s to declaring assets of R1,75 billion at Polokwane last December.

To begin the process of cleaning up our tawdry politics since the arms deal, South Africa urgently requires reform of party-political funding guided by the over-riding principle of transparency. Surely if our political parties are the servants of the people as they claim to be, the people should know exactly who finances their activities. Every cent given to a political party should be public knowledge. If an individual or organisation does not want it to be known that they are contributing to a party, they should desist from donating. If a party is in any way embarrassed about who it receives money from, it should simply refuse to take money from them. Until we know who is funding our parties we will not be

assured that decisions they take are in the public interest rather than the narrow interests of their backers.

The second step required to save our political process is the creation of a mixed electoral system in which party leadership – of the Mbeki or Zuma variants – is unable to render its MPs quiescent in the face of denialism and maladministration. The third, which is at a critical juncture now if the ANC breakaway is able to develop into more than a home for disgruntled Mbeki discardees, is the creation of a vibrant, non-racial opposition that is a meaningful contender for power and a vigorous check and balance on the party in power.

And finally, to recreate an honest polity in which people enter public life to serve rather than accumulate, in which the national interest takes precedence over the interests of the party and its leading individuals, it is essential to convene a full and unfettered judicial investigation into the arms deal and

It was the moment at which the ruling party was prepared to use state contracts to enrich senior individuals and the party itself, rather than pursue what was in the best interests of the nation.

its cover-up. Those who benefited inappropriately or misused their office in the deal and its aftermath must face the legal consequences of their actions.

Such a process will impact on both the ANC and the new breakaway entity. But it is the only way in which we can forge a future of open, honest and accountable governance. **FOCUS**

(Andrew Feinstein is a former ANC MP and author of the best-selling political memoir, *After the Party: A Personal and Political Journey Inside the ANC*.)



© AP Photo/Denis Farrell

By Alf Stadler

The dangers of dominance

Complacency is but one of the risks involved in being an overwhelmingly dominant party – but the risks are not confined to the party itself

The African National Congress (ANC) dominates South Africa as effectively as the Congress Party in its glory days dominated India after World War II. South Africa, under ANC government, fits well into the dominant-party model coined to describe the Indian system.

Unless the ANC splits, no party can challenge its hegemony, but other parties – especially the Democratic Alliance (DA), and to a lesser extent the Pan-Africanist Congress (PAC), the Inkatha Freedom Party (IFP), the Independent Democrats (ID) and the Freedom Front (FF) – not only exist but flourish in particular regions and among specific social groups. Anything is possible in politics, but the ANC is unlikely to split completely. Nelson Mandela’s phrase, “a broad church”, both permitted and limited factionalism.



© Sunday Times/James Oatway

Whilst a deep split in the ANC is unlikely the emergence of “Shikota” poses the first challenge to the party’s dominance.

With less than 50 posts floor-crossing seats of the seats in Parliament, the DA is numerically much weaker. However, the DA is influential beyond its numbers, not only because of the quality of its leadership, but because its members and supporters have a history of commitment to liberal values. This situation reveals strengths and weaknesses for the ANC and for other parties. Although anything in politics is possible, it is highly unlikely that any of its rivals aspire, or even hope, to displace the ANC from power in the foreseeable future.

Unless there is a major catastrophe, the ANC is bound to win the 2009 election.

But while there is no danger that the ANC will be outvoted in 2009, it is possible that without the spur of competition, the ANC may lose the rapport that ideally it ought to establish with the electorate. Complacency and a sense of entitlement are potential

threats to dominant parties. Indeed, both are often evident in the way the party’s leaders speak and behave: the understatement of the year was made by the Deputy President of the ANC, and now national President, Kgalema Motlanthe, that he did not join the ANC to stay poor.

The radio station Classic FM (3 September) noted a decline in voter interest, specially among young voters. Political commentators sometimes wring their hands at such a prospect, but it is not necessarily the worst thing that can happen and it could change.

Moreover, without the realistic chance of winning power, opposition can become a game of skill for its own sake. The fact that the ANC is unbeatable electorally contains dangers both for it and for other parties, and for the integrity of government.

The ANC has established its legitimacy to command South African politics, if only because there were no plausible ideological



© Mail & Guardian

An unprecedented sight: former ANC members burn their ANC membership cards and switch allegiance to “Shikota”, a real challenge to the ANC.

was rampant under Tony Blair’s premiership. Large British local authorities have notoriously bad records for corruption; it would be hard to decide whether the Conservative party or Labour is the worse offender.

But there is no comfort to be found in the platitude “everyone does it, why not us?”. Corruption, wrote Colin Leys, is the

But one ought not to ignore the dangers that a political party with an unshakeable majority poses to the integrity of political and state institutions.

or organisationally coherent rivals among the black political organisations that had survived by the late 1980s.

Since coming to power the ANC has demonstrated its competency both as a governing party and as an electoral machine. It remained remarkably united until the extraordinary Jacob Zuma affair, but even that has not incapacitated the party. (Anyone who describes ANC rule as a one-party state needs to explain why the party’s leader is on trial for corruption.)

But one ought not to ignore the dangers that a political party with an unshakeable majority poses to the integrity of political and state institutions. No, it’s not just Africa: corruption is an old institution in English politics, from rotten boroughs during the 18th century to Lloyd George’s sale of seats in the House of Lords, and

corruption of a norm. The serious problem about corruption, and why I am making an issue of it, is that politicians aren’t usually just in it for the money for themselves, but to purchase influence over voters: if one is smart enough to succeed in politics, monetary rewards are not in themselves the main issue.

The dominant position of the ANC makes it more vulnerable to corruption than small parties, because its leading lights necessarily acquire an intimate relationship with state institutions. This was a serious problem under the old Nationalist Party’s rule, as elsewhere. But the limited legitimacy of Nationalist rule (within the white community, let alone in the wider society), where government rested mainly on the carrot and the stick, limited its ideological reach.

While it doesn’t necessarily follow that the intimate relationship between the ANC and the state will necessarily undermine the integrity of state institutions, the danger that party officials will penetrate all spheres and levels of state institutions is larger than with less securely entrenched parties (which have different problems, like instability.) Those who hope for government without parties should remember Sir Lewis



© AP Photo/Denis Farrell

Namier's tart remark that without parties, politics are as sordid as solitary drinking.

Probably more serious than corruption in dominant parties is the grip of the leaders' the mind-sets over their followers. There is a propensity for ambitious followers to echo leaders' opinions (a feature well known in universities).

It is particularly tricky in parties, because conformity to party policy is necessary in public and potentially disastrous in caucus. But in the case of the ANC, which leader's views are binding on elected officials when the state President and the party leader are different people, quite different temperamentally, and appealing to different constituencies?

The post-1994 presidency established the happy arrangement for Mbeki to do the work and Mandela to do the charm. This no longer held true with Mbeki as state president, and Zuma has been subsisting in a twilight zone between charismatic president of the ANC and an accused in a potential corruption trial. Mbeki is the archetypal brilliant bureaucrat, with a tight grip during his presidential tenure on the administration and a powerful grasp of economic policy. But he suffers from a certain lack of bonhomie that put him at a distinct disadvantage to the raffish and affable Jacob Zuma. Indeed, that understates the issue.

An anthropologist working in Mpumalanga – not a Zulu area – tells me that the province is awash with young shaven-headed Zuma look-alikes. To certain constituencies Zuma is seen as

warm, intimate, funny, sexy, and disdainful of protocol: the very antithesis of what they disliked about the Mbeki presidency. The fact that Zuma may be facing trial for corruption means little to them.

The prospect of a Zuma presidency cannot be ignored, though it could be aborted if he were to be sentenced to imprisonment for at least five years. (His financial advisor Schabir Shaik is serving a term more than twice as long). One would like to be able to say that even the possibility of him being convicted for fraud rules out the prospect of a Zuma presidency, but I am not confident that this is so. The ANC elected him its president (and therefore the likely choice to lead the country) in full knowledge of his precarious position vis-à-vis the law.

These problems bear on the issue of the ANC's readiness for the 2009 election in several respects. At best, they represent a distraction from the political issues, though perhaps this may give the election more public attention than it would otherwise get. Assuming, however, that President Motlanthe relinquishes his post when the party requires him to do so, a Zuma presidency with Motlanthe as vice-president would probably come to resemble the Mandela one, with Zuma playing the populist hero and Motlanthe doing the work. **FOCUS**

(Alf Stadler is Professor Emeritus of Politics at WITS University. He is the author of *The Political Economy of Modern South Africa*.)



Voters the Victors

The South African National Convention convened in 'Defense of Democracy' has created a watershed moment in South African politics.

Whilst stopping short of all chanting 'change we can believe in' or 'yes we can' like Obama rally-goers, the assembled delegates all sensed a whiff of 'change' in the air nonetheless. Obama's victory in the US Presidential election has certainly catalysed a sense of change about politics the world over and the advent of the 'Shikota's' (irrespective of the final name of the party) has created more than a whiff of change in South African party politics.

Like in the Obama campaign it was also clear that the arrival of the born-free voters, and the extensive use of technology and new media in South African politics with a deluge of sms messages, would ensure that no one could return to 'business as usual' politics in South Africa as we approach the 2009 election campaign.

Whilst the Convention's Declaration is a strongly worded defense of the constitution and an important watershed as such, much work now needs to be done to translate the excitement and words into viable organisational dynamics of a registered political party. Not only is the new party name a crucial question and became the subject of knee-jerk litigation by the ANC and unseemly uncertainty and suspense but

a new logo and colours – a highly emotive factor in party politics – will need to be concluded.

Some free advice – given the tenor of the National Convention – would be to tap into the colours and ethos of the South African flag for inspiration as it embodies in visual form the values all South Africans associate with the transition and the constitutional settlement. The logo and colours could quite successfully tap into energy of patriotism to our founding document. Already the National Convention's declaration – a key indicator of the bedrock of future policies that are yet to be developed - entrenched a sense of liberal democratic values.

The National Convention's Declaration included decisions that:

- It will campaign to defend the constitution and constitutional values;
- It will advocate strong moral values, such as respect and compassion;
- It will campaign for freedom and equality before the law; and
- It will seek a renewal of democracy, which it believes is possible only through electoral reform.

As the voters watch and weigh their options the National Convention certainly heralded a clarion call – 'Let the games begin!'

It is the pre-Polokwane and post-Polokwane trials and



© Sunday Times/Kevin Sutherland

Mluleki George, Terror Lekota and Sam Shilowa caused a stir by leaving the ANC and calling a National Convention in Defense of Democracy.

tribulations within the ANC, which formed the advent of the new party. Amidst the palpable excitement that emanated from the Sandton Convention Centre as the birth pangs of the South African Democratic Congress were being heard with jubilation, it is clear that the South African voters are the victors long before the polls even open in 2009 and that our political landscape is set to change offering voters new options but also confusing some voters who may simply not vote.

Voters are arguably the victors of these events because choice has suddenly become a real word in our electoral politics, as has substantive discourse about our anachronistic electoral system.

For many who did not regard the existing opposition as viable alternatives to the ANC's hegemony or who were sincerely concerned at the nature of internal ANC politics both pre and post Polokwane the political landscape is offering new options.

Having wider choice between different parties is but only one step on a long journey that must include electoral reform along the lines of the Van Zyl Slabbert Electoral Task Team to really restore power substantively to the people of South Africa. Many NGOs and individuals have been calling for this for years – long before it became a battle-cry of the National Convention.

But the first step has been taken in breaking logjams and it was an inspiring step.

A step that will entail hard slog and hard work to set up structures, raise funds, find organisers and craft credible policies, but a step that is irreversible as a signal of change.

And a step that poses immediate and difficult principled, tactical and operational questions for all the existing opposition parties – those who were present at the National Convention and those who elected not to attend. For the 'Shikota's' will not only cut into



COPETM
CONGRESS OF THE PEOPLE

The newly unveiled COPE logo draws extensively on the South African flag – the visual embodiment of the constitutional settlement.

the ANC's support base but also into the support base of every single existing opposition party in South African politics.

The essence of the decision confronting the opposition will be to merge forces (collapse existing parties into the new party) or to align forces (in broad co-operation agreements that may result in coalitions of varied composition in various provinces and possibly nationally).

These decisions will revolve around and, arguably, be decided by the policy core that emerges from the new party's official formation and deliberations on the 16th of December 2008 in Bloemfontein.

Were a policy platform with a social democratic core to emerge, this will be an interesting catalyst for tactical choices for existing opposition parties. The ID has already declared itself a social-democratic organisation that seeks to bridge South Africa's divides. The IFP has always had a key free-market core with elements of social democracy included in a racially divided society. The UDM has equally had aspects of social democracy to its electoral platforms. The DA has always had a liberal core

with social-democratic tinges though it has also veered to more conservative brands of liberal politics in its formation years when the DP, then NNP and FA were merged.

If a credible policy platform emerges that emphasises the same core constitutionalist approaches that have been included in the National Convention's Declaration and that also goes further and beyond them to craft a credible social-democratic economic response to the global financial sector crisis, and its aftermath, and its impact on South Africa's economic growth choices, then it will be difficult to see how all the existing opposition parties can credibly campaign on their own turf with their own claims to a rigid block of core supporters. If the new party goes further and correctly craft credible responses to the country's education and skills crisis and the ticking time-bomb of the HIV/AIDS challenge that has left no life in South African society untouched it will be on an interesting path that really takes the wind out of many opposition sails.

The existing opposition would at least have to be asking themselves what the impact of the new party will be on their

support (which is not 'bankable') and the choices they would need to make to spend funds going it alone or building a bigger party that could credible agitate for government.

If parties select not to merge coalitions appears to be the future trajectory. Whilst the coalition route remains one – post 2009 election – that parties would mull over whilst fighting in their own colours, with their own logos and manifestos, it seems that the most difficult tactical, and practical, choices for the existing opposition parties in the months before the election would be whether to retain themselves or fold their parties into the new party. The key deciding factor, as it must be, will be the policies that emerge from the new party in December and their responses to it – both substantive and tactical.

Irrespective of what the existing opposition forces do, difficult and immediate challenges remain for the new party not only to plan to engage the existing opposition and the electorate but also to engage the IEC in forging its existence as a new force in our politics in the months ahead.

In this regard Bantu Holomisa's words of warning at the Convention, and complexities he has highlighted of the host of immediate issues all parties have to confront with the IEC, ring strongly and are salient given his role as chair of the Multi-party forum that engages with the IEC in preparation for the election.

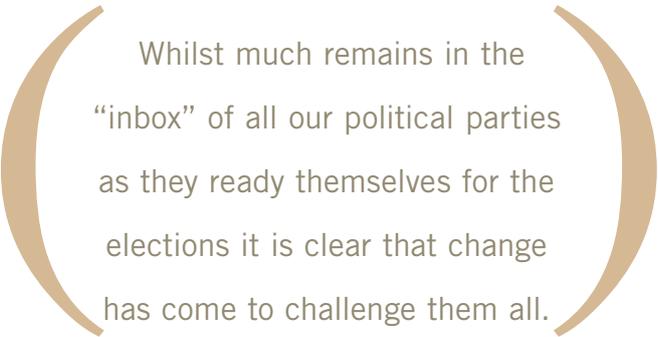
These words must be taken seriously and urgently engaged by the new leadership of the South African Democratic Congress as it prepares its party colours, lists, party agents' training and manifesto in the weeks ahead.

Co-operation amongst opposition parties in this regard is also subject to the key tactical question raised above – how will the new party and the existing opposition engage with one another beyond the warmth and engagement so evident in the Sandton Convention Centre this weekend? The crucial question will be what form co-operation between the new party and the opposition will take when it comes to the practical aspects of electoral politics presided over by the IEC.

This choice may even arise long before the actual 2009 elections as the new "Shikota's" will have to decide whether to contest various sets of by-elections that will appear on the radar screen of all political parties in the weeks and months between now and national polling day. This will be the first litmus test not only for the new party but for its relationships with the existing opposition parties. It will be a litmus test the new entity will have to pass as it will reflect on its credibility and ability to muster numbers long before voting starts nationally. If it delivers strong showings in by-elections it will build on its momentum. If it fails to and musters poor showings it will have to work twice as hard to ensure voters regard it as a credible alternative to the ANC's

desires for hegemony and as a possible credible governance force.

Two key factors also come into play. The first is to ensure that the ghosts of political intolerance and 'no-go' areas remain buried where they belong – in our country's past and are not given any room or credence in our constitutionally sanctioned multi-party democracy. Tolerance must be the watchword for all players as we approach 2009. The second is the uncertainty of the election date itself. This remains a tactical advantage which rests firmly in the hands of current 'care-taker' national President and ANC Deputy President Kgalema Motlanthe. Murmurs have already been doing the round that the ANC



Whilst much remains in the
"inbox" of all our political parties
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is actively toying with calling an earlier election date to catch the 'Shikota's' off guard. One can but only sincerely hope that internal ANC politics will not be the key driving force in the choice of our polling date. But it is a factor Lekota, Shilowa and other opposition parties would be well-advised to watch very closely as the IEC requires adequate preparatory time to ensure a glitch-free and free and fair process for all contestants.

Whilst much remains in the "inbox" of all our political parties as they ready themselves for the elections it is clear that change has come to challenge them all and requires them all to market themselves anew to an electorate in which they cannot take anything for granted.

But what remains even more crucial is the simple fact that all parties – whether new or old – have a crucial duty to ensure that as many South Africans as possible register for these polls and subsequently "get out the vote". As Tannie Evita reminds us all... ownership of our country's democratic spaces is a collective effort by all citizens who must take in active part in raising their voices and marking their ballots. South African electoral politics has suddenly got more than a "whiff" of Obamaesque change in the air. Whether it is indeed 'change we can believe in' we will all have to see after the 16th of December 2008. **FOCUS**



By Michael Cardo

W(h)ither South Africa?

