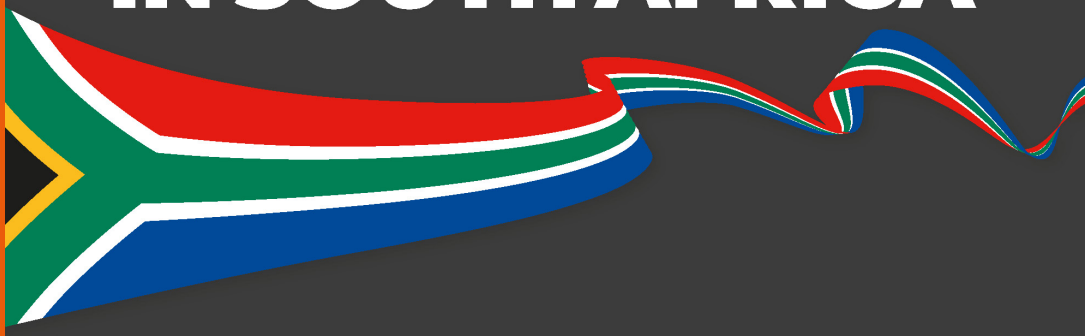
SUPER PRESIDENT

THE HISTORY AND FUTURE OF EXECUTIVE POWER IN SOUTH AFRICA



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UNIVERSITY
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Super President

The History and Future of Executive Power in South Africa

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UJ Press

Super President:
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Published by UJ Press
University of Johannesburg
Library
Auckland Park Kingsway Campus
PO Box 524
Auckland Park
2006
https://ujpress.uj.ac.za/

Compilation © Bhaso Ndzendze 2024
Chapters © Author(s) 2024
Published Edition © Bhaso Ndzendze 2024

First published 2024

https://doi.org/10.36615/9781776490028
978-1-7764900-1-1 (Paperback)
978-1-7764900-2-8 (PDF)
978-1-7764900-3-5 (EPUB)
978-1-7764900-4-2 (XML)

This publication had been submitted to a rigorous double-blind peer-review process prior to publication and all recommendations by the reviewers were considered and implemented before publication.

Language Editor: Mike Leisegang
Cover design: Hester Roets, UJ Graphic Design Studio
Typeset in 9/13pt Merriweather Light

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Preface and Acknowledgements

Let us begin with a brief overview of what the book isn't. It is not a blow-by-blow breakdown of the workings of the presidents and the rest of their cabinets over the years. Nor does the book make a claim to be a comprehensive analysis of all the factors which inform presidential performance. Finally, the book does not present any new behind the scenes material. Instead, the book is a new appraisal of history, the current constitution, archives, and publicly accessible data on presidential leadership and cabinet performance. The book is thus a synthesis, an assessment, a reinterpretation and a provocation on how presidential power should be used in South Africa.

Throughout this text I seek to make a singular argument: to affect change and institute transparent and effective leadership. South Africa's presidents, regardless of party, should assume ministerial positions within their own cabinets. My confidence that they can do so comes from the fact that their predecessors have done so: five out of nine prime ministers and presidents who ruled South Africa between 1910 and 1994 had been cabinet ministers within their own cabinets, in addition to *all* bringing a wealth of prior cabinet experience. It is further emboldened by the fact that leaders of more populous states, including India and Nigeria, are able to be ministers alongside being heads of their national executive branches. Moreover, they do so through democratic means, not a dictator's decree, under the watchful eyes of their argumentative legislatures. In addition to these super precedents, I am confident that it is possible for South African presidents to become ministers in their own cabinets because the Constitution is permissive.

As should be evident from these preceding paragraphs, the book deals with numerous disciplines and materials. It thus would not have been possible without the generous intellectual expertise of a number of scholars and practitioners in policymaking, political science, history, and law. I wish to thank a number of individuals and entities for the contributions they have made. When I initially thought to put forward the idea contained in this

book, I shared the draft, then in the form of a newspaper piece, to Dr Emmanuel Matambo and Dan Mafora. They picked the work apart, and their questions made me think about the article some more - Emmanuel from an international comparative perspective and Dan from a legal and historical perspective. It was their view that the argument was necessary (Emmanuel) and constitutionally sound (Dan) that gave me the idea to develop it into a book. In developing the idea for the book, I had numerous conversations with my colleague Prof Bongani Ngqulunga, who is not only an excellent academic mind, but also, having played a leadership role in the presidency for over a decade, has extensive governmental experience (and clear, strong opinions) about the office and its international counterparts, many of whom he often encountered in international trips with the president. While appreciative of the historical nuance, he nonetheless had reservations about the practicality of this arrangement today. This inspired the writing of Chapters 8 and 9. I received wonderful research assistance from Zimkhitha Manyanda, Chrislyn Fortuin, Khabo Masanabo, Thando Mncwango and her twin sister Noluthando Mncwango, who worked through piles of documentation and typed up Chapters 2, 3, and 4 (dealing with each democratic president).

Chapters 6 and 7 developed out of a historical conference hosted by the Johannesburg Institute for Advanced Study (JIAS) on the 'Life and Legacy of Jan Christiaan Smuts.' I express my thanks to the organisers (Prof David Boucher and Dr Ngqulunga) and the participants for their feedback: Prof Saul Dubow, Major (Ret.) Dr David Katz, Prof Roger Southall, Prof Bill Sweet, and Makhosi Xaba. Discussions in departmental seminars at the University of Johannesburg were helpful in refining the book's argument and discovering new ones. I'd like to thank Dr Ayabulela Dlakavu, Prof Malehoko Tshoaedi, Prof Nthabiseng Motsemme, Prof Lisa Otto, Dr Anslem Adunimay, Johannes Sekgololo, David Phiri, Vusi Gumbi, Sakhile Ndlovu, Nfihlakalo Mavuso, and Abongile Nkambule as well as my African War Lab members, and Politics 2C and POL8X27 classes over 2023 and 2024.

In these discussions, one considered such questions as "Should the president become a minister only for the sake of making up for experience or to signal priorities?", "What would be

the political fallout within the governing party of the day should the president choose to take up one of the ministerial portfolios themself?", "What does the constitution say that is relevant to your proposal, and would any amendments be needed?", "How would the president account before parliament as both head of the executive and a cabinet minister?", "In addition to being 'ministerially inexperienced,' all post-1994 presidents have also been legislatively hands-off; does this play a role in explaining the deficit you have identified?" These, and many other pertinent questions, have benefited the book a great deal. I can only hope to have persuasively answered them. In writing the book, I have sought to benchmark with the global experiences of states which have had their presidents/prime ministers assume cabinet ministries, as well as large constitutional democracies. I would like to especially thank the embassies and high commissions that have engaged me in conversations about these matters.

Throughout, I have sought to write a book that is accessible but not simplistic, replete with fresh ideas but not "out there," historical but not anachronistic - and of course readable. I hope to have succeeded in these efforts and wish to thank everyone who has helped me along the way. Any flaws in the product before the reader are entirely mine.

Wikus van Zyl, Manager of the UJ Press, has been incredible throughout and this project would not have reached this stage without him. His reputation is legendary and well-earned. I am also grateful to the insights and inputs made by the three anonymous peer reviewers and the editor who handled the manuscript. They have improved the book in many ways than I can describe.

I appreciate the support provided by Mrs Rae Israel, our office manager and my departmental secretary during my time as head of department; academic headship is typically an unfavourable (if not impossible) role to juggle with writing a book - but we somehow made it work and I am most grateful for her support! This project would not have been possible without the support provided by the University of Johannesburg's University Research Committee (URC) funding (2023URC00538), which

enabled a number of milestones related to developing and writing this book.

Last, and certainly not least, I wish to thank my better half Florance for her encouragement of this research, including bouncing off ideas, as we marvelled at both the decline and potential of our country and government.

Bhaso Ndzendze
Auckland Park
19 August 2024

List of Abbreviations

4IR	Fourth Industrial Revolution
ANC	African National Congress
ANCYL	ANC Youth League
APC	All Progressives Congress
APLA	Azanian People's Liberation Army (APLA)
APP	Annual Performance Plan
ART	Antiretroviral treatment
ARV	antiretroviral
ATM	automated teller machine
AU	African Union
BCM	Black Consciousness Movement
BEE	Black economic empowerment
BI	Bureau of Information
BRICS	Brazil, Russia, India, China and South Africa
CI	criminal intelligence
CODESA	Convention for a Democratic South Africa
ConCourt	Constitutional Court (South Africa)
COSATU	Congress of South African Trade Unions
COVID-19	Coronavirus disease 2019
CPGRAMS	Centralized Public Grievance Redress and Monitoring System (India)
CUSA	Council of Unions of South Africa
DA	Democratic Alliance
DAE	Department of Atomic Energy (India)
DG	Director-General
DIRCO	Department of International Relations and Cooperation
DMA	Disaster Management Act
DMRE	Department of Mineral Resources and Energy
DOP&PW	Department of Pensions & Pensioners Welfare (India)

DOPT	Department of Personnel and Training (India)
DoS	Department of Space (India)
DPM	Deputy prime minister
DTIC	Department of Trade, Industry and Competition
EAF	energy availability factor
EFF	Economic Freedom Fighters
EU	European Union
EWC	Expropriation without compensation
FDI	Foreign direct investment
FNLA	Frente Nacional de Libertação de Angola
FRELIMO	Frente de Libertação de Moçambique
GATT	General Agreement on Tariffs and Trade
GCIS	Government Communication and Information System
GDP	gross domestic product
GEAR	Growth, Employment and Redistribution
HIV/AIDS	Human Immunodeficiency Virus / Acquired Immunodeficiency Syndrome
HNP	Herenigde Nasionale Party
ICASA	Independent Communications Authority of South Africa
IDC	Industrial Development Corporation
IFP	Inkatha Freedom Party
ILO	The International Labor Organization
IOR	Indian Ocean Rim
ISIS	Islamic State of Iraq and Syria
ISRO	Indian Space Research Organisation
KZN	KwaZulu-Natal
LRA	Labour Relations Act
MEC	Member of Executive Committee
MFN	most favoured nation
MK	Umkhonto we Sizwe

MP	Member of Parliament
MPA	Ministerial Performance Agreement
MPLA	Movimento Popular de Libertação de Angola
MTSF	Mid-Term Strategic Framework
NA	National Assembly
NCOP	National Council of Provinces
NDP	National Development Plan (South Africa)
NDP	New Democratic Party (Canada)
NDPP	National Director of Public Prosecutions
NEC	National Executive Committee
NEDLAC	National Economic Development and Labour Council
NEF	National Employment Fund
NEPAD	New Partnership for Africa's Development
NGO	Nongovernmental organisations
NHI	National Health Insurance
NIS	National Intelligence Service
NNPC	Nigerian National Petroleum Corporation
NP	National Party
NSFAS	National Student Financial Aid Scheme
NSMS	National Security Management System
NUM	National Union of Mineworkers
NYDA	National Youth Development Agency
OPEC	Organization of the Petroleum Exporting Countries
Op-ed	"opposite the editorial page"
PAC	Pan Africanist Congress
PC4IR	Presidential Commission on the Fourth Industrial Revolution
PCIRC	Portfolio Committee on International Relations and Cooperation
PDP	People's Democratic Party (Nigeria)
PM	Prime minister
PSA	Public Service Act

R&D	research and development
RDP	Reconstruction and Development Programme
RET	Radical economic transformation (RET)
SABC	South African Broadcasting Corporation
SACP	South African Communist Party
SACTU	South African Congress of Trade Unions
SACU	Southern African Customs Union
SADC	Southern African Development Community
SADF	South African Defence Force
SANDF	South African National Defence Force
SAP	South African Party
SAPS	South African Police Service
SEZ	special economic zone
SG	Secretary-General
SMME	small, medium and micro enterprise
SOE	State-owned enterprise
SONA	State of the Nation Address
SOTU	State of the Union Address
SRD	Social Relief of Distress
SSA	State Security Agency
SSC	State Security Council
StatsSA	Statistics South Africa
SWA	South West Africa
TBVC	Transkei, Bophuthatswana, Venda, Ciskei
TNIP	Transkei National Independence Party
UDF	Union Defence Force
UDM	United Democratic Movement
UK	United Kingdom
UN	United Nations
UNITA	União Nacional para a Independência Total de Angola
UP	United Party
US	United States of America

Wits	University of the Witwatersrand
WTO	World Trade Organization
YES	Youth Employment Service
ZANU-PF	Zimbabwe African National Union - Patriotic Front

Introduction

Why are there Presidents?

In Plato's famous work of political theory, *The Republic*, which was written some 2,300 years ago, the following dialogue ensues:

> Glaucon: Our State like every other has rulers and subjects?
>
> Socrates: True.
>
> Glaucon: All of whom call one another citizens?
>
> Socrates: Of course.
>
> Glaucon: But is there not another name which people give to their rulers in other States?
>
> Socrates: Generally they call them masters, but in democratic states they call them rulers.
>
> Glaucon: And in our State what other name besides that of citizens do the people call the rulers?
>
> Socrates: They are called saviours and helpers.

Little has changed by way of these expectations since Plato's writing.[1] Whatever philosophy of government one adheres to, all eyes are fixed on the ruler, the 'President' in our state, to carry out this broad mandate. They must be rulers, saviours and helpers (we can envisage emanating from this simple sentence, for example, the ministries of justice, police, defence, health and social development). With the broadening of democracy (only propertied men could vote during Plato's time), the expectations thrust on their shoulders has grown. As a consequence of this broadening

1 For example, aaccording to (Theunissen, 1998: 116) all state interventions fall into four primary categories: "power functions, security and protection functions, economic functions and redistributive functions." See Theunissen, Christopher A. 1998. "Administering National Government," p. 109-146 in Venter, A. *Government and Politics in the New South Africa*. Pretoria: J.L. van Schaik Academic.

and diversifying electorate they must also symbolise national unity.[2] How they go about any of this is entirely dependent on the talents they have access to (both their own as well as those of their chosen assistants - the ministers), their desired goals, as well as the powers available to them. These powers in particular tend to be determined by the balance, written into constitutions or carried out by convention, that exists between the head of the executive and the other branches of government, namely the courts (the judiciary) and the parliament (legislature) - this latter branch of the government existed in Plato's Ancient Athens and its contemporaneous city-states in Greece and indeed elsewhere, but it has grown in strength. This growth was triggered by the *Magna Carta* in thirteenth-century England and the emergence of a veto-carrying parliament in mid-eighteenth-century Poland (which, though overlooked, arguably has a much more legitimate claim to being the first of the modern democracies). Parliaments' powers have also become more clearly defined over the past three centuries following the advent of the United States Congress. In all these contexts, however, there has been a general recognition that the desire to limit excessive power being concentrated in the hands of one individual ought to be balanced with the other possibility: that of tying the leader's hands so that they are incapable of carrying out the work of the office they occupy. Poland, in particular, is generally regarded as having paid the ultimate price for placing too much power in the hands of parliament.

In the 1700s, Poland had in place the *liberum veto* - a power which allowed any member of its parliament, the *Sejm*, to veto any actions by the king (who was himself elected and not hereditary). In that century, the surrounding European powers, Austria, Prussia and Russia, carved up the country amongst each other. Having effectively been denied the ability to mobilise his army by the compromised parliamentarians (in the pockets of these powerful neighbours) through the exercise of their veto, the king could only watch as the country's territory was

2 Section 83(c) of the Constitution of the Republic of South Africa, 1996, states that the President "promotes the unity of the nation and that which will advance the Republic."

swallowed up by the three eagles. It was fully colonised and for 124 years - from 1795 up to 1919 - the country of Poland did not exist on the world's political map. This episode, occurring in three stages between 1772 and 1795, terrified and motivated the leaders of the United States of America, then a young republic in its formative years, to ensure that their own executive would never be in so compromised a position. Thus was eventually born the US Constitution of 1789 (replacing the weaker Articles of Confederation in place from 1777), with its checks and balances, in which ambition counters ambition while still allowing a great deal to be accomplished. That constitution also gave us the term 'president' for the first time, to refer to the head of a sovereign national government.[3] Haiti followed suit in 1807, and much of the world did the same upon becoming independent republics or getting rid of their monarchies in the nineteenth and twentieth centuries. Today some 159 countries (or 83% of United Nations member-states) have presidents who serve as the heads of their states, if not their government (though some, like South Africa's, are heads of both), with varying functions and powers.[4]

Dismayed about the power of an independent judiciary brought about by such checks-and-balances, and in pursuit of its apartheid agenda, the former governments of South Africa entrenched the principle of 'parliamentary supremacy' by which the courts could not strike down any legislation it found to be contrary to the already constitution of the day. The governmental structure which followed was one in which the usage of executive power has been quite restrained. Yet it is a period which needs its exercise the most. This may seem like a net positive - it certainly feels democratic. But, unfortunately, it is less than optimal, and has entailed a self-imposed limitation on the president's power to do good, even extraordinary, work by leading effectively.

3 See Chapter 9 of this book.

4 United Nations Protocol and Liaison Services, 2022, 'Heads of State,' United Nations. URL: https://www.un.org/dgacm/sites/www.un.org.dgacm/files/Documents_Protocol/hspmfmlist.pdf (accessed 29 December 2022).

Literature

Methodologically, the book draws from *The Constitution of the Republic of South Africa, 1996*, hereafter referred to as the Constitution[5] (RSA, 1996), legislation and case law, particularly at the Constitutional Court, State of the Nation Addresses (SONAs), ministerial performance agreements, archival materials, political biographies and works of political theory. In particular, the book has engaged with literatures of comparative politics, the theory of the unitary executive, presidentialism, development, and the role of leadership in policymaking. The book also engages in literature interested in the historiography and institutional legacies of the South African leaders studied in the text, from Louis Botha to Cyril Ramaphosa. In turn, the book introduces some concepts of its own. Particularly, in Chapter 3, I introduce the notion of the political presidency, to describe the use of executive power, particularly that of appointment, to reward loyalties rather than suitability to a portfolio. In Chapter 4, I introduce the concept of the personal presidency to describe the accumulation of ministries and non-ministerial personnel close to the president. In this context, it is not suitability, track-record or qualification which determines allocation of portfolios - it is not even patronage. Rather, it is the president's way of keeping a close eye on opponents, while also tending to rely on non-ministerial personnel where there is political misalignment between the president and those whom the president is compelled to appoint as ministers to balance factions. In Chapter 7, I introduce what I have described as an embodied executive philosophy. This refers to the ideas which inform a head of national executive as they utilise both their experience and powers to govern. In the context of this book, this entails such factors as racial ideology and legal philosophy. This highlights the importance of the values and interests in shaping choice of portfolio by any would-be super president.

From crime, to infrastructure, to jobs and the state of the broader economy, you would be hard-pressed to find any South African satisfied by the state's performance on any of these, let

5 Republic of South Africa (RSA). 1996. *Constitution of the Republic of South Africa number 108 of 1996*. URL: https://www.gov.za/sites/default/files/images/a108-96.pdf

alone all of them. And these are just some of the issues facing the country. By the ruling party's own manifesto, there are over 50 key areas, none of which has met any notable success. By any significant measure, South Africa is a country either in stagnation, crisis, or even decline. For many citizens and for many professional commentators, the country's post-1994 order has failed to live up to its enormous promise.[6] Why is this the case? South Africans disagree on a lot of things, but most (if not all) agree: leadership is at the heart of the country's problems and the person most look to in this regard is the president of the republic (Makgoba, 2024; Booysen, 2020). In the democratic era, a succession of presidents have either ignored, failed to address or extended the country's list of problems, which are both stubborn and worsening. But if there is near-universal agreement on the role of leadership (or, some would say, its absence) in the litany of challenges facing the country, this consensus soon diverges on the mechanics, partly as a result of differing ideas on what makes good policy and partly as a result of differing interests. Over the past three decades, people have offered a variety of reasons explaining why South Africa's presidents have been fallen short of their own commitments to the nation. These fall into three broad categories. One argument would have us believe it is because the political party they lead has prevented them from governing effectively (two out of the five presidents since 1994 have been 'recalled' for example). A second diagnosis has questioned the degree to which presidents have committed to leading and affecting policy; they have either been 'aloof', 'uneducated', or too committed to their own power and self-enrichment and too little to the discharge of their duties. A third finds issue with the ruling party's policies; it is not that the policies are badly implemented, it is because they are at the head of a party with a poor grasp of statecraft to begin with. A fourth considers the challenges so vast - and the apartheid inheritance

6 Distressingly, this has the consequence of making many believe less and less in the value of democracy. Research by the Centre for Social Development in Africa at the University of Johannesburg shows the worrying trend of fewer South Africans valuing the political process for human rights and voting and instead for fulfilling their basic needs such as food, housing and jobs. See: https://www.uj.ac.za/faculties/humanities/csda/Documents/Voter%20Report%20A4%20Mar%202019%20Web.pdf

so stubborn - that there is no hope of a single administration undoing centuries of selective development. All four contain an element of truth, of course, especially when considered in unison, but none gives us a way out in a straightforward manner. Rather, they all circle around the need for a cross-cutting structural solution. I put forward one such solution in this book. The remedy is bold and transformative, but at the same time, I argue, would not require a single change to a word of the Constitution.

The argument I make in this book - first introduced here and dealt with in greater scope in Chapter 2, and substantiated in Chapters 3 to 5 - is that the way out of the current crises facing South Africa could reside in doing once more what is tried and true for the majority about the history of the South African state, but which has been overlooked by post-1994 governments: a head of cabinet must be their own leading minister. Let us begin with a simple observation and work our way backwards.

Since 1994, as South Africa's crises deepened, its successive presidents have responded with grander and all-encompassing promises, often with less than realistic timeframes. This is to be expected; politicians are prone to exaggerate. There is another face to this, which has been raised by the likes of former Deputy President David Mabuza, as well as the Economic Freedom Fighters (EFF). The latter did so most dramatically in the 2020 State of the Nation address (SONA) in relation to Pravin Gordhan, when they took him to task for his reported promise to President Cyril Ramaphosa in late 2019 that that load-shedding would not take place in early 2020, when in fact it did (Appendix A). This did not garner as much reflection as it ought to have.

