Committed to Unity:

South Africa's Adherence to Its 1994 Political Settlement

Paul Graham

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Abstract

This paper reviews the commitment of the remaining power contenders and other political actors to the settlement which was reached between 1993 and 1996. Based on interviews with three key actors now in opposing political parties represented in the National Assembly, the paper makes the case for a continued commitment to, and consensus on, the ideals and principles of the 1996 Constitution. It provides evidence of schisms in the dominant power contender (the African National Congress) which have not led to a return in political violence post-settlement. The paper makes the point that, while some of this was the result of President Nelson Mandela's presence, more must be ascribed to the constitutional arrangements and commitments of the primary political actors and the citizens of South Africa.

About the Publication

This paper is one of four case study reports on South Africa produced in the course of the collaborative research project 'Avoiding Conflict Relapse through Inclusive Political Settlements and State-building after Intra-State War', running from February 2013 to February 2015. This project aims to examine the conditions for inclusive political settlements following protracted armed conflicts, with a specific focus on former armed power contenders turned state actors. It also aims to inform national and international practitioners and policy-makers on effective practices for enhancing participation, representation, and responsiveness in post-war state-building and governance. It is carried out in cooperation with the partner institutions CINEP/PPP (Colombia, Project Coordinators), Berghof Foundation (Germany, Project Research Coordinators), FLACSO (El Salvador), In Transformation Initiative (South Africa), Sudd Institute (South Sudan), Aceh Policy Institute (Aceh/Indonesia), and Friends for Peace (Nepal). The views expressed in this paper are those of the authors and do not necessarily reflect the views and opinions of the Berghof Foundation, CINEP/PPP, or their project partners. To find more publications for this project please visit www.berghof-foundation.com. For further information, please contact the project research coordinator, Dr. Véronique Dudouet, at v.dudouet@berghof-foundation.org.

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List of Acronyms

ANC	African National Congress
APLA	Azanian People's Liberation Army
COPE	Congress of the People
DA	Democratic Alliance
EFF	Economic Freedom Fighters
GNU	Government of National Unity
IFP	Inkatha Freedom Party
MDM	Mass Democratic Movement
NP	National Party
PAC	Pan Africanist Congress
SACP	South African Communist Party
SADF	South Africa Defence Force
UDF	United Democratic Front
UDM	United Democratic Movement
UNIP	United National Independence Party of Zambia

1 Introduction

On 25 February 1990, only two weeks after being released from prison, Nelson Mandela spoke to some 125,000 people in Durban at the King's Park Stadium (Kentridge 1990). His famous "Throw your *pangas* into the sea" speech was brave for many reasons. The war between Inkatha Freedom Party (IFP) loyalists and the communities supporting, or perceived to be supporting, the African National Congress (ANC) was in full force. Suspicions that this war was being both supported and encouraged by the South African security establishment and its proxy in the KwaZulu government meant that ensuring the safety of Mandela and managing the massive crowds could not be taken for granted. While organisations in Durban planned to marshal the crowd, General Bantu Holomisa, head of the military council controlling the Transkei homeland, lacking clearance from the South African apartheid government, sent Transkei Defence Force soldiers dressed undercover as street sweepers and other menials across a still existing political border[1] to blanket Durban. The mission was to protect a political process that could still be snuffed out (Holomisa, author interview, 2014).[2]

Having seized power in 1987 to combat corruption amongst the political leadership in the Transkei (the first homeland to accept 'independence' from South Africa), Holomisa convened a *bosberaad*[3] which decided to establish a relationship with the South African political leadership in prison and in exile. An agreement was reached to use their independence (which apartheid South Africa insisted did exist) to create a space in which free political activity would be available in the Transkei as long as the ANC and Pan Africanist Congress (PAC) agreed not to use the territory as a "springboard to attack South Africa" (Holomisa, author interview, 2014).

While Holomisa was cementing his relationship with exile movements, his peer in the self-governing territory of KwaZulu who had consistently refused the final step of independence was embroiled in a deteriorating and increasingly violent conflict. Chief Mangosuthu Buthelezi became chief minister of the homeland of KwaZulu in 1976 after founding *Inkatha yeNkulukelo yeSizwe* (The Inkatha National Cultural Liberation Movement) a year earlier. Despite substantial contact between the Inkatha leadership and the ANC, a schism between Chief Mangosuthu Buthelezi and the ANC occurred after he met with ANC leader Oliver Tambo in 1979 (Callinicos 2004).[4] That war resulted in as many as 12,000 to 15,000 deaths.[5]

This paper considers the various South African power contenders and examines their accession to power or their disappearance as a political force. It relies substantially on interviews with three central players, each representing a particular set of power contenders that have continued to participate in – and sustained – the political settlement, regardless of their potential for either being excluded or becoming disruptors of the unity which South Africa fought hard to attain. The struggle for freedom in South Africa is a long one, but only those power contenders who remained 'in the ring' at the time of the 1993-1996 settlement are considered in this paper.