Official scenarios suggest a sanguine future for the “developmental state” – but are a bit thin on exactly what that might entail

Two reports recently released by the Policy Co-ordination and Advisory Services (PCAS) in the Presidency make the case for greater state intervention in the economy, and suggest that South Africa’s salvation lies in the creation of a “developmental state”.

“South Africa Scenarios 2025: The future we choose” sets out three scenarios for the country over the next two decades. They are based on 65 interviews with “well-placed South Africans” and workshops with a core group of 40 people drawn from academia, business, trade unions, political parties and think tanks.

The scenarios are not meant to be predictions or roadmaps; instead they are “constructed stories about a particular point in the future and some informed speculation about the crosscutting paths that might get us there”. Plotted and narrated by the PCAS, these “stories” – or those with the happiest endings, at any rate – are intended to shape government policymaking.

The first narrative, “Not yet Uhuru”, foretells a government strongly committed to accelerating economic growth against the backdrop of deteriorating global economic conditions and severe ecological challenges. In this scenario, there are some direct state interventions in

the economy – through Eskom and Transnet, continued investments in Coega and the Pebble Bed Modular Reactor projects, and state “leadership” in the supplier industries for major infrastructure programmes.

There is a broad consensus that poverty must be ameliorated and that the state must direct the path of national development. However, the nature of the developmental state is fiercely contested among some lobbyists who urge fiscal prudence and limited state interventions and others who prefer a more dirigiste approach. The views of the former group prevail. The result is that, beyond a few intercessions, the developmental state is more of a “useful political catchphrase” than a “descriptor of a highly effective activist state”.

“Not yet Uhuru” prophesies a boom in private health care, education, security and retirement funding for the middle class. By 2025, 15 million South Africans are accommodated in the private health care system (double the figure for 2008); 20% of learners are in private schools (compared to 2,8% in 2008); and private security guards outnumber the police 4:1 (compared to 2:1 in 2008).

Despite growth-focused policies, economic growth never exceeds 3,5% between 2009 and 2025; “jobs and poverty targets [are] missed”; foreign investment is not forthcoming; and the skills crisis worsens.



THE PRESIDENCY
REPUBLIC OF SOUTH AFRICA

SOUTH AFRICA Scenarios 2025:

The future we chose?

Policy Co-ordination and Advisory Services (PCAS)
September 2008



In sum, the government's "free-market led development strategy" widens the gap between rich and poor; and the economy remains divided along racial lines, with white management occupying more than 60% of boardroom seats.

By 2013, in protest against trends in state policymaking, a group of leading trade unionists breaks away from the African National Congress (ANC) to form a "Left Party". Although the Left Party only manages to garner 10% of the vote in 2014, the ANC is sufficiently shaken to placate the remaining leftists in its ranks by placing greater emphasis on the developmental state after 2017.

The second scenario, "Nkalkhata", is a rose-tinted account of the developmental state in action. With a "new and stunning urgency", the government ploughs resources into supporting small- and medium-scale farmers; it ramps up services to the poor, along with "cash transfers of every kind"; and it carries out "emergency educational interventions", primary health and hospital revitalisation programmes, and bold public-works programmes.

To do this, the state somehow manages to forge a "great national compact", by convincing "all stakeholders that short-term sacrifice [is] needed from all parties... not just the workers and the poor". Despite the "warnings of 'dire consequences' by free marketeers", local and international business gradually fall "in line as key supporters of government's plan" to redistribute wealth. According to the futurologists in the Presidency, writing retrospectively, business, "like the nation at large, needed firm direction by a 'take charge' government".

This "take charge" government, aided by a favourable global economic climate, presides over annual GDP growth of 5% (2009–2012), 6% (2013–2019), and 3% (2020–2024). It creates 400 000 additional jobs in the public sector by 2024; it reduces unemployment to 12% by 2019; and it adds 4 million new beneficiaries to the social welfare net between 2008 and 2017.

As state-led redistribution speeds up the deracialisation of the economy, the government begins to consider phasing out



black economic empowerment and affirmative action between 2025 and 2035.

The third scenario, “Muvhango”, envisages an initial spurt of economic growth – helped by the successful hosting of the 2010 World Cup, the resolution of the Zimbabwean crisis and closer regional integration – followed by a period of stagnation. South Africa grows on average by 3,5% over a 16-year period (below the rate of 5% achieved by other African countries); its major financial services, health care, mining and retail companies are eventually sold to foreign multinationals; and the unemployment rate remains above 20%.

Although “world economic growth” was one of the variables used by the core group in plotting the three scenarios, none of the “stories” considers the long-term impact of the current financial crisis – in particular, the likelihood of a global recession.

The downturn is caused, in part, by political factors: protracted infighting in the ANC; a lack of political will in the corridors of power that “reduce[s] government’s capacity in critical areas”; and the state’s inability to “actively model the social values that encourage solidarity”, which leads to widespread corruption.

As the ANC succumbs to creeping political paralysis, its majority is drastically reduced to between 50% and 60% nationally. Three provinces are intermittently ruled by coalitions of opposition parties.

Things fall apart socially, too, as the ANC disintegrates: there is an intensification of “ethnic and regional senses of difference”, and an upsurge of “militant ‘men are the problem’ feminism”. This, the scenario-planners tell us, with an eye for fine detail, means more women-only gyms and women-only carriages on the Gautrain.

After winning the 2019 election with just over 55% of the vote, and losing four provinces to opposition coalition governments, the ANC eventually comes to its senses, restores party unity, and humbly goes back to the nation in search of forgiveness.

These scenarios are fine as far as they go, but there are several flaws and gaps.

Firstly, although “world economic growth” was one of the variables used by the core group in plotting the three scenarios, none of the “stories” considers the long-term impact of the current financial crisis – in particular, the likelihood of a global recession. This is despite the fact that toxic sub-prime debt was already threatening to overwhelm world markets long before the finishing touches were put to this document. Yet there is no mention of the credit crunch, its origins, or projected impact – either globally or locally.

Where global economic scenarios are sketched, there is no clear and logical link between global and local conditions: average annual global growth is 2,5% in the first scenario, 4% in the second, and 4,5% in the third. These figures seem to be plucked from thin air.

Secondly, despite the fact that the “African economy” is another key variable, little systematic thought is given to the meltdown in Zimbabwe and the prospects for economic regeneration should Thabo Mbeki’s faltering mediation efforts bear fruit.

The doyen of South African scenario planners, Clem Sunter, estimates that American and British investors have between \$12 billion and \$15 billion on hand, waiting to be invested in Zimbabwe. This money would flow through South Africa; it would put Zimbabwe back on a sound economic footing; and it would transform the economy of the entire Southern African Development Community. Crucially, it would only be freed up once Robert Mugabe has bowed out or been kicked out.

Regionally, to a great extent – and not only economically – South Africa’s prospects are bound up with what happens in Zimbabwe. Yet the presidential crystal-gazers are curiously coy about unpacking the possibilities.

Thirdly, the scenarios presuppose the continued electoral dominance of the ANC nationally. However, recent developments suggest that the ruling party is beginning to fracture rapidly. This process of fragmentation might surely lead to its collapse as the dominant party in the next 16 years. At any rate, an ANC loss at the polls – certainly by 2024, if not sooner – is now squarely in the realm of the possible.

Many of the most important events in the current process of political realignment took place after “South Africa Scenarios”

had gone to the printers. The recall and resignation of former President Thabo Mbeki; the resignation of cabinet ministers and premiers loyal to him; the ensuing political fallout; the suspension of dissident party members, chief among whom are the former Minister of Defence, Mosiuoa Lekota, and his erstwhile deputy, Mluleki George; Lekota's call for a National Convention to discuss the ANC's departure from the Freedom Charter and the Constitution; and plans to launch a breakaway party: all of this the scenario planners could not have foreseen.

In business, according to Warren Buffet, the rear-view mirror is always clearer than the windshield. So too in politics. Even so, the deep divisions within the ANC predate Mbeki's ouster. They predate the ruling party's acrimonious national conference in Polokwane in 2007, and although the rifts widened after Jacob Zuma's dismissal as Deputy President in 2005, they predate even that. Surely the endemic rise of factionalism in the ANC from the time of Zuma's discharge, and its implications for the unity and longevity of the ruling party, should have been factored into these scenarios?

A split in the Tripartite Alliance has long been predicted. There have been dark mutterings about a schism within the ANC itself, at least since the run-up to Polokwane. Then, Mluleki George campaigned frantically for Mbeki's re-election to the ANC presidency, and apparently issued coded warnings about a breakaway party should Mbeki's bid prove unsuccessful.

Should an ANC breakaway party be launched, it will clearly be of a different order and magnitude to the formation of the Pan Africanist Congress in 1959 and Bantu Holomisa's United Democratic Movement in 1997 – the two organisations with which it is most often compared. And if, down the line, it creates alliances with other opposition parties and continues a tradition of opposition coalition-building that has taken root in the past few years, the breakaway party could form part of a new outfit that will reconfigure politics and challenge the ANC for power nationally. That is a scenario which, through either oversight, lack of imagination, or arrogance, did not occur to the policymakers in the Presidency.

Fourthly, all three scenarios suggest that South Africa's success hinges on the creation of an interventionist, expansionist and redistributive developmental state. In a way, this serves to foreshadow the recommendations of a companion report by the PCAS entitled "Towards a Fifteen Year Review", released a few days after "South Africa Scenarios 2025".

The review builds on the self-congratulatory findings of the "Ten Year Review", issued in 2004 and shamelessly used for

electioneering purposes by the ruling party in the general election campaign of that year.

The updated version is, by and large, a frank and sober assessment of the government's record over the past five years in particular. Launching the document, PCAS head Joel Netshitenzhe conceded that during the second decade of democracy the state had not done enough to address poverty.

If South Africa continued on its current path, he said, it would ensure "some progress", but would barely dent "structural ills" such as massive unemployment among the youth and unskilled workers, inequality, the poor quality of social services, and violent crime. "With this, society would plod along with occasional social instability and periodic spurts of growth."

Rather than settle for the status quo, the review advocates what is cryptically described as "a big push based on broad national consensus and focused on a few catalytic national initiatives, propelling the totality of national endeavours towards better social compact".

Elsewhere in the document, this gobbledegook is rendered slightly less unintelligible: it means that "success will require a decisive state ... and a more cohesive society, together prepared to pursue a common vision". It all sounds remarkably like the "Nkalakhata" scenario, and it all depends, of course, on the establishment of a developmental state.

We still don't quite know what the developmental state entails, or how specific industries will be affected by more dirigiste policies, or, for that matter, why increased state intervention in health and education, for example, should yield better results after having had precisely the opposite effect over the past decade. There is a lack of detail – both in these reports and other government publications – about how the developmental state will create jobs, curb violent crime and reduce the number of HIV infections, and how the developmental approach will differ from that which preceded it. The long-term social and economic implications of South Africa's transition to a welfare state – with more than 12 million beneficiaries of social grants, the welfare state is in fact a fait accompli – are not explored.

Perhaps it is time for the state to dispense with jargon-laden retrospective reviews and wishful-thinking pie-in-the-sky previews, and reveal exactly what the developmental state is all about. **FOCUS**

Dr Michael Cardo is a speechwriter for Helen Zille,
Leader of the Democratic Alliance.

By Siphon Seepe

Are the courts in the firing line?

Robust – even strident – public criticism of judges arguably does not constitute a substantive threat to their independence

A growing number of pundits have lately been raising alarm bells about what they perceive to be the erosion of, and threats to, the independence of the judiciary in South Africa. Recent crass and ill-informed threats to the judiciary have not helped. The former Chief Justice, Arthur Chaskalson, and Advocate George Bizos argue that such rhetoric puts “pressure on the courts by making allegations of partiality, uttering threats of massive demonstrations, and expressing opinions in intemperate language, [which] are harmful to the judicial process, to our constitutional order and to our country’s reputation”.

It would seem that some of our sitting judges share the apocalyptic vision that our judiciary is under siege. Addressing the South African Institute of Race Relations on 14 October 2008, Justice Carole Lewis of the Supreme Court of Appeals made the following conclusion:

“The judiciary and its independence are under threat at present. It is difficult and demoralising for judges to work in such circumstances. Three things are needed, in my view, for judges to be able to work effectively, efficiently and without fear of political interference. First, appointments to the bench must be made by having regard primarily to merit – skill and experience. Political loyalty and race must cease to be



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The composition and conduct of the Judicial Services Commission (JSC) has become the subject of debate and discourse.

the criteria for appointment by the JSC. Second, politicians should take lessons in constitutionalism and realise that they are not above the law. And third, the provisions in proposed legislation that in any way detract from judicial independence should be consigned to oblivion."

The judiciary and the higher education sector were spared from appearing at the Truth and Reconciliation Commission. The assumption was that these sectors represented the best in our society. Expectations were that they would be self-correcting and would transform themselves without much encouragement. As a result the court system was left intact, the only addition being the Constitutional Court to attend to matters constitutional.

To address the constitutional imperative of diversity and appointments, the Judicial Service Commission (JSC) was established. As Lewis observes, the JSC comprises a majority of politicians rather than lawyers, and changed "both the manner of appointment-making and the nature of the appointments. With pressure from academe the interviewing process became open – though not the decision-making process – and candidates ceased to come only from the bar: attorneys and academics were appointed directly to the bench."

The downside of this is "a perception now that political fealty is a more assured path to appointment as a judge than

ability. [And that] eminently worthy candidates, who would be valuable members of the judiciary, have been rejected. Why even make oneself available if it is only to be rejected and humiliated during the JSC proceedings?"

The effect of this is that "it is not only commercial litigants who suffer the lack of experience on the part of many high court judges. There have, in criminal matters, been horrifying convictions and equally horrifying acquittals where judges have simply not understood the fundamental rules of evidence or of criminal law."

The effect of Lewis's observation is arguably to attribute incompetence to new entrants – in this case African and women judges. This is a partial interpretation of reality.

'As a study by the Gender, Health, Justice and Research Unit at UCT shows, the tension between the judiciary and other branches was to be expected. It didn't take too long before the Constitutional Court ruled against the ANC government. Faced with this, the ruling party sought to rubbish the judiciary. In its 8 January 2005 statement, the ruling party observed:

"We face the continuing and important challenge to work for the transformation of the judiciary. Much work has already been done to address the race and gender imbalances within this institution. Nevertheless, more progress has to be



Justice Carole Lewis' recent speech at the SAIRR generated a further flurry of debate.

achieved in this regard. However, we are also confronted by the similarly important challenge to transform the collective mindset of the judiciary to bring it into consonance with the vision and aspirations of the millions who engaged in struggle to liberate our

A mere debate and angry rhetoric about judicial rulings by persons without the ability to remove judges from office, even if not expressed in perfect good taste, cannot by any stretch of the imagination be termed a threat to judicial independence.

country from white minority domination. The reality can no longer be avoided that many within our judiciary do not see themselves as being part of these masses, accountable to them, and inspired

by their hopes, dreams and value systems. If this persists for too long, it will inevitably result in popular antagonism towards the judiciary and our courts, with serious and negative consequences for our democratic system as a whole.'

Faced with this seeming lack of progress, the Justice Ministry offered five bills to overhaul the running of the courts. The bills were meant to improve efficiency by transferring some responsibilities to the Justice Minister. For many this threatened the independence of the judiciary as the bills sought to limit its functions and jurisdiction. Following an outcry from the legal profession, the bills were shelved.

Cautious approach

In the current politically charged atmosphere, persons making claims about threats to the independence of the judiciary appear to be proceeding from a position of ignorance and pursuit of their own political agendas. They fail to distinguish between the public's criticism of the judiciary, which is admittedly robust or even strident at times, and institutional obstacles to the judiciary's exercise of its self-policing powers and ability to function without executive interference. As to the former, our Constitutional Court has spoken eloquently about the need for

the courts to ignore public pressure or public-opinion polls. For instance, the abolition of the death penalty and the recognition of gay marriages by the courts were bound to provoke public controversy, debate and outright condemnation of the courts by those holding radically different views. Quite naturally, in a country with sky-rocketing crime levels and the police's inability to bring crime under control, debates have ensued about the efficacy of the death penalty as a crime deterrent, and about the need for a referendum for the people, as opposed to allowing unelected judges to settle such politically sensitive issues. Such debates have been robust but have never been accompanied by any suggestions that the judges who voted to abolish the death penalty must be impeached or otherwise have their security of tenure threatened.

A mere debate and angry rhetoric about judicial rulings by persons without the ability to remove judges from office, even if not expressed in perfect good taste, cannot by any stretch of the imagination be termed a threat to judicial independence. After all, section 165 of the Constitution enjoins our judiciary to exercise judicial authority independently and subject only to the Constitution and the law, which they must apply impartially and without "fear, favour or prejudice". Judicial service in a democracy is not for the meek – a judicial officer who is paralysed by fear arising mainly from public criticism of his decision is obviously not qualified for the Solomonic task entrusted to him.

That would be a very different matter if politicians who have the power of impeachment over judges were to target a particular judge for investigation and impeachment solely on the basis of, or in retaliation for, his or her rulings from the bench. Section 177 of the Constitution stipulates that a judge may be removed from office for "gross incompetence" or "gross misconduct". It is unfortunate at present we do not seem to have a regulation or even code of judicial ethics that defines with specificity what constitutes the "gross misconduct" required for the impeachment of judges. Because neither the judiciary nor the JSC have taken steps to clarify this glaring deficiency, sitting judges are vulnerable to political pressure and can have their security of tenure violated on very flimsy and insubstantial grounds.