Whether true or untrue, however, the claim that a minister could have misinformed a president over the extent of a crisis at the country's sole power utility, which in turn led to the latter promising the country that chronic power outages would no longer take place, raises serious questions. I present at least two. How much does the president rely on the promises made to him by his ministers? And ultimately, how (and how accurately) can he hold them accountable when he does not personally know from first-hand experience what they do on a day-to-day basis? This,

Table 1. Summary of executive-power prime ministers' and state presidents' ministerial experiences and portfolios.

	Prior ministerial experience	Prior Ministerial Portfolios	Concurrent Ministerial Portfolios	Key Accomplishments
Botha, L (1910-1919)	X	X	Agriculture, Native Affairs	Conciliation, Land acquisition, Black evictions, Agricultural development
Smuts, J.C.(1919-24)	✓	Mines, Interior, Defence, Finance	Native Affairs, Defence	Stabilisation, Union Defence Force, Global role post-WWI, early Industrialisation
Hertzog, J.B.M. (1924-1939)	✓	Justice, Native Affairs	Native Affairs, External/Foreign Affairs	Native reserves, First diplomats, 'Civilised labour' policy, Growing exports
Smuts (1939-48)	✓	Mines, Interior, Defence, Finance, Justice, Deputy Prime Minister	Defence, External/Foreign Affairs	Global role in WWII, helped establish League of Nations, United Nations, British Air Force
Malan, D.F. (1948-1954)	✓	Health, Education, Mines	External/Foreign Affairs	Apartheid
Strijdom, J,G. (1954-1958)	✓	Lands and Irrigation	X	Apartheid: group areas development

	Prior ministerial experience	Prior Ministerial Portfolios	Concurrent Ministerial Portfolios	Key Accomplishments
Verwoerd, H.F. (1958-1966)	✓	Native Affairs	X	Apartheid, Early Bantustans, Removals
Vorster, B.J. (1966-1978) (1978-1979)	✓	Justice, Police	Police	Apartheid, Police state
De Klerk, J. (1975-1975)	✓	Senator, Work and Public Works, Work and Mines, Home Affairs, Work and Immigration, Education and Arts and Sciences, National Education, President of the Senate	X	Apartheid
Botha, P.W. (1978-1979)	✓	Community Development, Defence	Defence	Apartheid, Border wars, Nuclear programme
De Klerk, F.W. (1989-1994)	✓	National Planning and Education, Home Affairs, Mines and Energy, Sport and Recreation, Posts and Telecommunications, Social Welfare and Pensions	State Security	Reform

Source: Author.

then, is the crux of the South African problem: our presidents, since 1994, have had no ministerial experience, having mainly come up instead through the customarily dual party-government position of Deputy President.

This is contrary to their Union- and apartheid-era predecessors who were very nearly all previously ministers before taking up the executive roles of prime minister and later state president (see Table 1). Prime minister Louis Botha had made himself minister of agriculture, and his successor Jan Smuts had been all-at-once minister of interior, of mines, and of defence before ascending to that role. Once there, he made himself minister of native affairs, and in his second premiership minister of defence and held on to external/foreign affairs (a position established by JBM Hertzog). This convention carried on right to the end of minority rule. Frederik Willem (FW) de Klerk had been a minister in some six portfolios before becoming state president. His predecessors Pieter Willem (PW) Botha and BJ Vorster had each held two. The outcome of these dual roles will be explored in the forthcoming chapters, but suffice it so say for now that, unlike their predecessors, democratic-era South African presidents have by definition had to possess one or two qualities when coming into office: an uncanny policy intuition and the ability to learn and/or adapt very quickly. Essentially, taking a crash course on how to run a country while running a country. This may explain why every passing SONA has felt like a wish list; it is delivered by a 'minister of everything' who has never directly overseen a single ministry.

The position of deputy president, typically a president-in-waiting in three of the last four administrations, offers very little opportunity for policy involvement, except for Thabo Mbeki, who played a larger role as the avuncular Nelson Mandela was happy to delegate to him, while he attended to projecting the new republic's global image. Once in power, however, Mbeki had two successive deputy presidents, whose future presidential prospects were not clear and who themselves played no role in the running of ministerial portfolios. Future president Jacob Zuma had played a role in provincial government, as Member of the Executive Committee (MEC) for Economic Affairs and Tourism

for the KwaZulu-Natal provincial government from 1994 to 1999. But this was followed by a near-decade of being out of policy implementation. Furthermore, his time as deputy president highlights the tendency to relegate the office holder to special representative on foreign affairs issues. For example, during this tenure as deputy president, he worked for a time in Uganda as a mediator of the Burundi Peace Process, replacing Nelson Mandela in early 2002.

Similarly, then Deputy President Ramaphosa (from 2014 to 2018) would spend considerable time focused on bringing stability to Lesotho, whilst his hand on domestic policy was thin, save for his deputy chairing of the National Planning Commission (more of a think tank than an arm of state power) which brought us the National Development Plan. While the deputy presidency perhaps helps ensure South Africa's relevance in peacemaking efforts and other continental issues as well as in aiding them project their image for when they assume presidential positions, it is also to be admitted that foreign policy credentials are no substitute for domestic policy experience, whose daily bread is management and direct oversight.

This may explain why, by his own admission, President Ramaphosa has been consistently "shocked" by revelations of the full manifestation of the problems faced by the country, chief amongst these being load-shedding and state-owned entities (SOEs) (Du Plessis, 2019, *News24*).[7] That someone so near to the presidency and a presumed future president for the better part of five years can make such claims should be a matter of concern. It demonstrates the degree to which the position's powers and responsibilities are determined by his president at his prerogative; a diluted role is to be expected when these happen to be individuals in opposed factions, which has been the case on numerous occasions over the past three decades.

This requires us to rethink what a deputy president's role(s) involve(s). Section 90(1) of the Constitution states that "When

7 Du Plessis, Carien. 2019. *Ramaphosa 'shocked, angry' over 'broken' Eskom. News24 February 11, 2019.* URL: https://www.news24.com/fin24/ramaphosa-shocked-angry-over-broken-eskom-20190211-2/

the President is absent from the Republic or otherwise unable to fulfil the duties of President, or during a vacancy in the office of President," the Deputy President takes precedence in acting as President, ahead of a minister appointed by the president, the cabinet, or the Speaker of the National Assembly. In terms of Section 91(1) of the Constitution states, we find that "The Deputy President must assist the President in the execution of the functions of government." The form this assistance takes has been differently interpreted by each successive president and has often been done so through the prism of ANC (African National Congress) factional politics.

Failing the promulgation of a (politically unthinkable) statute which would grant the deputy presidency more explicit powers, what is to be done? If experience is the sole measure, then in an ideal South Africa, the technocratic directors-general (DGs) would be the natural successive ministers, who would in turn become presidents. But it is understood that ministers are political appointees (as are some DGs), and this route would close off the sometimes-necessary emergence of a political outsider who brings a fresh approach (not to mention it would be a constraint on several constitutionally enshrined rights). One potential immediate solution is for a sitting president to be able to identity a priority area in the country and take up such a ministerial portfolio directly, instead of building a parallel cabinet in the presidency, as has been observed by some analysts.

There are multiple examples of presidents and their deputies holding additional ministerial portfolios across the globe. They offer lessons, the most important of which is that the leader of a modern, democratic, and complex state can nonetheless take up a ministerial portfolio. Indeed, it may be necessary and the only way to govern, precisely for these reasons.

These proposed double roles would guarantee executive attention to the burning issue of economic development and poor administration of SOEs, for example, whilst also helping the president and prospective presidents gain an understanding of what the public policy life cycle in their country entails, as opposed to relying on what their ministers (not to mention even

less policy-involved advisors) claim. Given the calamities facing the country, bold leadership is needed and a bolder step beyond the endless but impractical calls for 'better coordination' is needed too.

Outline of the book

This book proceeds in 11 chapters broken into three parts. The rationale for the forthcoming structure is to first demonstrate the inadequacies of the present and recent past (since 1994), and then go back further into the past to demonstrate the workability of the proposed remedy.

Chapter 1 provides an assessment of the Mandela presidency, identifying Nelson Mandela as being the first national leader to be president without any governmental experience. It identifies the lack of attention to Mandela's executive tenure in the available literature, with much of it tending to be devoted to his head of state and unifying role (Section 84), over his head of executive (Section 85) performance. The chapter provides an assessment of Mandela's performance through a close reading of his policy statements and his State of the Nation Address (SONA) commitments and their varying degrees of realism, owing to Mandela's lack of governmental experience. The chapter assesses how Mandela learned by doing (developing policy) and undoing (apartheid legacy) and makes the case that his first hundred days paint him as a would-be minister of social development, a role that he should perhaps have leaned into and formally assumed.

Chapter 2 provides an assessment of Thabo Mbeki's tenure as second-in-command, arguing that he was unique amongst deputies by being triply empowered by the interim constitution, De Klerk's early resignation as deputy, and later Mbeki's role as ANC president and deputy president of the republic. The chapter then turns to his time in office, pointing to how his uniquely powerful tenure as deputy brought him into power as the democratic era's most prepared president. The chapter then points to his machinations which had the intentional effect of ensuring that no deputy would be as well-prepared as he was, thereby undermining succession and the country's future

trajectory. The chapter also points to the still-limited nature of Mbeki's presidential planning, widely regarded as the most centralising president in post-1994 South Africa. The remedy, the chapter points out, is for presidents to assume ministerial office within their own cabinet, if for a limited stint, given the essential but intermediary role they play in a president's administration.

Chapter 3 provides an assessment of the Kgalema Motlanthe interregnum and the Jacob Zuma administration. The chapter argues that the manner of Mbeki's reign and departure, along with Zuma's path to power, combined to create a political cabinet and presidency in which positions were granted for political patronage purposes rather than efficiency. The lack of ministerial experience on the part of Motlanthe and Zuma, along with factional politics, interlocked to create a bloated cabinet, the chief effect of which is lessened democracy - because of overlapping portfolios, created to placate supporters, there is no proper accountability in the manner mandated by the Constitution.

Chapter 4 provides an overview of Cyril Ramaphosa's first five years in power. It argues that his limited cabinet experience, despite being deputy president for nearly four years, has led to him operating as an 'outsider' within his own government, often exasperated at the level of dysfunction, thereby raising the need to grant both the president and deputy president with ministerial portfolios. The chapter points to Ramaphosa's limited support within the ANC as a leading factor in him having a cabinet he does not completely trust, resulting in him resorting to a 'personal presidency' consisting of advisors, commissions, panels and a record-number of ministers in the presidency. Importantly, the book restricts itself to the period between 2018 and early 2024, thereby not offering any analysis of Ramaphosa's cabinet after May 2024 under the umbrella of a government of national unity (GNU).

Chapter 5 provides an overview of the Constitution's establishment of cabinet ministers and provides an assessment of ministerial performance agreements (MPAs) of the Ramaphosa cabinet (the most comprehensively available). Demonstrating their fundamental flaw, the chapters shows that these entail

broad promises, are lacking in ministerial responsibility (through peculiar use of language), and structural lack of consequences for non- or under-performance. Going through individual ministers' contracts over the 2019 to 2024 mid-term strategic framework demonstrates how they were structurally bound to fail. Concerningly, the odd phrasing in the contracts showcases that there may as well have been no ministers responsible for three key issues facing South Africa: unemployment, the proper running of state-owned enterprises, and infrastructure development. The president will need to pay attention to these deficits in the newly established 'government of national unity' (GNU) coalition. All future heads of the executive will similarly need to heed this warning.

Chapter 6, the first of Part 2, provides an overview of the first three prime ministers of South Africa and details their crucial decision which post-1994 presidents should adopt: holding both the highest office as well as the ministerial portfolio which aligns with their most important priority. Thus, it draws on Louis Botha's experience as his own minister of agriculture and native affairs enabling him to acquire land and improve the country's output; Smuts' experience as minister of the interior, mines, defence and prime minister; Hertzog's experience as his own minister of native affairs when that was his most important priority ('civilised labour') and then of external affairs when he moved to his next key priority (national sovereignty). Future prime ministers and state presidents, as will be seen in Chapter 7, would follow this precedent. The chapter then provides historical precedents to this precedent, pointing to the British tradition of prime ministers often tending to be their own chancellors of the exchequer as well as prime minister Lord Salisbury (with whom these three men fought the South African War: Botha, Smuts and Hertzog) being his own foreign secretary. The chapter also points to Marthinus Pretorius being, briefly, president of two Boer republics: the Orange Free State and the South African Republic, as well as Paul Kruger, who briefly mentored Jan Smuts, being a believer in the unitary executive.

Chapter 7 provides an overview of how the ministerial experiences of the apartheid leaders - Malan, Strijdom, Verwoerd,

Vorster, PW Botha, and De Klerk - all shaped their priorities: with either (based on their prior experience) focusing on social, economic, or political apartheid. Moreover, three apartheid leaders were ministers in their own cabinet. Thus, Vorster stayed on for two years as minister of police while he was prime minister, and entrenched the country as a police state; Botha was his own minister of defence, and aggressively prosecuted a war in the Southern African region; De Klerk was his own minister of state security and led the reform process (a feat he could accomplish, the book argues, because he had more ministerial experience than anyone in his position, having held six portfolios).

Chapter 8 goes abroad, looking to draw from the experiences of other countries which are (1) democratic, (2) as complex as South Africa, and (3) currently have presidents or prime ministers who are also ministers. It thus examines the cases of Narendra Modi (prime minister of India, and holding three portfolios in his own cabinet, including energy, pensions and space); Justin Trudeau (prime minister of Canada and formerly his own minister of youth, who drastically cut down youth unemployment and student indebtedness); Olusegun Obasanjo, Muhammadu Buhari, and Bola Tinubu (formerly and currently president of Nigeria, who have all been simultaneously president and minister of petroleum).

Chapter 9 provides an overview of the oldest ongoing presidency in the world, the United States and draws South Africa-specific lessons about the determinants of the evolution of presidential power: personality, constitutional interpretation, popular sentiment, party competition and the relationship between the legislature and the presidency during times of intense competition, as may await South Africa after the decline of the dominance of the ANC.

With previous chapters having argued that the remedy for South Africa is for its presidents to assume ministerial portfolios, and then shown that it was once the norm, and is the norm in even more complex countries, Chapter 10, the first of Part 3, proceeds to demonstrate that it is constitutionally permissible for presidents to assume whatever ministerial portfolio they may

wish. The chapter points to key sections of the Constitution as well as case law, showing that executive power (with three ministerial exceptions) is entirely vested in the president.

Drawing on the Chinese tributary concept of 'emperor at home, king abroad,' Chapter 11 provides recommendations for which portfolios future presidents – of whatever party – should and should not consider. Drawing from the American experience, in which domestically gridlocked presidents tend to focus on international 'adventures', the chapter argues for less presidential involvement in foreign policy (where rhetoric is plenty and substance thin and immeasurable), and more of a focus on domestic rebuilding, which will eventually make for a stronger foreign policy.

Part 1

Presidents without Portfolio

Chapter 1

President Mandela: Learning by (Un)doing

South Africa's public service after 1994 was the outcome of the amalgamation of a number of such services that preceded the democratic state. It inherited the apartheid state, but also the four Bantustan governments of Transkei (nominally independent from 1976), Bophuthatswana (1977), Venda (1979), and Ciskei (1981), as well as the numerous self-governing territories (chronologically Lebowa, Gazankulu, QwaQwa, KwaZulu, KwaNdebele, and KaNgwane) that were stitched into the nine provinces of the republic. The new constitutional order swept away these executive heads. To become president in the new South Africa, one had to be a member of the National Assembly, and voted into that office by a majority of the members, whereupon they would cease to be a member of parliament. This is a simple process on which the direction of the country hinges, no less in the area of policy. The president appoints the Cabinet from amongst the National Assembly, with scope to appoint two more individuals who are not members of this body. Given the democratic nature of the country, the election of a party ought to be a proxy of the popularity or resonance of the issues it uses to campaign. The president forms their government to carry out policies of their party which have been voted into power by the majority of the citizenry.

It is crucial to also shake off some ambiguity. The president and the presidency are often conflated. While related, they are not the same entity. The Constitution establishes the president. In turn, those who have occupied this role have set up offices called 'the Presidency.' It is not a constitutional creation. The presidency has grown in personnel so that it today occupies the Union Buildings by itself, whereas in the pre-1994 era the structure housed all the ministries.

The man who would become President Mandela on 10 May 1994 had been by then a man of global fame as a freedom fighter. Though he only assumed the presidency of the ANC in 1991, which he would in turn simultaneously hold with that of the republic, he had for decades been the movement's most-recognised symbol. He had studied at the South African Native College, which became the University of Fort Hare, and the University of the Witwatersrand, where he studied law. He later passed the bar test to become a lawyer. He joined the ANC in 1944 and rose to the position of youth league leader.

The 1990s was a period of great change globally. The Cold War had ended with the fall of the Soviet Union, a mostly reliable backer of the liberation struggle in southern Africa, including for the ANC. In the year that Mandela assumed the presidency, the World Wide Web became mainstream (growing from 500 known users in 1993 to over 10 million by end of 1994), the Balkans were at war in the aftermath of the collapse of Yugoslavia, and Rwanda was in the throes of a genocide. But though much of the continent was ruled over by one-man and one-party rule, multiparty democratisation was on the rise, in what political scientists regard as the 'third wave of democratisation' that had kicked off in 1974 (the first two had occurred in the periods 1828 to 1926 and 1945 to 1962). Mandela's global contemporaries were Jiang Zemin in China, John Major in the United Kingdom, Bill Clinton in the US. They had all come into power in 1992 and the years which followed. His neighbouring heads of state and government were Quett Masire in Botswana, Ntsu Mokhehle in Lesotho, Sam Nujoma in Namibia, King Mswati III and Prime Minister Jameson Mbilini Dlamini in Swaziland, and Robert Mugabe in Zimbabwe. He was the newest entrant, but his stature, and the wealth of the country he now ran, almost immediately made him the leader of the region and beyond.

There was much to do - both within and outside of South Africa. The majority of his population was impoverished, following some three centuries of colonial deprivation and four decades of apartheid authoritarianism. There were deep divisions, exacerbated by economic inequality, between black and white (and indeed within these two broad groups), which threatened

to implode if not carefully managed. Above all, there were anxieties and genuine hopes for a better life for all, but there was an insufficiency of resources and tools to satisfy them all. How did Mandela and his cabinet respond to these, and how can we measure his performance? In his first State of the Nation Address, delivered on 24 May 1994, he laid out what can be grouped into a total of thirteen items. These were: creating a people-centred society, the Reconstruction and Development Programme (RDP), children's issues, monetary policy, education, immigration, labour rights, service delivery, the environment, juvenile criminals, gender equality, and re-entry into the global community. The performance was inevitably mixed, but in its successes and failings it rang home a common point: Mandela's government lacked governmental experience and effective oversight at the top. Having been thrust into presidential leadership without prior ministerial experience, Mandela had to conduct oversight over ministers, who themselves (with the exception of the NP – National Party - two) had had no previous involvement in the running of government. Yet Mandela displayed what can only be described as an intuitive capacity for leadership; there were moments of learning by doing (introducing new measures for a number no previous head of government had known in the history of the country) and undoing centuries of institutionalised inequality. Both of these were important functions: one required him to be the principal policymaker, and the other demanded him to effectively found a new kind of society, one that was - if not always successful - cognisant of the wellbeing of all its people. This chapter concludes that he was more effective in the 'undoing function' than he was in the 'doer function'. This makes him an exceptional leader but only an average policymaking president; in the language of the Constitution which would be passed in his third year in office, he would prove more adept at exercising the powers and duties enshrined in Section 84 (Head of State) and less so at those in Section 85 (Head of Government). Notably, the former he exercises alone, while the latter have to be done so "together with" the other members of cabinet - we will return to this sometimes-misunderstood constitutional requirement in later chapters. Where he excelled, was when he undertook direct oversight of his priorities and not mere delegation. In practice,

however, he did not always hold his ministers accountable as he should have and he often delegated many aspects of the day-to-day operation of government to his deputy, Thabo Mbeki. As we shall see in Chapter 3, this 'co-governance' with the deputy, the only deputy president granted the status of being 'second-in-charge', went a long way in preparing Mbeki for his own period as president.