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[1] Homeland borders were not internationally recognised but within South Africa they had a legal basis.
[2] Interview with Hon. Bantu Holomisa MP, leader of the United Democratic Movement (UDM), 4 February 2014.
[3] A term used in South Africa to describe a planning retreat at a secluded venue, often in a nature reserve or 'bush/*bos*'.
[4] For the IFP position on this same meeting see: www.ifp.org.za/History/history.htm (accessed 4 March 2014).
[5] Author's calculations based on personal documents. The variation is a result of differences in ways of identifying the start and conclusion of the war, which geographic sites should be included, and controversy over whether certain deaths should be included in the tally. See also: www.paton.ukzn.ac.za/Collections/violence.aspx (accessed 24 July 2014).

2 Mapping the Main South African Political Actors (before and after 1994)

2.1 Power Contenders

During the period of negotiations and democratic transition until 1996, the primary antagonist to the white South African government was a coalition of forces variously described during the period before the unbanning of the ANC by the term 'the Mass Democratic Movement'.[6] By this time, the status and influence of black consciousness groups was waning and being overtaken by charterist groups[7] including those in exile (largely the ANC) operating with international support and those active clandestinely inside the country or 'underground'.

From 1983 onwards, civil society organisations which formed part of the United Democratic Front (UDF) umbrella coalition were operating with varying degrees of legality. Additionally, political prisoners (largely on Robben Island) maintained tenuous, though regular, contact both with the exile community and the activists operating above ground.

2.1.1 ANC

From its inception in 1912, the ANC conducted a campaign for a non-racial democratic unitary South Africa in which all people had equal citizenship rights. Along the way, the party shifted strategic gears a number of times, and the move to an armed struggle in 1961 was only one of such moves. It never represented the only strategy of struggle. The ANC entered the negotiation period with a significant reputation and a number of allies whom it had assiduously sought over the years both inside and outside the country – not only for tactical reasons, but also because of its commitment to building an inclusive society. Having dominated the founding elections in 1994, the ANC remains South Africa's dominant political party and is committed to the Constitution it played a major role in constructing.

That being said, concern remains that it has yet to be tested with electoral defeat. The ANC made the commitment to a negotiated settlement in 1988, and it stayed true to this decision. As argued by Essop Pahad (author interview, 2014), an exiled member of the ANC and South Africa Communist Party (SACP) and subsequent minister, ANC leader Oliver Tambo tended to think strategically and rationally and promote collective responsibility. He believed that the South African transition was particularly precarious since the ANC had no handle on power, which, instead, remained with the South African government up until the elections.

However, both the ANC and the ruling National Party (NP) recognised the 'changing balance of forces' and were willing to put national interests above their own. By the 1994 elections, the ANC under Mandela's leadership had attained a level of authority within the negotiations and within the transitional mechanisms which managed the country in early 1994. It had successfully collaborated with the last white government to write the rules for and oversee a political transition. In the election of 1994, ANC candidates were voted for in substantial numbers, gaining 252 seats out of the 400 available. The party has retained its electoral dominance ever since, gaining 266 seats in 1999, 279 seats in 2004, 264 seats in 2009, and 249 seats in 2014.

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[6] See for example the O'Malley Archive interview with Mac Maharaj (now the South African Presidential Spokesperson) at: www.nelson mandela.org/omalley/index.php/site/q/03lv03445/04lv03446/05lv03480.htm (accessed 4 March 2014).
[7] Charterists espouse the Freedom Charter as well as the institutions which had been present at the Kliptown Congress of the People in 1955, or had emerged from these over time.

2.1.2 Breakaway Parties

There have been three breakaways from the ANC since 1994, two of which have flattered to deceive. The first, formed in February 1997, was led by the aforementioned and popular General Bantu Holomisa[8] who had joined the ANC in 1994 and now leads the United Democratic Movement (UDM), a small party which has support in some specific sub-regions of the country. The UDM was briefly led in joint collaboration by himself and Roelf Meyer who had left the National Party when it dropped out of the Government of National Unity. Meyer is now retired from active politics, though he remains a member of the ANC.