As experienced recently in the Judge President John Hlophe case, allegations of "misconduct" can generate mass hysteria and unleash political pressure for a judge to be suspended or even to resign, without regard to whether the allegations, even if true, are

sufficient grounds to constitute "gross misconduct". A distinction between misconduct and "gross misconduct", that is, between instances of judicial misconduct which are impeachable and those that may require remedial steps to be undertaken, is not clear. A judge who is incompetent but not "grossly" incompetent cannot be disciplined or even be forced to seek remedial help under the current rules. If the JSC finds him or her not impeachable it has no rules allowing it to impose lesser or intermediate sanctions such as a reprimand, suspension or even an order to seek further training.

Indeed, the International Bar Association noted the failure of the country to adopt the code of conduct for judges which was drafted in 2000 and accepted in principle by all heads of court. The judiciary has continued to blame the Minister of Justice for the failure to implement the code. This begs the question: why would a truly independent and self-regulating judiciary be so obsequious as to seek the approval of the Minister of Justice for acceptance of a code of conduct for judicial officers which is based on universal practice and principle?

Section 177 of the Constitution stipulates that a judge may be removed from office for "gross incompetence" or "gross misconduct".

The unabashed foray into politics by some judges does not help to ease the tension between the judiciary and other branches of government. Self-serving and partisan political speeches by unelected judges, particularly on such highly sensitive and politically charged topics as racial discrimination and affirmative action, can thrust the judiciary into the middle of an ugly political debate. To preserve the appearance of impartiality judges must avoid political controversies and act in a reserved manner. A prejudicial comment by a judge regarding affirmative action is not only an inappropriate attack on existing public policy, but it also renders the judge unsuitable to adjudicate any disputes involving the impugned policy. **FOCUS**

Sipho Seepe is the President of the South African Institute of Race Relations.

By Barbara Holtmann

Will size matter?

Plans are in place, but restructuring our criminal justice system (again) won't make much difference if we don't invest in prevention of organised crime

In his February 2008 State of the Nation address, President Thabo Mbeki said: "Cabinet has agreed on a set of changes that are required to establish a new, modernised, efficient and transformed criminal justice system [CJS]. Among other things, this will entail setting up a new coordinating and management structure for the system at every level, from national to local, bringing together the judiciary and magistracy, the police, prosecutors, correctional services and the Legal Aid Board, as well as other interventions, including the empowerment of the Community Police Forums [CPFs]."

As we begin to feel the cyclical freeze that precedes election fever in South Africa, we see the emergence of manifestos under the guise of business as usual. One hotly contested space, the arena in which we must decide who can best lead us to safety, is currently being fought over the restructuring (again) of the CJS.



The Scorpions were an effective deterrent against organised crime. Their expedient dissolution marks a low point in the country's fight against crime.

Government has appointed the Deputy Minister of Justice, Adv Johnny De Lange, to head its Criminal Justice Review (CJR) process. De Lange claims, despite evidence to the contrary, that the analysis of the processes and activities that make up the CJS “has never been done before in the history of the country”.

This claim is hard to understand. In 2002, the Institute for Security Studies published a monograph, “The Integrated Justice System [IJS] Project”, in which Business Against Crime (BAC) are quoted as predicting that this project “will provide South Africa with a world-class criminal justice system”, with promises of swift and appropriate punishment and an effective deterrent against crime. It further reports that an IJS User Board was established in 1997, and that in 1998 there was a “[c]omprehensive six-month investigation by a group of consultants” who undertook to “review the business processes involved in managing an offender in his or her journey through the Criminal Justice System”.

According to the South African Government Information Website: “The IJS, approved in 2002, aims to increase the efficiency and effectiveness of the entire criminal justice process by increasing the probability of successful investigation, prosecution, punishment

for priority crimes and ultimately rehabilitation of offenders.”

The claim that De Lange’s process is unique in our history must surely distress BAC, whose IJS project has been a significant part of its core business for the past 12 years, with the war room

De Lange claims, despite evidence to the contrary, that the analysis of the processes and activities that make up the CJS “has never been done before in the history of the country”.

at Gallagher Estates in 1997 covered wall-to-wall with process analysis. The BAC project was led by Willie Scholz, who has now been seconded to the De Lange project, no doubt since he has extensive experience resulting from the last time.



The argument about the uniqueness of the review is inexplicable, since surely there must be many lessons learned from previous attempts to integrate the CJS – and it would be reassuring to know that they are being used this time around.

De Lange’s “seven-point plan” aims to create an IJS with one mission and vision. This new IJS will be managed on a co-ordinated basis by a newly created and mandated structure (headed perhaps by Adv De Lange?). It sees a “drastic transformation” of court processes in criminal matters. It will implement key priorities in the component investigation, court and incarceration parts of the criminal justice system. There will be a “seamless” information-technology infrastructure and data system. The IJS will be modernised, including fast-tracking of current modernisation projects. Somewhat strangely, the seventh recommendation is that the powers and functions of CPFs should be increased and

The argument about the uniqueness of the review is inexplicable, since surely there must be many lessons learned from previous attempts to integrate the CJS – and it would be reassuring to know that they are being used this time around.

strengthened. What is familiar is that the faults of the CJS have been articulated as though it is a floundering business whose problems will be solved by applying business models.

There is no argument to be made against this process. Of course it is useful, of course we’d all love an integrated, efficient, and respectable system that delivers swift and effective justice for all. It is, however, a matter for grave concern if the IJS project that has been running for many years without any impact on the achievement of these fine objectives has been discarded as having

no lessons, no value. What then will make this attempt different? If the answer lies in the leadership of Adv De Lange, then we must surely hope that he is both highly resilient and well enough connected to bridge the transition from old to new leadership over the coming months.

As to the CPF part of it, the ANC resolutions in Stellenbosch in January 2006 and Polokwane in November 2007 indicate a short shelf-life for CPFs in favour of Community Safety Forums, a different proposition altogether, as they are typically attached to local government structures rather than to the police.

The DA, on the other hand, offers a streamlined five-point alternative to the ANC seven-point plan. The DA too suggests a “radical overhaul” of the CJS. The DA starts with a South African Police Service (SAPS) enlarged by the recruitment of 30 000 additional detectives. This, it claims, would bring the total of SAPS capacity to 250 000 – although this figure is hard to compute. (It would also fire any officer who is found to be corrupt, so would presumably have to recruit quite regularly to maintain this capacity). A crime-information-management system – based on the integrated geographic information system (GIS) system used in New York – would be harnessed to allow both the public and the police to access real-time information about crime trends, to track cases and people on bail and parole, and manage the performance of individual police stations – all from a central database. The DA would employ private-sector skills to expedite prosecutions, employ an additional 500 prosecutors, and amend bail laws to ensure that granting bail is not the default position in dealing with serious crimes. Similarly, there would be no parole for those sentenced to life imprisonment. The DA intends to divert minor criminals to work in communities and to put serious criminals to work behind bars. In a surprise move towards being a “compassionate and caring society”, the DA states that it would establish a Victims of Crime directorate to support victims and manage a fund through which victims will be compensated.

Both the ANC and the DA are thus pinning their hopes on an improved and integrated justice system as the key to improved safety in South Africa.

It is arguable that the CJS, integrated or not, with more police or not, with performance measures or not, cannot deliver

Battle-weary South Africans are concerned that the successive criminal justice system reviews have not led to successful reforms that lower crime rates and reduce crime scene numbers.

safety to South Africa, however good the intentions of either party. The system is currently so overburdened that De Lange himself calls it a “disgrace” – last year more than 340 000 people populated our prisons, with 240 000 of them being released on first appearance in court. On any day, 164 000 remain, despite the fact that we have capacity for only 114 000. The courts have a current backlog of some 70 000 cases, leaving them an estimated two years behind schedule. Even the most generous interpretation of the DA’s strategy of hiring 50 000 more police must leave us wondering how

What is sad is that neither party offers us a vision of a safe South Africa – nor any leadership about how to achieve it.

swollen in size the rest of the CJS would have to be to support their fine performance, should we be able to recruit and train them within any foreseeable future.

What is sad is that neither party offers us a vision of a safe South Africa – nor any leadership about how to achieve it. Instead, they choose to focus on improving our ability to catch, investigate, prosecute and incarcerate more and more criminals. It seems likely that greater trust in the CJS, should they achieve it, will result in more, not less, demand for its services – unless there is a significant shift towards investment in prevention, no CJS will ever be big enough or smart enough to make us safe. **FOCUS**

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Land and Agriculture Minister Lulu Xingwana survived the Cabinet reshuffle.

By Frederik W De Klerk

Property rights in the balance

Previously obscured long-term ideological goals are surfacing, threatening to break the careful balance between property rights and land redistribution achieved in the Constitution

The success of South Africa's historic constitutional negotiations depended on a continuous search for balance between the often diametrically opposed demands of the main parties. In particular, the parties had to try to find a balance between those who had much to lose and those who had much to gain; between the need for national unity and the need to preserve our rich and varied cultural and linguistic heritage; between the concerns of minorities, and the demands of the majority; between the need for stability and the need for change.

All reasonable participants accepted that the new constitution would need to have a strong transformational character. Any attempt to cast in stone the then prevailing social, economic and political relations would be neither acceptable nor tenable. The new constitution had to offer hope of a better and more just dispensation for the disadvantaged majority – but it had to do so in an equitable and sustainable manner that would not unfairly threaten the core interests of minorities.

Former President FW De Klerk's Foundation launched a broad-based effort to lobby against the unconstitutional Expropriation Bill tabled in March and subsequently withdrawn.

the property clause “adopted by us and endorsed in the 1996 national constitution is still relevant now.”

The ANC subsequently decided that, rather than amending Section 25, it would be sufficient to draft new legislation that would bring existing expropriation legislation into line with Section 25 – particularly by making provision for expropriation in the public interest. A white paper on a new expropriation bill was tabled at the end of 2007. In December 2007, the ANC's National Conference at Polokwane called on the state to “expropriate property in the public interest” and to award compensation “in accordance with the constitution, with special emphasis on equity, redress and social justice”. The resolution called for the abandonment of “market-driven land reform”, immediate review of “the principle of willing-seller, willing-buyer” and the alignment of all legislation relating to expropriation with the Constitution.

The Expropriation Bill that was tabled in Parliament in March this year was fully in line with these ideological positions – but out of line with the Constitution.

The Expropriation Bill that was tabled in Parliament in March this year was fully in line with these ideological positions – but out of line with the Constitution. The Bill's purpose was “to provide for the expropriation of property, including land, in the public interest and for public purposes”. Its purview thus included all property. In terms of its provisions:

the Minister could expropriate property (which could include shares) on behalf of a “juristic person” (ie a private or public company) if it reasonably required the property in the “public interest” (broad-based black economic empowerment?) and had failed to reach agreement with the owner;

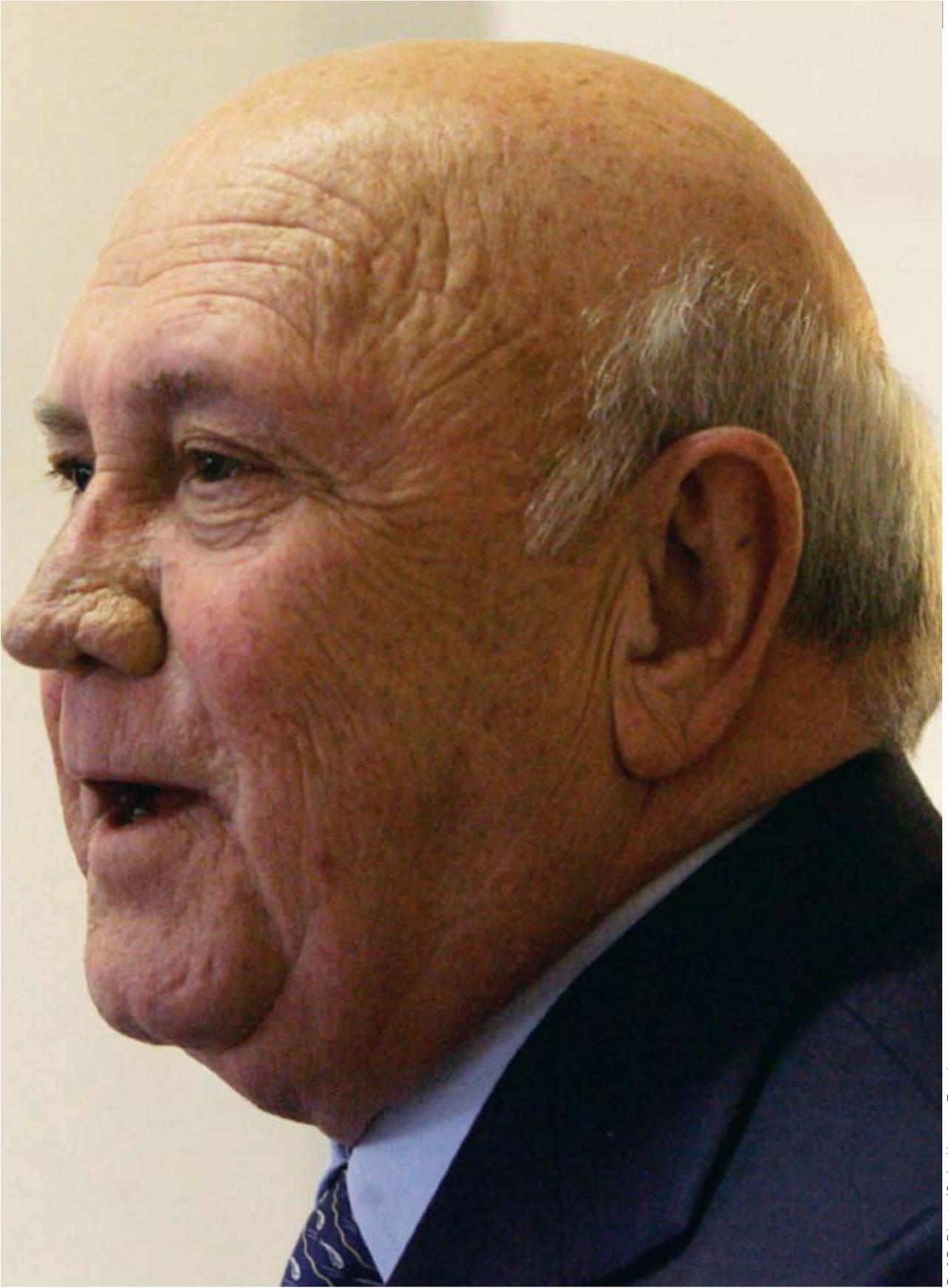
the expropriating authority would determine the amount of compensation (that might, according to the bill, be below market value), and the dates of expropriation, possession and payment; and the courts could not overturn compensation awarded by the expropriating authority but could simply refer it back for reconsideration. Thus, if property holders rejected the offer of compensation and went to court, they might be deprived of their property and income for an indefinite period while the matter was referred to and fro between the court and the expropriating authority.

These provisions would have effectively destroyed the balances that we had painstakingly included in Section 25. Last month, after a vehement and vociferous outcry from a wide range of business and civil society organisations (including the FW de Klerk Foundation and its Centre for Constitutional Rights), the government wisely decided to withdraw the Expropriation Bill. A new bill will be introduced after the election next year. It will have to be scrutinised with equal vigilance to assess its constitutionality and its likely impact on investment, sustainable agricultural production and inter-community relations.

Lurking beneath all this is the fact that the National Democratic Revolution's goal of radical and racially based redistribution of property will fatally disturb one of the key balances on which our new society has been established. As the ANC notes, property rights lie at the core of all social systems. Extensive research has shown that the two most important factors for the success of any society are the rule of law and respect for property rights. Both these elements are currently under pressure in South Africa.

The fate of property rights is one of the core questions that will determine the future success or failure of our young democracy. It requires renewed and frank communication among the ANC leadership, minority communities and business. On the one hand, there is a clear need – and a constitutional imperative – for balanced, effective and sustainable transformation. On the other, we must avoid the implementation of failed ideologies that can destroy our constitutional democracy, our economy and any vestige of our national unity. **FOCUS**

(Former President FW de Klerk is Chairman of the FW de Klerk Foundation and the Global Leadership Foundation.)



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By Howard Preece

Oh captain our captain

With little for our comfort and even less to surprise, Trevor Manuel maintains his firm position as the man the world wants to see at our financial helm – and holding a course to starboard

South African Finance Minister Trevor Manuel sounded unintended echoes of satirist William S Gilbert when he presented his annual updated Medium-Term Budget Policy Statement (MTBPS) to Parliament in October 21.

In Iolanthe, Gilbert noted that the “House of Peers did nothing in particular throughout the war, and did it very well”. So, in some respects, with Manuel and the rolling four-year MTBPS.

There was effectively nothing that Manuel could say in particular in either the published document or in his

accompanying speech to MPs that would be both new and significantly consequential. But what he could still offer was the voice of measured and reassuring sense, a quality that has largely (though far from wholly) characterised his 12 years in political charge of the Treasury.

To some extent Manuel did just that in his MTBPS speech – and did it very well.

However, it can definitely be argued – and some leading private-sector economists have done so – that Manuel deliberately underplayed South Africa’s key role in its own economic problems.



Photo: AMBROSE PETERS © Sunday Times

Finance Minister Trevor Manuel tabled the Medium Term Budget Policy Statement (MTBPS) mere days after a Tripartite Alliance Economic Summit raised questions about future policy post 2009.

From 2004, South Africa has been strongly on course for one of the extraordinarily largest deficits on the current account of the balance of payments of any country in the world, proportionate to the size of gross domestic product (GDP). The deficit is, for instance, relatively much larger now than that of the United States. More, the International Monetary Fund forecasts that South Africa is set to move even deeper into the red.