1.1. Mandela's Priorities as Head of the Executive

As introduced, the Mandela administration in 1994 announced a focus on thirteen broad issues. To answer for these were 25 cabinet ministers. This number was actually a reduction from 36 departments under De Klerk's cabinet, in which he had held the position of both state president and minister of state security and, like all state presidents in South Africa before 1994, did not have a deputy (a vice state presidency was briefly created between 1981 and 1984). Two other ministers ran more than one portfolio each; Adrian Vlok was minister of and order, and prisons departments, while Dawie de Villiers had been minister of state enterprises, of mining and energy, and of public enterprises. The number of ministers in the Mandela cabinet remained at 25 even after a minor reshuffle in 1996 when agriculture and land were merged into one department, and the minister of 'general affairs' was introduced. This latter role, essentially a minister without portfolio created to accommodate John Mavuso (an NP member of parliament), who succeeded constitutional development minister Roelf Meyer after he was elected Secretary-General of the NP. It proved short-lived - lasting from March to June of 1996, when the NP withdrew itself from the government of national unity (GNU). The portfolios were thus as follows:

1. Minister of Agriculture
2. Minister of Land Affairs (merged with Agriculture in 1996)
3. Minister of Arts, Culture, Science and Technology
4. Minister of Correctional Services
5. Minister of Defence
6. Minister of Education
7. Minister of Posts and Telecommunications
8. Minister of Environmental Affairs and Tourism

9. Minister of Finance
10. Minister of Foreign Affairs
11. Minister of Health
12. Minister of Home Affairs
13. Minister of Housing
14. Minister of Justice
15. Minister of Labour
16. Minister of Minerals and Energy
17. Minister of Public Enterprises
18. Minister of Public Works
19. Minister of Welfare and Population Development
20. Minister of Sport
21. Minister of Transport
22. Minister of Trade and Industry
23. Minister of Safety and Security
24. Minister without Portfolio
25. Minister of Constitutional Development and Provincial Affairs

Mandela's relationship with his cabinet ministers was marked by mutual respect. He believed in fostering a culture of open dialogue and encouraged his ministers to express their opinions freely, promoting healthy debate within the cabinet, although many tended to defer to him on account of his stature and authority (Calland and Sithole, 2022: 45). Mandela recognised the diverse expertise and perspectives that his ministers brought to cabinet and valued their contributions to the decision-making process. Furthermore, Mandela was known for his ability to bridge divides and reconcile differences, which played a crucial role in maintaining harmony within his cabinet. He sought to create a cohesive team that could work together towards the common goal of nation-building, emphasising the importance of unity and collective responsibility, and urging his ministers to put the interests of the country above their own personal or political agendas.

There were important moments of disagreements and tensions. Two key episodes in 1996 proved especially notable. The first was the resignation of the NP from the cabinet in May when differences over the length of the coalition (the NP reportedly

wished for it to last beyond 1999 whereas the ANC did not) and a perceived lack of consultation with De Klerk by Mandela before he appointed Trevor Manuel as minister of finance.[1] Later in the year, scandal broke out when deputy minister of environmental affairs and tourism Bantu Holomisa, who had been the ruler of the Transkei homeland and then brought into the ANC party and government following the transition to democracy, accused the minister of environmental affairs, Stella Sigcau, of having received a bribe from Sol Kerzner in the 1980s whilst she was prime minister of the Transkei. The accusations were revealed in public, as part of Homolisa's testimony before the Truth and Reconciliation Commission. Rather than investigating the matter, the ANC leadership, primarily Mandela and Mbeki, decided instead to expel Holomisa. Sigcau would remain in cabinet for the rest of her life until her death in 2006. Peter Mokaba replaced Bantu Holomisa as Deputy Minister of Environmental Affairs and Tourism in August 1996, and Lionel Mtshali succeeded Ben Ngubane as Minister of Arts, Culture, Science and Technology in September 1996 after Ngubane resigned to join the KwaZulu-Natal government. These were not new changes; the first cabinet change occurred in mid-1994, when Derek Keys resigned as Minister of Finance and was replaced by Chris Liebenberg. Sankie Mthembi-Mahanyele became Minister of Housing in January 1995 after Joe Slovo died. On 28 March 1996, Mandela announced that Liebenberg himself had resigned and would be succeeded by Trevor Manuel, Liebenberg's deputy, Alec Erwin, in turn, took over Manuel's portfolio as Minister of Trade and Industry. Later the same week, Pallo Jordan was fired as Minister of Posts and Telecommunications and was replaced by Jay Naidoo, formerly a minister without portfolio with responsibility for the RDP office (subsequently closed). The rest of the NP's cabinet roles went to the ANC members. In May 1996, Mandela announced four new ministerial appointments: Valli Moosa was named Minister of Constitutional Development and Provincial Affairs, Geraldine Fraser-Moleketi as Minister of Welfare and Population Development, Penuell Maduna as Minister of Minerals and

1 SAHO, 10 May 1996, 'NP set to withdraw from GNU,' URL: https://www.sahistory.org.za/dated-event/np-set-withdraw-gnu.

Energy, and Pallo Jordan returned to the cabinet as Minister of Environmental Affairs and Tourism. Derek Hanekom's land affairs portfolio was expanded to become the Ministry of Agriculture and Land Affairs. The second deputy presidency, formerly held by de Klerk, was abolished, as was Mavuso's general services portfolio.

1.2. People-Centred Society

The first of Mandela's priorities was a people-centred society. Rather than being a specific target, the concept was about imbuing an ethos which would later be enshrined into the Constitution as *Batho pele* (people first). In his 1994 SONA he declared that:

> "My government's commitment to create a people-centred society of liberty binds us to the pursuit of the goals of freedom from want, freedom from hunger, freedom from deprivation, freedom from ignorance, freedom from suppression and freedom from fear. These freedoms are fundamental to the guarantee of human dignity. They will therefore constitute part of the centrepiece of what this government will seek to achieve, the focal point on which our attention will be continuously focused."

Although South Africa has achieved considerable strides in the pursuit of equality since the end of apartheid, there are still issues that must be resolved. Amongst these include persistent inequalities in wealth, income, health, education, and access to essential services, as well as problems with crime, corruption, and social unrest. Resolving systemic and structural problems, advancing inclusive policies and practices, and resolving apartheid's historical legacies are all necessary for achieving true equality. In South Africa after apartheid, efforts must be made by the government, civic society, and individuals to build a more equitable and inclusive society for all.

The ideal of a people-centred society was linked closely to the government's RDP agenda, which was defined by more specific and quantifiable targets. These included a commitment to spend R2.5 billion in the 1994/95 financial year, to be increased to R10 billion by 1999. The government would put up some of the

money, but would also campaign for funds abroad and from the South African private sector. The government would pay close attention to the well-being of children. This Mandela would directly oversee himself, in his first 100 days in office. This would include the following projects:

> "Children under the age of six and pregnant mothers will receive free medical care in every state hospital and clinic where such need exists. Similarly, a nutritional feeding scheme will be implemented in every primary school where such need is established. A concrete process of consultation between the major stakeholders in this area will be organised immediately. A programme is already being implemented to electrify 350 000 homes during the current financial year."

The fourth commitment was on a stable monetary policy, realistically the domain of the governor of the Reserve Bank (then Dr Chris Stals), who is independent of the cabinet and all forms of accountability to the political branches of government. The government would pursue, as it has committed to doing ever since and as it had done before, sustainable economic growth. But more specifically, and what set Mandela's government apart, would be the creation of community banks. The fifth commitment was the trade and FDI (foreign direct investment) policy, towards which he committed to making the country an attractive investment climate, enacting GATT (general agreement on trade and tariffs) requirements, and engaging in trade negations with the EU (European Union), the US, SACU (Southern African Customs Union) and SADC (Southern African Development Community). The fifth priority would be education. On this important issue, Mandela called for private-public partnership - arguing that an educated labour force would be a resource and not a cost, as it would increase productivity and produce skills needed to modernise the economy. His government would introduce free and compulsory education for a minimum of nine years. He called for a cultural shift, in which education would thrive.

The government's sixth priority would be getting a handle on illegal immigration, which he saw as being related to the

availability of opportunity for South Africans. Mandela argued that "The Government will also deal sensitively with the issue of population movements into the country, to protect our workers, to guard against the exploitation of vulnerable workers and to ensure friendly relations with all countries and peoples," and continued that "The Government is also taking urgent measures to deal firmly with drug trafficking some of which is carried out by foreign nationals who are resident in the country." As a seventh priority, attention was paid to labour law reform. Labour would be seen as an important partner in the development and reconstruction agenda.

> "That partnership requires, among other things, that our labour law be reformed so that it is in line with international standards, apartheid vestiges are removed and a more harmonious labour relations dispensation is created, on the basis of tripartite cooperation between government, labour and capital."

Institutionalising the people-centred society was one of the legacies of the Mandela era, in part due to his leadership and in part due to constitutional mandate.

In 1995, Mandela also noted that:

> "Further progress will also be made this year to establish other institutions that are critical to the construction of the people-centred society to which we are all committed. Among these will be the Human Rights Commission, the Public Protector, the Gender and Youth Commissions, the Inspector General of Intelligence and the structures that will be created by the pending Open Democracy or Freedom of Information Act. Tomorrow we shall be launching a very important body, the National Economic Development and Labour Council - NEDLAC. This crucial body will bring together representatives of government, labour, capital and civil society. One of the most sensitive matters we must address this year is the establishment of the Truth and Reconciliation Commission. We must move towards this as speedily as possible so as to remove all the uncertainties

> that have been created through the protracted discussion of this issue [racism]."

1.3. Mandela's Biggest Priority

Amongst the major legacies of the Mandela era is race relations, particularly in the workplace. Again, in part due to his leadership and in part due to the constitutional imperative. In 1994, he had declared the need to end racism in employment relations, as a key battleground "of our common offensive against racism in general. No more should words like Kaffirs, Hottentots, Coolies, Boy, Girl and Baas be part of our vocabulary." He also expressed his government's aim of ensuring that workers would be paid for public holidays, following consultations which had recently been held. In 1995, the Labour Relations Act number 66 of 1995 (LRA) (RSA, 1995) was passed, in 1997 1997 the Basic Conditions of Employment Act number 75 of 1997 (RSA, 1997), and in 1998 the Employment Equity Act number 55 of 1998 (RSA, 1998). Each gave expression to the priorities communicated by Mandela in his 1994 SONA. For him the LRA was of such significance that in his 1995 SONA he singled it out as amongst the most important that parliament would be faced with that year. For him, the Labour Relations Act "represent[ed] not only a decisive shift from our adversarial past in labour relations, but also our commitment to a more democratic style of governance." This pointed to a broader emphasis he placed on work. Mandela touted the Jobs Summit as a defining event in post-apartheid South Africa, noting the importance of jobs as a key factor in reducing the social problems facing the country:

> "One will not be exaggerating to say that, given its impact on everything else we do as a nation, including crime prevention, reconciliation and the very survival of our democracy, the Jobs Summit is perhaps the most important event since our first democratic elections; an important launching pad for a determined national drive as we move into the 21st century."

Every president since him has so wrestled with this enigma that the above could have come from any successive president.

1.4. Assessing Mandela's Performance as Head of the Executive

Where Mandela did most of his learning was in the domain he had taken near-direct control: social development. It can be argued that he doubled a minister of social development in 1994. In his SONA that year he had committed to direct oversight of matters central to that portfolio:

> "There are major areas of desperate need in our society. As a signal of its seriousness to address these, the government will, within the next 100 days, implement various projects under the direct supervision of the President. Let me briefly mention these."

The notion of Mandela as a minister of social development is lent further credence when we observe the urgency that he accorded to the well-being of young people in both his inaugural address and first SONA (which would go on to be the core issue of his foundation, formed soon after stepping down as president in 1999). He instructed all concerned departments to urgently work out guidelines for the complete release of children from prison in order to place them in suitable alternative care. Mandela argued that "Building on this base, the Government and the Commission [National Commission on Youth Development] would then work together to ensure that the nurturing of our youth stands at the centre of our reconstruction and development, without being consigned to a meaningless ghetto of public life."

A year later, he reported with clarity on the accomplishments and lessons drawn from the experience. "Some of the projects which we announced last year, including the feeding of school children and the provision of free health services to certain sections of our population, have been implemented," however, he also soberly stated that:

> "It is necessary that we draw the necessary lessons from our experience in this effort to meet the basic needs of the people. One of these, as we have stated already, is that the Government has very limited resources to address the multiple and urgent needs of our people."

Going forward it would be necessary to be realistic:

> "It is therefore critical that we determine a proper set of priorities on which we should focus to effect a visible and sustainable improvement in the lives of the people. It is also important that we implement any projects in this regard not in an ad-hoc manner, but within the context of 5-year and other medium and long-term plans and projections. The Cabinet has discussed this matter and decided on our priorities, which will include rural and urban development, human resource development, job creation and health."

His government would be more concrete in the commitments it would make:

> "As compared to the time last year when we had to announce programmes for transformation without detailed preparation of implementable and affordable plans, we are now in the fortunate situation that we are well on the way to finalising detailed plans, to meet our firm commitment to build a better life for all South Africans. This will be one of the high points in our national life, this year, when we announce realistic targets with regard to such needs as houses, clean water, primary health care and jobs. We will be able to achieve this degree of precision because of the significant progress that has been made in the various ministries at both national and provincial levels with regard both to the reorganisation and strengthening these structures and the elaboration of policies aimed at the fundamental transformation of our country."

Finally, we must turn our attention to corruption under Mandela. While it does not relate to on-the-job ministerial performance, it

speaks to presidential oversight and accountability, and Mandela failed to rein it in. It is here, as in his lack of executive leadership, that he is flawed. Already creeping up early on in his tenure, he was alert to it, but failed to take decisive steps to nip it in the bud. He chose party loyalty and thereby abdicated his duties as president. After apartheid, corruption in South Africa has been a major problem that has changed the political, economic, and social climate of the nation.

Mandela's defensive posture began as early as 1994:

> "All of us, precisely because we had never sat in any democratic parliament before, had to begin the continuing process of learning how to carry out our functions as people's deputies. We had to educate ourselves in an atmosphere characterised by a critical public focus which did not necessarily allow for the reality of that inexperience. Undoubtedly, many of us, both in the legislature and in the executive have made mistakes. But mistakes are an inevitable element of any process of learning. Precisely because we face the challenge of dealing with systematic corruption we need a dispassionate and systematic approach to this question and not allow ourselves to be stampeded by responses which are not very different from a witchhunt."

Yet he had already observed in 1997 that "ordinary citizens continue to complain about practices that have not changed in many government offices. Corruption, including the endemic problem of so-called "ghost workers" inherited from the past, continues to bedevil the civil service." The apartheid era's legacy of deeply ingrained systemic inequities and imbalances is one of the primary causes of corruption in South Africa today. The change from apartheid to democracy was difficult and complex, and the new administration had to deal with serious socioeconomic issues like high rates of inequality, unemployment, and poverty. These difficulties, in addition to a dearth of efficient governance procedures and weak institutions, produced an environment that was conducive to corruption. His successors, including his deputy and immediate replacement, have failed to rein it in ever

since, such that it now stands, alongside unemployment, as the intractable challenge of the South African landscape. It would thus appear that a president not only has to protect his country from external forces but, just as (if not more), from those within. On this score, there has been no example to follow. Mandela is no exception. At the heart of this failure is the tilted relationship between president, on one hand, and the party-and-ministers on the other; while on paper the president is the leader of the government, the state and the party, the partisan nature of post-1994 South African politics has ensured that the president's political space is increasingly limited and at times at the mercy of his party elite, many of whom sit in cabinet as ministers. The next four chapters showcase the manifestation of this story under successive administrations.

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Chapter 2

From Executive Deputy to Executive Head: Thabo Mbeki's Seamless Transition

While a student at the Lovedale Institute in 1956, the future President Mbeki joined the African National Congress Youth League (ANCYL), and after the ANC was outlawed in 1960, he became involved in illegal operations in the Pretoria-Witwatersrand region. Between 1961 and 1962, he studied for his first year of an economics degree as an external student at the University of London, and in 1966, he earned a Master of Economics degree from the University of Sussex. He assisted in organising the youth and students in support of the ANC's call for a boycott in 1961 to show opposition to the establishment of a republic. He was chosen as the African Students' Association's Secretary that same year, and on the ANC's orders, he and other students departed South Africa in 1962 to pursue their studies in Southern Rhodesia (later called Zimbabwe), Tanganyika (later called Tanzania), and the UK (United Kingdom).

During the time that he worked for the ANC headquarters in London between 1967 and 1970, Mbeki also received military training in the then-Soviet Union. He served as Assistant Secretary to the Revolutionary Council of the ANC in Lusaka in 1971, and he was later sent to Botswana in 1973. Consolidating the ANC's underground institutions and organising South Africans were the main goals of his actions at this time. His leadership of the ANC delegation during covert negotiations with the South African government in 1989 resulted in accords about the ANC's unbanning and the release of political detainees. He was a member of the delegation that had discussions with the National Party government. He took part in the discussions that led to the accords that were later referred to as the Groote Schuur and Pretoria Minutes in 1990. He took part in all negotiations

that followed, which resulted in the approval of the interim Constitution for the new South Africa. He was also elected chair of the ANC in 1993. In 1994, he was selected by Mandela, with some controversy amongst the party leadership, to be the deputy president of the republic, a position he held until 1999. In the interim, he was elected unopposed to be the ANC president in 1997 at the 50th National Conference of the ANC, held in Mafikeng. His was the most active deputy president - perhaps second only to Jan-Hendrik Hofmeyr (see Chapter 6) - and when the time came for him to be president in his own right, the transition was seamless. As president, however, he did not allow his deputies the same latitude he had been granted. There was a failing in succession planning, so that he even harboured the ambition of running for a third term as president of the ANC, which he would have held even after stepping down as president of the country. The implications of this will not be known, but the lack of succession planning exacerbated the lack of experience amongst the country's would-be president; a trend that has not abated, as subsequent presidents have been locked in factional battles with their deputies.

When Mbeki became president in 1999, the world was still in its post-Cold War mood; Bill Clinton was still the president in the US, and Tony Blair was prime minister in the UK. The Third Way, the combination of neoliberal policy with state intervention, was in full swing. Boris Yeltsin was in his final six months in office as Russian president and was soon (though unexpectedly) to be succeeded by Vladimir Putin in December of that year. The global economy was in the midst of a boom. China was increasingly important to world manufacturing (at 7%, compared to 2.7% in 1990), though the US was still ahead at 27% (by 2021, it was China which stood at 27% and the US at 16%). Peace had been brought to the Balkans. On the African continent, however, matters were gloomier. Newly independent Eritrea and Ethiopia were about to enter the second year of their war over Badme; further south, matters were imploding in the Democratic Republic of Congo, where Rwanda and Uganda and their rebel allies were engaged in battle with the Kabila regime, backed by Angola, Namibia and Zimbabwe. In the regional neighbourhood, Mbeki's

contemporaries were Festus Mogae, Namibia was still led by liberation struggle icon Sam Nujoma, Pakalitha Mosisili was prime minister of Lesotho (having been aided by a South African-led intervention to help him retain his position in 1998 following a mutiny). Robert Mugabe was also still in power in Zimbabwe, by now approaching 20 years in office, though opposition was growing - a brewing storm that would draw Mbeki in, and whose handling of the situation would contribute to the polarising nature of his legacy.

In February 2004, Mbeki ran off a list of issues facing South Africa and which he, by then on the eve of his second term, had sought to provide leadership on. On his list were the following: housing, water, electricity, roads, land, school meals and social grants. Like Mandela before him, he also pointed to the population's need for jobs, especially for young South Africans. Mbeki was adamant that his government had come a long way: "The answer we have given and will continue to give to the question whether we have made progress with regard to the fundamental tasks of which Nelson Mandela spoke on 24 May 1994, is a resounding - yes!" (Mbeki, 2004: 9).

In 1999, South Africans came out in their largest number to vote for Mbeki's ANC than they had for Mandela's. In 1994, the ANC had obtained 252 National Assembly seats, in 1999 they grew to 266. The party improved on this in 2004, obtaining 279 seats. Neither Zuma nor Ramaphosa after him would surpass this number (both presided over declines, Zuma to 264 and then to 249, Ramaphosa to 230). A president typically does not improve his party's electoral fortunes unless his tenure creates or coincides with good times, especially palpable economic growth.

As the twentieth century was winding down, South Africans were eager to see the gains of democracy continue and be improved upon. In his first address to the parliament as president, Mbeki listed ten priorities that touched on these hopes and anxieties as he understood them. The first, continuing from Mandela, was the continued creation of a "people-centred society." The other nine, respectively, were corruption, crime, the economy (SOEs, investment [to be overseen by the president], job

creation, poverty reduction), gender equity, the HIV/AIDS (human immunodeficiency virus / acquired immunodeficiency syndrome) epidemic, education and human capacity development, promotion of cultural rights, and foreign policy (including the vision of the African Renaissance). Like Mandela, his first SONA set priorities, not targets. It raised areas of focus and argued, almost motivating in some respects, for their importance. He also signalled areas of primary importance by. But unlike Mandela, and unlike successive presidents, he drew on his insights from his policy involvement as deputy president, which had enjoyed the support of its own office akin to a mini cabinet. His is a case of a deputy-turned-president who showcased what can be accomplished when a deputy is entrusted with real responsibility, but his is also a showcase of the missed opportunity to continue, and even enhance, this convention by granting exacting ministerial functions on deputies (a feat neither unprecedented in South African history, nor unparalleled in the world outside South Africa *today*).

2.1. Thabo Mbeki as Deputy President

Years before assuming the office of president himself, while still deputy, it was already observed that Mbeki was the country's de facto prime minister. Wrote Suzanne Daley in July 1996 in the *New York Times*: "Few people here expect that a Mbeki presidency would mean a great change in South Africa's course. In part, that is because Mbeki is already acting much like a prime minister. Few important policies go forward without his approval, and a recent Cabinet shuffle was seen as bearing his fingerprints." A senior ANC official anonymously tipped that "He has already taken over a lot of the executive functions of the President. And it is one of his skills that he has done this without looking like he is challenging the President."

His biographer Mark Gevisser records Mbeki telling him that "the running of the government shifted to the deputy president's office…Madiba didn't pay any attention to what government was doing. *We* had to, because *somebody* has to." (Gevisser, 2007). Mbeki's power as deputy president drew not only from the power of his intellect, personality and political skill, but also from an enabling Constitution. Under the interim Constitution, which was

the supreme law of the country from April 1994 until February 1997, he was empowered in a number of ways. Section 84 of that Constitution stipulated that the president had to consult with the Executive Deputy Presidents (it was in practice just one Executive Deputy President, Mbeki, after De Klerk's resignation in 1996) in the development and execution of policies and in all matters relating to the management of the Cabinet and the performance of Cabinet business, including the very appointment of ministers (along with ambassadors and the rest of the diplomatic corps). The requirement to consult the Executive Deputies extended even to the appointment of commissions, calling of referenda, and pardons. In Section 84(13), the President had to consult with the Executive Deputy Presidents on the determination of specific portfolios for his ministers.