The second breakaway was the Congress of the People (COPE) led by Mbhazima Shilowa, a former premier of Gauteng (the richest and largest province) and the Minister of Defence, Mosiuoa Lekota. COPE captured public sentiment and media attention not long before the 2009 elections. It gained 7% of the national vote and 30 seats in the National Assembly. Having broken away in protest against the direction the ANC had taken after it forced the sitting President of South Africa, Thabo Mbeki, to resign,[9] the foundation of COPE was seen as the first significant challenge to the electoral dominance of the ANC. However, leadership squabbles since the 2009 election have severely diminished the party's public reputation, and in the 2014 elections it only gained 0.67% of the votes.

The third breakaway came with the disciplining by the ANC of their increasingly abrasive and dissident Youth League President, Julius Malema. His founding of the Economic Freedom Fighters (EFF) in 2013 is very recent, but he has campaigned in a number of areas where disaffected and marginalised young unemployed people reside. His pecuniary track record in handling his own and the Youth League's funds is allegedly suspect, but the EFF is attracting support and media attention. They received 6.35% of the vote in 2014 (a similar result to that of COPE in 2009) which has led some to question their long-term viability.

2.1.3 PAC

Founded in 1959, the Pan Africanist Congress (PAC) attracted early attention for its Africanist stance and commitment to nonviolent direct action. Its leader, Robert Sobukwe, was arrested and then indefinitely detained on Robben Island before being released and placed under house arrest in Kimberley where he died in 1978.

The PAC established an armed wing called *Poqo*, subsequently renamed the Azanian People's Liberation Movement (APLA).[10] Although it continued a sporadic and violent armed struggle right up until the 1994 elections, its combatants were covered by the terms of the early negotiations and formed part of the subsequent integration of armed forces and demobilisation programmes in which the ANC's armed wing, *Umkhonto we Sizwe* (Spear of the Nation, MK), and the state's South African Defence Force (SADF) took part.

Prior and subsequent to the political settlement, the PAC struggled with limited resources, being overshadowed by the ANC, and regular, painful schisms and leadership dilemmas. While PAC remains in existence, it is only as a political party of historical sentiment.

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[8] "His plucky defiance of the apartheid regime and his sharp wit made him one of the most popular figures on our electoral list. The way in which the de Klerk regime constantly demonised him, only helped his popularity amongst the majority of South Africans", according to the otherwise highly critical ANC assessment prepared after his ejection from the party (ANC 1997).

[9] South Africa has a hybrid Presidential/Parliamentary system. Its head of state is elected by the Parliament and then takes up executive office. The position is therefore in the hands of the majority party in Parliament. The ANC's own internal electoral calendar is such, that for almost a year, they had had a party head who was not the head of state – and this became an increasingly untenable position for the party bosses.

[10] A recent play catalogues the difficult and tragic life of an APLA soldier or 'Cadre' and their relationship with the homeland police and the later transition to democracy: www.citypress.co.za/entertainment/the-interview-omphile-molusi-voice-of-new-struggle-theatre/ (accessed 24 July 2014).

2.2 Institutional Actors Prior to the 1994 Political Settlement

Apart from those in the Mass Democratic Movement, there were other political actors with significant constituencies and, in the case of the homelands, with substantial influence (within limits imposed by the South African Government) over territories which, while covering only some 13% of the South African landmass, controlled the citizenship and rights of the majority of black South Africans. Any analysis of significant political actors prior to the settlement must take account of the following key institutions and actors:

Parliament	Main Political Forces
South African House of Assembly (the 'White Parliament')	Majority Party: National Party
	Official Opposition: Conservative Party
	Other parties with significant representation: Democratic Party (now Democratic Alliance)
South African House of Representatives (the 'Coloured chamber')	Majority Party: Labour Party[11]
South African House of Delegates (the 'Indian chamber')	Majority Party: Solidarity[12]
	Official Opposition Party: National People's Party
Bantustan/Homeland	**Political Actor/Leader**
Transkei (declared independent on 26 October 1976)	General Bantu Holomisa
Bophuthatswana (declared independent on 6 December 1977)	Kgosi Lucas Manyane Mangope
Venda (declared independent on 13 September 1979)	Frank N. Ravele (deposed in 1990 and replaced by Council of National Unity chaired by Gabriel Ramushwana and then Tshamano G. Ramabulana)
Ciskei (declared independent on 4 December 1981)	Chief Minister Lennox Sebe (deposed in a coup in 1990 by Brigadier Oupa Gqozo)
Gazankulu (created self-government in 1971)	Chief Minister Hudson Ntsanwisi (1971-1993) followed by Edward Mhinga (1993) and later Samuel Nxumalo (1993-1994)
Lebowa (created self-government on 2 October 1972)	President Mogoboya Nelson Ramodike