Now, that process was long under way before the world financial crisis.

It was necessarily a reflection in critical part of an overwhelming national preference for spending, especially on

credit by consumers, ahead of saving. South Africa effectively chose to rely significantly on foreign credit to keep the economic boom going. Indeed, net household savings hit unprecedented negative levels in 2006, 2007 and 2008 to date. Further, the ratio of total gross domestic savings to GDP tumbled below 14% from mid-2007. That compares with 17% in 2002 and 19,6% in 1991.

In his 2008 MTBPS speech, Manuel readily conceded that South Africa must do a lot more to promote savings and to stimulate exports, beyond heavy dependence on favourable world commodity markets. Manuel said: "We need to lift our



© AP Photo/Yves Logghe

Global turmoil impacts local growth and deficit projections. British Prime Minister Gordon Brown played a key stabilising role in turbulent times.

rate of national savings. We need to construct a more export-oriented economy.”

He continued: “There are aspects of microeconomic policy where more has to be done. They include trade and industrial policy, labour market policy, enhancing competition in our economy, improving our skills base and increasing the effectiveness of the State – areas where we have just not seen sufficient dynamism in the implementation of policy.”

True enough. But most of these admissions had much in common with shutting the stable door after the horse had long gone.

Take South Africa’s bedrock mining and metals industry.

The period from roughly 2000 to 2007 saw one of the greatest booms ever internationally in these fields. But South Africa reaped pathetic exports rewards from mining over that time. This was primarily because government was concerned with socio-political “transformation” objectives in the industry rather than with facilitating the maximisation of national economic gains to South Africa.

It was no surprise, then, that Manuel had little for real comfort in the MTBS.

However, even in a tranquil world economy – and the statement was made right in the eye of the storm – Manuel would

still not have offered much to excite or alarm MPs. That is, by definition, the core feature of the whole MTBPS strategy.

The days of needless major surprises in financial policy statements have mostly and happily long gone in South Africa. This is in line with what happens in all developed and emerging-market nations that embrace broadly sound macro-economic policies. Decades of obsessive secrecy in the handling of fiscal policy – essentially changes in the levels of direct and indirect taxes and the size of the Budget deficit, that is, the estimated gap between planned State spending and anticipated revenue – have largely passed into history.

The name of the game now (in principle, at least) is ongoing sound financial management, and the adoption of known and consistent fiscal and monetary parameters.

The big hope behind this is that:

- government departments will be able to plan their spending more rationally because they know several years in advance how much money is coming to them, and roughly what it will buy after adjusting for inflation; and
- private businesses and individuals will equally have greater certainty in organising their affairs.

In practice, of course, things never run remotely as smoothly as that over an extended period. There is an inherent turbulence in economics, even when all seems calm and comforting on the surface.

But this year's global financial tsunami has been exceptional by any standards.

Manuel told MPs: "A structural correction internationally was needed, but the ferocity of the crisis was not anticipated.

"World stock exchanges have lost US\$5 trillion in value over the past month, the oil price is down from its \$145/barrel peak in May to \$70; platinum has fallen from a high of \$2 254 to around \$900; the prices of coal, copper and steel have fallen sharply; manganese and aluminium stockpiles are mounting and industrial order books are shrinking."

He added: "The scale of fiscal interventions under way globally is historically unprecedented but it is nonetheless expected that factories will close in industrial economies and unemployment will rise.... We do not yet know how the crisis will be concluded, nor what its impact will be on output and employment, trade relations or the world financial system.... The storm has arrived. It is fiercer than anyone could have imagined and its course cannot be predicted."

But Manuel – without directly intervening at all in the bitter infighting that currently confronts the ruling African National

Congress (ANC) – left no doubt that South Africa has no soft options open to it.

He bluntly told Parliament: "Our decisions have sometimes been controversial. But if our economic policies were designed for their populist appeal, if we tried to finance everything at once for everybody, then short-term gains would quickly give way to long-term misery."

Many observers saw that as clear rejection, implicitly, of the hard-left factions now battling to take control of the ANC.



There are strident voices calling for increasingly leftist policies – while South Africa has become ever more reliant on foreign capital from sources mostly sharply opposed to intensified socialism

That is hugely important.

Manuel is not a heavyweight power within the 'new' ANC. But when it was reported that he had resigned from Government, in step with the departure of Thabo Mbeki as President, this had a negative impact across all South Africa's most immediately sensitive economic indicators.

One senior foreign banker, speaking for many others, observed: "It doesn't really matter who else is going or not from the Cabinet. Manuel is the only minister who finally counts internationally."

That is even more the case as South Africa heads into the political unknown. There are strident voices calling for increasingly leftist policies – while South Africa has become ever more reliant on foreign capital from sources mostly sharply opposed to intensified socialism.

In that situation Manuel remains very much The Man – and any ANC leader today has no practical choice but to accept that. **FOCUS**



Howard Preece is a contributing economic columnist to Finweek. He is a former financial editor of the Rand Daily Mail.

By Len Verwey

Caution: financial pitfalls ahead

Parliamentary authority to amend the budget has the potential to benefit the country in several ways, but it will demand new skills and a fine sense of balance

Legislation setting out a procedure for Parliament to amend the budget is required by the South African Constitution and remained, until recently, probably its most significant outstanding piece of legislation. Draft bills have circulated in Parliament at least since 1997, but for the most part they have fallen prey to an impasse between the legislature and executive on the appropriate scope of Parliament's role in the budget. The draft bill prepared and presented by the Minister of Finance in 1997, for example, was perceived as placing excessive constraints on Parliament: constraints which gave it very little de facto authority.

Introducing budgetary amendment power means that the budget will ultimately be under the control of Parliament, as an institution representative of the electorate. There is a degree of stridency among some current advocates of budget



Photo: Muntu Vilakazi © Sunday Times

SACP Secretary General Blade Nzimande plays an ever-more vocal role in economic policy discourse.

amendment power which points to a strain in relations between the legislature and the Minister of Finance and National Treasury. In some respects this follows tensions within the African National Congress (ANC) on the economic policy trajectory followed by government since 1996. That is, it appears as though many of the strongest advocates of budget amendment see in it the potential to address South Africa's developmental challenges more effectively than has been the case to date.

The rapid completion and passing of a new bill (the Money Bills Amendment Procedure and Related Matters Bill) with far wider powers for Parliament can, and should, be read against the backdrop of a desire for greater legislative assertiveness within the post-Polokwane ANC. The legislation gives Parliament the power to amend the 'fiscal framework', that is, essentially, to amend fiscal policy, as well as to amend the division of revenue, appropriations and revenue proposals. Parliament is required to consider various factors in making amendments, such as the sustainability of the fiscal stance over the medium and longer

term. It is also obliged to follow a specific amendment sequence. Once the fiscal framework is adopted, for example, any changes to the division of revenue need to be consistent with this framework. Similarly, appropriation amendments need to be consistent with the adopted or amended division of revenue and the adopted or amended fiscal framework. However, although these requirements need to be met, it is fair to say that the legal authority of Parliament to amend the budget is virtually unconstrained.

The practical and political challenge over the next few years will be to find an appropriate role for Parliament which neither continues to limit it to a rubber-stamping institution, legislation notwithstanding, nor assumes that it is either possible or desirable for Parliament to transform the budget presented by the executive. A budget-transforming legislature would be one which makes sweeping changes to the budget in its fiscal stance, in the relative priority accorded the various spheres of government, in allocations, even in tax policy. Such changes may sometimes lead to better budgets, but given the limited time available for



amendments, the complexity of technical issues MPs will need to consider, and analytical capacity challenges, such attempts are likely to be a hit-and-miss affair, and the risk of unintended negative consequences would be large.

Fundamentally the budget-writing process must remain within the executive and the essential decisions on prioritisation must be made by Cabinet. The more technical process of setting resource envelopes and reconciling the budget bids of departments with these must remain the political responsibility of the Minister of Finance, who needs to continue receiving strong administrative support from the National Treasury. Following the adoption of the Bill, Parliament should not seek to duplicate this process in February, given limits in research capacity and limited time to consider and engage with the budget.

Much is being made of the new legislation's required establishment of a Parliamentary Budget Office which, according to the Bill, will provide Parliament with "independent, objective and professional advice and analysis" on budget issues. While greater legislated power should clearly be accompanied by appropriately enhanced analytical capacity, there is a danger in regarding such an office as a panacea for all sorts of potential pitfalls in Parliament's exercise of budget amendment power.

Firstly, capacity challenges are likely to remain even after such an office is established, and even if funding for it is appropriately prioritised in Parliament's own budget allocation. Too often, in discussing capacity-related governance challenges in South Africa, we imply that such challenges can be addressed simply by allocating more money. But the high vacancy-rates for specialist positions in many government departments, and similar complaints from the private sector, make it clear that people with the right qualifications and experience are scarce. Even staffed with the right specialists, such an office would take some time to become effective, as it would have to design systems to integrate its efforts and would have to develop a degree of 'institutional memory'.

A Parliament with more budgetary authority can also expect a great deal more lobbying from the private sector. It is erroneous,

as well as dangerous, to assume that it will be mainly the poor, and those who profess to speak for them, who will be descending on Parliament when future budget-amendment deliberations take place. It is more likely that we will see a growing contingent of groups representing business interests, who will lobby for things such as tax breaks and subsidy preferences in key sectors. There is of course nothing wrong with having a strong business lobbying presence in a legislature, provided that other voices are also able to organise themselves sufficiently to be heard, and that Parliament has the ability to evaluate claims and counter-claims. Not only will a strong research office be required to do this, but MPs themselves will have to take up the challenge. Political decision-making on the basis of research is not a simple matter of being given research "results" which make it clear what the appropriate line is to take.

Another interesting question, not really explored to date, concerns the extent to which accountability for budget performance might be shifted away from the Finance Minister and on to Parliament in a high budget-amendment context. If, for example, the Minister of Finance proposed a deficit of 1,5% and Parliament increased this to 2,5%, say solely to fund a basic income grant and on the assumption that 2,5% is a sustainable figure given debt levels and the external environment. Whose budget would this be if things went wrong – for example, if galloping inflation ensued? There would most likely be a tendency to shift blame between the executive and the legislature: a tendency facilitated by the inherently interpretive aspect of fiscal governance, whereby there is always more than one possible culprit for a failure, and more than one possible hero for a success story.

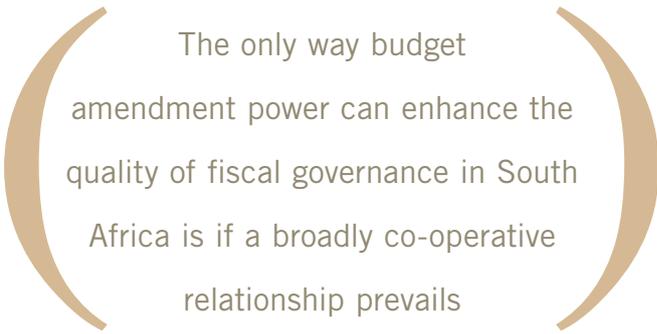
The only way budget amendment power can enhance the quality of fiscal governance in South Africa is if a broadly co-operative relationship prevails. This does not mean that robust engagement and occasional tensions could not also exist at times between the Minister and, say, the Finance Committee. But a permanently adversarial relationship is not a desirable

option. Parliament needs to continue to recognise that it is appropriate for the budget to be prepared within the executive, and it will not be useful to duplicate this work during the amendment window-period. The executive, for its part, must recognise the gains that can accrue from having a legislature that is assertive when it comes to the budget. Having such powers does revitalise the Parliamentary space and is likely to create more submissions on the budget, not only from business groups but also from civil-society organisations and the like. These voices constitute an important means of gauging citizen preferences in the allocation of resources. They will also enhance the perceived legitimacy of the budget as a plan owned by the nation as a whole, and the extent to which a whole society owns these decisions is a significant determinant of the success of programmes as they are implemented.

Amendment powers confer on Parliament *ex ante* (before the fact) budget oversight power; but it has exercised *ex post* (in-year) oversight for almost a decade now, enabled by the Public Finance Management Act (PFMA). The PFMA has set quite stringent reporting requirements for departments to follow concerning what they have achieved with the money given to them. Parliament has been required to engage in robust oversight of the efficiency and effectiveness of departmental spending of their voted appropriations, although many of the Parliamentary oversight committees have struggled to make their mark in this regard. The problem is partly one of research support, but has also resulted from the inability or unwillingness of MPs to develop their own sector-specific expertise sufficiently. In addition, the party-list system of elections to Parliament does not necessarily encourage robust critique by ruling party members themselves. Whatever the reasons, the fact that Parliament has struggled with this in-year oversight function suggests the need for caution in taking on the notion of large-scale budgetary amendment efforts.

The fact that South Africa has successfully adopted a medium-term expenditure framework as part of a package of budgetary reforms also suggests that Parliament needs to find a working balance between exercising budget amendment power and

shaping medium-term budget policy. The medium-term budget policy statement (MTBPS), released some four months before the budget, continues to have the potential for a more co-operative approach to budget drafting. If Parliament feels that its suggested changes to the MTBPS are not adequately taken into account,



The only way budget amendment power can enhance the quality of fiscal governance in South Africa is if a broadly co-operative relationship prevails

then it can of course enforce these through amendment of the actual budget. The new legislation also requires that more information be provided as part of the MTBPS, on actual allocations to departments, for example, and this should facilitate quality engagement.

There is little doubt that 2009 will be an interesting year, both politically and as far as public finances are concerned. The global financial environment has also deteriorated and it is difficult to say now what new challenges in this regard might have to be taken into account for the 2009 budget. Care needs to be taken, especially by the Finance Committee and the newly created Appropriations Committee, to ensure that the budget amendment process is approached cautiously and with an appropriate awareness of where Parliament can, at this point, enhance the budget, and where it would be running excessive risks in striving for amendment. **FOCUS**



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Seize the day

“Our country is undergoing a complex and sometimes painful examination of its foundations, its values and its institutions. It is at times such as this that a nation has to dig deep within itself, take careful observations and focus on repairing its soul.” – Trevor Manuel

Delivering the 9th Annual Steve Biko Memorial Lecture, Finance Minister Trevor Manuel argued for greater community involvement and a social compact in the interests of long-term growth and development. This is an edited extract from that lecture.

Biko’s writings sneer at the notion of a passive mass of poor people waiting for a government or a leader to deliver unto them what they seek. He also detested a perspective of development as something that government hands out to people as though it were some type of product or commodity. Development has to begin with a consciousness amongst people that they have power. People must have the consciousness to understand what development means, to understand what empowerment means, for these are not goodies handed out from mountain tops or at the local welfare office.

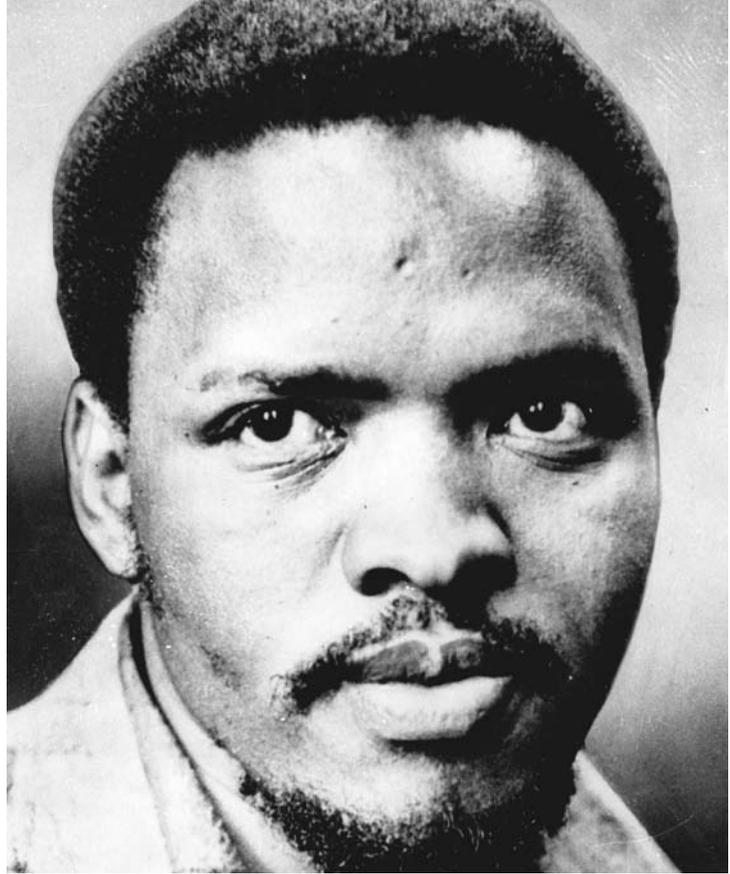
I am not suggesting that government must abdicate its responsibilities. Government has roles and responsibilities that

it must play and play more effectively. What I am calling for is more peoples’ power; a deeper understanding of development and a richer discourse on empowerment.

Government cannot deliver development single-handedly, it can and must partner with active and conscious communities to effect real transformation. Yes, government delivers housing or health care or schooling, but these things only contribute towards development if there is a deeper consciousness about what development is. A patronage-serving culture of delivery and empowerment constitute significant threats to our value system and our notion of consciousness.

Amongst the first significant pieces of legislation was the South African Schools Act (Act 84 of 1996) which created, in every school, a governing body. The objective is abundantly clear – parents have a direct and enduring interest in the education of their children and the school should be accountable to a community of parents. There are 27 000 schools in our country; institutions that ought

Bantu Steve Biko was born in King Williams Town on the 18th of December 1946 and died in police custody in the apartheid South Africa in 1977.