In the 1997 *Hugo* case (Hugo v President of the Republic of South Africa and Another. 1997 (4). SA 1012 (D) (CCT11/96).), the Constitutional Court reaffirmed this, emphasising that the Executive Deputy president stood above the ministers and was second only to the president (in contrast to the more ceremonial nature of the role that we have become accustomed to since). As the Court put it, the president's Section 82(1) powers were wide and did not require concurrence of cabinet, although Section 82(1)(k) required prior consultation with the Executive Deputy president (*Hugo*, at para 14). Although, as the Court reminds us, "the President is not, however, bound to follow the views of the Executive Deputy Presidents," this was often the case with Mbeki.

2.2. Mbeki as Head of the Executive

Mbeki's first cabinet (1999 to 2004) consisted of 28 ministers. An innovation in cabinet arrangement was the creation of a minister in the presidency, occupied by Dr Essop Pahad. Pahad's appointment was in line with Mbeki's desire to strengthen the presidency's direct oversight on specific priorities, particularly people living with disabilities, women and government communication. These were the core of Pahad's portfolio. His role as Minister in the Presidency primarily consisted of special responsibility for the Office on the Status of Women, the Office on the Status of Persons with Disabilities, and the Office on the Rights of the Child, along

with the National Youth Commission, and *Umsobomvu* Youth Fund (now the NYDA (National Youth Development Agency), following a merge with the National Youth Commission in 2009). As Pahad records in his 2023-published memoir *A Life Committed*, "These were placed under the Minister in the Presidency, as the issues and challenges facing women, youth, children and persons with disabilities cut across many different departments" (Pahad, 2023: 405). As Minister in the Presidency, Pahad was also the political principal of the Government Communication and Information Service (GCIS), which was headed by a Director-General who is effectively government spokesperson. For much of the Mbeki era, the position was held by Joel Netshitenzhe who assumed it after the establishment of the GCIS until 2006, when he was succeeded by Temba Maseko. In attempting to centralise more functions within the presidency, Mbeki also went two steps further. Firstly, he absorbed the deputy president's staff into his own office, such that there was a single Director General responsible to both the president and the deputy president (who was no longer an executive deputy president after the 1996 Constitution came into effect) and, secondly, he exercised the power to appoint the top administrators in the ministries (*New York Times*, 1999).

Mbeki's relationship with his cabinet ministers has often been characterised as hierarchical and formal. Although he created space for intellectual debate, he expected adherence to his policies and decisions from his ministers, and dissent within the cabinet was not encouraged once policy choices had been made within cabinet. Mbeki maintained a central role in decision-making processes and had a reputation for being hands-on, often involving himself in the minutiae of governance. This was evident from the first address to parliament, during which he stated "To these [South African] masses we owe the obligation to recommit the government on whose behalf I speak, to the construction of a people-centred society. This I am happy to do with all the *authority at my command*." During his presidency, Mbeki established a reputation for being a technocratic leader, valuing expertise and analytical thinking. This sometimes led to a perception that he was distant and aloof from his cabinet ministers. Mbeki was

known to rely heavily on expert advice and analysis, which at times limited the input and autonomy of his ministers.

In 2003, he announced the onboarding of dedicated project managers accountable to the cabinet, who would have the authority and responsibility to ensure implementation across departments and spheres of government. Alongside this, Mbeki took steps to increase monitoring capacity at the level of the presidency, including through the establishment of a call centre and the planned introduction of an online system.

While Mbeki sought to create a unified front within his cabinet, his leadership style was not without challenges. Dissent and differences of opinion were often stifled, leading to a lack of robust debate and alternative perspectives. This centralised decision-making approach also resulted in a perception of limited accountability and transparency within his administration.

However, it is important to note that Mbeki's relationship with his cabinet ministers was not uniformly negative. Many ministers held respect for his intellectual prowess and appreciated his commitment to policy formulation and implementation. Mbeki's presidency saw advancements in economic growth, healthcare, and infrastructure development, which can be attributed in part to the collective efforts of his cabinet. As introduced, his first SONA made ten priority areas:

1. The continued creation of a people-centred society
2. Combatting corruption
3. Crime
4. The economy
5. Gender equity
6. The HIV/AIDS epidemic
7. Education and human capacity development
8. Promotion of cultural rights
9. Foreign policy

Even before becoming president, Mbeki had singled out corruption as the country's principal challenge: "In a sense it is the most difficult thing to deal with. Apartheid was inherently corrupt, immoral. And it left behind a disrespect for legitimacy. There is a

lack of sense of social ethics. This is something that has to be dealt with, and it's not a legislative thing. We must change the mood of a country and set new values" (in Daley, 23 July 1996). Once president, he was criticised of theorising about it, rather than acting decisively against it. He called for an "RDP of the soul," but, like Mandela, he was quick to defend cabinet members and the ANC government more broadly (we will return to this more fully in Chapter 5). In turn, crime received more concrete attention. In 1999, he created a special unit to urgently deal with all priority crimes, including corruption. He signalled the urgency of crime to his government, revealing that "I have directed that the Ministers of Safety and Security, Defence, Intelligence, Justice, Home Affairs and Finance must finalise all outstanding matters which relate to the activation of this unit within a fortnight." He could move with urgency and speak with precision because he had drawn from a resource no other deputy would have:

> "A study conducted by the Co-ordination and Implementation Unit in the Office of the Deputy President [under his erstwhile tenure] has confirmed what surely all of us have known, of the correlation between crime, poverty and race. The areas of high crime concentration, including all crimes of violence, are the black and poor areas of our country. These include such areas as Tsolo in the Eastern Cape, Thabong in the Free State, Katlehong in Gauteng, Inanda in KwaZulu-Natal, KaNyamazana in Mpumalanga, Mafikeng in the North West, Galeshewe in the Northern Cape, Thohoyandou in the Northern Province and Mitchells Plain in the Western Cape."

In turn, the RDP, now accompanied by the Growth, Employment and Redistribution programme (GEAR) plan were reengineered "to achieve socio-economic transformation and macro-economic stability." The change was motivated by the growing competitiveness of the global economy in which the FDI-starved country had to be attractive to investors. The programmes were intended to complement one another rather than have the RDP replaced by GEAR. On this score, the president pointed out that

hurdles to job creation would be removed, and that new policies would be put forward once objectives had been met.

On the pursuit of gender equity, he put forward the need to build capacity amongst his aides. Like Mandela on children's issues, he sought to give direct oversight: "Capacity will be created within the Presidency to ensure that our Government, at its highest levels, gives attention to all these questions which bear on nation building."

On foreign policy, Mbeki received harsh criticism for what many saw as his apathy towards Robert Mugabe's reign in Zimbabwe. Critics argued that Mbeki should have used more force against Mugabe, who violently suppressed opposition to his government and expropriated farms owned by white people, rather than engaging in "quiet diplomacy." Thousands of Zimbabweans flocked to South Africa in search of work and safety as a result of the economic crisis in their home country. Some claim that the influx has resulted in a rise in crime and a shortage of housing. May 2008 saw a string of attacks against foreign nationals, partially as a result of the major influx. For his part, Mbeki characterised the attacks as thuggery rather than a symptom of xenophobia amongst South Africans.

2.3. Assessing the Mbeki Presidency

True to form, the reputedly intellectual Mbeki was precise about his government's performance. In 2002, he referred to a very positive University of Stellenbosch study, led by Professor Willie Esterhuyse: "The President made 43 'promises' in his speech. By 8 January 2002 - eleven months after the speech was made - 65% of these have either been achieved or are credibly in progress. 16% have not been achieved. That gives a ratio of 4 items of progress versus one item not yet completed." The president further quoted the more qualitative aspects of the study:

> "From various speeches and press releases it is clear that Ministers are working towards the goals set by the President. Looked at closely, there is coherence and a sense of purpose and integration."

There was notable progress, for example, in the provision of clean running water. Whilst between 1994 and 1999 three million South Africans had been provided access, between 1999 and 2002, a three-year period compared to the initial five, some four million had been connected. On electrification, too, there had been progress, with almost four million new connections made.

South Africa's average GDP (gross domestic product) growth rate (quarter-over-quarter annualised) under President Thabo Mbeki's presidency was 4.2%, while the country's average inflation rate was 5.7%. The economic partnership between President Mbeki and Finance Minister Manuel turned out to be the most effective in post-apartheid South Africa's brief history. Trevor Manuel served as finance minister and Thabo Mbeki served as president during the 36 straight quarters of positive economic growth in South Africa.

South African corporations made enormous profits from the export of commodities as a result of rising commodity prices and booming commodity demand, which was mostly driven by China. Some economists have bemoaned the fact that SA's growth rates during this period were not higher, and have advocated investing more in infrastructure, less volatile and vulnerable industries, and raising educational standards to guarantee future job creation and reduce reliance on volatile commodity markets and prices. This never actually occurred, and South Africa's economy is still viewed as being heavily dependent on commodities. Overall, Mbeki's government took steps to try to stabilise the South African rand during his presidency, but the currency remained vulnerable to external factors beyond the government's control. According to the ILO (International Labor Organization) estimates of the unemployment rate in South Africa from 1994 to 1999, when President Mbeki succeeded President Mandela, was hovering around 22%. During Mbeki's tenure, the unemployment rate averaged 23.7%.

Moreover, his presidency was marred by controversy and criticism, particularly in relation to his handling of the HIV/AIDS epidemic in South Africa. Mbeki was criticised for publicly questioning the link between HIV and AIDS. As a result, Mbeki

postponed the release of antiretroviral (ARV) drugs to public hospitals as a result of his perception that pharmaceutical corporations were misrepresenting the connection between HIV and AIDS to boost drug sales and were hiding the harmful side effects of ARVs. Mbeki and his supporters also promoted a number of controversial and unproven theories about the origins of HIV and the effectiveness of various treatments, which had a detrimental effect on public health policy and hindered efforts to curb the spread of the virus. It is important to note that the then Minister of Health, Manto Tshabalala-Msimang supported these views.

Mbeki's 2004 State of the Nation Address is regarded as something of a watershed moment by many scholars. In that address, according to David Hemson and Michael O'Donovan, the president's speech signalled a shift from the classic declarations that had characterised the ANC since the Freedom Charter and the broad statements of intent of the Reconstruction and Development Programme (RDP) and White Papers, and instead introduced an approach of "[spelling out] several dozen long-term objectives to guide his administration, on the basis of clear targets" (p. 11). In total, the president announced about 80 objectives in his address, with the majority (as in all prior and subsequent SONAs) concerning touching on service delivery and poverty alleviation. About four concerned household services, three security, while education and health each had two, and social security had one. Beyond the accomplishment or failure to accomplish these targets, the Mbeki second term at a minimum set a new tone. The emergence of 'presidentialism,' seen through greater centralisation of policy and growing staff within the presidency, represented a president taking direct charge of policymaking, within the auspices of the presidency:

> "At one level the turn to explicit objectives reflects on executive ability as the Presidency itself takes on the responsibility for setting targets and ensuring they are carried out. The emphasis in management is shifting from ministerial government to the Presidency itself" (p. 14).

For the 2004/5 financial year, the presidency was allocated a budget of R240 million, reflecting an increase of some 70% compared to the 2003/4 financial year. Another observation is crucial to note. The President's citadel, in the Union Buildings, once housed the entire national government but is today filled entirely by the presidency. No doubt this was also a function of the broader populace to be served, as the government was accounted to the entire nation and not the selective few (as will be seen in Chapters 6 and 7): this can be measured in aesthetic terms. For example, the page-count of the SONAs has steadily grown. While de Klerk's landmark 1990 address was about 17 pages, Ramaphosa's 2022 address weighed in at 31 (having grown steadily since 2018, from 22 pages). Mbeki's own ranged between 18 pages (1999) and 28 pages (2006). Hemson and O'Donovan were optimistic regarding the president's apparently growing presence and more active steering of policy: "There is doubtlessly increased capacity in the presidential purview of ministerial and local government policies, implementation and impact and this is often welcomed," they observed.

Yet it is now evident that this did not quite materialise, partly for reasons of politics and partly due to improper centralisation. On the one hand, there was growing and no doubt distracting dissension within the ANC and, on the other, developments in Burundi and Zimbabwe, which made Mbeki more of a foreign policy president than a developmental leader at home (indeed the 2004 SONA is notable for the disproportionate focus on international relations). A strong deputy, as he had been under Mandela, would have been a useful partner to have; to either focus on the home front or on international issues, thus allowing the president to signal what was important generally, and what was important to his administration specifically. This is especially true in light of the deficits he identified regarding skills in government. In 2006, he reported back on a 2005 commitment to audit national departments' capacity to execute their responsibilities on key issues (particularly housing, health, education and trade and industry). Accordingly, he relayed that deficits were in the areas of skills, vacancies, delegation of responsibilities between the national and provincial departments. In the face of this, Mbeki

was determined and critical: "We cannot allow that government departments become an obstacle to the achievement of the goal of a better life for all because of insufficient attention to the critical issue of effective and speedy delivery of services," he decried (Mbeki, 2006: 15).

Mbeki is unique amongst ANC presidents in that he was deputy president of the country, when, under the government of national unity (GNU) arrangement, the Constitution vested "executive" powers on the deputy president and requirement on the president to consult with the deputies (a phenomenon further discussed in the next chapter). Moreover, the unrealistic targets set also reflect the nonetheless lingering effects of the initial minister-led approach to policymaking. Thus, the remedy is evident: rather than merely become more involved in setting policy, the president ought to have also led a priority ministerial portfolio. Matters were worsened by the outsourcing of certain functions of the state, so that policy, while centrally led, cascaded down to departments and the lower spheres of government (provinces and municipalities), who in turn contracted private sector entities to carry out a number of the important functions.

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Chapter 3

The Rise of the Political Presidency: From Motlanthe to Zuma

3.1. A President of Circumstance

As 2008 began, Thabo Mbeki sought to strike a confident and optimistic tone. He declared, in his SONA for that year:

> "I am confident that 2008 will be one of the most remarkable years of our democracy, as we all work together to realise the core aspiration of our people to attain a better life for all. I say this because, in our own estimation, it is not often that a nation is called upon to strain every sinew of its collective body to attain a dream. And such is the injunction that history has imposed on us today."

It would indeed be a most remarkable year for the young democracy, but for reasons different to those enumerated by Mbeki. Within a matter of months he would resign from his position, under pressure exerted by his party, misfortune and his own miscalculations, particularly when it came to succession planning. In 2007, at the Polokwane Conference, Mbeki took the unprecedented, and so far un-replicated, decision to run for re-election to a third term as president of the ANC in the democratic era. His opponent was his party deputy (in office since 1997) and former state deputy (in office with him from 1999), Jacob Zuma. The political relationship between the two men had deteriorated over time, owing to allegations against Zuma for corruption and fraud, leading to the president dismissing him as state deputy in 2005. The dismissal only served to rally support against Zuma. Not seeing anyone capable of challenging Zuma, whom they regarded as a danger to the ANC's prospects and South Africa if elected, the 'Mbeki-ite' camp could put forward no one else of big enough stature to challenge the grassroots-popular Zuma. Evidently,

Mbeki was also willing to continue as president, which would have given him considerable power within the ruling party and great influence over whomever became president - creating a situation akin to the much-feared 'two centres of power'. (Briefly, between 1997 and 1999, he had been president of the party while Mandela was president of the country but happy to delegate to Mbeki in his capacity as deputy president.)

For the first time in modern ANC history, there were open campaigns, with people aligning with one candidate or another. The dramatic run-up was defined not by policy debates, but by personalities. A tense political environment, it saw expressions of contempt for the 'other' candidate, including burnings of pictures and party regalia featuring their face.

Observing all this was Kgalema Motlanthe, a former trade unionist, who had become a well-respected Secretary-General (SG) of the ANC in 1997. Now at the end of his second term, in his SG report at the opening of the Polokwane Conference, Motlanthe was candid on the problems facing the ANC, including factionalism. Regarding the dismissal of Zuma, he noted that "It is a pain that each and every individual feels most acutely" (Harvey, 2012: 229). But he was no factionalist, as later events would prove, but a dedicated veteran committed to the ideals of the ANC who gave the impression of not desiring any high office. Indeed, Mandela said of him that "Kgalema Motlanthe is one of the best men we have in this country. He never gets involved in conspiracies against his colleagues" (Harvey, 2012: 230).

At the conference, Zuma received 2,329 votes to Mbeki's 1,505. The following ten months would be dramatic; jolting Mbeki out of office and a reluctant Motlanthe into it. Mbeki did not strike the right tone when he missed the 8 January 2008 statement, headlined by the new ANC president Zuma. (In his absence, Mbeki and his team were thanked, and the new leader committed that he and the new NEC (National Executive Committee) would "continue to draw on their expertise as we together, steer the movement forward in the fight against poverty, unemployment

and bridging the gap between rich and poor."[1]). Early 2008 was characterised by the two centres of power: "Luthuli House, fresh from the euphoric victory over Mbeki in Polokwane, was calling the shots in the months that followed and was certainly not shy to assert its new, if somewhat shaky, authority" (Harvey, 2012: 243).

Certain of victory in the next election, the Zuma faction was uncertain that it would receive the full cooperation of the Mbeki cabinet, still with 18 months in office, during the transition. They sought an "institutional foothold," someone who could be trusted and respected by both sides to be in the Mbeki cabinet but not of personal loyalty to the man. Such was Motlanthe. "All in all he was widely considered the best person in the ANC to do the job at a very difficult, in fact fragile, moment in the ANC, government and the wider society, especially with his tenacious ability to mediate between the still-warring groups" (Harvey, 2012: 243). On 20 May 2008 Motlanthe was sworn in to parliament on 12 July 2008 and was made a minister in the presidency, alongside Dr Pahad. He would be the leader of government business in parliament.[2] His first meeting was on 22 July (amongst others, on the agenda that day was the approval of the Treaty of Friendship and Partnership with Russia, the design of stamps for the FIFA World Cup, and approval for the extension of the deployment of 1,137 SANDF (South African National Defence Force) troops in Burundi as part of the AU (African Union) mission there).

On 12 September, Judge Chris Nicholson of the High Court, concluded, without determining whether Zuma was guilty or innocent, that the case against him had been politically motivated and was procedurally improper. "For years the applicant is under threat of prosecution for serious corruption and yet never brought to trial. There is a ring of the works of Kafka about this," it read (*Zuma and Others v National Director of Public Prosecutions [2007] ZASCA 135*; *[2008] 1 All SA 234 (SCA)* at para 237). The judgement,

1 https://www.sahistory.org.za/archive/january-8th-statements-statement-national-executive-committee-occasion-96th-anniversary-anc

2 Government Communications (GCIS). 2008 (22 July 2008). 'Statement on Cabinet meeting of 22 July 2008,' https://www.gcis.gov.za/content/newsroom/media-releases/cabinet-statements/statement-cabinet-meeting-22-july-2008

which would later be overturned, led to charges against Zuma being dropped. On 20 September, the ANC NEC decided that Mbeki must be recalled from office immediately. Gwede Mantashe and Motlanthe were tasked with informing Mbeki. The following day, he tendered his resignation. It is also reported that Zuma and his supporters encouraged Mbeki's deputy, Phumzile Mlambo-Ngcuka (notably the first deputy president with ministerial experience until Mashatile in 2023), to quietly resign. She did so on 23 September and was replaced by Baleka Mbete. On 25 September, Motlanthe was duly nominated by Ben Turok and elected president by parliament. His own view was that Mbeki should have been allowed to complete his term, including by possibly bringing elections closer to April, or even March, 2009.

What are we to make of the Motlanthe presidency? For reasons of context, it is the most peculiar: the president had no personal desire for it, but he had to govern, so that the country would gain a stable footing and so that his party, if not himself for personal reasons, would be re-elected. For the purposes of this book's argument, he poses a puzzle: he is the sole president since 1994 to have been a minister beforehand, yet he is the shortest-serving. Moreover, that ministerial experience was severely limited - in terms of time, but also in terms of the portfolio. Being a minister in the presidency meant that he had vague, somewhat general, responsibilities, which the electorate and to some extent parliament itself, are mostly shielded from. He was also limited by his circumstances. In short, he had no incentive to overachieve, lest he outshine the president-in-waiting. His excellent biographer, Ebrahim Harvey, writes that "Zuma supporters were set on Kgalema not doing anything to upstage Zuma. Many feared that if Kgalema did well enough in leading the country, people might want him to continue after the 2009 elections, especially as (unlike Zuma) he did not have charges of corruption and fraud hanging over his head."[3] Motlanthe thus did his utmost not to seem "too eagerly presidential."[4] Some within the triumphant camp often referred to him as deputy president rather than

3 Harvey, 2012: 279.
4 Harvey, 2012: 279.

president, intentionally foregrounding his subordinate party position rather than his national role as head of cabinet.

Calland and Sithole (2022: 87) assert that Motlanthe had, given his short stint, "a disproportionate impact" compared to other presidents. While this is debatable (for example, Harvey thinks the president tended to proceed too cautiously), he did make some firm, controversial, and long-lasting decisions during this time. Amongst these are signing of the Broadcasting Amendment Bill (RSA, 2008), the disbanding of the Scorpions, Telkom's sale of its Vodacom share, his handling of Zimbabwe, the Global Financial Crisis of 2007-2008, and the denial of a visa for the Dalai Lama. The dismissal of Vusi Pikoli as NDPP (National Director of Public Prosecutions), the dismissal of health minister Shabalala-Msimang, security minister Charles Nqakula, and the reshuffling of Brigitte Mabandla from justice to public enterprises.