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[11] The Labour Party dominated this chamber with 69 seats out of 80.
[12] The House of Delegates had 7 parties and 6 independent members in its 40-member house.

QwaQwa (created self-government on 1 November 1974)	Chief Minister Kenneth Mopeli
KaNgwane (created self-government in 1981)	Chief Minister Enos John Mabuza followed by Mangisi Cephas Zitha
KwaNdebele (created self-government in 1981)	Prince James Mahlangu
KwaZulu (created self-government in 1981)	Chief Mangosuthu Buthelezi

While the majority of these actors have faded into obscurity or have been washed away by the course of history, all participated in the negotiation processes between 1990 and 1994 through their legislative institutions or political parties. Thereafter, only those parties and individuals that made it into the first democratically-elected Parliament or provincial legislatures have had a role in the political management of the new inclusive political settlement. The homelands all ceased to exist on 27 April 1994, being re-absorbed into a unitary South African state as an essential component of the political settlement.

2.2.1 Homeland Leaders and the IFP

Prior to and during the negotiation process, homeland leaders were largely concerned with making accommodations to power players in the South African state or those projected to be the likely future elite[13] (i.e. the apartheid government and the ANC). Two leaders stand out, both for their pre-settlement trajectories and for the fact that they remain in Parliament as representatives and leaders of their respective political parties. Bantu Holomisa, mentioned above, led the Transkei military to a coup in December 1987, overthrowing Prime Minister Stella Sigcau.[14] His leadership as head of the Transkei was subsequently recognised by the South African government in 1988. As head of the Transkei, he unbanned 33 organisations that had previously been banned in the homeland, earning him both popularity and recognition from the ANC leadership and its members. Holomisa remained head of the government and military until the Transkei was reabsorbed into South Africa in 1994. At this point, he stood for Parliament as an ANC member, becoming deputy Minister for Environment and Tourism. Expelled from the ANC in 1996 after his testimony to the Truth and Reconciliation Commission, he co-founded the UDM and remains an elected Member of Parliament (MP).

Prince Mangosuthu Gatsha Buthelezi headed the homeland of KwaZulu which refused to become independent and thus remained a self-governing territory within South Africa. The IFP and its predecessor, the cultural movement, drew inspiration from the United National Independence Party (UNIP) – the first Zambian party to form a government after independence in 1964 – and tried to establish a regional accommodation with the provincial

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[13] SA History Online provides a summary of some of the many contacts between the ANC and these homeland leaders: "In March 1986, a delegation from the Inyandza movement/party from the Kangwane homeland met with the ANC in Lusaka. Led by Chief Minister Enos Mabuza, the meeting saw the homeland leader forge definitive relations with the liberation organisation. Mabuza's relations with the ANC were an exception from those of other homeland leaders. He had always operated a kind of balancing act, using his position within an apartheid-created platform and at the same time fostering cordial relations with the ANC. The ANC, according to David Welsh, 'accepted Inyandza's bona fides as 'part of the forces fighting for a democratic South Africa'". Another homeland delegation, members of Transkei's Democratic Progressive Party, met the ANC in January 1988. Despite tensions between the ANC and the Inkatha Freedom Party (IFP), IFP general secretary Oscar Dhlomo met with the ANC in May 1988". See: www.sahistory. org.za/topic/delegations-and-dialogue-between-anc-and-internal-non-government-groups (accessed 6 March 2014).

[14] Ms. Sicgau was elected to Parliament on an ANC list in 1994 and became Minister for Public Enterprises in Mandela's Cabinet. She remained in the Cabinet until 2006, when she died in office.

and city authorities in Natal. This effort proved relatively successful since it did not undermine the authority of the national state. Yet, tension between the supporters of the IFP and the black urban populations of Natal grew, especially on the contested boundaries between the homeland and Natal. KwaZulu touched the urban edge of the major Natal cities in ways which did not occur in other parts of South Africa. Tension also existed between the IFP and ANC and then between the IFP, UDF, and trade unions, all of which treated Buthelezi as a puppet of the South African government (a role he contested). Violence of a serious and organised nature broke out in 1987 (Kentridge 1990) and continued both in the province and wherever Zulu supporters of the IFP worked as migrants – primarily on the Witwatersrand.