© AP Photo

to be accountable to the communities they serve. Yet, this year, the ANC's January 8 statement speaks to "the non-negotiables of education" as being "teachers at school, in class, on time, teaching; no abuse of learners, no neglect of duty". With the best will in the world, national government or even a provincial government is unable to monitor teacher attendance, whether teaching is actually taking place or whether students are in class learning. Without the integral involvement of communities, we don't stand a chance of improving the quality of schooling, especially in poor communities.

The Human Science Research Council (HSRC) has a unit whose sole job it is to try to understand what works in driving school performance. In almost all cases where poor schools have done excellent work, there are three factors that stand out. Firstly, the presence of a competent and dedicated school principal. Secondly, teachers who are dedicated, who are prepared and who spend long hours with learners. Thirdly, these schools have developed solid relationships with parents and the communities within which they are located.

Our legal framework facilitates community involvement in the running of our schools. However, we have not gone far enough in extending oversight responsibilities with communities. Is it because we're scared of giving power to the people? Yes, there are risks. There are risks that communities will use racial and ethnic criteria in staffing or rewarding performance. There are risks that parents often do not have the information or expertise to make some decisions about what is likely to yield better school results. However, the evidence from this HSRC

research shows that in almost all cases, because it is about their own children's education, they take wise, sober decisions, free of such prejudice.

The Finance Minister from the state of Kerala in India, Dr Thomas Isaac, visited the National Treasury recently. As you might know, Kerala is run by the Communist Party and has particularly good educational and health outcomes. When he was asked about what drove these sterling performances, he replied that in Kerala, when the teacher or nurse does not pitch up at work for a few days, the community will march to the village council and the village council has to report on why the teacher or nurse is not in attendance. He is immensely proud of the quality of public services in Kerala, delivered for a small fraction of what we spend – teachers earn roughly one-fifth of what teachers in South Africa have as a starting salary. In neighbouring Tamil Nadu, if the teacher or nurse does not pitch up, no one bothers. I do not have to tell you about the education or health outcomes in the neighbouring state.

Another example of where the contribution of people has made a difference is in policing. There is clear evidence that the development of trust between the police and communities is a critical element of an effective strategy to reduce crime. In Naledi in Soweto and in Parkmore in Johannesburg, community police forums have made a positive impact on the work of the police and have contributed both to better relationships with communities and in the reduction in crime levels. Yet there are many communities where people know exactly who the criminals are, but they distrust the police to deal with the problem.



We cannot divorce the notion of better public services from the notion of empowering communities. Empowerment is about holding government accountable, making government more responsive and taking responsibilities for the performance of public services.

When we reminisce about the 1970s and the 1980s, we often remember the mass protests, the community mobilisation, the active involvement of communities in solving their own problems. How did these things occur? Who were the catalysts? Communities did not suddenly wake up and start protesting. They were organised by groups of young activists, mostly students. Thousands of people visited literally millions of homes and spent time talking to families about their issues, their problems and about solutions.

Politics and revolution were talked about in the homes of the oppressed, in our churches, our schools and universities, on our sports fields, on trains, buses and taxis – not just in town halls.

Where have all the activists gone? Who are the catalysts for social transformation?

[On] the issue of economic empowerment, we must ask ourselves the honest but difficult question of whether the BEE model that we've adopted is meeting both the objectives set out or the aspirations of our people. Biko, in a paper entitled "We Blacks", writes, "Material want is bad enough but coupled with spiritual poverty, it kills." He did not mean this in a religious sense.

He was referring to a lack of values, the absence of consciousness and poor understanding. The combined effect is what we today call crass consumerism.

This is an appropriate point to move to the construction of a social compact for development. At the heart of a social compact is the sense that citizenship is stewardship. A social compact requires society to set out the roles, rights and responsibilities of each element of society – government, business, labour and even the media have a role to play in this regard. I stress, a social compact is about rights AND responsibilities. However, the primary question must be about values that have at their core the principles of people-centred development, freedom, conscientisation, mobilisation and high-energy democracy.

Government has a clear role to play in redistributing opportunities to the most vulnerable. Government has the right to expect from its citizens, both corporate and private, that they pay their taxes, that they abide by the laws of the country in letter and spirit, and that all contribute towards development, in the spirit of our Constitution. Similarly, government has a responsibility to ensure that the quality of public services improves, that we take clear measures to protect citizens, that we spend the public's money wisely, that we clamp down on corruption and patronage, that we employ the best people for the job and that we involve local communities in the improvement of their lives.

Finance Minister Trevor Manuel used his speech at the Biko lecture to emphasise the centrality of education in the destiny of our nation.

Government has the right to intervene to try to correct market failures as efficiently as possible. We have the responsibility to listen to citizens, to create the legal environment for citizens to contribute towards better schooling, better policing and better health care.

Business has the right to invest where they see an opportunity, to make profits, to be treated fairly, to be given opportunities free of the obligations of patronage, for their property rights to be protected and to be treated fairly in matters of taxation. They also have responsibilities; to train their staff, to expand the pool of skilled people and to ensure adequate opportunities for black people and women.

We need elites that plough back, not elites that plunder. We need a private sector that is prepared to be a partner in development; looking for opportunities to make money, but recognising the bigger picture that a stable society is better for growth than a society wracked by social strife.

We also need a private sector that recognises that the present concentration of the economy is not necessarily good for growth and long-term development. This is a difficult situation for business to manage because it is not intuitive to business that long-term growth and prosperity requires a different organisation of ownership. We expect business to take tougher measures to curb anti-competitive practices, to ensure proper governance and oversight of listed companies and to think consciously about tomorrow, not just today.

Organised labour plays a critical role in the economy and in the delivery of public services. We have a labour regime where the rights of workers are protected, where collective bargaining is entrenched, where labour plays a role in the development and formulation of policy. We also need a labour movement that recognises that they have responsibilities too. Expanding employment is a critical requirement in our country and our labour movement has to recognise that there is sometimes a trade-off between the level of wages and the number of people employed. The labour movement must become a partner in the construction of a state that delivers better services to people.

Communities and community organisations must become the lifeblood of a high-energy democracy as they too have rights and responsibilities. To repeat the lesson from Biko's writings, they cannot be passive recipients of development.

Communities were the mainstay of the resistance against apartheid. When we look back on the uprising at any point in history, the focus has always been on organised communities.

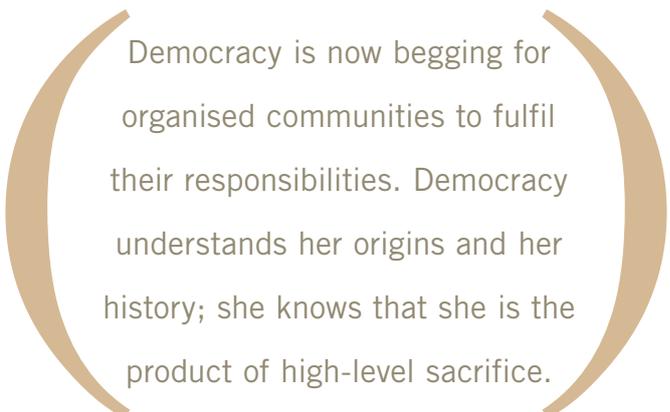
Organised communities were truly organised – mobilised by the hard work of activists trudging through streets in all weather

to talk to people about their lives. Frequently people thereafter took responsibility for convening whether it was a street committee, parents' committee, an anti-crime forum, or even a Ministers Fraternal. The spark was lit by the activists.

Democracy is now begging for organised communities to fulfil their responsibilities. Democracy understands her origins and her history; she knows that she is the product of high-level sacrifice.

A social compact requires each of us to put our narrow interests aside in the interests of long-term growth and development. It requires hard work, the construction of careful compromises and trade-offs aimed at ending the narrow insider-outsider divide. The cost of failure is high.

I am an optimist and I do believe that South Africa has the leaders to confront these difficult issues, to draw on the inspiration of Biko, to give people-centred democracy a chance to work.



Democracy is now begging for organised communities to fulfil their responsibilities. Democracy understands her origins and her history; she knows that she is the product of high-level sacrifice.

At the root of Biko's teachings is the concept of consciousness, the deep understanding of the self-worth of people and the power of communities. The poor must be given the power to change their lives. Biko's vision of an energised democracy is only possible if we think about empowerment differently. An energised democracy is only possible if we have it within ourselves to construct a social compact that puts our long-term interests above short-term gain. An energised democracy is one where each element, business, labour, government and communities balance their rights with their responsibilities.

This moment could define our collective future. Let us utilise it for a national catharsis. To dare any less would be to abandon the vision of leaders in the mould of Bantu Steve Biko. **FOCUS**



Trevor Manuel MP is the Minister of Finance.

A word in the international ear

“The ANC will govern for many decades to come” – speaking to the Council on Foreign Relations in Washington, DC on October 21, ANC President Jacob Zuma reiterated his belief in his party’s longevity in power

We thank you for this opportunity to interact with you on this occasion. We felt it important to visit this country ahead of the general elections in the United States next month, and the elections in our country next year. The objective is to strengthen relations and ensure that incoming administrations in our two countries build on the sound foundations of co-operation that are already in place.

The United States is a key player in the South African economy and we want our economic relations to grow from strength to strength.

We also want to further explore co-operation in areas that will be the priority of the incoming administration in our country. Our top priorities are to improve health and

education, drastically reduce crime, maintain financial and macroeconomic stability, substantially improve efficiency in the public service by instilling discipline and accountability, and work with business and labour to create decent jobs in the private and public sectors.

As we head towards our elections, we reflect and celebrate our achievements since the dawn of freedom in our country.

We count on the Constitution of our country, which is one of the most progressive in the world, and which goes further than most constitutions as it enshrines both political as well as socio-economic rights. It guarantees citizens the right to participate in the manner in which they are governed and to determine who will lead that government. That may sound pretty standard to external audiences, but to the black



© AP Photo/Manuel Balce Ceneta

ANC President Jacob Zuma delivers the Darryl G. Behrman lecture on Africa Policy at the Council on Foreign Relations in Washington on the 21st of October 2008.

majority in South Africa it is a new and much cherished right and achievement, as they could not vote 15 years ago.

We are proud to have a sound, stable and very robust democracy with democratic institutions that are intact and effective.

We will continue to ensure the independence of the judiciary, the supremacy of the rule of law, and the freedom of the media, and to support all institutions that protect our citizens, such as the Office of the Public Protector; the South African Human Rights Commission, the Commission on Gender Equality and others.

South Africans use the provisions of the Constitution very effectively. Freedom of expression is a key feature of the new South Africa. Our compatriots express themselves in various forms on any given day – from staging protest marches to participating in radio talk shows, from public meetings to publishing their views in the media.

Freedom of association is another much-celebrated right. Citizens are free to found any organisation that they feel

expresses their wishes and views better, as long as it does not violate our constitutional principles.

Currently, political parties are gearing up for elections and there is fierce competition for political space.

There are some elements within the ANC who say they are mobilising for a splinter political party. The grouping is led by some few ANC members who failed to get elected to leadership positions at the ANC's national conference in Polokwane in Limpopo province last December and in provincial congresses. We respect the right of this small group to organise and form any party of their choice. Their ability to speak out against the ANC, no matter how fictional the accusations, and to organise support, is another example of the maturity of the South African democracy, which allows freedom of association, assembly and speech.

However, like any organisation, we will not allow the dissidents to mobilise dissent within our movement. We will take disciplinary action against those who use ANC structures to sow conflict within the organisation. It is part



of organisational procedure and has nothing to do with intolerance of opposition.

There is a lot of hype around the dissident group. The media is highly attracted to it because of the alternative they feel it provides to a highly dominant ANC.

We, however, maintain that the ANC will govern South Africa for many decades to come. That is because no other organisation has put forward policies that convincingly counter those of our movement. Most opposition parties spend their time criticising the ANC instead of putting forward convincing policy alternatives. The dissident group has fallen into the same trap, exploiting anger at losing leadership positions.

November marks the beginning of our campaign to get people to register to vote. We will spend the month mobilising support throughout the country.

Our 2009 Election Manifesto will outline our vision, backed by the solid achievements of the past three terms under the leadership of Presidents Nelson Mandela and Thabo Mbeki.

Even though the ANC requested former President Mbeki to resign, we acknowledge his sterling leadership of our country's government.

We also applaud the manner in which he handled the debacle around his resignation, which added another feather

to our democracy cap. We were able to change leadership in the executive in a smooth and speedy manner. This certainly demonstrated that our democracy is maturing.

We have said consistently that there will be no change in the policy direction of our country simply because ANC resolutions from the Polokwane conference spell out what we want to achieve.

Central to our mandate from Polokwane is to achieve economic growth that will allow us to create decent jobs and decisively deal with poverty.

The ANC has worked hard to build a strong, resilient economy over the last few years. Due to regulations such as exchange controls and tight banking regulation, our country has not been heavily affected directly by the global financial crisis. However, we are likely to be affected by the worldwide-reduced demand for commodities, reduced consumer demand for products and services, and reduced financial liquidity. Our government will remain prudent and alert.

As part of preparing to govern and improve the way we govern, the ANC and our Alliance partners held an economic summit last weekend. The purpose of the summit was to translate economic resolutions from the Polokwane conference into concrete proposals to be considered by any new government.

Zuma emphasised that the ANC was ready to govern and that economic policy would not change.

We agreed on various initiatives at the summit, including the imperative to create decent work as defined in the International Labour Organisation, in terms of both the quality and quantity of the jobs and the rights of workers. We have heard comments by political analysts in our country and beyond that ANC policies in the post-Polokwane period will be dictated or decided by the SA Communist Party [SACP] and COSATU. ANC policies were decided upon in Polokwane at an ANC conference, not a COSATU or SACP conference.

The resolutions are well known, and are public knowledge. ANC policies are not decided by an individual or a clique, but by a collective through well-defined policy development processes. What we are doing now is to flesh out the detail for implementation.

In designing our manifesto, we are backed by the achievements of the last 15 years.

We have made great strides in education. However, we have to improve the quality of our educational institutions and encourage skills development in the fields of engineering, education, health-care services and research, to name a few. Investment in the teaching of maths and science in our schools is an undisputed priority, as is the training of teachers to teach these subjects.

We have provided over 2,6 million homes for South Africans, but the demand is still increasing and we are working to provide relief.

We are re-investing in community initiatives to fight crime, such as reviving street committees in support of police work. We will also be looking into means of providing our police with the resources and modern skills to fight crime. We must ensure qualitative change in the rate of arrest and convictions for criminals.

We will soon be outlining the detail of our anti-crime strategy in our manifesto; suffice to say for now that we will be tough and decisive in our response.

The new ANC administration will demonstrate more visible action in the fight against HIV and AIDS at every level. Prevention measures will continue to get attention. However, with 5,5 million people already known to be infected, much attention and effort must be devoted to treatment. To improve treatment, the primary health care segment of public health care, which is the first line of support, must be resourced and strengthened.

Our government will also benefit from partnerships with significant donors such as the US President's Emergency Plan for Aids Relief (PEPFAR) and the Global Fund on HIV and AIDS and TB. We will be meeting US officials responsible for the PEPFAR programme during this visit.

We are also exploring significant partnerships with Virgin Unite. We met with Sir Richard Branson yesterday to discuss the establishment of a Centre for Disease Control and other possible health and development ventures. As said, we are preparing to govern and govern better from 2009 through successful international partnerships.

On the regional front, Zimbabwe remains an important priority for South Africa. We are continuing to support and assist Zimbabweans in their efforts to find urgent political solutions to the current situation. South Africa cannot afford Zimbabwe to remain in a state of near collapse for long as a meltdown in that country impacts on us directly. We fully support the mediation efforts by former President Mbeki. We urge the international community to support South African efforts in this regard, and to trust us to deliver a workable outcome.

We, however, maintain that the ANC will govern South Africa for many decades to come. That is because no other organisation has put forward policies that convincingly counter those of our movement.

Ladies and gentlemen, our tourism sector continues to expand and is now a huge contributor to the South African economy. This should increase through the holding of the FIFA Soccer World Cup in 2010. We invite you to explore the country, if not during the World Cup, at any other time, to sample the unique South African experience.

Let me emphasise that the ANC is already preparing to govern for another term next year. We are ready to partner the international community to create the conditions for the eradication of poverty in our country, and for the creation of a better life for all. **FOCUS**

Jacob Zuma is the President of the ANC.

By The Weekender

Images in this article are courtesy of Kenny Pinnock

Is democracy under threat?

Are we witnessing a calculated and systematic assault on our democracy? Is institutional independence under threat from the ANC? Or is all this alarmist sensationalism and political hot air in a pre-election year? These were the questions posed during a public debate on 9 October as part of the Wits Weekender Interactive Debate Series under the auspices of The Weekender and the Faculty of Humanities at Wits University. The participants were George Bizos, senior advocate and human rights lawyer; Gwede Mantashe, ANC secretary general; Patricia de Lille, leader of the Independent Democrats; Prince Mashele, a political analyst from the Institute of Security Studies and Professor Yunus Ballim, Vice-Principal and Deputy Vice-Chancellor of Wits. The debate was facilitated by Professor Tawana Kupe, Dean of the Faculty of Humanities.

FACILITATOR:

George Bizos, do you believe that the judiciary is under siege? And is there a threat to our judicial independence? Or are we really seeing legitimate criticism that is consistent with democracy?

MR BIZOS:

I believe that we have a legitimate judiciary in a democratic country in which the rule of law prevails. To the question whether the ANC is a threat to the judiciary, my answer is a qualified no.

The judiciary has been transformed; the majority of the judges in our country could not have been judges during the apartheid regime. Political cases put a lot of strain on the judiciary and on the other bodies involved in the administration of justice. It is almost inevitable that political cases divide people and they feel very strongly for or against.