There was also continuity in policy, with Motlanthe's 2009 SONA (or "presidential address," as it has been labelled in some quarters in the specific case of the caretaker Motlanthe) harking back to the 2004 mandate. He emphasised the gains made in the economy, including half a million new jobs created between 2004 and 2007 under Mbeki. He emphatically underlined it as strides beyond the numbers, proclaiming emphatically: "[H]ow [we] have advanced the cause of human development and human dignity since the 2004 democratic mandate!" But there was still a long way to go, particularly on transformation:

> "In reality, a country that does not ensure the involvement of all of its population at all levels of economic activity is certainly going to perform well below its actual potential. The fact that the private sector lags behind in changing the demographics of management and skilled occupations, in enterprise development and so on in part makes our country a laggard in the high growth stakes."

Mindful of the upcoming elections, he also reflected on the success of the country's democracy, adding that:

> "We do have today a well-functioning democratic system, based on principles of transparency and openness, with numerous platforms for public participation and independent institutions mandated by the Constitution to support democracy … Over the years, we have steadily improved the structures of governance. We have built a system of healthy inter-governmental relations across the spheres, and improved integration within and among them."

When the new parliament elected on 9 May 2009, he stepped aside as expected. Harvey points to a sense of relief on the part of Motlanthe, recalling their conversation in which the former head of state and government candidly stated that "Being president means you have no life of your own. I actually don't like it. I think you have to be insane or very, very special" (Harvey, 2012: 298). One individual who seems to have enjoyed being president, evidenced by the fight he put up to obtain and to hang onto it, was Jacob Zuma.

3.2. Zuma's Path to Power

Zuma first started attending ANC meetings after seeing political work being performed by ANC volunteers while visiting Cato Manor and Greyville in Durban as a teenager. He began attending ANC and labour union meetings at Lakhani Chambers in the heart of Durban in 1959 after joining the ANC, the African National Congress Youth League (ANCYL), and the South African Congress of Trade Unions (SACTU). From 1960 to 1963, he spent three years there taking political education classes. He was detained in 1963, at age 21, and given a 10-year prison sentence on Robben Island for his underground work for the ANC. After being released, Zuma assisted in organising internal opposition and played a crucial role in the restoration of ANC underground structures in the then-province of Natal (KwaZulu-Natal) between 1973 and 1975. He departed South Africa in 1975 and spent the following 12 years dealing with the tens of thousands of young people who fled the country after the Soweto uprising, first from Swaziland and then from Mozambique.

Zuma was amongst the first ANC leaders to return to South Africa to start negotiations when the ANC was unbanned in February 1990. He had a key role in setting up the Groote Schuur Minute between the FW de Klerk government and the ANC, which resulted in significant decisions about the release of political prisoners and the return of exiles. He was elected Chairperson of the Southern Natal region in 1990 at the inaugural ANC Regional Congress in KwaZulu-Natal (KZN), and he played a key role in eradicating violence in the area. Several peace accords involving the ANC and the Inkatha Freedom Party (IFP) were the consequence of this.

Zuma was chosen to serve as the ANC's deputy Secretary-General in 1991 at the organisation's first national conference to be held in South Africa after the group's unbanning. He was presented with the Nelson Mandela Award for Outstanding Leadership in Washington, DC, in October 1998 and is widely acknowledged as having played one of the most effective roles in bringing about the peace in KZN following clashes with the IFP. Zuma was chosen to serve on the KZN provincial government's Executive Committee as MEC for Economic Affairs and Tourism in 1994, following the country's first nationwide democratic elections.

Owing to his rural background and empathy for the poorest of the poor, he decided to use his allocation to help educate poor people in rural areas by establishing a bursary fund. The fund focuses mainly on primary school children in the rural areas but has, from 1999, started assisting students at tertiary institutions. He was elected Deputy President of the ANC at the National Conference held at Mafikeng in December 1997.

In June 1999, Zuma was made Deputy President of South Africa. Along with Ugandan President Yoweri Museveni, he also assisted with the Burundi peace process at this time in Kampala, Uganda. In 1993, several armed Hutu groups rose up against a government and army dominated by the Tutsi minority in Burundi after the first president elected from the Hutu majority was assassinated. Museveni served as the chair of the Great Lakes Regional Initiative, a grouping of regional presidents in

charge of the peace process in Burundi. In Polokwane, Limpopo, on 18 December 2007, the ANC's 52nd national conference elected Zuma as its leader. In his remarks at the conference's conclusion, Zuma emphasised the importance of maintaining organisational cohesion. He also paid respect to Mbeki and the job he had accomplished for the ANC and the nation over the years. Soon, however, Mbeki would be gone from the position of president of South Africa, with Zuma coming to the helm after the Motlanthe interregnum.

3.3. Zuma as Head of the Executive

Following his election as president, Zuma announced his first cabinet on 10 May 2009. There was a total of 34 ministerial portfolios in the cabinet. He added the ministries of Economic Development, Higher Education and Training (separated from Basic Education), Rural Development and Land Reform (split once more from Agriculture). The Minister in the Presidency was also split into two portfolios with specific functions: the Minister in the Presidency for the National Planning Commission (Trevor Manuel) and Minister in the Presidency for Performance Monitoring and Evaluation and Administration in the Presidency (Collins Chabane).

Jacob Zuma's relationship with his cabinet ministers during his presidency from 2009 to 2018 was marked by both loyalty and controversy. Zuma was known for maintaining a close circle of loyal allies within his cabinet, rewarding them with key ministerial positions. This practice was seen by critics as a way to secure political support and consolidate his power within the ANC:

> "Many in what was called the 'Zuma camp' did not clearly understand what really was wrong with the previous leadership, because if they really did understand, they would not in fact be repeating many of the problems committed by the previous leaders. With the earlier leadership, when they manoeuvred and were wrong in this or that, you would invoke the constitution, pull them into line and they would back off, but the leadership after Polokwane were triumphalist and did not really listen

> when you invoked the constitution, instead they thought you don't understand power" (Motlanthe, in Harvey, 2012: 234).

Yet if the politicisation of cabinet is the legacy of the Zuma era, he and his allies do not solely take the blame. They were, in large measure, given substantial help by the 'Mbeki-ites' who resigned in droves, out of disagreement with the democratic outcome of their own party's conference:

1. Trevor Manuel (later reappointed in a different capacity)
2. Sydney Mufamadi
3. Mosioua Lekota
4. Geraldine Fraser-Moleketi
5. Alec Erwin
6. Essop Pahad
7. Ronnie Kasrils
8. Ngconde Balfour
9. Mosibudi Mangena
10. Thoko Didiza

The impact that this sudden and destabilising overhaul in government leadership in a single-party-dominated system which had, for a decade and a half by then, come to rely on cabinet continuity, will never be completely known, but must certainly be high. In short, ministers, who had been made all too important to executive leadership, suddenly uprooted themselves. If their reasons for resigning was anticipation of dismissal, then far better it would have been to wait for the new president, or his successor, Zuma, to dismiss them either in the lead up to or after the 2009 general election, so that there would have been a more orderly transfer of power and knowledge.

Zuma's relationship with some of his cabinet ministers was characterised by trust and camaraderie. Those who demonstrated loyalty to him, and his political agenda were often rewarded with continued appointments and support. This loyalty-based approach to governance sometimes resulted in a lack of scrutiny and accountability for some ministers, contributing to governance challenges and allegations of corruption. However, Zuma's

presidency was also marred by a series of cabinet reshuffles, some of which were controversial and raised questions about his leadership style. In particular, the abrupt dismissal of competent and experienced ministers, such as Finance Minister Pravin Gordhan in 2017, sparked public outrage and led to concerns about the stability of the country's economy and political environment.

Zuma faced allegations of corruption and state capture during his presidency, which further strained his relationship with some cabinet ministers and other members of the ANC. These allegations implicated some ministers in corrupt practices, leading to divisions within the government and the ruling party.

Overall, Zuma's relationship with his cabinet ministers was characterised by a mix of loyalty, political manoeuvring, and controversy. While he had a close-knit group of loyalists in his cabinet, his leadership style and decisions, including controversial cabinet reshuffles, contributed to internal divisions within the ANC and public dissatisfaction with his presidency. The controversies surrounding his relationship with cabinet ministers also played a significant role in his eventual resignation as president in 2018.

In this 3 June 2009 SONA, the newly inaugurated President Zuma announced ten priorities for his government, all centred on reducing poverty. He articulated the reasoning, in nearly poetic prose:

> "For as long as there are South Africans who die from preventable disease; For as long as there are workers who struggle to feed their families and who battle to find work; For as long as there are communities without clean water, decent shelter or proper sanitation; For as long as there are rural dwellers unable to make a decent living from the land on which they live; For as long as there are women who are subjected to discrimination, exploitation or abuse; For as long as there are children who do not have the means nor the opportunity to receive a decent education; We shall not rest, and we dare not falter, in our drive to eradicate poverty"

The diagnosis having been made, he spelled out a remedy and a timetable: together with his 35 ministers, Zuma's government would seek to carry out these ten priorities over the coming five years of the government's MTSF:

1. Reduction of job losses
2. Halting retrenchments following the Great Recession
3. Funding struggling companies through the IDC (Industrial Development Corporation)
4. Industrial policy interventions
5. Speed up economic growth
6. Build social and economic infrastructure and pursue rural development, including land and agrarian reform
7. Strengthen the skills and human resource base and improve the health profile of all South Africans
8. Fight against crime and build cohesive, caring and sustainable communities
9. Promote international cooperation
10. Pursue sustainable resource management and use

President Zuma also announced the building of a developmental state, improvement of public services, and strengthening of democratic institutions as the government's programme of action. In this regard, he highlighted five areas. Firstly, the creation of decent work. Secondly, the realisation of a more inclusive economy through preferential procurement, assistance for SMMEs (small, medium and micro enterprises), and promotion of BEE (black economic empowerment) implementation. In this regard, the president would also personally chair a BEE Advisory Council. Thirdly, the government would work towards greater inclusion of women, youth, and people with disabilities. A new minister in the presidency responsible for this function was amongst the new cabinet members announced by the president. Fourthly, the government would work towards reducing regulatory burdens on small businesses and move towards a single, integrated business registration system. Fifthly and finally, the president shared that his government would create four million job opportunities by 2014. The president's remarks gave further focus to education. On this score, his government would attain universal access to

grade R within five years, and work towards 95% enrolment in secondary schools within the same timeframe. The government would reduce HIV/AIDS infections, aiming for a reduction of 50% in new infections by 2011 and ARV access for 80% of those infected.

The SONA was also notable for its pronouncement of ministerial performance agreements, a historic first. "To ensure delivery on our commitments, we will hold Cabinet Ministers accountable through performance instruments, using established targets and output measures." These would take effect in July and carry over the five-year MTSF (mid-term strategic framework). Let us review the performance of the administration.

3.4. Assessing Zuma as President

President Zuma announced the government's first of ten priorities as the reduction of job losses. By the end of the first year, he reported in his second SONA, the government reached 97% of its target (creating 480,000 jobs against a target of 500,000 for 2009). This would prove the only period of growth as the subsequent three quarters saw a loss of 275,000 jobs.[5] The fourth quarter of 2010 did see a growth of 157,000 new jobs, which continued into 2011; seeing 438,000 new jobs. Despite job losses in the first quarter and the fourth quarter, 2012 likewise saw a net gain of 188,000 new jobs. 2013 was the best year on record for the Zuma presidency on job creation, as 653,000 new jobs were created. In 2014, an election year, 142,000 net new jobs were created. Overall, the Zuma first term set itself a target of 4 million new jobs; in the end, by my calculations using data in the 2014 StatsSA (Statistics South Africa) report (p. vii), it created an estimated 855,000 new jobs. The administration fell short of its own target by some 3.14 million jobs. To be sure, job-creation is a complex phenomenon and is beyond the control of one, two, or thirty-four individuals - a president, a point minister and the whole of the Zuma cabinet - no matter how powerful. Still, and precisely because this is not a new revelation, we ought to ask:

5 StatsSA, 2011 (May 3), 'Quarterly Labour Force Survey Quarter 1, 2011,' page vii. URL: https://www.statssa.gov.za/publications/P0211/P02111stQuarter2011.pdf.

How do these targets come about, and how can an individual who has been a deputy president agree to them when they are put forward by a cabinet? The ministers tasked with the target were not dismissed or demoted. The reason for this is simple and is discussed in Chapter 5, but for now suffice it to say that for all the emphasis on performance contracts, a close reading of the MPA (ministerial performance agreement) demonstrates that the ministers are actually unaccountable.

1. Halting retrenchments following the Great Recession
2. Funding struggling companies through the IDC
3. Industrial policy interventions
4. Speed up economic growth
5. Build social and economic infrastructure and pursue rural development, including land and agrarian reform
6. Strengthen the skills and human resource base and improve the health profile of all South Africans
7. Fight against crime and build cohesive, caring and sustainable communities
8. Promote international cooperation
9. Pursue sustainable resource management and use

Elements of politicisation, to the detriment of policy and bolstering of ministerial mediocrity include the expansion of cabinet (leading to disappearance of primacy and therefore of accountability) in order to placate allies as well as reshuffles (instead of dismissal), and removal of ministers (Nhlanhla Nene in 2015 and Pravin Gordhan in 2017) for political rather than performance-related reasons.

The seeds were sown within the very ascendance of Zuma to the presidency itself. Calland and Sithole (2022: 108) write that "In the run-up to … Polokwane [in 2007], as his campaign to exact revenge over Mbeki gathered momentum, Zuma put together a broad church of political interests and actors in an 'alliance of the walking wounded'…He promised them the world, though in reality, all he could really deliver on were *positions in the cabinet*." Reportedly disinterested in the details, he gave them a free hand in government (Calland and Sithole, 2022: 108).

During Jacob Zuma's presidency, he conducted several cabinet reshuffles that were both significant and controversial. Zuma was known for making frequent changes to his cabinet, which resulted in shifts in key ministerial positions. In October 2010, Zuma carried out a major cabinet reshuffle, which included the dismissal of his Finance Minister, Pravin Gordhan. The decision was met with criticism from various quarters, including the business community and investors, as Gordhan was widely seen as a competent and stable figure in the government's economic management. In May 2014, shortly after his re-election as president, Zuma conducted another significant reshuffle, which resulted in the removal of several ministers, including the Minister of Communications, Dina Pule, and the Minister of Police, Nathi Mthethwa. These changes were seen as a response to growing concerns about governance issues and allegations of corruption within the government.

In December 2015, Zuma made another controversial cabinet reshuffle, which led to the removal of the Minister of Finance, Nhlanhla Nene. The sudden dismissal of Nene, who was known for his prudent fiscal policies, sent shockwaves through the financial markets and resulted in a significant drop in the value of the South African currency. This move was widely criticised for undermining economic stability and investor confidence. In March 2017, Zuma executed a highly contentious cabinet reshuffle, which saw the dismissal of the Finance Minister, Pravin Gordhan, and the Minister of Public Service and Administration, Ngoako Ramatlhodi, amongst others. The removal of Gordhan, a respected figure in the international financial community, triggered widespread protests and further exacerbated political tensions within the ruling ANC. These reshuffles were often marked by controversy and political manoeuvring, with critics accusing Zuma of using cabinet changes to consolidate his power, reward political allies, and shield himself from accountability. The frequent changes also led to a perception of instability within the government and contributed to public dissatisfaction with Zuma's leadership.

Another dimension of the politicisation of the presidency is crucial to consider. From its removal of Mbeki several months

before the end of his term, Zuma's ANC politicised the presidency. It created a precedent that would later return to be used against Zuma himself. The ANC NEC notified the public and Jacob Zuma that he had until midnight on 14 February 2018, to resign or there would be a vote of no confidence in parliament the following day. This came after several days of back-and-forth negotiations between Zuma and the NEC. The voting process was agreed upon by the ANC and the opposition parties, and Zuma's removal was widely anticipated. The Gupta family, who were considered to be Zuma's associates, patrons, and reportedly the principal beneficiaries of the alleged corrupt institutions that had been formed during Zuma's administration, were the targets of a raid on several of their properties on 14 February 2018, by the Hawks, South Africa's elite crime-fighting team. Zuma expressed in an interview that he would not resign that day as he had done nothing wrong and felt that the party to which he had given so much had betrayed him. Many analysts thought that he was attempting to fabricate a story in which he was the victim, one that they felt was far from the truth. Zuma conducted a comprehensive media briefing just after 22:00 and made his resignation as president of South Africa public in this location.

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Chapter 4

Ramaphosa, Cabinet Government, and the Personal Presidency

As a consequence of Zuma's early removal, Ramaphosa is unique in South African history for having led his country for more than a year (February 2018 to May of the following year) without having first led his party in an election. Partly because of the dwindling goodwill, in 2019 he led the party to its lowest electoral return yet (230 seats, or 57.5% of the vote), in an election which had also seen the lowest voter turnout. Yet, it could be argued that this was as high as could have been achieved by the party, and that without Ramaphosa at the helm, the result would have been substantially worse. Indeed, the circumstances of his emergence are rooted in his personal ambition and in the hurried desire by the ANC to rid itself of the stench of the scandal-prone Zuma presidency (what Ramaphosa himself labelled the "nine wasted years").

Like Mandela, Ramaphosa emerged as president in equal measure for who he was as for who he was *not*. And like Mandela, he was elected to un-do wide-ranging damage done by a previous government. Yet Ramaphosa had none of Mandela's broad-base support because Zuma still had backers of his own, many within the NEC and Ramaphosa's cabinet. After all, what Ramaphosa was elected to un-do was not the work of an external enemy or force such as the white supremacist government had been for Mandela. Rather it was elements of his own party-movement, still at work and many could not be consigned to the political cold. In his first term, the political mandate was not overwhelming: in the 2017 ANC conference, 2,440 delegates voted for him against 2,261 who did not. This makes a 3.8% margin over Dr Nkosazana Dlamini-Zuma. It was the thinnest margin in the organisation's history since its unbanning. And, rightly or wrongly, Dlamini-Zuma had been seen as a proxy of her former husband - Jacob Zuma. Lacking space and aware of it, Ramaphosa seems to have resorted to crafting what may only be regarded as a personal presidency;

creating a parallel cabinet within the presidency, whilst forced to appoint political opponents into his cabinet (including Dlamini-Zuma herself).

Ramaphosa has also proven adept at accomplishing his personal objectives, surviving as party leader despite numerous challenges and scandals, while those of the state have been without gain. Occasionally, he has performed well under pressure, despite accusations that he is indecisive. Nowhere else was this more evident than in the dark days of the Coronavirus disease 2019 (COVID-19) pandemic. On the international stage, too, he has had moments of brilliance. To understand this better, a short biographical note is apposite.

In 1972, Cyril Ramaphosa enrolled in the University of the North, which is now known as the University of Limpopo, to study law. Ramaphosa placed a strong value on religion, which led to his active participation in the Student Christian Movement in both high school and college. He became a member of the South African Student Organisation and was involved in activism while attending the University of the North. In 1974, Ramaphosa was detained after planning and participating in a gathering honouring the overthrow of the colonial government and the triumph of the FRELIMO (Frente de Libertação de Moçambique) rebels in neighbouring Mozambique. He was kept in solitary confinement for 11 months. He continued to be an activist after being released in September 1975, becoming active in the Black People's Convention. Ramaphosa was detained once more in the months following the start of the Soweto Uprising (in June 1976), and he was held in solitary imprisonment for six months before being freed in February 1977. Ramaphosa graduated with a. BProc degree from the University of South Africa (Unisa) in 1981 after several years of part-time study and part-time work as a law clerk.

Ramaphosa was appointed legal counsel for the Council of Unions of South Africa (CUSA) not long after receiving his degree. His assistance in founding the National Union of Mineworkers (NUM) was requested by CUSA, and after the organisation's founding in 1982, he was appointed general secretary, a position

he held until 1991. In this role, Ramaphosa refined his leadership and organisational abilities while concentrating on raising the pay and working conditions for black miners. He participated in the formation of the Congress of South African Trade Unions (COSATU), a federation of trade unions, in 1985 while he was employed with the NUM. Additionally, he oversaw the 1987 NUM strike, which at the time was the biggest and longest strike in the mining sector of South Africa. The strike itself was seen as a success for proving the organisational strength of the union and for establishing the foundation for further discussions and gains, even though the NUM did not receive the wage raise and other concessions that they were seeking.

After the end of his term as Secretary-General of the ANC, Ramaphosa went into business where he accumulated a vast portfolio, under his holding company the Shanduka Group. By 2012, he had a major stake in Lonmin, a major player in the platinum mining sector. When a strike broke out in that company's North West province Marikana mine and 34 workers were killed by the police, it was widely speculated that Ramaphosa had played a direct role. A commission of enquiry was soon set up, operating from 1 October 2012 until 14 November 2014. Du Plessis and Plaut (2019: 226) write that:

> "In a series of phone calls and emails with government ministers and the police, Ramaphosa appeared to have encouraged a tougher stance against the miners. A commission of enquiry finally decided he could not have known how the police would react, or that they would launch such a brutal and poorly planned operation."

Ramaphosa was chosen to serve as Jacob Zuma's deputy during the ANC's leadership conference in December 2012, when Zuma was both the ANC's and South Africa's president. Ramaphosa was named the nation's deputy president by Zuma after he was re-elected as president in May 2014. Ramaphosa gave up many of his corporate responsibilities and sold his commercial holdings in order to prevent conflicts of interest. His biographer Anthony Butler offers an incisive exposition on the limiting nature of the position of deputy president. By virtue of Section 91(5) of the

Constitution (RSA, 1996), in which the deputy president - in rather open-ended fashion - can enjoy the least power within the cabinet, despite being the hypothetical 'number two' to the president. It is worth quoting him at some length:

> "A deputy president's day may include a sequence of funerals and memorial services for ANC stalwarts or public servants, and attendance at mind-numbing NGO [nongovernmental organisations] summits. There are B-grade questions to answer in the National Assembly, and National Economic Development and Labour Council (NEDLAC) steering committees to chair. On a bad day, there may be ceremonies at which the deputy president will award the Order of the Baobab, Silver Class, to a deserving senior citizen. The president's communications team will invariably claim credit for any successes that come out of the Union Buildings, even if they are in reality the deputy's accomplishments. Meanwhile, the deputy president will often be dispatched to perform complex tasks that will drain him of political capital. The president can blame his deputy for things that he is pretty sure are going to go badly wrong" (Butler, 2019: 487).