Evidence now demonstrates that this violence was fuelled with weapons and disinformation by actors from the South African security establishment in service of their own attempts to prop up the homeland system, combat the ANC, and undermine any of the ANC's perceived allies.[15] Attempts at peace talks and programmes contained, but did not end, the violence, and the IFP stayed away from the negotiations while still being a significant potential destabilising factor. It insisted that its conflict with the ANC required separate and independent mediation.

Prior to the first democratic elections in 1994, a group of eminent peoples arrived in South Africa with the intent to facilitate an arrangement between the ANC and IFP. Former US Secretary of State Henry Kissinger joined the former British Minister of Foreign Affairs Lord Peter Carrington and Kenyan academic Washington Okumu in early April 1994 (Mosota 2013). Rebuffed by the negotiations partners,[16] they left South Africa. Only Okumu stayed behind and tried to broker a deal with Chief Buthelezi. This paid off when a deal was settled on 14 April 1994 (Buthelezi, author interview, 2014).

The IFP entered the 1994 elections with an agreement signed by President F.W. de Klerk, Nelson Mandela, and Chief Buthelezi on 19 April 2014.[17] The party was involved in difficult and protracted post-election discussions with the electoral commission amid suspicions of a deal. The IFP eventually achieved a fragile majority win in KwaZulu Natal province and a substantial portion of the national vote. This was largely due to the considerable size of the KwaZulu Natal electorate. The Chief Minister received a senior ministerial post in the Mandela government with IFP leaders holding a number of other important ministry positions (e.g. Minister of Education). Unlike F.W. de Klerk who withdrew[18] from the Government of National Unity (GNU) on 30 June 1996, Chief Buthelezi and his IFP ministers remained in the Cabinet until the 2004 elections.[19] The IFP has been losing electoral ground both to the ANC and breakaways from its own ranks. Chief Buthelezi remains the now aging leader and a national MP.

2.2.2 Other Parties

Within the white right-wing establishment, schisms also emerged during the early 1990s as the ANC moved from being a banned and demonised organisation to a potential governing partner. The scene became dominated by the flamboyant *Afrikaanse Weerstands Beweging* (Afrikaner Resistance Movement, AWB), but also included a parliamentary opposition – the Conservative Party. Both of these have fractured, and to a large extent disappeared, since the 1994 elections. They have been replaced by a small political party which draws its support from a portion of the white community and operates as a platform for that group on the national stage. This party – the Freedom Front – had a deputy Minister in the ANC Cabinet prior to the 2014 elections.

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[15] See the report of the Truth and Reconciliation Commission (TRC 1998), for example, Paragraph 80 in Section Two: www.justice.gov.za /Trc/report/finalreport/Volume%202.pdf (accessed 24 July 2014).

[16] Chief Buthelezi blames Ramaphosa and Meyer specifically for scuppering the initiative.

[17] Buthelezi remains in Parliament despite a continuing grievance that the agreement of 19 April was never resolved in terms of its clause 4: "Any outstanding issues in respect of the King of the Zulus and the 1993 Constitution as amended will be addressed by way of international mediation which will commence as soon as possible after the said elections". Others believe that these matters were resolved in the course of events and therefore did not require mediation.

[18] See discussion of the break-up of the Government of National Unity in Graham (2014) and de Klerk (1996).

[19] Buthelezi (author interview, 2014) says that he was encouraged to leave the GNU in consort with the NP, but had refused.

Other formations within the white community have emerged. A trade union named Solidarity is active in labour matters, while AfriForum, a civil society advocacy group, continues to garner publicity (albeit enjoying limited political traction). The only political party which has remained within the democratic landscape since the apartheid system and even after the post 1994 settlement was known as the Democratic Party during the 1990s. It is now called the Democratic Alliance (DA).[20] A liberal minority party under apartheid, it has moved from 7 seats and 338,426 votes in 1994 to 89 seats and 4,091,584 votes – or over 22% of the electorate – in 2014. It also holds power in the Western Cape Province and a number of municipalities.