It is also almost inevitable in that atmosphere that incautious statements will be made criticising the judiciary. A number have been made in the recent past, including one by a COSATU official from Natal that no South African judge can give Mr Zuma a fair trial. This was before Mr Justice Nicholson's judgement.

It was raised in a debate I had with Mr [Zwelinzima] Vavi [General Secretary of COSATU]. Mr Vavi said that on behalf of COSATU he wanted to assure the audience that that was not COSATU's attitude.



Luminaries including Advocate George Bizos, ID Leader Patricia De Lille and ANC Secretary General Gwede Mantashe debated threats to our democracy at The Weekenders' forum at Wits.

Other statements have been made which were highly critical of the judiciary, in intemperate language and, to a very large degree, ill informed. Significantly, practically all those statements were withdrawn or explained on the basis that they were quoted out of context by the media or that the speakers were speaking metaphorically.

A proposition that cannot be sustained is that the ANC is against an independent judiciary and against the rule of law. There isn't another party or organisation in South Africa that has as proud a record in relation to respect for the judiciary as the African National Congress.

In 1995 the government, led by Mr Nelson Mandela, lost its first case – involving the Western Cape Education Department – a very important loss for the education policy of the country. Before anyone had an opportunity to make any public statement Mr Mandela went public, saying “We are disappointed with the result. We are a democratic country. We respect the judiciary, we will respect their orders and we will obey them.”

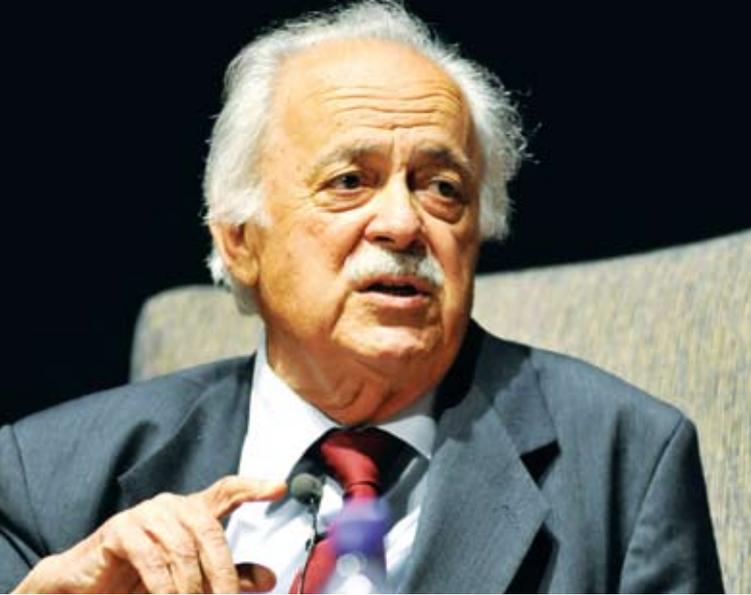
Mr Mandela was also put to the test personally when he was subpoenaed by a judge to give evidence. He was advised by the best legal brains in the country that, as president, he did not have to answer the subpoena. He said, “I am the president. I want to prove that all are equal before the law. I will answer the subpoena.” President Mbeki has followed the same policy in relation to the courts. I would urge the new president to continue along those lines.

FACILITATOR:

Patricia De Lille, is our democracy under threat? Or is the real question here not whether we have a weak and divided opposition that can never win against an ANC?

MS DE LILLE:

I don't believe that if all the opposition parties were to come together, irrespective of whether they're right wing, conservative or social democrats the number would add up to a more effective opposition.



Panellists had varied views on what threats we face and how to address them.



This democracy belongs to all of us, not just to the ANC. And we will stop at nothing to protect our democracy.

What saddens me is that so many of the comrades with whom I was in the trenches have forgotten about those values and principles we fought for. That raises the question whether, after a short 14 years, we are beginning to lose our way. Is the once proud liberation movement of the ANC losing its way?

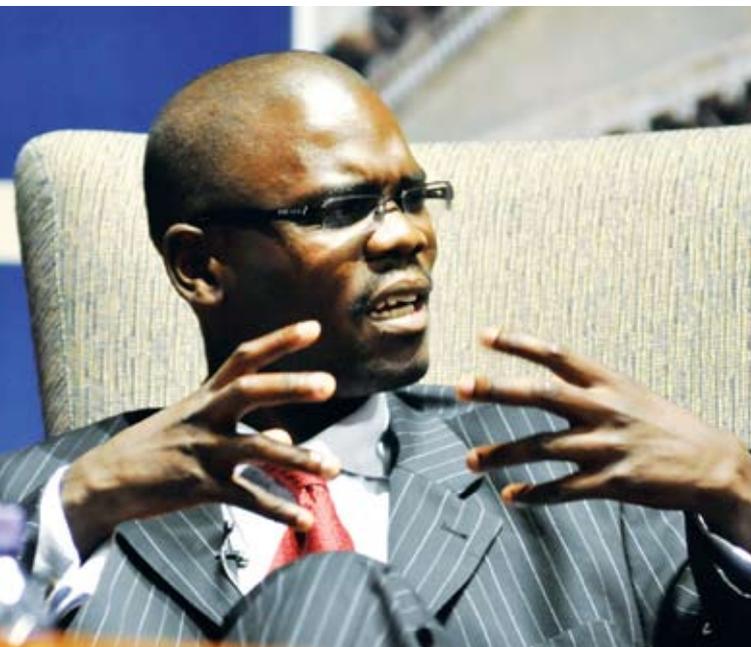
In terms of our judiciary, I think that all the judges must go for retraining and re-skilling so they are all brought within the context of the Constitution.

The Constitution lays obligations and responsibilities on both the opposition and government so the opposition has a role to play and it's not just to criticise. We have a responsibility to protect our democracy, to hold government to account, and to ensure there's transparency. And I think that we've done relatively well – you cannot blame the ANC's mistakes on a weak opposition.

Yes, the infighting in the ANC is a threat to our democracy because it has an impact on our state institutions. The ANC must stop their fighting and start focusing on what they have to deliver in terms of the Constitution. When I criticise the ANC I use our Constitution as the guideline. I never compare the ANC to the previous government because the previous government was illegitimate.

FACILITATOR:

Prof Ballim, when it comes to universities and academic freedom one often wonders whether the state shouldn't actually control the universities, direct them to do certain useful things, like producing scarce skills for example?



PROF BALLIM:

My point of entry into this discussion is based on my concern about the future of our education – threats to concepts like academic freedom and institutional autonomy. My concern stems from the fact that I consider a good university or universities to be among the institutions that are meant to be custodians of democracy – a role I think we share with the judiciary, with the free press, etc. Threats to higher education must necessarily be interpreted as threats to democracy.

Three Bills have recently been proposed: the Higher Education Amendment Bill, the National Qualification's Framework Bill and the Built Environment Bill. Our concern is that these Bills propose enormous shifts in the power relations that focus on the terrain in which universities speak to the state, to professionals, to civil

The state of the judiciary, opposition parties and education were in the foreground at The Weekender panel discussion.

society in general. The whole notion of the separation of powers in the way that universities relate to civil society and to the state is terribly distorted by these Bills.

The Higher Education Amendment Bill turns referees into players and provides for structures outside of the university to dictate the form and nature of the curriculum.

The National Qualifications Framework Bill removes from universities the right to have a representative on the South African Qualifications Authority. It also gives quality assurance authorities the power to develop policy criteria for assessment, credit accumulation and transfer. Now that's our business, the business of the university. We're the custodians of the standard and we're the custodians of what we think is good education.

The worst is the Built Environment Professions Bill which proposes the establishment of a council that will control and exercise authority in respect of all matters affecting the education and training of persons in the built environment.

The council cannot imagine that it will exercise that authority except in breach of the principle of academic freedom which is in the Constitution. This is the stuff of a government that is concerned about the unpredictability of democracy. The desire for control is to encourage predictability. It takes an instrumentalist view of higher education as being purely in the service of the state or purely in the service of some sector that happens, at the moment, to think it has a scarcity of skills.

To be sure, there are serious concerns about higher education in this country but these Bills do not address those problems, they create new ones and they represent an unquestionable shove towards mediocrity in higher education.

MR MASHILE:

Democracy is about our social values and about the institutions that underpin democracy. So tomorrow you can replace Mr Motlanthe with Mr Zuma, I wouldn't worry, as long as you don't touch democratic institutions.

If you had told Kenyans four years ago that they would have a civil war over contested election results I'm sure they would have told you it could not happen, Kenya is an experienced democratic country. But what explains the violence in Kenya, is that the legitimacy of the judiciary was questioned, so a simple electoral contest that should have been resolved in a court of law had to be resolved by machetes and pangas.

If you had asked Zimbabweans ten years ago whether they would have imagined the situation they are in today, they would have said you are crazy. So, as South Africans we must use





imagination to avoid a crisis. I have confidence in South Africans, they're very activist people. I think that they will tame the whims and vagaries of irresponsible lovers of power.

FACILITATOR:

Mr Mantashe, there are serious allegations against the movement you lead. What do you say to the suggestion that the ANC is threatening democracy in relation both to the institutions in South Africa and to its own internal democracy? Should South Africa be very, very afraid of the ANC?

MR MANTASHE:

These three questions asked are strange because they assume that the ANC poses a threat, rather than hope. A threat to who? Are these questions based on facts or on perceptions? And should we be asking another question: is the ANC, the liberation movement, under siege?

The ANC leadership is the most scrutinised in South Africa and the fact that we're scrutinised so thoroughly limits and reduces the threat. Even if we were tempted to be power drunk we're under scrutiny every day and that is a plus. Democracy is the ability to engage society and is not limited just to institutions.

If these principles are built into the question the ANC poses the least threat to democracy.

There's no better example of internal democracy than Polokwane, where members of a movement took a decision to save the movement from elitist control and said 'we're reclaiming this movement, it's ours', and did that successfully. I think anybody who pretends to see ANC as a threat to democracy actually need to give us a new meaning of democracy.

Let me tell you what I said about judges. I objected to a judge who goes to a party and singles out the ANC and its candidate for attack. Secondly, I object to the clumsy way that the Constitutional Court handled the Hlophe case. One of the reasons why the judiciary is respected is that it handles its business in a particular way, that is the Johannesburg High Court judgement on that matter; I don't want to talk to it. The reality is if we're going to strengthen the institutions of democracy, civil society and society broadly must be critical of them.

The ANC recalled its own deployee from being president of the Republic so everybody called for a change in the electoral system, saying the president must be elected directly. We have examples of democracy where the president is elected directly and those democracies went wrong. An example is our neighbour,

ANC Secretary-General Gwede Mantashe took issue with the ANC being typecast as a threat rather than a hope.

Zimbabwe, where the president is elected directly, there is no limit to the term of office and that democracy has stagnated.

People say proportional representation is outdated, let's change to constituencies. I say to them, in 1948 the National Party took over power without a majority vote but with a majority of constituencies. Therefore, any system has advantages and disadvantages and if the debate is opened on those issues we will be part of that debate as the ANC.

The conclusion I come to is that a threat by the ANC to democracy or the independence of institutions is imaginary and exaggerated. The issue is not the threat but the old suspicions about the ANC and its programmes. Every time we talk about the national democratic revolution, which is our programme, everybody cries foul.

RESPONSES TO COMMENTS FROM THE FLOOR

MS DE LILLE:

In terms of the perceived or real attacks on the judiciary, if our judges feel they're being threatened or are under attack they can call the person before the court and say come and explain yourself.

I speculate that why judges are not doing this is because they feel intimidated, because the people who are making these statements are high-profile politicians.

ADV BIZOS:

I don't think that our judges have failed to deal with people who've maligned them because they are afraid. In most democratic countries in the world, including ours, judges have deliberately taken a decision not to make use of [the crime of contempt of court]. Judges can take criticism; what they can expect is that it should be done with some basic correct information in moderate language.

Yes, there are threats to our Constitution and our constitutional democracy. I think that that we should not focus on political parties only, or the ruling party, or its problems, or its divisions. Constitutional democracy has to be worked at all the time in order to put right people who do not accept the decisions of the 70 to 80% of the constituent assembly that promulgated this Constitution; who do not respect the 11 judges who certified it as being in accordance with internationally recognised democratic principles. So let us be vigilant about defending democracy, defending the judiciary, defending the rule of law, but don't let us be monomaniac in seeing danger only from one side.

FACILITATOR:

I want to leave panellists with two questions: two institutions

that you have not mentioned in your examples are the SABC and the Scorpions.

MR MASHELE:

There is a circus in terms of the leadership of the SABC, that's an open secret. But who is responsible for this circus? It is the ANC plus COSATU? Maybe we should raise questions about the influence of a ruling party over the process of appointing the board of a public broadcaster.

About the Scorpions I must say I have not been convinced by the ANC that there was a good reason to dissolve the Scorpions. There are rotten apples in the Scorpions, people have been conducting themselves illegally, but why don't you arrest those rotten apples and leave a well-functioning institution?

MR BIZOS:

I would suggest that in a mature democracy we do not deploy people to the broadcasting corporation. Constitutionally and in accordance with good democratic practice there are bodies that have some tenure and that have to be respected once they have been appointed and no longer subject to instruction. This is something I think our politicians have got to learn. There are a lot of people who are supposed to do work without political guidance, without political correctness, without ideological predispositions. And please, let us try and persuade everybody to help us become a mature democracy by distinguishing between elected representatives and people who hold constitutionally sanctioned positions.

MR MANTASHE:

Everybody talks of the dissolution of the Scorpions. The ANC talks of incorporation of the Scorpions into the SAPS – a big difference. We looked into what is called the success rate of the Scorpions and we took a number of cases, we took a number of investigators, we took the cost and it gave us the following results: 600 investigators, 325 cases on average per annum gives you an average of 0.6 cases per investigator. And you compare that and say they are more successful than the police, who, at 20 000 investigators, 2.5 million cases, which gives you an average of 125 cases per year. Now we are comparing chalk and cheese.

MS DE LILLE:

When it comes to the Scorpions I think the question the government must ask themselves is whether the reasons why the Scorpions were established still exist today. And if the answer is yes, why do away with them? The reason why the Scorpions were so successful is because they also had powers to prosecute. The prosecutorial powers have to be taken away if you want to incorporate them into the police. **FOCUS**



© AP Photo/Denis Farrell

By the HSF Panel

The “recall” of Thabo Mbeki by the ANC, controversially not by Parliament, directly led to the splinter-faction led by former ANC Chairperson Terror Lekota.

“Recall” Dynamics and Change

What led to the fall of former president Thabo Mbeki and how do political experts view the fallout and the future in the light of the way his “recall” was handled? An informal discussion on the issue took place at the offices of the Helen Suzman Foundation on 22 February 2018. Participants were Raenette Taljaard, Director of the HSF; Ebrahim Fakir, a political analyst and senior researcher with the Centre for Policy Studies; and Alf Stadler, Professor of Political Studies at the University of the Witwatersrand and author of *The Political Economy of Modern South Africa*.

PROF STADLER:

I find the recall of Mbeki extraordinary. In only four or five months he would have gone anyway, and there would have been no fuss about it. Something must have happened to force people's hands. At a very simplistic level it looks as though a lot of personal malice went into the decision.

MR FAKIR:

It was an extraordinary decision. It's a question of a flawed political culture dating back to the early part of the century,

but it doesn't come to me as a surprise that the knives were out for Mbeki – I think he committed a litany of gaffes during his stewardship of both the party and the state. At the level of government there have been signal successes, but there have also been signal failures. He established a state and defined processes and procedures for it, then he went about systematically undermining it. He was big on the separation of party and state but he dealt with his political opponents by using state institutions. He put someone in the Cabinet (the deputy minister of health) who he disagrees with and then removed her. He takes a decision about Jacob Zuma on the basis of sound governance principles. But why don't the same governance principles apply in the case of Jackie Selebi? At party level he leads the ANC to its biggest majority then he alienates large sections of the party.

PROF STADLER:

The fact that his term was not allowed to run out quietly has had a traumatic effect on political society. The question is, did Lekota, or whoever, perceive the potential for a crisis, which they then engineered into a reality?



© AP Photo

Baleka Mbete reads the resignation letter of President Thabo Mbeki in the House.

MR FAKIR:

In the absence of any other information I think we can conclude that [the “recall”] became a matter of two things. One is intolerance of the personality of Mbeki. Perceptions of his wrongdoing had reached such a level that Judge Nicholson's judgement gave impetus to the momentum [to get rid of him]. What I suspect is that the NEC had decided to hold this decision in abeyance, perhaps so they could consider other options, but they got wind of the idea of an alternative political party so perhaps there came a moment at which they decided “it's now or never”. Politically what may have precipitated it is that a national executive, which believed there was unhappiness with the current crop of leaders, with the head of state and with most of the Cabinet, felt there was a real danger that the political solution to Jacob Zuma's legal problems they had been militating for would be scuppered, so they had to act immediately. That may imply that state institutions may now come to be used in a particular way under someone else's stewardship. If [finding a political solution] is such a problem now why wasn't it a problem three, four, five years ago, when there was a very ready solution – a judicial commission of enquiry into the arms deal would have solved everything, yet no one was prepared to give it a second thought?

PROF STADLER:

There's an institutional dimension – the proportional

representation [PR] system, which shelters political leaders at all levels from direct responsibility for what they do. It creates a build-up of tension and conflict and antagonism and there is no outlet. You can't get rid of individual MPs, you have to bring the whole show down, and what other way is there of doing it but to bring the leader down. One of the virtues of the old constituency system is that you could get rid of the bad eggs without damaging the whole fabric. The PR system makes it possible for leaders like Mbeki to avoid responding to [suggestions] that they might be taking the wrong direction. So perhaps the architecture of the political system is partly to blame for a leader at one moment seeming to be invulnerable and the next minute out of power.