In the case of our subject matter, Butler reveals that:

> "Ramaphosa was also assigned tasks with no realistically attainable end goals, such as realising the employment and growth targets set out in the National Development Plan (NDP), putting into concrete practice the proposed elements of the infrastructure investment programme, and - worst of all - resolving some of the intractable problems confronting the parastatal Eskom. Here Ramaphosa had real interest in the sector, and some knowledge from his planning commission days, even if his president was always able - and entitled - to keep him on a short leash" (Butler, 2019: 488).

This explains the lack of expertise that Ramaphosa has shown towards how government operates, despite having been a

heartbeat away from the presidency for numerous years. Him being tasked with leading an 'Eskom war room' is meaningless when we consider Butler's insight that "In [the energy sector] sector … as in others, presidential power and vested interests circumscribed [then deputy president] Ramaphosa's influence" (Butler, 2019: 488). Finally going for the top job himself in 2017, Ramaphosa lacked a provincial base (unlike Zuma with KZN in 2007 and Mbeki with Eastern Cape before him). However, he had allies who did, including ANC SG Gwede Mantashe - whom he later made minister for mineral resources and energy - with the Eastern Cape and the SACP (South African Communist Party). (Butler also speculates that their relationship dates back to the 1980s in the NUM, with Mantashe in the role of protégé). In the electoral conference, DD Mabuza, then provincial boss of the ANC in Mpumalanga, also delivered his branches, which decided the outcome in Ramaphosa's favour, reportedly in exchange for appointment as deputy president in a future Ramaphosa cabinet (Van Heerden, 2020: 21).

When he took office, Zimbabwe had recently rid itself of Mugabe (though not ZANU-PF - Zimbabwe African National Union - Patriotic Front), ISIS (Islamic State of Iraq and Syria) still held territory in Iraq and Syria (and was expanding into Africa), the UK was grappling with the aftermath of its exit from the European Union (called Brexit), his country was in the BRICS (Brazil, Russia, India, China and South Africa) association (with him chairing its summit that very year); Xi Jinping would within weeks controversially secure the removal of term limits in the Chinese constitution; and more South Africans were on social media than at the start of any president, a fact that bears no mention other than the consideration it that must exert itself on the performance of any contemporary government - from the transmission of information and misinformation, to scandal, and, of course, its real-time influence on the popularity of the president and his cabinet. Ramaphosa's US contemporary, Donald Trump, had come to power on the back of its most commonly used manifestations, X (formerly Twitter). He would continue to use it in office, including to prod North Korea on nuclear disarmament, and Ramaphosa's South Africa on its then-planned land reform

policy of expropriation without compensation (EWC) and on rumours of white farm killings. The "New Dawn" - a short-lived name given to his government in the post-Zuma euphoria that pervaded in many quarters - was calculated to placate all, both black and white. There was much placating to do, but from the onset the president was faced with having to placate his country, which was stagnant, and his party, which had inflicted the damage. And from the onset, the president proved the futility of the deputy presidency; for in going about the work of his new role, he regularly expressed shock at the depths of the problems, some of which he had putatively been the task master on.

4.1. Ramaphosa as Head of the Executive

Ramaphosa's first cabinet (February 2018 to May 2019) consisted of 33 ministers - he had come in vowing to cut down the number of ministries, owing to what had been perceived as an bloated cabinet of his predecessor.[1] As he put it, ""It is critical that the structure and size of the state is optimally suited to meet the needs of the people and ensure the most efficient allocation of public resources. We will therefore initiate a process to review the configuration, number and size of national government departments."[2] Ramaphosa's rival in the race for the position of ANC president Nkosazana Dlamini-Zuma was appointed as minister in the presidency for planning, monitoring and evaluation, tasked with providing oversight of the other cabinet portfolios.[3] Ramaphosa's announcement came after two initial delays, in order to undertake more consultations.

In 2019, following the general election, the cabinet was further reduced to 28. There was a delay in announcing the cabinet, however. While every president up to then had named

1 Mokone, Thabo, 16 February 2018, 'Ramaphosa promises to cut bloated cabinet,' *TimesLIVE*. URL: https://www.timeslive.co.za/politics/2018-02-16-ramaphosa-promises-to-cut-bloated-cabinet/.
2 Ibid.
3 *Mail and Guardian*, 26 February 2018, 'Cyril's compromised compromise cabinet,' *Mail and Guardian*, https://mg.co.za/article/2018-02-26-cyril-ramaphosa-cabinet-reshuffle-reaction-anc-da-eff-ifp/.

their cabinet a day after inauguration, Ramaphosa's was delayed due to controversies over whether David Mabuza would come back as deputy president (Mabuza insisted on being cleared by the ANC's Integrity Committee before being sworn in) and whether Pravin Gordhan would remain a minister in light of adverse findings by the Public Protector against him.[4] In the second cabinet, Ramaphosa merged departments with similar responsibilities: Trade and Industry was combined with economic development; higher education with science and technology; environmental affairs with forestry and fisheries; agriculture with land reform and rural development; mineral resources with energy; human settlements with water and sanitation; and sport and recreation with arts and culture. In 2021, he resuscitated the ministry of water and sanitation, separating it from human settlements. Importantly, in 2021 he abolished a separate ministry of state security and took direct control of state security, with the department only having a deputy minister. He did, however, announce himself as a minister of state security. The function was taken over by that ambiguous entity we addressed before: "the presidency." Additionally, Dr Sydney Mufamadi, chair of a High Level Panel, was appointed as National Security Adviser, a position left vacant after the retirement of Charles Nqakula; Mufamadi to provide "support" to the president and the National Security Council (re-established in March 2020). In 2023, he introduced the minister in the presidency responsible for Electricity.

In his relations with his cabinet, Cyril Ramaphosa is known for his diplomatic and consensus-building approach to governance. As a seasoned politician, former trade unionist, and successful businessman, he has established a reputation for being pragmatic and measured in his decision-making. During his tenure as president, Ramaphosa has emphasised the importance of collective responsibility and team collaboration within his cabinet.

4 Thamm, Marianne, 5 August 2021 , 'Ramaphosa takes direct control of security agency after years of profligate rogue political operations,' Daily Maverick, URL: https://www.dailymaverick.co.za/article/2019-05-29-ramaphosa-cuts-cabinet-from-36-to-28-ministers-half-of-whom-are-women/.

He sought to create a cohesive and efficient team that could work together to address South Africa's pressing challenges, such as high unemployment, economic inequality, corruption, and public service delivery, yet had to accommodate factional opponents. The personal presidency is evident in the president's decision to, in a sense, keep his enemies close. As Clement Manyathela of *Eye Witness News* wrote at the time: "The much-criticised Bathabile Dlamini remains in the corridors of power, moving to The Presidency, where she will work under Ramaphosa's eye."[5] Ramaphosa's leadership style is often seen as more inclusive and consultative compared to his predecessor, Jacob Zuma. He has shown a willingness to engage with different stakeholders, including cabinet ministers, opposition parties, civil society, and business leaders, to find common ground on various issues. What were the pronounced issues for Ramaphosa as he took his new role? His first SONA, on 16 February 2018, laid out some eighteen issues his administration would give priority to the highest of any president (indeed almost twice the average of ten). These were as follows.

Table 4.1. Ramaphosa's Priorities (2018 SONA).

(1) Job creation
Job creation, especially for the youth, who would now be at the "centre" of economic policy. A jobs summit and a new measure, the YES [Youth Employment Service] programme, were to be introduced. Agriculture would ostensibly create 1 million new jobs, and tourism 700,000. Mining too would provide opportunity.
(2) Growing domestic and foreign investment
Through a planned investment conference.
(3) Industrialisation and reindustrialisation
By growing manufacturing capacity, reindustrialisation, localisation, SEZs [special economic zones], preferential procurement, and tough action against established businesses that resisted transformation.

5 Manyathela, Clement, 27 February 2018, 'Ramaphosa Fires 10 Ministers, Mabuza Appointed Deputy,' *Eye Witness News*. URL: https://ewn.co.za/2018/02/27/cyril-ramaphosa-fires-10-ministers-david-mabuza-appointed-deputy.

(4) Radical economic transformation
Radical economic transformation through growing the economic participation and business ownership by black women.
(5) Small, medium and micro enterprises and entrepreneurship
Growing small, medium and micro enterprises and entrepreneurship through incentives that included setting aside 30% of public procurement funds for SMMEs, incubating small businesses, and setting up an innovation fund for start-ups, and expanding opportunities for people with disabilities.
(6) Agricultural reform
Including expropriation without compensation.
(7) Tourism
Promoting tourism and doubling the number of jobs in the sector from a baseline of 700,000.
(8) Digitalisation and participation in the fourth industrial revolution.
Ensuring equitable digitalisation and participation in the Fourth Industrial Revolution (4IR) through setting up a commission.
(9) International trade
International trade, especially with Africa and BRICS countries in light of the then upcoming summit.
(10) Minimum wage
Introducing the minimum wage in May of that year.
(11) Drought state of disaster
Drought response in the affected provinces of Eastern Cape, Northern Cape and Western Cape.
(12) Education
Education, particularly by introducing tertiary studies for students coming from homes that made R350,000 or less per annum, as promised by President Zuma the previous year, and completing the Accelerated Infrastructure Delivery initiative by the end of the 2019 financial year.
(13) Social grants
Social grants, with the president declaring that he would "personally allay fears of any disruption to the efficient delivery" and "will take action to ensure that no person in government is undermining implementation deadlines set by the court."

(14) Health
Healthcare, including ensuring ARV access to 2 million more HIV/AIDS infected individuals by December 2020, and introducing the NHI Bill and initiating some of its projects beginning in April 2018.
(15) Crime
Crime reduction, through implementing the Community Policy Strategy, the Youth Crime Prevention Strategy, and resourcing police stations.
(16) SOEs
Reforming state-owned enterprises, especially Eskom.
(17) Corruption
Rooting out corruption more broadly by resuscitating investigative and prosecution agencies.
(18) Service delivery
Improvements to public service delivery, with the president committing that "During the next few months, I will visit every national department to engage with the senior leadership of all our government departments to ensure that the work of government is effectively aligned."

The SONA was notable for another feature: a simultaneous distancing from the Zuma presidency, while paying homage to it. Ramaphosa characterised South Africa's recent past as one of corruption, dwindling mistrust between the government and the public, but also, in a manner not characteristic of any other SONA (even in the dominant-party South Africa), he ran through a long list of specific areas in which the Zuma's government had performed well. Numbering five in total, these include the creation of 3.2 million work opportunities; measures taken to reduce the cost of living ("the cost of living has kept rising," he nonetheless conceded); the payment of social grants to more than 17 million people ("these…have elevated the lives of our people and are valued by our people," Ramaphosa said); improvements in matric pass rates, from 60.6% in 2009 to 75.1% by 2018; the expansion of higher education enrolment from 500,000 students in 1994 to over 1 million by 2018; improving business activity and commodity prices. He underscored these in a way that could ambiguously be referring both to Zuma and to the transfer of power from Zuma to himself: "Investor confidence is on the rise,"

and "There is a greater sense of optimism among our people," he said.

Amongst the 18 priorities set, twelve can be declared as failures, while five are a mixture of failure and success, and two are a success. The failures tended to be goals that were delegated to ministers without accountability mechanisms and shall be dealt with in the next chapter. These are: job creation, growing FDI, reindustrialisation, radical economic transformation, entrepreneurship, SOEs, the minimum wage, crime, agricultural reform, and tourism. The areas where the president had mixed results include education (subsidisation continues but is dwindling, and NSFAS - National Student Financial Aid Scheme - in crisis), corruption (resuscitation of some relevant institutions, but Zondo Commission not yet followed-through), health (ARV rollout succeeded, but NHI was delayed), and the 4IR (commission completed its work, but recommendations are yet to be implemented in full). Finally, the areas where the president succeeded are social grants and growing trade with the BRIC (i.e., only Brazil, Russia, India and China).

Noticeably, where the president succeeded or achieved mixed results were areas which were at crisis point and/or over which he also showed that he intended to have direct oversight, or at least signal explicit prioritisation. On the 4IR, for example, he set up a commission of which he was chair (the Presidential Commission on the 4IR), but whose implementation he undermined by delegating it to the minister of communications and digital technologies, and through a diluted ministerial performance agreement. The importance of leading from the front, and the results it can yield, is also evident on the social grants, which continued to be paid out to recipients, in part thanks to the executive force that the president demonstrated in his SONA, in which the president said that he would like to "personally allay fears of any disruption to the efficient delivery" of social grants and "will take action to ensure that no person in government is undermining implementation deadlines set by the court." (The ministry responsible for this item, social development, had recently been headed by a factional opponent, Bathabile Dlamini, which may have also allowed the president the

necessary political space to be frank and decisive to a degree that he cannot with ministries such as public enterprises and mineral resources and energy.) Finally, exports to BRIC also grew, owing to a multiplicity of factors, from $14.06 billion in 2018 to $14.5 billion in 2019 - or R185.21 billion (2018) to R210 billion (2019). Over the Ramaphosa presidency, however, the trade deficit with the BRIC countries has grown from R119 billion to R248 billion.

A uniquely Ramaphosa experience is to have been president during a state of global pandemic which compelled him to institute a national state of disaster. The period may be looked back to for the three lessons it offers: the president's power and the public's willingness to see it put to use and the incumbent's reluctance in using it fully. In response to the pandemic, President Ramaphosa declared a national state of disaster in March 2020 and established the Ministerial Advisory Committee on COVID-19 to provide guidance on the response. The government implemented widespread testing, contact tracing, and isolation measures to identify and contain the spread of the virus. He regularly addressed the nation to provide updates on the pandemic and communicate public health measures. The government has launched public awareness campaigns to educate the public about COVID-19 prevention, symptoms, and the importance of vaccination. Challenge was minimal, demonstrating the widespread support that the president had. The rare legal challenge, notably *One Movement South Africa NPC v President of the Republic of South Africa and Others (CCT 158/23) [2023] ZACC 42; 2024 (3) BCLR 364 (CC); 2024 (2) SA 148 (CC) (4 December 2023)* (North Gauteng High Court, Pretoria 2020), was met with dismissal by the bench. In the court's opinion, the President's Disaster Management Act 52 of 2002 (RSA, 2002) powers had been exercised correctly, within broad limitations of rights, but had been justified, regulated and only temporary. We could also surmise that his direct interest in social grants shone through with the social relief of distress (SRD) grants. Nevertheless, corruption was rampant, with some of the resources meant for combatting the pandemic being used for personal gain.

State failure under the president was also demonstrable in another development which took place during the later parts of the

pandemic, but which was symptomatic of the tenuous control that Ramaphosa had over cabinet, and which it in turn had over the affairs of state. These were the 2021 July riots. In their book *Eight Days in July*, Qaanitah Hunter, Kaveel Singh and Jeff Wicks report that pro-Ramaphosa informants held the view that the riots were aimed at undermining the president. One of these is Zizi Kodwa, then deputy minister for state security, who said that "[T]he plan was just to destroy everything else, there must be agitation and remove this government," and that "the master plan was nothing else but to unseat Ramaphosa" (Hunter, Singh and Wicks, 2021: 175). Going further, Kodwa claimed that the instigators "appeared to be former MK [*Umkhonto we Sizwe*] operatives, some of whom worked in the Security Cluster" (Hunter et al., 2021: 176).

"But how was it allowed to happen? The blame game in the Security Cluster had begun with accusatory fingers pointed between the SSA (State Security Agency), SAPS (South African Police Service) and even the army. Politicians blamed securocrats, who in turn subtly pointed the blame at politicians. A comment by then Defence Minister Nosiviwe Mapisa-Nqakula initiated the quibbling when she told Parliament that intelligence reports of attacks on malls and shopping centres had been received too late" (Hunter et al., 2021: 176).

She apportioned blame to a lack of intelligence, but then State Security Minister Ayanda Dlodlo vehemently rejected any assertion that there had been an intelligence failure, insisting that intelligence had been shared long in advance. Her deputy at the time, Kodwa, too, acknowledged publicly that even before Zuma had been imprisoned, intelligence had pointed to a big plot for domestic instability and plans for a popular revolt.

In investigating the assertion that the unrest was an intelligence failure, Hunter et al. (2021) mined hundreds of documents, briefings and reports from across the Security Cluster that pointed to warnings of what was to come. There had been a clear warning from the intelligence community of what lay ahead before Zuma had been detained. But police complained that the intelligence that they had received was sloppy and, at best, "told us what we already knew" (in Hunter et al., 2021: 177). However,

Minister Dlodlo maintained that the unrest was a resultant failure by police. This is where SSA sources pointed fingers at CI (criminal intelligence) in relation to the failures in detecting organised crime that had been carried out during the looting, which included the pillaging of malls and targeting of ATMs (Automated Teller Machines) (Hunter et al., 2021: 177). Considering the accepted failure of the Security Cluster to predict or prevent the recent "attempted uprising", it was expected that former state security minister Ayanda Dlodlo and former minister of defence and military veterans Nosiviwe Mapisa-Nqakula would be replaced.[6] However, despite the apparent relative efficiency demonstrated by the SSA in comparison to the department of defence, it was only Dlodlo who was axed from government, while Mapisa-Nqakula was made to swap positions with the speaker of the National Assembly, Thandi Modise.

4.2. Conclusion: Reflections on the Personal Presidency

When Ramaphosa came to power, there was a lot that needed fixing, almost too much to achieve in one term. This was due to several reasons, some structural and global in nature and beyond anyone's control, but many were due to the shortcomings of his predecessors. Unfortunately, like most of them, he had no willingness or political ability to utilise the powers at his disposal. Mandela had been an occasional executive but was ultimately hands-off the details, Mbeki, defined by brilliance but incapable of institutionalising and passing it on, and Zuma a great politician but too scandal-prone, distracted and a disinterested administrator. Any one of these criticisms can be levelled against Ramaphosa with some accuracy. True to his consensus-builder image, he seems to possess his predecessors' best and worst qualities. Consensus-building is an important function of the role, but he seems to carry it into excess. This is reflected in his

6 Thamm, Marianne, 5 August 2021 , 'Ramaphosa takes direct control of security agency after years of profligate rogue political operations,' Daily Maverick, URL: https://www.dailymaverick.co.za/article/2019-05-29-ramaphosa-cuts-cabinet-from-36-to-28-ministers-half-of-whom-are-women/.

list of priorities when he came into office, more than any of his predecessors. This is indicative of the unenviable inheritance left to him by *all* of his predecessors in some form or another; but it also speaks to the lack of optimisation that defines the modern presidency. A president does not need to have a vision - although when executed effectively it is a useful signalling device - but in its absence they do need to have a grasp of the detail. This is essentially the dichotomy between an Angela Merkel and a Barack Obama. The commitments made by Ramaphosa, by their volume and vagueness, reflect a lack of both. While employment is highlighted, the proposed responses are vague, platitude-ridden, and the task itself bereft of ownership. Yet the individual who uttered the promise and is meant to oversee its fulfilment is one of only a handful of citizens who have held the position of deputy president. Clearly, then, the cabinet system is less than optimal.

In 2021, the personal presidency showed signs of moving towards a super presidency when the president, without naming himself minister of state security, took more direct oversight over it by not naming a minister in August 2021 after removing Ayanda Dlodlo. Yet the president must go further and name himself minister of that, or another, ministry. Ramaphosa's biographer, Butler (2019: 545), writes that "A successful president regenerates and expands the authority of his own office. Ramaphosa has not yet pushed the limits of his personal power." The assumption of a ministry would not only benefit the chosen portfolio, but the president and the nation as a whole. Or, at a minimum, the country would know whether it has had a good president - rather than one who claims victories and distances himself from failures - when they seek re-election, or that of their party.

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Chapter 5

Why are there Ministers and Deputy Presidents?

The president, and by extension, ministers, is granted executive authority by Section 85 of the Constitution of the Republic of South Africa, number 108 of 1996, hereafter referred to as the Constitution (RSA, 1996), yet the concept of 'executive authority' is not defined anywhere. To be sure, some responsibilities are spelled out, albeit in a way that is clearly not exhaustive. Particularly s85(2)(a) to (e), reads that:

> The President exercises the executive authority, together with the other members of
>
> the Cabinet, by—
>
> (a) implementing national legislation except where the Constitution or an Act of Parliament provides otherwise;
>
> (b) developing and implementing national policy;
>
> (c) co-ordinating the functions of state departments and administrations;
>
> (d) preparing and initiating legislation; and
>
> (e) performing any other executive function provided for in the Constitution or in national legislation.

Nevertheless, Section 84(1) presents a catch-all for executive authority when it says that "The executive authority of the Republic is vested in the President." This is the case with many constitutions, including that of the United States wherein Article 2(1) stipulates that "The executive Power shall be vested in a President of the United States of America."