As for the National Party (later renamed the New National Party, NNP), it initially formed an alliance with the Democratic Party and was then dissolved in 2004. Its leader then joined the ANC where he continued to serve as a popular and successful Minister of Tourism until the 2014 elections (he was dropped from the Cabinet, apparently on his request). This was the final demonstration both of the dominance of the ANC and the very similar ideological positions of the ANC and NP during the post-settlement period.

3 Framing Inclusivity in Post-Apartheid South Africa

The primary concern for all power contenders has been to gain recognition as free citizens in their land of birth and provide for a unified South African state. There have been many suggestions at various times in South Africa's history of different means by which to deal with the national question (i.e. who is a South African, and how can different ethnic, linguistic, and cultural identities co-exist peacefully?). These suggestions have included various forms of federalism and constitutionalism aimed towards ensuring that one or the other of these groups – normally the assumed homogenous white minority – will not be overwhelmed. Ultimately, an accommodation was reached based on individual rights, universal citizenship, and enfranchisement within a unitary state including some federal characteristics and devolution of powers to municipal levels considered "interdependent, interconnected and distinct".[21]

There is, however, some controversy over whether the final outcome deviated significantly from the ANC's initial commitment to the Freedom Charter and Constitutional Guidelines, the latter of which they published from exile in 1989. What is clear is that they did not falter in their commitment to a non-racial country in which all citizens had a place. What is also clear is that the ANC made a number of significant concessions during the negotiations in order to keep the process going – for example in terms of protecting the jobs and pensions of public servants, ensuring no "fundamental changes" in the security establishment, and promoting reconciliation. Pahad (author interview, 2014) believes that Mandela's approach to reconciliation was not *sui generis*, but reflected the views of the collective leadership based on internal debate. He points to discussions surrounding the "sunset" clauses[22] which are credited to Joe Slovo (1992) – a delegate to the Congress of the People which drafted the Freedom Charter in 1955 – but may have emerged from deeper within the party.

Despite serious internal opposition (for instance from Harry Gwala – a senior ANC leader from Pietermaritzburg and one of the earliest political prisoners released), the policy received majority support and became a key component in forwarding the settlement (ANC 1992). Amongst white conservative factions, the dominant thought was to form separate states[23] in which whites could govern in amity with their neighbouring

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[20] The Democratic Alliance absorbed the Independent Democrats, a party started after 1994 by Ms. Patricia de Lille. She had represented the PAC in the first Parliament.

[21] According to Lechesa Tsenoli, Minister of Cooperative Governance and Traditional Affairs, in a briefing on 17 March 2014.

[22] A range of compromises have been assumed to be part of the "sunset" clauses, but as Chapter 15 of the 1993 Interim Constitution makes clear, these were merely a set of transitional arrangements.

[23] Constitutional Principle 34 grants the right to self-determination:

> 1. This Schedule and the recognition therein of the right of the South African people as a whole to self-determination, shall not be construed as precluding, within the framework of the said right, constitutional provision for a notion of the right to self-determination by any community sharing a common cultural and language heritage, whether in a territorial entity within the Republic or in any other recognised way.

states (a set of black majority states). To some extent, the Africanist view moved in parallel by stating that white inhabitants of South Africa were temporary settlers who could and should find an alternative home.

Neither of these positions was viable in South Africa, and neither has had much support – although there is support for the pre-eminence of black leadership and the reduction of white influence on the levers of political and economic power evidenced by South Africa's complex system of laws governing employment equity, black economic empowerment, and preferential procurement. To date, none of the political parties with legislative representation have chosen to mobilise support based on ethnicity, or indeed, on the basis of xenophobia. While all have, at one time or another, been accused of doing this, evidence does not support such accusations. Nevertheless, several parties have historical baggage, if not all of them.

4 Inclusion into the Political Arena: Electoral Results since 1994

The electoral system, a keystone of the new political settlement, was designed as a closed-list, proportional representation system.[24] It was agreed that there would be no threshold other than the quota and subsequent calculation of quota fractions. Parties that registered for participation in the 1994 national elections were given some state funding to assist them in their campaigns. As a result, 19 parties contested the election, and 7 became represented in Parliament.