MR FAKIR:

While I agree at the level of principle, at the level of practice I am not sure. At local government level, where we have a mix between PR and first-past-the-post, we hardly ever vote a particular political party out of office if it doesn't perform well. There have been many instances of by-elections at local-government level where ANC counsellors have under performed, yet an ANC person will be re-elected. Is it a question of systems and institutions or of political culture? I think it's our political culture, which has invested so much in this large hegemony called the African National Congress that, for a long time, many citizens did not see beyond it. Take the residents of Khutsong, where, in the last local government elections there were great degrees of unhappiness,



© AP Photo/Themba Hadebe

ANC Deputy President Kgalema Motlanthe is sworn in as a “caretaker” President of the Republic prior to the 2009 election.

– he has seven months in which to repair many of the mistakes people perceive to have been committed under Mbeki. The best he can do is give us a sense of confidence and trust that political leaders will become more engaged, more accountable and more penetrated into the society and that they understand the social culture by which people live.

PROF STADLER:

Are you saying Kgalema Motlanthe is just a stand-in until Zuma is ready?

MR FAKIR:

Well, that is pretty much the thinking now, but there may well be suspicions that Motlanthe has his eye on a bigger prize.

MS TALJAARD:

Are you both suggesting that one is likely to see ongoing fighting between “caretaker” president Motlanthe and the Zuma supporters, who will not want to negotiate about whether Jacob Zuma will be president in 2009?

PROF STADLER:

This discussion concentrates too strongly on the individuals involved and not sufficiently on what policy implications are important. There must be someone talking about serious alternatives. I don't hear them being debated in Parliament. I don't hear them being debated in what the civil service chooses to express. Parliament is even more of a rubber stamp than it's always been. Few civil society organisations carry any much weight. There aren't very many. There's this organisation (the HSF). There are some very useful academic analysis, but we don't know what reads those. So I think we have actually have a poor process to and institutions debating things critically. We need to think about serious political alternatives because we seem to be set on a kind of railway line and no one has asked “do we really want to go there?”.

MR FAKIR:

I think what we're heading for in the next eight to 18 months is increased tension, debate, fractiousness, at least within the ruling party. Our politics at the moment is dominated by the question of personalities but if Zuma is elected that question will effectively disappear. What might happen is that once an individual is firmly in place questions of policy alternatives will

are beginning to behave, particularly in relation to the ANC, which is why I think in part they were happy to accept the removal of a leader in a way that didn't invoke any of the constitutional or legal mechanisms. It was a political decision in which an individual was prevailed upon to submit his resignation, someone else took over, and we accepted that. If one of the key indicators [of democracy] is that people are willing to accept change I think we may have passed one democratic test. The democratic test we seem not to be able to pass is the way we are now giving institutions and processes and procedures political content which seems to be based on personality not on different political ideas. Perhaps South Africans and ANC supporters were prepared to accept this change in leadership because it was a contingency. It would be interesting to see whether they would respond in the same way if Jacob Zuma were to be threatened with removal as head of the party or if he doesn't become head of state. The next test will be whether we will change a leader who other people very seriously want. Mr Motlanthe seems to have a bit of a poisoned chalice

come to the fore. It's the terms of the fractiousness that are going to change. It will come down the nitty-gritty of policy alternatives. Mbeki imposed a lot of policy ideas on the ANC and on the alliance partners and I think many of them felt there was no space to debate these and their voices were completely marginalised – much as they wanted to engage in some kind of a policy debate, the opportunity wasn't there.

MSTALJAARD:

Do you see pressure points on policy building up during this interregnum as part of a broader lobbying forum for leadership alteration in the next election?

MR FAKIR:

Some of the policy questions bubbling underneath will come to the fore and will be primary issues of contestation immediately after the election. I am not sure it will centre on Zuma. His argument has always been that he implements what the ANC says, whereas Mbeki had very definite ideas, some of them very good.

PROF STADLER:

I think we're going to miss Mbeki in that he was very articulate about policy alternatives and directions. We are fortunate that this particular crisis was delayed, so a lot of our trajectory for the next while is set. What is unfortunate is that serious socio-economic problems are not being solved and that, again, is the result of the ossification of interaction between parties and their members and supporters. If the world is, as I suspect, going into a kind of post-industrial decline, some very serious social problems will emerge. The ethics that used to govern industrial societies are very difficult to maintain in this environment.

MSTALJAARD:

Do you want to comment on the extent to which acting in the name and for the interests of the poor has been used as a crude or perhaps cynical mobilising tool? Are there dangers here in terms of social stability?

MR FAKIR:

The poor have generated their own agency and that has been demonstrated in the number of protests we have seen. The problem is that the fault line in our society that, under apartheid, replicated itself on the basis of race is now replicating itself both on the basis of race and on the basis of cross-racial elites. We leave the poor out. The previous Cabinet and the previous administration, under Mbeki, had some sound ideas about how to address many of the social ills, so, in that sense I do think they tried to use the poor as a tool for some kind of political mobilisation. Unfortunately, though their policies may have been sound, they

didn't build the required legitimacy with the very constituency they chose to key into, and you can only govern on the basis of consent. The other problem arises when you devise policy but don't have the required skills, capacity, or commitment necessary for people to carry through your policy programmes. So it's less a question of using the poor merely as a mobilisational tool than of not giving them the things they want and need. At some point we are going to have to find a leader who can marry the two. Some people argue that that may, in fact, be Zuma.

PROF STADLER:

Zuma exudes an air of bonhomie but I think he's much shrewder and more perceptive about what he needs to do and that includes having a social programme. He's got a good idea of what the state is there for. He might be one of those leaders who can actually get effective government going and make it popular. He might be a good leader to have in the future.

MSTALJAARD:

What are your views about the "caretaker" Cabinet?

PROF STADLER:

I think it looks like a sharper, brighter Cabinet than Mbeki's but in the long run we don't judge Cabinet decisions by personalities. One of the things that strikes me about it is there's very little political administrative expertise.

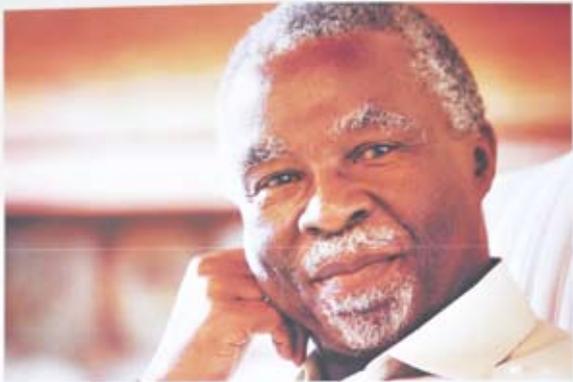
MR FAKIR:

We have to appreciate Motlanthe's difficulties. He comes in as head of state, he is faced with multiple challenges, he had a raft of Cabinet resignations when he assumed office, he has to take over administration, of which he has no experience. He is dealing with a fractious Cabinet and a fractious party. He cannot but fall into the familiar trope of continuity and change – replacing those who resign and keeping those who are prepared to stay because you need people who know their way around the processes of government. There are too many uncertainties and we need some certainties. For me first prize is a corps of political leaders who can engender both some kind of management inclination and an inclination to leadership. One of Mbeki's faults was that he was more manager than leader. The leadership stuff is all about being responsive, being seen to be accountable, at least penetrating into society. This doesn't mean you ignore the wider world but it does mean a certain level of engagement, commitment, responsiveness and accountability. Management is also about building a team of skilled people. It's important to have people who are committed to a broad set of democratic principles and a broad set of social values. **FOCUS**



The Mbeki Legacy

Images in this article are courtesy of Falcon Photo



The Mbeki Legacy

chaired by
Xolani Gwala

The Star
debates

Speakers include Essop Pahad, Matthews Phosa,
Mo Shaik, Barney Pityana and JJ Tabane

Date: Tuesday October 14th 2008
Time: 6 for 6.30pm
Venue: Atlas Studios, 33 Frost avenue, Milpark

What legacy does Thabo Mbeki leave? This was the topic of the public debate hosted by The Star and The Saturday Star newspapers on 14 October 2008 following the ANC's decision to recall Mbeki from his position as President of South Africa. Panellists at the debate were Mbhazima Shilowa, the former Premier of Gauteng; Mo Shaik, a former ambassador; Professor Barney Pityana, the Vice-Chancellor of Unisa; J J Tabane, a commentator and businessman; Dr Matthews Phosa, Treasurer General of the ANC; and Dr Essop Pahad, former Minister in the Presidency. The debate was facilitated by Xolani Gwala.

FACILITATOR:

I will give each panellist a turn to speak before opening the debate to the floor. Mbhazima Shilowa...

MBHAZIMA SHILOWA:

We tend to look at the legacy of leadership on the basis of what the person has been able to achieve and tend to leave out the real purpose of being in government: the improvement of people's lives, socially and economically; putting in place institutions of government; conducting international relations.

One of the things that for me is a legacy of Thabo Mbeki is really ensuring that we have functioning institutions of government. Generally we had simply taken over the apartheid government and its institutions. The work done by



A varied Panel convened by The Star to debate the legacy of former President Thabo Mbeki had markedly different views.

the Maphai Commission around 1998 enabled us to put in place systems of governance allowing a unified approach from local government, provinces and national government.

Secondly, Mbeki's legacy is marked by his commitment to gender equity and the performance of women.

Thirdly, despite the vilification we have received about the economy, we sit here today with everyone saying South Africa will survive the storm that we have seen elsewhere. There may be areas in the economy – employment, growth – that are yet to be achieved, but the fact that we are not talking about a bail out is in part because this legacy.

Fourthly, Mbeki has positioned South Africa and Africa in global politics: the World Economic Forum, the G8, Nepad, the United Nations, south-south blocs - Africa is there, in its own right.

Lastly, his removal has made us ask how, in an open and democratic society, you find a balance between party line, party discipline and the need to be able to say publicly what you think in order to shape national opinion.

MO SHAIK:

Legacies are in essence historical judgements and historical judgements are only true after a period of time. In assessing

this legacy we've got to find the balance between the gravitas of Mbeki on the one hand and on the other hand what I call the contradictions of 'overreach' (drawing that word from the book by Brian Pottinger).

The kinds of partnerships that were projected in the continent through the Nepad process were enormous. No one can take away the fact that in the G8 today we have a permanent item that deals with Africa.

The financial stewardship that Shilowa referred to, I agree with. We had a boom in our economy. It may be credit led, it may be consumerist but we did have a boom nonetheless. I think we are entering more challenging times which equally may be the legacy of Mbeki.

Our discourse in this country is where it is today because of the intellectualism that Mbeki has brought to issues of governance, to issues of just public debate and to the issues of how we should address problems. However, the intellectualism limited debate in that those of us who are not intellectuals felt we could not contribute to this debate.

The fundamental criticism I have of the Mbeki administration is that under his stewardship it attempted to do everything for everyone in the 10 years. As a consequence of that we have not



Matthews Phosa emphasised Mbeki's failures on HIV and Zimbabwe whilst Essop Pahad cautioned that legacies be judged with a long-term time-horizon.

done many things well. In the Mandela administration, I would say that two things were done very well: one being reconciliation. Under the Mbeki administration we had an excessive amount of policy, a focus on transformation. In the end I believe there has been a deskilling in the public service, and as a consequence of that we do not have sustainable capacity within the public service to implement policy. We have also the privatisation of public functions: security, health, schooling. The movement towards private services for those who can afford them and the deterioration of public services for those who cannot, speaks also to the legacy which we must address.

Many of the issues of overreach are going to be with us for a period. The new administration must be able to take on fewer things and let us get those fewer things done right.

PROFESSOR BARNEY PITYANA:

President Mbeki could not possibly be considered to have an unblemished record. However, on a balanced score card basis it is important to appreciate his presidency as one that really gave South Africa and its people, within the then prevailing circumstances, an amazing lift as people and as a nation.

It is important for all of us to remember that Thabo Mbeki is a very complex character. Sometimes people speak about him in very simplistic terms and often miss out the layers of meaning behind so much of what he says.

There are three critical areas that are important for South Africans to remember about Thabo Mbeki. The first is that he led government to be continuously consultative at all levels of society. That style of government is at least an effort at moving away from the security of both Parliament and our Union Buildings, to begin to be about people in their ordinary daily business.

Secondly, it has been important in our society to have a president that all people can look up to; a president who can provide a sense of aspiration. Part of that is the care with which Thabo Mbeki applied his mind to everything that he had to say on every platform that he got on to. There is a place in our society for intellectuals and people who care to think.

Thirdly, however difficult it was, Thabo Mbeki took seriously the responsibility that the Constitution put upon him as head of state and head of government. Those responsibilities included being a symbol



Sam Shilowa emphasised Mbeki's role in constructing governance whilst Mo Shaik took issue with his intellectualism and policy overreach.

of unity to the country as a whole, and being the defender and protector of our Constitution. In the time of Mandela and in the time of Mbeki the government of the ANC held high and respected the work of the courts and our Constitution and I believe that that is a role of the head of state. Mbeki epitomised the value of a government that is founded on law and the Constitution to the extent he did he felt it was important that we cannot just end at truth and reconciliation. He was beginning to address the inherent inequalities in our society: racism, tribalism, ethnicity, gender inequality.

Thabo Mbeki offered this country leadership, that courage to be clear and consistent about matters of value, of policies and principles, and at times to stand up for principles that were very important, sometimes even against his own party.

JJ TABANE:

The legacy will eventually be the judgment of history. If you have read the papers over the last few weeks you may think Mbeki must have been some kind of lunatic or dictator or criminal who wrecked this country. Is the country better off or worse off after Mbeki's presidency? In my view the positives are overwhelming, yet it is the communication of the negatives, not the substance, that has taken centre stage in most instances.

The Mbeki legacy quite clearly cannot be divorced from the legacy of the ANC over the last 15 years. I worry when people want to separate and isolate these legacies; it is not possible. Mbeki was actually implementing ANC policy.

The key things that for me would define his legacy are his roles as the domestic prophet who was not taken heed of, as the continental renaissance man, and as somebody who helped the continent to ascend the world stage.

In the domestic situation one could call Mbeki the midwife of the economic stability that we have. The sustained economic growth is the longest in the history of the country.

On the negative side, Mbeki leaves a divided party. (Whether or not that is going to be a positive thing in the long run, only time will tell.) He did not leave the legacy of a strong alliance.

Mbeki was not a poor communicator, but he was an under communicator. HIV/Aids and Zimbabwe are not the only two things that define the legacy, but they are terrible things.





The “recall” of Mbeki caused a vibrant societal debate and still reverberates through our body politic.

We don't have a cure for HIV, so you've got to have leaders who can inspire people when it comes to a crisis of that nature, who can give a message promoting behaviour change. That was a missed opportunity. There was nothing wrong with the president questioning scientists, but there was the danger of that debate spilling into the public arena and to his credit Mbeki withdrew from that debate. He did not stop the response of government, we have the biggest ARV programme in the world. The under communicator in Mbeki didn't want to explain himself too much, he didn't want to explain why he kept a Minister of Health whom everyone seems to dislike.

DR MATTHEWS PHOSA:

A person's legacy is judged in terms of the broader strokes of achievements, influence, and substantial policy initiatives and changes. There can be no doubt that Thabo Mbeki played a substantial role in establishing the post-1994 South Africa as a state as we know it today. A lot of it came from his own initiative, knowledge, and design, and some of it will remain for decades.

In the build up to negotiations he made tremendous input into shaping the Constitution.

Mbeki's efforts on the back of Nelson Mandela's massive international stature allowed South Africa to punch above its weight on the global stage and in institutions such as the United

Nations. His easy grasp of international economy also played a decisive role in allowing the South African Government to develop and maintain economic policies that ensure the stability of the local economy.

His initiative to develop a more coherent economic policy as well as improved institutional structures for Africa created the basis for future initiatives to ensure that the continent and the regions within it take more responsibility for their own destinies.

He played a major role in affirming the role of women. His effort in the ANC in this regard provided a platform for many other institutions to follow suit. For that South Africa, the continent and the world owe him a debt of gratitude.

Under his guidance, however, government wasted precious time in addressing the critical challenge of HIV and Aids. Many people suffer without much needed medical help, and as a result many people have died. It was on his watch that we chose to tread softly rather than act decisively on the plight of our neighbours. The stigma of us having been soft on Zimbabwe is not going to go away. A man who says he is a liberator puts the results of a democratic election in his back pocket - we should have pressurised Mugabe more in that situation.

Under Mbeki's presidency the arms transaction was allowed to turn into an embarrassment for the government, the country and the ANC.



Panellists tentatively seemed to weigh more positives than negatives in the Mbeki legacy.

The former president developed a well-designed presidency, and then allowed that structure and the people in it to isolate him from the people whom he was serving. In the history of the ANC no leader left with such tragic legacy of division and infighting.

He coldly and mercilessly turned his back on his fellow leaders, one of them being his deputy president, Jacob Zuma.

The Nicholson judgment and other recent developments in security institutions confirmed that there is a perception that the former president is not above suspicion when it came to meddling in the affairs of the so called independent legal institutions.

In a young fragile democracy such as ours an isolated, imperial and unresponsive presidency will not work, we need our leaders much closer to the people if we are to achieve a better life for all. You can't blame it on Mbeki but South Africa is facing crises of expectation on the economic front, on the issue of crime, on the issue of service delivery. That is part of the legacy.

DR ESSOP PAHAD:

One of the mistakes that people make about legacies is to look only at the immediate past. Mbeki was, with Comrade JZ at that time, one of the youngest members elected to the national

executive committee of the ANC. He, more than anybody else, was responsible for opening up the ANC to the world.