A notable feature of Section 85(2) in the South African constitution is its provision that in exercising executive authority, the president must do so "with the other members of Cabinet." This may seem to imply a requirement for consensus. However,

this is not the case. As the constitution does not place a threshold for what "together with" means, and no president has ever interpreted this to mean that all, or the majority, of his ministers (or the deputy president) must agree to a measure in cabinet committee. Typically, this has, correctly, been read to mean that the president must consult with cabinet colleagues on major issues, especially those relevant to specific departments. This is because the president is *head* of the cabinet, in whom executive authority is vested. And while the full scope of that authority is not spelled out, some of the powers that the officeholder is expressly granted is appointing cabinet members as well as allocating them their responsibilities. Why, then, do ministers exist? In sum, to help the president fulfil certain constitutional requisites, as well as whatever else they may wish to accomplish which is not, at the same time, against the Constitution or legislation. In terms of Section 92(1), only the president may assign ministers their powers and functions. Moreover, ministers may not do their own delegation, as Section 97 reads:

> The President by proclamation may transfer to a member of the Cabinet—
>
> (a) the administration of any legislation entrusted to another member; or
>
> (b) any power or function entrusted by legislation to another member

And while, in terms of Section 99, ministers may assign any power or function that is to be exercised or performed in terms of an Act of Parliament to a member of a provincial Executive Council or to a Municipal Council, such assignment only takes effect upon proclamation by the president. Additionally, it is only the president who has the power to appoint, demote, suspend, or dismiss Directors-General, a fact reaffirmed by the *Masetlha* case in the High Court (Masetlha v President of the Republic of South Africa and Another (CCT 01/07) [2007] ZACC 20; 2008 (1) SA 566 (CC); 2008 (1) BCLR 1 (3 October 2007)).

The Constitution creates five specific ministers, these being the ministers of finance (s224(2)), local government (s139(2)),

administration of justice (s175(2)), defence (s201(1)) and policing (s206(1)). Beyond these, the president is empowered to create as many ministers and deputy ministers as desired. In doing so, however, the president is required to appoint only individuals who are members of the National Assembly but may appoint up to two ministers who are not.

Though not constitutionally required, the South African system operates through cabinet committees and clusters. The former consists of weekly meetings of all cabinet members, chaired by the president, while the latter consists of issue-specific groups of ministers and has less frequent meetings. The clusters, five in total, are as follows:

1. **Economic Sectors, Investment, Employment and Infrastructure Development**. Co-Chaired by the minister of mineral resources and energy and the minister of tourism, and consisting of the ministers of agriculture, land reform and rural development; communications and digital technologies; cooperative governance and traditional affairs; employment and labour; finance; forestry, fisheries and the environment; higher education, science and innovation; human settlements, water and sanitation; international relations and cooperation; resources and energy; the ministry in the presidency; the ministry in the presidency for women, youth and persons with disabilities; police; public enterprises; public works and infrastructure; small business development; state security; trade, industry and competition; and transport.
2. **Social Protection, Community and Human Development.** Co-chaired by the ministers of health and of basic education, and consisting of the ministers of agriculture, land reform and rural development; basic education; cooperative governance and traditional affairs; employment and labour; ministry of forestry, fisheries and the environment; health; higher education, science and innovation; human settlements, water and sanitation; justice and correctional services; ministry in the presidency; ministry in the presidency for women, youth and persons with disabilities; public works and infrastructure; ministry of small business development; social development; sport, arts and culture; transport.

3. **Governance, State Capacity and Institutional Development**. Co-chaired by the ministers of cooperative governance and traditional affairs and for public service and administration, and consisting of the ministers of cooperative governance and traditional affairs; finance; home affairs; justice and correctional services; the ministry in the presidency; ministry in the presidency for women, youth and persons with disabilities; the ministry for the public service and administration; and the minister of public enterprises.
4. **Justice, Crime Prevention and Security**. Co-chaired by ministers of defence and military veterans and police, and consisting of the ministers of finance; home affairs; international relations and cooperation; ministry of justice and correctional services; police; ministry in the presidency; ministry in the presidency for women, youth and persons with disabilities; ministry of social development; and the ministers of state security; and of small business development.
5. **International Cooperation, Trade and Security**. Co-chaired by the ministers of sport, arts and culture and forestry, fisheries and the environment, and consisting of the ministers of communications and digital technologies; ministry of defence and military veterans; ministry of finance; ministry of forestry, fisheries and the environment; ministry of international relations and cooperation; ministry of justice and correctional services; mineral resources and energy; the ministry in the presidency; ministry of state security; and the ministers of tourism; and trade, industry and competition.

Clusters foster an integrated approach to governance that is aimed at improving government planning, decision-making and service delivery. The objective is to ensure proper coordination of all government programmes at national and provincial levels. However, there is currently no verdict on whether the cluster system is a success. The system has several glaring weaknesses. The first is that they seem to be arbitrary. Given the understanding that there is a broad cross-cutting nature to issues facing government - why else would the minister of small business development be in a cluster on justice, crime prevention and security? - cabinet committee as a whole seems necessarily

to be the best forum, in isolation, to deal with all issues being tackled. In other words, the cluster system gives a false sense of prioritisation while actually balkanising policy effort. A second weakness of the system is that it runs the risk of creating a lack of accountability, by making more than one point-person (i.e., a minister) responsible for their specific issue areas. Rather than ensuring coordination, in other words, it may create too many overlaps such that ministers can plausibly claim that an outcome is the responsibility of another minister or the cluster as a whole.

5.1. The Politics of Ministerial Responsibility and Accountability

Constitutionally, ministers are accountable to parliament and have responsibility to the president. According to Section 92:

> (1) The Deputy President and Ministers are responsible for the powers and functions of the executive assigned to them by the President.
>
> (2) Members of the Cabinet are accountable collectively and individually to Parliament for the exercise of their powers and the performance of their functions.
>
> (3) Members of the Cabinet must—
>
> (a) act in accordance with the Constitution; and
>
> (b) provide Parliament with full and regular reports concerning matters under their control.

In terms of their conduct, Cabinet members and Deputy Ministers are required by Section 96(1) to act in accordance with a code of ethics prescribed by national legislation and, importantly, according to Section 96(2) may not:

> (a) undertake any other paid work;
>
> (b) act in any way that is inconsistent with their office, or expose themselves to any situation involving the risk of a conflict between their official responsibilities and private interests; or

(c) use their position or any information entrusted to them, to enrich themselves or improperly benefit any other person.

Sections 102(1) and 102(2) on the other hand stipulate the consequences of motions of no confidence on ministers, stating that:

(1) If the National Assembly, by a vote supported by a majority of its members, passes a motion of no confidence in the Cabinet excluding the President, the President must reconstitute the Cabinet.

(2) If the National Assembly, by a vote supported by a majority of its members, passes a motion of no confidence in the President, the President and the other members of the Cabinet and any Deputy Ministers must resign.

Thus, the career incidents of ministers are inextricably tied to the president: it is the president who appoints them, assigns them their functions and powers, and it is to their political fate that they are tied. Having been appointed by a specific president, they cannot outstay them. A ministry is thus an inherently political office. A president will typically consult with members of the cabinet on decisions that require political discretion or require cabinet support.

Contrary to the constituency-based system of the previous dispensations, the manner in which MPs (members of parliament) become elected in the post-1994 order is by being on a party list. This produces a power dynamic within political parties about who is included on the list and can also be determined by factionalism. Typically, the appointment of individuals to the party lists, and to ministerial portfolios once they have, has been for the purposes of appeasing their powerful interests in absence of single constituency. As seen in Chapter 5 of this book, the politicisation of cabinet has taken on increased levels since the 2008 removal of Mbeki, with the simultaneous mass resignation of his ministers and the subsequent combination of bloating and reshuffling in

the Zuma era. The cabinet consequences of the partisan rationale encouraged by the party-list system were evident from the onset, however. A standout case is that of minister Stella Sigcau, responsible for public enterprises (1994 to 1999) and then public works (1999 to 2006). When Bantu Holomisa, by then a deputy minister in the new government, gave testimony to the Truth and Reconciliation Commission about her role, as the erstwhile prime minister of Transkei, in receiving a bribe from Sol Kerzner in exchange for permission to operate his casino business in the homeland, it was Holomisa who was disciplined, not Sigcau. Dr Mpumelelo Mkhabela argues convincingly that this episode was an early warning of things to come in the story of ANC and corruption. He writes:

> "In circumstances where the new party in government had committed itself to instilling new values, the ANC nevertheless proved to be lenient to Sigcau when she faced allegations of corruption. Strangely, the ANC also showed itself to be accommodating of malfeasance that had taken place under the old regime. It, in effect, took ownership of the Sigcau scandal and of a homeland feud of which it was not part. It then went on to castigate the person who had made the allegations and to defend the "accused" in a matter in which it had no skin" (Mkhabela, 2022: 16).

Sigcau is revealing in another sense as far as president-minister relations are concerned. She showed early on how a minister's role could be inflated because of their perceived political influence (and thus importance to the president and the party), regardless of performance in their actual duties. Kader Asmal, Mandela's minister of water affairs (1994 to 1999) and Mbeki's minister of higher education (1999 to 2004) provides useful insight in this regard. In his view, of his seventeen ANC fellow ministers in the GNU, there were those of high quality while others were "merely placemen pandering to powerful constituencies within the broad church of the ANC" (in Mkhabela, 2022: 16). Amongst the latter, he singles out Sigcau (who was of royal lineage):

> "[T]he princess from Pondoland and Minister of Public Enterprises, was the pick of the bunch…Brought in by the ANC to represent the powerful traditional leadership element of the movement, Sigcau contributed hardly anything of value to the cabinet in her 10 years of service" (Asmal and Hadland, 2011: 207).

Mkhabela observes that even in declining health, she had ministerial tenure, which ended when she died on 6 May 2006. In his tribute to her, Mbeki described her as a "noble human being" (Mkhabela, 2022: 20). Herein lie the seeds of the ANC's present proneness for corruption. Though never corrupt himself, "Mbeki positioned those who valued material things as the victims of history and capitalism. His analysis thus stripped them of the agency to resist corruption and pursue their material desires by legitimate means and thereby create their own history" (Mkhabela, 2022: 39).

Both on the performance of their functions and in the exercise of their power, the diagnosis is clear, then; there has been oversight without experience and thus management without leadership in the president-ministerial relationship. This is a far cry from the historic use of this office, when, in the service of narrow and white supremacist interests, the head of the national executive could be looked to as the driver of policy - not because he was articulate, though some certainly were, but because they led from the front. This is further evident when we consider ministerial performance agreements (MPAs).

5.2. The Weakness of Ministerial Performance Agreements

Since the Zuma era, ministers have been 'contracted' through MPAs, which are publicly available. Another weakness of the MPAs is that the ministers must accomplish 80% of tasks associated to them as ministers, and, crucially, there are no consequences for non-performance. Even then, a close reading of those completed under the Ramaphosa presidency (for the duration 2019 to 2024), reveals how limited and misleading they actually are. They lend further proof to the argument being made in this book. So vacuous

are they, that only a principal who has never performed the work of being minister themself, and who has incentive to 'look the other way,' would agree to them. Their basic form is reproduced in Table 5.1. In the first four columns, the minister will express the intervention they will make to obtain an objective, as well as how they will be measured (indicators) for the target they set and against the present situation (baseline). This seems like a practical way of conducting government. The scheme falls apart when we reach the fifth column however, under which the ministers are meant to describe their personal responsibility. It is here that we find the business of government to be an orphan. The vast majority typically present such vague individual commitments that the whole plan is left hanging. Indeed it might seem deliberate: set a big goal (which the president will proffer on during his State of the Nation Addresses), while at the same time resting assured that you cannot technically be blamed for it not being realised because your own commitment (Minister's Responsibility) was so vague and modest.

Table 5.1. Replication of the template for ministerial performance agreements.

Interventions	Indicators	Baseline	Targets	Minister's Responsibility
Description of measures to be taken by government as a whole.	Description of how the outcome will be measured.	Description of current measure, or indication of newness of target.	Target to be accomplished.	Description of the steps to be taken by minister for which they will be accountable by 2024 or otherwise indicated.

This is demonstrable when we consider two major issues facing South Africa: unemployment and the failing state-owned enterprises. Let us turn to these issues and ask whether they find proper expression in the MPAs such that we can hold any minister to account based on what they have agreed to.

5.2.1. On Jobs: Big Goals, Little Ministerial Responsibility

In his MPA, the minister of trade, industry and competition (DTIC) has a target of ensuring unemployment comes down to between 20% and 24% by 2024, which entails creating two million new jobs and achieving 2.3% economic growth annually. Those are the targets - all quite clearly stated and their attaining desperately needed. What, then, is the minister's responsibility? According to the MPA, on the same table, the minister of DTIC will "contribute" to the "review of macroeconomic policy" and "provide impact analysis of fiscal options on manufacturing and broader economic growth" (Ramaphosa and Patel, 2019: 4). These are hardly the sort of hands-on measures one would expect to bring about the proposed outcomes.

On the pursuit of reindustrialisation, the same scheme is utilised. The minister commits to a 3% growth in GDP contribution by priority sectors, increasing exports by 4%, finalising master plans (a particularly deflating target, which merely means more documentation), SEZs (12 in total, with no dates given), ensuring 20 products are locally manufactured, and achieving transformation through diversifying industry owners (one of the key pillars, it will be recalled from Chapter 6, for President Ramaphosa). Here the minister commits only to carrying out "[an] inquiry into historically concentrated priority sectors" (Ramaphosa and Patel, 2019: 11). In pursuit of such a critical goal, the minister only commits that they will "Oversee work to ensure improved access to affordable financing for SMMEs by NEF [National Employment Fund]" (undated, unspecific), and "Contribute to the development and implementation of localisation programmes on SMMEs" (Ramaphosa and Patel, 2019: 9). On the other important measure of growing youth startups (which would be integral not only to employment creation but also amount to the proactive adoption of the 4IR), one of the president's key stated objectives, the minister only commits to "exploring measures" (Ramaphosa and Patel, 2019). Another big goal for this ministry is the attraction of "R1.2 trillion overall investment *commitments* [not even actual investments] by the end of administration" - here the minister will only "provide support for annual investment conferences, sponsorships, and

follow-ups on matters raised at the conferences" (Ramaphosa and Patel, 2019: 11). In pursuing a "Transformed, representative and inclusive economy which prioritises women, youth, and persons with disabilities," the minister commits to working towards preferential procurement by "establishing a baseline on procurement for the department for FY2020/21 and set targets for 2021/22." No other commitment is made, by the head of the department of *trade, industry and competition*.

A sympathetic reading might remind us that it is the responsibility of other ministers (particularly of small business development in this case) to help realise these objectives. But that raises an even louder alarm: it points to duplication (the product of overlapping ministries as a result of the Zuma expansion), but also to poor management. For if the president can task numerous ministers with the same mandate (a right only he enjoys per Section 91(2) of the Constitution), he would surely be aware that he is setting them, himself, and the rest of the nation, up for failure. Unless he were lacking in ministerial experience enough to not see this.

5.2.2. Who Will Fix Our SOEs?

In their MPA, the shortest of the entire lot, the minister of SOEs sets the target of "ensur[ing] that SOEs contribute to masterplans by end of 2021" and that "SOEs return to profitability" (Ramaphosa and Gordhan, 2019: 3), in addition to "revitalising" 15 industrial parks, increasing EAF (energy availability factor) to 80% by "Stabili[sing] governance and sort [*sic*] operational and maintenance inefficiencies at Eskom" (Ramaphosa and Gordhan, 2019: 4). Here again we find big, lofty, and nationally desirable goals. But we find, on the contract, that there is no specific responsibility for this minister - it is blank on the corresponding rows which should provide the minister's responsibilities. Similarly on the goal to "roll out Transnet rolling stock" there is no indicator, and no deadline. Gordhan's counterpart at the DMRE (department of mineral resources and energy), Mantashe, is specific but his commitments hardly seem achievable, including the one to "unbundle Eskom and establish a transmission company by 2024" (or to create over 900,000 jobs in the sector

by the same deadline [Ramaphosa and Mantashe, 2019: 4]). Another portfolio that, in theory, would have major interests in the health of SOEs is that of communications and digital technologies. The MPA for the minister is, however, silent on all SOEs under that portfolio, including the Post Office, the South African Broadcasting Corporation (SABC), and the Independent Communications Authority of South Africa (ICASA). Instead, per the signed MPA, the minister will focus on reducing current cost of data by 50% (South Africa's position amongst the most data-expensive in the world had hardly changed by the end of 2023), organising 10 "activations" (events) to promote constitutional awareness, coordinating the integration of the 4IR Commission report "into the action plans of the departments throughout the three spheres."

We thus exist in an era in which ministers either evade responsibility for three of the most crucial challenges facing the country: the economy, energy and our state-owned enterprises. They, and their principal, seem incapable of setting realistic, actionable and owned targets. The remedy, as this book has argued, is for the principal themself to walk in the minister's proverbial shoes. Our presidents must become ministers in their own cabinets, so that they can better hold their own cabinets accountable, while at the same time taking direct control, as ministers, of those areas that they deem most crucial and on which they wish to be judged. This may sound impractical, but it had been the way of doing things in South African government for much of the twentieth century, from Louis Botha through to De Klerk. And if those seem like archaically simpler times, the book draws on contemporary examples to showcase how leaders of equally or more complex countries *today* or in the very recent past (five to ten years) have led from the front, as both presidents/prime ministers and ministers of key portfolios. It is to this South African precedent and global present that this book turns in the next three chapters.

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Part 2

Super Precedent

Intermission

Having described the faults of the present and the recent past, this part goes backwards to peel open the precedent that has been wasted by the democratic order. History offers many lessons for the present. But it is a complicated matter. What sort of lessons are we to learn? More to the point of this book, what sorts of lessons can we learn about policymaking and addressing present-day challenges from the very past which produced those challenges? The self-evident lessons from a history of colonisation and apartheid are negative lessons. They are about what not to do. The sentiment typically goes, "there may have been no rights but there were at least jobs, the streets were clean, infrastructure was maintained, the electricity worked, and crime was lower." This is of course a distortion of history, held by people across the demographic lines that make up the country - for a variety of reasons. For Princeton University historian Professor Jacob Dlamini, in his excellent opus *Native Nostalgia*, the phenomenon has become a cliché, such that "it has become all too common for enterprising journalists to find, at each election, someone, usually a pensioner or hard-up citizen, to say just how miserable things are today - compared to the past" (2009: 6). This was in 2009, and since then prominent figures - indeed prominent pensioners - such as Helen Zille and Professor Jonathan Jansen have joined those seeing apartheid as having had some redeeming qualities. This sentiment, for Dlamini, "reveals that South Africans are not agreed on the meaning of their past."

A sibling of apartheid nostalgia is what we may term 'moral relativism,' which tells us not to judge historical figures by the standards of today. Society functions through changing attitudes. Regarding one actor, we will encounter in Chapter 6, Saul Dubow reminds that "Smuts came of age into a world where talk of national self-determination and freedom was largely limited to whites. His long career came to an end when mass democracy was on the rise, when decolonization was on the march, and

as political freedoms and rights began to be seen as indivisible and universal."[1]

The debate over their place in South African history is playing out in real time. It showcases South Africa's uncomfortable, contradictory, ambiguous stance on these past leading figures. On one hand it is replete with ironies. For example, the entry into the library of the National Museum of Military History in Johannesburg describes Smuts as "the world renowned South African Field Marshal" while describing JBM Hertzog and DF Malan as "Afrikaner Nationalists" in the same plaque. Yet Smuts held and constantly aired views not too different from those of Hertzog and Malan. As Dubow reminds us, "[as] prime minister, Jan Smuts could not accept blacks as political equals seeking rights of citizenship. Throughout his career, he preferred to think of the 'native problem' in abstract terms … Like many paternalistic and "moderate" whites, he was inclined to defer problems of race equality to the future."

On the other hand, it also reminds us of the important distinction between history and heritage. Whereas the latter is about praising or finding virtue in historical figures or episodes and is often conditioned by the prevailing political mood of the moment while the former is about dispassionate reading and distilling the facts as they are (or as best they can be with the evidence available). History can have its uses for the present, other than the opposite outcomes of heritage (which may be considered a kind of collective nostalgia) and dry analysis. History can serve as prologue, warning us about what to avoid (as earlier hinted). The past is also a revelation of possibility and human capability, for both good and bad. Particularly concerning the Union and apartheid eras, it shows the capacity efficiency in the pursuit of segregated development. It is then precisely for this reason why the arrangements and practices which made them work must be interrogated; truth commissions operate on this basis. But we must go further. Undoing yesterday's harm

1 Dubow, Saul. 2019 (May 18). 'South Africa's Racist Founding Father Was Also a Human Rights Pioneer,' *New York Times*. URL: https://www.nytimes.com/2019/05/18/opinion/jan-smuts-south-africa.html (accessed 30 December 2022).

requires today's leaders to understand how it was conscientiously committed by their undemocratic predecessors in the past, so that they can reclaim efficiency from fascists and dictators and become Plato's ideal national leaders for all and not only some: saviours and helpers.

Headlines such as "Mbeki hails 'ruthless' Matanzima at funeral" (*Sunday Independent*, 23 June 2003) remind us that heritage and history can sometimes overlap.[2] In his eulogy, the president (perhaps simultaneously bound by the dictates of statesmanship, social politeness, national reconciliation, and electioneering) told the more than 5,000 gathered at Matanzima's funeral that the now-late leader who had ruled the province's predecessor Transkei republic with an iron fist between 1963 and 1985 that "the best tribute to the Thembu chief would be education and the eradication of poverty." Mbeki was not alone. Living up to the mantra of not speaking ill of the dead: "Most speakers at the funeral praised Matanzima for bringing development to Transkei and for his courage in fighting for recognition of traditional leaders."

Nor is Mbeki alone in finding some redeeming features in a problematic past. Dlamini's thesis partially plays out in EFF deputy leader, Floyd Shivambu when he writes that: "It is now accepted that the corrupt tender system, pervasive destruction of existing infrastructure, and failure to expand infrastructure inherited from the apartheid government after 1994 have contributed mainly to municipalities' deteriorating infrastructure balance sheet."[3]

2 Mati, Lucas (23 June 2003). 'Mbeki hails 'ruthless' Matanzima at funeral,' URL: https://www.iol.co.za/news/politics/mbeki-hails-ruthless-matanzima-at-funeral-108598 (accessed 4 January 2022).