Results of the 1994 National Elections

Party	Leader	Votes	%	Seat Allocation
African National Congress (ANC)	N. Mandela	12,237,655	62.65	252
National Party (NP)	F.W. de Klerk	3,983,690	20.39	82
Inkatha Freedom Party (IFP)	M. Buthelezi	2,058,294	10.54	43
Freedom Front (FF)	C. Viljoen	424,555	2.17	9
Democratic Party (DP)	Z. de Beer	338,426	1.73	7
Pan Africanist Congress (PAC)	C. Makwethu	243,478	1.25	5
African Christian Democratic Party (ACDP)	K. Meshoe	88,104	0.45	2

(Source: Electoral Commission of South Africa Results Catalogue)

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2. *The Constitution may give expression to any particular form of self-determination provided there is substantial proven support within the community concerned for such a form of self-determination.*

3. *If a territorial entity referred to in paragraph 1 is established in terms of this Constitution before the new constitutional text is adopted, the new Constitution shall entrench the continuation of such territorial entity, including its structures, powers and functions. (Available at: www.v1.sahistory.org.za/pages/library-resources/onlinebooks/soul-of-nation-constitution/doc35-constitutional.htm* (accessed 26 August 2014).

[24] The 1996 Constitution does not enshrine the electoral system itself, but the principle that any electoral system should follow: it must result "in general, in proportional representation" (Act 108, 1996).

Perhaps more importantly, the results of separate but concurrent elections in the nine newly created provinces resulted in wins for other parties and some hope from smaller parties that they may obtain some representation in future elections. In the Western Cape, the National Party won a majority of seats and the province has been, with limited exceptions, governed by a non-ANC party ever since. In KwaZulu Natal, the IFP won a majority. Provincial governments, although constrained in their ability to raise revenue and broadly exert their power, have offered minority parties the opportunity to develop a track record and national presence, something that should not be taken for granted in a continent where opposition parties often vanish between elections and become increasingly resource starved.

Results of the 1994 Provincial Elections[25]

Party	EC	FS	G	KZN	L	M	NW	NC	WC
ANC	*48*	*24*	*50*	26	*38*	*25*	*26*	*15*	14
NP	6	4	21	9	1	3	3	12	*23*
IFP			3	*41*					
FF		2	5		1	2	1	2	1
DP	1		5	2				1	3
PAC	1		1	1					
ACDP			1	1					1
Minority Front				1					
Size of Legislature	56	30	86	81	40	30	30	30	42

(Source: Electoral Commission of South Africa Results Catalogue)

In the run up to the 1994 elections, violence from the as yet unresolved IFP conflict, the continued existence of APLA, and the militarised white right persisted almost to the end. With little exception, political violence ceased after the election and has not resurfaced. In an interview with Bantu Holomisa (2014), this matter was broached directly. Given his military credentials and popularity, why was it that when he was expelled from the ANC on 30 September 1996 before the Constitution was finalised he did not resort to an armed rebellion? He posited two reasons: "We were advanced" in agreeing to free political activity and a constitutional democracy; and Mandela continued to hold out an olive branch, encouraging him to make his contribution to society from outside the ANC. In May 2014, national elections were contested by 29 parties.

As described above, all of those which formed the first Parliament remain in existence with some degree of fragmentation. However, there have been new entrants and failures in each election, and 2014 was no exception. While the Economic Freedom Fighters (EFF) entered the elections for the first time and did relatively well, another new entrant, AgangSA,[26] joined COPE as a major loser, reduced to a couple of seats in the National Assembly of the Parliament.

Only time will tell whether all these parties compete for the same decreasing pool of non-ANC voters, or whether they can take votes from the ANC support base. The initial indications from the 2014 elections are that the

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[25] South Africa's nine provinces were developed during the negotiations to reflect regional development nodes and to integrate existing administrative boundaries into rational sub-national regions which could have decentralised powers and legislatures. The provinces (with their current names) are: Eastern Cape (EC), Free State (FS), Gauteng (G), KwaZulu Natal (KZN), Limpopo (L), Mpumalanga (M), North West (NW), Northern Cape (NC), Western Cape (WC). Italicised and underlined numbers in this table note the governing majority in each Provincial Legislature.

[26] AgangSA was founded in 2013 by Dr. Mamphele Ramphele – a former partner of Steve Biko, banned activist, and then academic and World Bank Vice President. The party will not survive their humiliating loss in the 2014 election.

EFF took some votes from the ANC, while the DA once again grew on the basis of votes taken from other opposition parties. For the moment, this leaves the electorate represented by the multi-racial and internally democratic ANC and DA, the primarily black and young EFF with a dominant leader and embryonic party structures, and the smaller provincially limited parties with dominant leaders such as the IFP and UDM. The future political landscape could thus become one in which a minority party previously opposed to (but participating in) the apartheid political state (i.e. the DA) engages directly with the last of the power contenders (i.e. the ANC). However, a number of black leaders seem to believe that the DA can never shake its past or its predominantly white electorate and white political culture.