He was also the first amongst us who recognised the importance of working towards finding a negotiated resolution of the conflict in South Africa. His legacy in the ANC, whatever else may happen, can never be sullied because of his all round contribution.

Others have spoken about his absolute commitment to the empowerment of women. I think a more enduring legacy will be his contribution to empowering persons with disabilities, and promoting their human rights.

I want to say categorically, he has never imposed a decision either on the national executive committee of the ANC or on cabinet. I used to sit in the NEC meetings and think to myself, 'What is wrong with this chief, why doesn't he intervene earlier and give leadership?' but he didn't. Comrade Oliver Tambo used to sit and listen tirelessly and in the end his intervention was designed to bring together contending views so that we would come out with a common position that would unite and make us more cohesive. In my view that also remains one of Mbeki's greatest strengths.



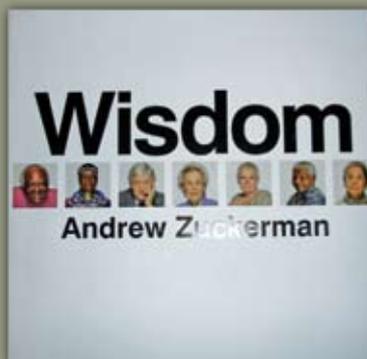
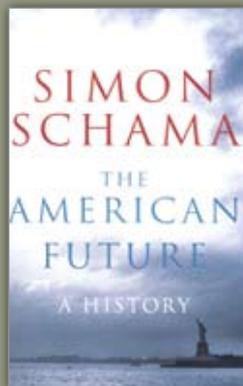
FOCUS BOOK CORNER

**The American Future:
A History**

by Simon Schama

The Bodley Head 9781847920010

Taking as its impetus the 2008 US election, *The American Future: A History* constructs a portrait of the nation defined by its propensity to bring both calamity and triumph on itself, and to consistently bring itself back from the brink by sheer will. The result is an interesting, although perhaps unnecessarily self-aggrandising, history of the America dream.



Wisdom

by Andrew Zuckerman

Wild Dog Press 9781919790756

Wisdom shares the insights of fifty extraordinary individuals; writers, actors, artists, designers, politicians, musicians, religious and business leaders' over the age of sixty-five. They were interviewed, filmed and photographed for this provocative offering by award-winning photographer and filmmaker Andrew Zuckerman. He has put together a book that is outstanding in quality and complemented by a DVD.

Biko Lives!: Contesting the Legacies of Steve Biko

edited by Andile Mngxitama, Amanda Alexander and Nigel C. Gibson
Palgrave 9780230614758

Steve Biko, like Che Guevara, has become a much-appropriated icon of the will to freedom. Biko Lives!, part of the Contemporary Black History series, examines the Biko legacy, bringing together the perspectives of international activists and intellectuals and placing these in the context of post-apartheid South Africa culture and politics.

The Arms Deal in your Pocket

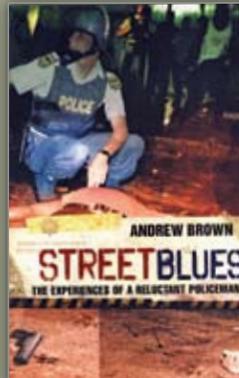
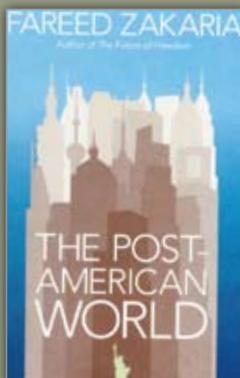
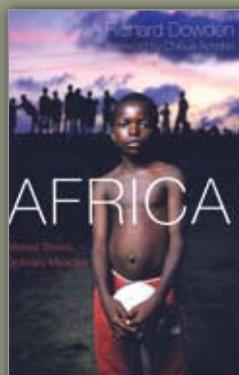
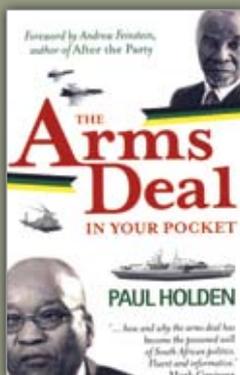
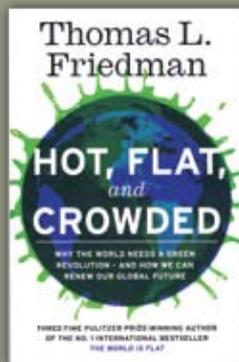
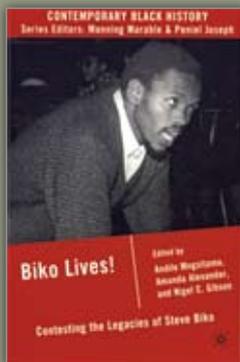
by Paul Holden
Jonathan Ball 9781868423132

A symptom of the modern world's need for bite-sized information, Paul Holden's comprehensive synopsis of the infamous Arms Deal reads like a movie plot. Holden, a freelance writer, researcher and historian, successfully translates the politics of a saga that has even those involved a little muddled, without losing any of the detail.

The Post-American World

by Fareed Zakaria
Allen Lane 9781846141539

Newsweek writer and editor Fareed Zakaria persuasively argues that we live in a "post-American" world, one in which the US may remain a politico-military superpower, but "in every other dimension – industrial, financial, educational, social, cultural – the distribution of power is shifting, moving away from American dominance." Wall Street Journal calls it a "timely message".



Hot, Flat, and Crowded

by Thomas L. Friedman
Allen Lane 9781846141294

The World is Flat became a number one bestseller, even taking in the Oprah circuit. Now in Hot, Flat, and Crowded, Friedman contemplates the possibilities of a 'green revolution' in a globalised world. Among its many rave reviews, Washington Post called it 'enthalling' and the New York Times described it as 'exciting' and 'a great book'.

Africa: Altered States, Ordinary Miracles

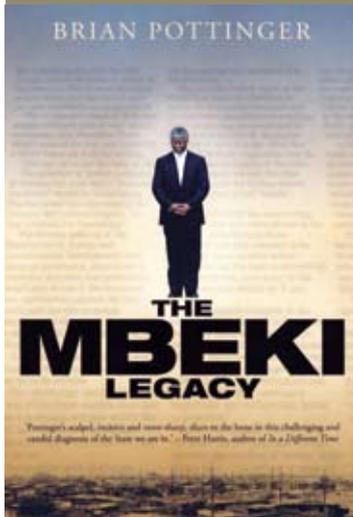
by Richard Dowden
Portobello 9781846271540

Chinua Achebe's foreword to Richard Dowden's Africa states 'Africa is a vast continent, a continent of people, and not a place of exotica, or a destination for tourists... Richard Dowden understands this.' The journalist's ability to paint a picture of the places he has visited is complimented by his pragmatic grasp of the issues at hand.

Street Blues: The Experiences of a Reluctant Policeman

by Andrew Brown
Zebra 9781847920010

In 1999, Andrew Brown signed up as a police reservist. Almost a decade later, Brown (the author of the award-winning novel Coldsleep Lullaby) recounts his sometimes chilling experiences with great candour and sensitivity. Now a reservist sergeant, Brown attributes his decision to serve to a desire 'give back' and to 'get involved'.



By Brian Pottinger

Brian Pottinger has an uncanny sense of timing. His last book, on the 'imperial' presidency of PW Botha, was published in the week in which PW had the stroke that led to his enforced retirement. This book appeared during the week of Thabo Mbeki's 'recall' from the presidency. It will be the first of many retrospective studies of Mbeki's disquieting legacy.

Since leaving the editor's chair at the Sunday Times, the author has travelled extensively on business in Africa. In most countries visited, he gained the impression that things were slowly but gradually improving. On returning to South Africa, however, he sensed repeatedly that the country, under Mbeki's authoritarian hand, was going steadily downhill. This book is a thoughtful and incisive attempt to explain why.

Pottinger is unburdened by the need to decode Mbeki's complex and mystifying personality. Others have won prizes for doing so. Instead, he compares the current state of the nation to what it was when Mbeki took over from the revered Mandela, and analyses why a presidency that promised so much should have ended so abjectly.

Mbeki's essential failure, the author suggests, was to fall foul of the law of unintended consequences. Determined to disprove, in external and internal policies, the conventional African stereotype, he succeeded only in reinforcing it. His foreign policy foundered because it created over-elaborate structures, underestimated resource needs, ignored grassroots sensitivities, evaded tough decisions, and eventually fell victim to its architect's paranoia and anti-Western

The Mbeki Legacy

Zebra, 2008. ISBN 9781770220287

Review by Richard Steyn

obsession. Internal policy-making failed for many of the same reasons: horrendous policy overreach, ideological overkill, the marginalisation of key skills, and the consequent inability of the state to deliver decent services in areas as diverse as education and crime prevention, health and electricity provision. After ten years of Mbeki, South Africa has slipped back in every global competitiveness ranking – from economic performance to human development.

Coming to power when South Africa's international reputation was at its highest, and with global economic circumstances in his favour, Mbeki – in the author's view – got the macro-economics right. On the credit side, growth increased, debt and inflation came down, capital flowed in and the currency strengthened. On the other hand, more than half the budget went on social spending, creating a welfare dependency in which a third of all South Africans now cannot survive without government subsidy. These groups have come to depend on a state whose capacity is diminishing and whose economy might soon not be able to fund them.

Mbeki's left-wing critics claim that he was pro-business and anti-poor. On the contrary, says the author, the former president poured millions into efforts to create a black middle class and improve living conditions for the poor. What he failed to do, however, was to inculcate – by means of better education and training, skills advancement and the effective promotion of entrepreneurship – a culture of self-sufficiency. What is more, despite the credit-led growth of the early 2000s, Mbeki has let the institutional and physical infrastructure of South Africa wither away for lack of



© AP Photo/ SA Govt via APTN

South African President Thabo Mbeki announces his resignation on the 21st of September 2008.

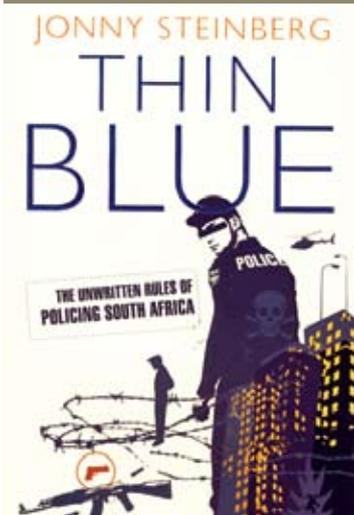
planning and maintenance, Eskom being the prime example. A decade has been squandered, Pottinger suggests, on grand plans that failed to take account of practicalities, on ideological disputes, clashes with imagined enemies, and a huge (and expensive) diversion of effort to solving Africa's problems when attention was needed here at home.

An equally serious charge against Mbeki is that his autocratic style of leadership has grievously undermined the foundations of South Africa's fledgling democracy. Under him, the division between state and party has all but disappeared, control has been centralised, dissent has been discouraged, Parliament has been diminished, politics has been poisoned by the arms deal, investigative bodies and the judiciary have been weakened, and the economy has been re-racialised. On the key issue of relations between the races, instead of building on Mandela's legacy, Mbeki he has taken the country backwards – resulting in the emigration of hundreds of thousands of skilled people.

In the latter part of this important and provocative book, the author suggests ways in which South Africa could make up for the misspent Mbeki years – and get back on the road to becoming "a comparatively successful middle-tier country". Foremost among

a raft of sensible proposals (which I respectfully commend to the attention of President Motlanthe) is that the post-Polokwane ANC should step back and reconsider (with the help of a technical committee of Parliament) which of its policies can rather than should be implemented. The party should also abandon forthwith its absurd, pre-modern policy of 'deploying' cadres into every position of influence in business, the public service, the state-owned media, the arts, sport and other sectors. That is what totalitarian states – not forward-looking democracies – do. Modern economies recognise the need for an efficient public service drawn from all available talents, mandated by law to put the interests of country before those of any political party. (And no developmental state, for that matter, has been built successfully without the support of a skilled civil service).

Yet all these remedies require enlightened, courageous and decisive leadership of a kind not yet demonstrated by the post-Polokwane faction now in control of the ANC. As the author observes drily, "the spectacle of the would-be president insisting that he does not have a single policy idea other than those of the party is hardly the recipe for inspired leadership in these perilous times".



By Jonny Steinberg

Thin Blue: The Unwritten Rules of Policing South Africa

Jonathan Ball Publishers, 2008. ISBN 978186842303610

Review by Johan Burger

After reading Jonny Steinberg's *Thin Blue*, one is left with mixed feelings of despair, disbelief and disillusion with the state of policing in this country. Even worse, given Steinberg's reference to the principle of "policing by consent", there is a depressing message of a situation that has deteriorated over such a long time that it may be extremely difficult, if not outright impossible, to "normalise". It's clearly more than just a police problem, given that the absence of our conditional public consent, implicit in Steinberg's arguments, is something that the police, even if they tried, would not be able to obtain by improving only on their performance.

Steinberg, in his usual eloquent style, argues that policing in South Africa has never enjoyed the consent of the general population. As a result the police either use excessive force, retreat or police according to unwritten rules decided by particular communities. Public consent would also imply public acceptance of authoritative action by the police, inclusive of the use of force, in situations where this is justified. In other words, in the absence of consent the public will not accept police authority. He argues that to get South Africa to give its consent to being policed "would require breaking down a generations-old architecture of security and protection", that, in turn, would require a "body with unprecedented authority" to break the current "logic" in township life. This lays the foundation for a belief that all is not lost, but that the new government after 1994 lost the opportunity to correct this relationship when they decided to prioritise police legitimacy above police authority.

The distinction between the concepts consent and legitimacy is arguably very vague. It can be argued that

a legitimate police organisation has the consent of the public. Therefore, if government were successful in their pursuit of police legitimacy, the result would amount to public consent. This view is supported, for example, by Marenin and Das in *Challenges of Policing Democracies: A World Perspective*, where they claim that in Britain, historically, legitimacy has always been known as "policing by consent".

Between June 2004 and September 2007 Steinberg spent approximately 350 hours accompanying members of the South African Police Service (SAPS) on patrol in various places in Gauteng. Unfortunately, almost all of these patrols were conducted in predominantly black townships. By his own admission, the predominantly white areas are largely overlooked in his research. However, Steinberg does succeed in raising the alarm on the state of policing in the areas that he visited. It must be assumed also that this situation exists in many other parts of our country. Obviously this cannot be divorced from the socio-economic conditions that continue to exist in many areas, and the fact that these probably continue to dictate the precarious relationship between these communities and the police.

Finally, *Thin Blue* is a fascinating read about the historical background and some of the realities of policing in present-day South Africa. The moral of its story is that unless the above conditions are addressed, along with measures to improve the quality of our police and of policing in general, the relationship between the police and the South African public will progressively deteriorate.

JEFFREY
SACHS
COMMON
WEALTH
Economics for a
Crowded Planet



By Jeffrey D Sachs

Common Wealth

Allan Lane, 2008, ISBN 9780713999198

Review by Raenette Taljaard

In *Common Wealth* Jeffrey D Sachs focuses squarely on four core challenges requiring global vigilance and action: combating climate change and environmental destruction, stabilising the world's population by reducing birth rates, ending extreme poverty, and fostering new forms of global co-operation on the challenges of our time.

While Sachs eruditely sketches the scale of the possible apocalypse we face, his strength is in equally optimistically calling us to action, complete with pragmatic, low-cost plans and budgets to effect change – similar to steps he has himself taken by establishing the various Millennium Villages with which he is so closely associated in Africa.

This is perhaps the most fascinating effort in a book that takes the global scheme of things as its intellectual canvas and tries to calculate the actual fiscal costs of taking action to alleviate poverty and tackle the unsustainable elements in our chosen economic growth paths and growth theories, which ignore the environmental and other externality costs of our actions.

It suggests specific steps, using the actual experience of the UN Millennium Villages as a microcosm argument of what is possible with the right commitment, goodwill and decisive action.

Questions of scalability and donor commitments remain, but few can argue that the project has taken the most concrete step to try to turn development theories into actual practice as a possible template for an effective and scalable "New Deal" model for the world's poor.

Sachs's *Common Wealth* delicately balances pessimism and optimism, a call to urgent action and a

deep undercurrent of an unavoidable moral duty to act to ensure growth and development, shared responsibly with due regard to our planet's finite resources.

Sachs's message is clear: the human race faces apocalyptic scenarios unless we confront our challenges. The timing could not be more appropriate despite the immediacy of banking collapses and bail-outs, and regulatory debates about the role of state and market that threaten to take us back to the hard ideological divide of yore.

While some slated Sachs for naivety when *Common Wealth* was released earlier this year, the sheer thunderclap of the looming global recession and the scale and scope of the challenge to construct new forms of co-operative global governance in response to unprecedented challenges, as well as the recent historic election of Barack Obama, have ensured its place as essential mainstream reading in years ahead.

The ongoing world financial-sector crisis and its ever-widening circle of consequences may well create a perfect moment in which to assess not only the tensions between growth and climate change, but also the opportunities to green growth; a moment in which more co-operative decision-making between developing and developed countries in global financial governance will be a necessary yet not sufficient condition for change; and a moment to start asking questions about the values that have led us on to a near collision course with the planet that sustains the very livelihood we all appear to aspire to under the banner of "growth and development".

Sachs' *Common Wealth* proposes an international New Deal liberalism that could surely influence policy direction in the Obama White House.



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I send my sincere congratulations to Albertina Sisulu on having celebrated her 90th birthday. I have known the Sisulus for many years and Walter, her late husband, remained a close friend from the time I visited him on Robben Island in the 1960s.

I wish Albertina good health in the years to come.

With warm regards,
Helen Suzman