5 'Output' Inclusivity in the South African Perspective

The South African Constitution sets out the post-1994 commitment to inclusivity in the first lines of its preamble: "We, the people of South Africa … Believe that South Africa belongs to all who live in it, united in our diversity". It is studiedly careful in its language throughout, avoiding gender bias, ensuring that no individual or group of individuals will feel excluded, and moving rapidly in its founding provisions to the perceived exclusions of race (§1 (b)), gender (§1 (b)), citizenship (§3 (1)), and language (§6). Chapter 2 deals with a Bill of Rights which applies both 'vertically' – between the state and its citizens – and 'horizontally' – between citizens.[27] These include human and political rights as well as social, economic, and cultural rights.

There was a substantial debate, informed in part by the experience of the Indian Constitutional Court, about the extent to which socio-economic rights could be justiciable given that they require resources that might be beyond the means of the state and that democratic politics was fundamentally about the application of resource priorities through the consent of the voters and control of the national budget. It was finally agreed that the formulation would be based on a rising floor of expectation and delivery which could be tested.[28] In other words, the political settlement went far beyond merely including the power contenders into an existing political process to an intended transformation of the state and governance based on the 1996 Constitution.

The period of the first parliament (1994 to 1999) was one of very substantial legislative progress in aligning the law to the Constitution. Bantu Holomisa (author interview, 2014) ascribes the stability which followed the political settlement to agreement on the separation of powers, continued freedom of the media, a substantial social security grant system, and "the aura of Madiba".[29] This mix of constitutionalism, relatively progressive social policy, existing economic structure, and personal agency seems to match the experience of others. This was all only possible within a commitment to constitutionalism and rule of law. Such a framework informs governance to this day.

6 From Included to Inclusive Actors: Relations with Civil Society

There is a continuous debate over the extent to which the ANC, the most dominant party and now perceived as the primary liberation actor, has been able to adjust to life as a political party (Gumede 2009). Despite increasing conflict with the union movement (e.g. a significant union withdrew its enthusiasm for the present leadership of

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[27] The Bill of Rights carefully includes and delineates those rights which apply to all persons (irrespective of citizenship) and those, such as political rights, which apply only to citizens.
[28] The Constitutional Court has dealt with a number of socio-economic rights, finding various to be for and against the state.
[29] Nelson Mandela's clan name.

the ANC and new entrants into the labour field have increased its complexity) and despite widespread media criticism of the quality of the present ANC government, it seems that the loyalty which this liberation party commands has not dissipated amongst the majority of the electorate. With voting turnouts in 2014 at around 73% and above 76% of the voting age population registered, elections remain the primary means by which citizens express their political choice.

However, the proliferation of consultative processes has not only allowed for, but insisted upon, citizen participation in policy matters and public policy implementation. As a result, there is no organised mass-based extra-constitutional or extra-parliamentary civic movement. What civic movements do exist work within the framework of the Constitution, taking advantage of the Bill of Rights and the possibility for litigation up to and including the Constitutional Court.

In December 2013, a large civil society gathering concerned with advocacy around constitutional values and questions of political party conduct and propriety convened under the name "*Awethu*" (from "*Amandla ngAwethu*" or "Power to the people"). A platform was issued in advance calling for a new civic initiative focusing initially on certain aspects of the election, and, in particular, on financial regulation. This group includes a broad range of civil society organisations – some dating back to the UDF – as well as groups that have emerged recently, particularly around two big issues – the treatment of miners before, during, and after the Marikana massacre of miners by the police[30] and the passing of the Protection of State Information legislation.[31]

Despite the very large number of civic protests by varying and unrelated local groups of citizens, an increasing number of which have become violent, there is no evidence that these have undermined a general consensus on the present state of the political settlement and the continued dominance of the ANC. Challenges in the future may derive from participation in the electoral system which was established in 1996 and continues to be 'the only game in town'.

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[30] For further information on the Marikana Massacre, see the proceedings of the Judicial Commission at: www.marikanacomm.org.za/ (accessed 24 July 2014).
[31] For the civil society campaign against the 'secrecy' bill, see: www.r2k.org.za/ (accessed 24 July 2014).

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