3 Shivambu, Floyd. (27 September 2021). 'Infrastructure development in local government linked with cogent industrial policy is the only path to viable municipalities,' https://www.iol.co.za/sundayindependent/analysis/infrastructure-development-in-local-government-linked-with-cogent-industrial-policy-is-the-only-path-to-viable-municipalities-dd987d8e-19aa-4d24-83dd-51001dfb8ee9 (accessed 4 January 2023).

Yet another sibling of apartheid nostalgia is what we may term 'authoritarian envy' regarding other regimes today. Again, the sentiment tends to go as follows: Country X (typically China or the United Arab Emirates, but also increasingly Rwanda) may not be a democracy, but that allows them to get things done, unlike us with our useless rights. In South African social media, these are frequent. In Chapters 6 and 7, we will grapple with the challenges posed by learning from a painful past, while those associated with learning from other states are dealt with in Chapter 8. But suffice it to say, that the argument of this book is not a return to apartheid, nor one for increasing the powers of the president. It is merely about making optimal use of our constitution, which, incidentally, achieves both the objectives of a strong executive and a democratic state. We can thus adapt in a mechanical and administrative, rather than normative or ethical sense, governance insights from the union and apartheid eras.

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Chapter 6

First Ministers: Louis Botha, Jan Smuts and Barry Hertzog

The period from 1902 to 1910 has a number of parallels with that between 1990 and 1994 in the annals of South Africa. Both came against a recent history of instability, both were characterised by a great deal of compromise between groups of men (and women in the latter transition) who had regarded the other as irreconcilable enemies, and both culminated in new states with which neither group would be entirely happy. This is where the similarities end. Both would go on to enjoy different reputations of efficiency. While not every constituency would regard the Botha and Smuts governments as models of efficiency, they were regarded as effective in their chosen priority areas though the wisdom of these priorities was questioned by many sections in society. The black populations were dismayed by their repressive nature, and the Afrikaner Nationalists by their subservience to the British Empire and its ways, and by the budding socialists (under the guise of the Labour Party) for their adherence to the commercial interests in mining and industry. The men at the helm were regarded as talented titans who put their talents to an unworthy cause (Van Wyk, 2019). They accomplished their key objectives; central to this was their creation of an optimal power structure for themselves in office. They were not averse to taking up the key ministries for themselves - land for Botha, war, the interior, native affairs and mines for Smuts - and leading from the front as ministers in their own governments.

As far as administrative affairs were concerned, the 1909 Constitution served the same purpose as that of 1994: to consolidate different territories previously administered by independent presidents (the independent South African Republic and Orange Free State, later Orange River Colony) as well as prime ministers (Cape of Good Hope and Natal). In their place would be a single Prime Minister, who would, in keeping with the British

tradition of formal informality, be appointed by the Governor-General, on behalf of the king, based on which individual they thought commanded enough support in the parliament to form a government. He in turn had the power to appoint four Administrators to govern the new provinces of the Cape, the Orange Free State, Natal, and the Transvaal. The first Prime Minister would be Louis Botha, at the helm between 1910 and 1919. Upon his death, he was followed by Jan Smuts, who was succeeded by JBM Hertzog in 1924 before coming back again in 1939. He was ultimately ousted in the election of 1948, which was won by the Nationalists and their coalition partner the Afrikaner Party. In this chapter, we deal with these first three prime ministers - leading nine cabinets in total over the thirty-eight-year history of the pre-apartheid Union, during which they always held a cabinet ministry alongside being prime minister - and then turn to the post-1948 set in Chapter 7.

6.1. The Prime Minister of Agriculture

"FARMER. WARRIOR. STATESMAN." Those are the words etched into the equestrian statue of Louis Botha outside the South African parliament. They showcase not only the range of his career and interests, but also, quite accurately, the order in which he saw himself. Throughout his peacetime rule as the national leader, agriculture, above all else, preoccupied his mind.

After the 1899 to 1902 Second Anglo-Boer War Botha played a leading part (Meintjes, 1970; Simpson, 2021). By 1908, elections had been held in the four territories and governments formed, the leading members of whom negotiated the formation of a union, to be a dominion territory of the British empire. For the Transvaal were L Botha, JC Smuts, SW Burger, JH de la Rey (*Het Volk* Party MPs), HC Hull (National Association MP), GH Farrar, JP Fitzpatrick, HL Lindsay (Progressive Association MPs); for the Orange River Colony were MT Steyn (Former state president and vice-president of the Convention), A Fischer, JBM Hertzog, CR de Wet (all *Orangia Unie* MPs) and A Browne (Constitutionalist Party MP); for the Cape of Good Hope were J de Villiers, JX Merriman, JW Sauer, FS Malan, HC van Heerden, GH Maasdorp and JHM Beck (all South African Party MPs); LS Jameson, EH Walton, T

Smartt, JW Jagger (all Progressive Party MPs) and WEM Stanford (Independent MP for Tembuland); for Natal were R Moor, EM Greene, T Hyslop, CJ Smythe, WB Morcom and T Watt (all cabinet ministers or people with cabinet experience). Three Rhodesian representatives were also present, but only as observers: WH Milton, CPJ Coghlan and LL Mitchell. De Villiers was elected president and Steyn was elected vice president, both unanimously. The convention proceeded in three meetings, which took place between October 1908 and May 1909. The first session took place from 12 October to 5 November 1908 in Durban. The second from 23 November 1908 to 3 February 1909 in Cape Town. The last occurred from 3 to 11 May 1909 in Bloemfontein. Jan Smuts "was the outstanding delegate…to a large extent the Constitution of the Union of South Africa was his creation" (Liebenberg, 1984a: 389; see also Du Pisani, 2019, Kriek, 2019a; Labuschagne, 2019). Out of the convention, the parties agreed that there would be a House of Assembly which would have 121 members, consisting of 51 seats for the Cape, 36 for the Transvaal, 17 for the Orange River Colony, and 17 for Natal. There would be equal representation in the Senate, with the draft Constitution stating that the number would be reviewed in ten years' time (Section 24).

The draft South Africa Act was taken to Britain by a delegation headed by the convention president, De Villiers, in 1909. The most important criticism that the convention process and the Constitution it produced has received is that it was exclusionary of black people (they would only be allowed to vote in the Cape, though this too would later be taken away under Hertzog's administration). This certainly came up once the draft reached England. This so-called colour bar restriction was heavily criticised in the British parliament, and the prime minister Herbert Asquith even appealed to the South Africans to remove restrictions on the black franchise, but this was to no avail. Otherwise, the Union of South Africa Act, as it passed as an Act through both Houses of the British parliament, was exactly as it was forwarded after the South African Convention. It was assented to by King Edward VII on 20 September 1909. By royal proclamation, the establishment of the Union was set for 31 May the following year.

The Constitution did not expressly establish the office of the Prime Minister. Rather, the executive power was vested in the king, who in turn was represented in South Africa by a governor-general, who would in practice appoint the leader of the largest party as prime minister for a term of five years (there being no term limits). That prime minister would in turn put forward a cabinet, merely for endorsement, by the governor-general. The number of ministers was limited to ten. Importantly, this cap was only on ministers but not departments; as many departments as deemed necessary could be created, and a single minister could head more than one department. All the ministers had to be members of either house of parliament, with the prime minister able to appoint non-members, provided they would be able to take up a seat within a period of three months. During the transitional period between the establishment of the Union and the first election (essentially between May and September of 1910), there needed to be a government in place. The British government appointed Herbert Gladstone, then Home Secretary and son of the Liberal prime minister William Gladstone, to be the first governor-general. He in turn, was granted leeway to appoint a politician whom he judged to be the most widely supported in the country as prime minister, who would then appoint the transitional cabinet. The two contenders were Louis Botha and John X Merriman. Merriman was the more experienced of the two, with a reputation for political skill and moral stature. Botha, also regarded as an upright politician, was less experienced and was much younger, having had a limited political career spanning only a few years. He was, however, the preferred candidate of the reconciliatory British government - he was an Afrikaner, in which community he was highly regarded, and he was supportive of unity between the two white demographics in the country. Thus, soon after Gladstone arrived in Cape Town, on 17 May 1910, he invited Botha to form a government, doing so on 21 May. "Botha drew his first cabinet from the ruling parties in each of the four colonies: the Cape was given four ministers, the Transvaal three, the Orange Free State and Natal two each" (Steyn, 2021: 166). "As the South Africa Act provided for only ten ministers in charge of departments, Botha then appointed another Natalian Minister without Portfolio." Natal was represented by only one minister.

Botha and Smuts' South African Party was often characterised by their enemies as "servants" of the British empire (Mansergh, 1962: 56). In the interim ministry, Botha assumed both the premiership and the ministry of agriculture for himself. Two future prime ministers, Smuts and Hertzog, were also in his cabinet, with Smuts given two ministries, mines and the interior, and would also add a third one, defence, upon the establishment of that entity in 1912. Hertzog obtained the ministry of justice and would soon have native affairs added as a separate portfolio in the post-election cabinet. (Upon his resignation, that portfolio was directly assumed by the prime minister himself, who would now run both agriculture and native affairs.)

The new prime minister announced 15 September 1910 to be the date of the first general election. What were the issues in the election? In actual fact, there was not much that differed between Botha's South African Party (SAP) and the other major contender, the Unionist Party, led by Leander Starr Jameson. Although the Unionist Party drew its support mainly from English-speakers, it had a similar platform to the SAP:

> "[T]he policies of the two parties did not differ radically: both wished to...form one South African nation; both wished to encourage cooperation between the Afrikaans-speaking and the English-speaking groups; both wished to foster immigration from Europe; both wanted South Africa to have its own army; neither wished to sever ties with Britain, and neither had a clearly formulated policy towards the other races" (Liebenberg, 1984a: 386).

The language difference manifested in another, more important way, however. Unionist leader Jameson expressed complete agreement with Botha's policy but he was of the view that "Botha's government included certain people who should have no place in it" (in Liebenberg, 1984a: 386). One such individual was the minister of justice, whom Jameson and many other English-speaking people found totally unacceptable, due to his Orange Free State educational policy, which sought to compel English-speaking children to learn Dutch. However, according to historian Richard Steyn, "The row over Hertzogism had given

its architect such prominence that the Free State would not have tolerated his exclusion from the Cabinet. … On the other hand, taking Hertzog into the cabinet would lose Botha many English votes. Deciding that the latter was the lesser of two evils" (Steyn, 2021: 168). This would later become the cause of the biggest fight within the cabinet. For now, it was time to campaign, and for the time being Botha and Herzog were on the same team. The SAP won the September election, obtaining 67 seats (six more than needed in the 121-seat House of Assembly). The main opposition, the Unionists, got 39. At a distant third were Labour, with 4 seats. The remaining single seat was filled by an independent. Embarrassingly, the prime minister had lost his own seat in Pretoria East, and had to contest again in the safe seat in Losberg near Potchefstroom.

Was Botha the most suitable individual for the role of prime minister? As mentioned, he had limited political experience and in his noted biography, *Louis Botha: A Man Apart*, Steyn argues that "In a more mature society, the Transvaal's premier's lack of education, the brevity of his parliamentary and administrative experience, and his indifferent health would probably have disqualified him from the highest political office" (Steyn, 2021: 163). A contemporaneous observer, whom Steyn helpfully cites, had this to say: "General Botha is a man with elements of greatness in his character, but without the tact and training required to carry him comfortably through the troubles of managing a difficult party. He has so far got through them, but it has frequently been pain and grief to him. His health has suffered. There is little doubt that he would be happier on his farm, or as Minister of Agriculture without any further responsibilities" (Fyfe, 1911 quoted in Steyn, 2021). These shortcomings notwithstanding, he proved eager and up to the task, as should be evident by the voluntary assumption of the agriculture portfolio, which was central to his vision: "They may call me a politician or a statesman - but in reality I am a farmer, and nothing else," he once said (Steyn, 2021: 162). Indeed, so hands-on was he that while in France in 1909, he purchased three rams for his department of agriculture in 1909, and then proceeded to the Netherlands where he purchased Friesian cattle. His government had four tasks that lay ahead (Steyn, 2021: 169).

First, reconcile the Afrikaans- and English-speaking peoples, fresh from a war. Second, combine the administration of four provinces. Third, maintain control over a black population, three times as numerous as whites. Finally, keep "a balance between Boer agriculturalists and the great industries of the Rand, with their competing demands for cheap labour" (Steyn, 2021: 167). Land administration and output was central to most, if not indeed all, of these objectives.

To pursue both objectives, the prime minister sought to bridge the gap between the Afrikaners and the English in the country. The policy would allow the attainment of both 'conciliation,' which would in turn win British support for his aspiration of annexing Swaziland (Eswatini), Basutoland (Lesotho), and Bechuanaland (Botswana) into the Union, which would also allow for the eviction of the black population from 'white areas'.

The reduction of white unemployment through farm work was an obvious policy solution (Schirmer, 2000: 1): "[This] concern was perhaps the most pressing as it represented the clearest manifestation of white poverty, the reduction of which was a central demand of the Afrikaans speaking voters who put the Botha led South African Party into power." Smuts believed that 'a million sterling now judiciously spent on small irrigation works all over the country will not only solve some of our most pressing problems, but lead to a new era in agricultural development and production in the future' (in Schirmer, 2000: 2). Botha's department began to channel state revenue into supporting agriculture, "so that rural poverty and urban unemployment would be reduced simultaneously. Progressive farmers would also receive benefits from such a policy direction and the strategy was therefore adopted because it so neatly tied up all the policy priorities of the day" (Schirmer, 2000: 1). He also worked to establish agricultural research institutions to support the growth of the sector (Schirmer, 2000: 1; Liebenberg, 2013). These paid off, as seen in Figure 6.1. Noticeable, also, is the dip from around 1919, the year of Botha's death which was only reversed in the mid-1920s. To what extent the two events are correlated may be subject to question, but it does raise the question of whether, or

how much, his demise had an impact on South Africa's output, especially on livestock and field crops.

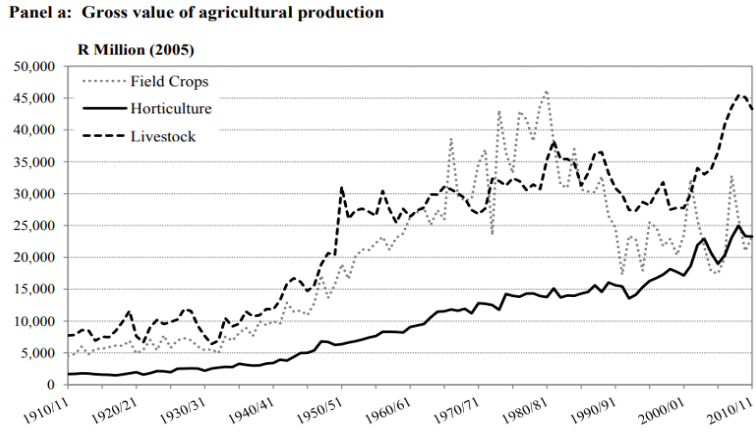

Figure 6.1. Gross value of South African agricultural production, 1910-2010 (in millions of rand). Source: Liebenberg (2013: 20)

Botha's system had a dark side, too, however. We turn to it in the next section.

6.1.1. Ministers Matter: Cabinet and Land

Collective cabinet responsibility was yet to be fully developed when the Union was formed. Thus strong-willed cabinet members, particularly Hertzog, would occasionally make public statements or commit actions that were contrary to the rest of the cabinet's position and in line with the policy set by the prime minister. In 1912, while the prime minister was in London, Hertzog made a judicial appointment without consulting him, a fact which angered Botha who deemed the candidate unsuitable. Another row took place in May of 1912 when the finance minister, Hull, decided to resign in protest after the minister of railways incurred heavy expenditures without the approval of the cabinet as a whole, or even the finance ministry. This caused disunity in the cabinet, which Hertzog took advantage of to advance his cause of Dutch-English parity in education. While this was regarded by some as

a sensible proposal in principle, the method of campaigning and rhetoric used by the minister were inflammatory. There were other issues too, on which there was vehement disagreement between the two men: "The Free State's presence in the Union gave Hertzog a national platform from which to denounce the capitalism of the Randlords and object to immigration from Britain on the grounds that it would lower Afrikaner workers' wages" (Steyn, 2021: 173). When Hertzog would not resign, Botha tendered his own resignation to the governor-general, who instead invited Botha to form a new cabinet, this time without Hertzog. In early 1914, Hertzog launched his new party in Bloemfontein, to be called the National Party.

A 'problem' on which the two men did agree, but differed on solutions, was the allocation of living space towards black people. As shall be seen, Hertzog's policy was to give more (in the long-term view that the natives may live entirely removed from the white people), whereas Botha's was to give less (in the view that the natives could be exploited for labour). This matter straddled both their portfolios, and it was in his dual positions as prime minister and minister of agriculture that Botha's view prevailed. Seeing black people in areas that were dominated by white people, he interpreted these as encroachments (Liebenberg, 1984a: 393). This set the country on a path towards the enactment of one of its most lamented and influential pieces of legislation: the Natives Land Act of 1913. The Act's proposals were essentially not a novel idea. They had sprung from the segregationist proposals of the Milner-appointed Lagden Commission (1903 to 1905) and the Native Affairs Committee of 1912, which had actually been headed for a time by Hertzog. In particular, the Ladgen report had recommended that white and black people be kept apart from one another both politically and geographically. As such, land would have to be demarcated on the basis of race, with 'locations' to be set up for the native black population (Steyn, 2021: 183). Under Botha's leadership, however, the 1913 law exceeded the Lagden commission's recommendations. One of the aims of the Act was to grow black mining labour by stripping that subset of the population of economic opportunity in the agricultural sector (Steyn, 2021: 184). On paper, the act made

provision for the ownership and occupation of land by white and black people across South Africa and defined the nature of African land tenancy. In practice, it was aimed at unequal, and certainly disproportional, distribution of land between the two groups. The Act was appended by a schedule, which stipulated certain parts of the country to be regarded as native areas. Those 'scheduled areas' were the equivalent of 9 million hectares, which represented less than eight per cent of all land in the country (Steyn, 2021: 184). What are we to make of these developments, and, importantly, what was the prime minister's role in them?

Sol Plaatje, in his *Native Life in South Africa*, describes how "during the first year of the Union, it would seem that General Botha made an honest attempt to live up to his London promise" (Plaatje, 1916: 25). The 'London promise' was a tacit commitment made by Botha to guarantee the general welfare (though not equality) of the native population. In the early days, the prime minister, somewhat in keeping with the promise, had appointed Burton, a Cape minister, as minister of Native Affairs and had also released the Zulu monarch, King Dinuzulu, from Robben Island and restored his 500-pound a year pension. Plaatje reports that

> "[I]n further deference to the representatives of the Native Congress, in which they were supported by Senators the Hon. W.P. Schreiner, Colonel Stanford, and Mr Krogh, the Union government gazetted another Bill in January 1911, to amend an anomaly which, at that time, was peculiar to the 'Free' State: an anomaly under which a native can neither purchase nor lease land, and native landowners in the 'Free' State could only sell their land to the white people" (Plaatje, 1916: 26).

Two further positive steps were the elimination, at Native Affairs Burton's initiative, of eliminating two measures which had previously existed in Natal: a system of forced labour and prohibition of public meetings without government permission (Plaatje, 1916: 26).

Matters came to a head in 1912, however. Early in that year, a Squatters' Bill, which Plaatje deems particularly "drastic," was

gazetted, to the chagrin of the newly formed Native National Congress, which sent a delegation to Minister Burton in Cape Town. Burton granted them an audience and gave his word that the proposed law would be withdrawn. Another development was the gazetting of a bill which would propose to legalise, in a single district in the Orange Free State province, the sale of property from a white man to a black native. The objective of the bill was only to allow black people to inherit land from uncles. These measures raised the ire of Afrikaner nationalists. As Plaatje puts it: "[A]gainst such small attempts at reform, proposed or carried out by the Union government in the interest of the natives, granted in small instalments of a teaspoonful at a time - reforms dictated solely by feelings of justice and equity - ex-Republicans were furious" (Plaatje, 1916: 26). A widespread campaign - with speaking tours, the press and in churches - painted the Botha government as being too weak on segregation and English: "[At] small meetings in the country districts resolutions were passed stating that the Botha administration had outlived its usefulness. These resolutions reaching the press from day to day had the effect of stirring up the Dutch voters against the ministry, and particularly the head" (Plaatje, 1916: 27).

They achieved their objective, as soon "General Botha's sound policy began to weaken." The prime minister moved Burton from Native Affairs to Railways and Harbours, and then appointed the extremist Hertzog, "of all people in the world" to borrow from Plaatje, to the former portfolio (alongside keeping his justice portfolio). The new minister immediately got to work, "travelled up and down the country lecturing farmers and their folly in letting ground to the natives; the racial extremists of his party hailed him as the right man for the post, for, as his conduct showed them, he would soon 'fix up' the natives" (Plaatje, 1916: 28). On some of his travels, he was joined by the minister of Agriculture, Botha, who too was active in "denouncing the Dutch farmers for not expelling the natives from their farms and replacing them with poor whites," which "became a regular ministerial campaign against the natives, so that it seemed clear that if any native could still find a place in the land, it was not due to the action of the government" (Plaatje, 1916: 28). In its own

way, this was (*herrenvolk*, not majoritarian) democracy at work: "The Bill which proposed ameliorate the 'Free' State cruelty … was dropped like a hot potato" (Plaatje, 1916: 28).

Then, for reasons of his language policy, came the dismissal of Hertzog, in August 1912. The news was received with anger by his millions of supporters (who all had a vote and would express themselves in the next election). Notes Plaatje: "In the face of this, the government's timidity was almost unendurable. They played up to the desires of the racial extremists, with the result that a deadlock overtook the administration" (Plaatje, 1916: 29). In Plaatje's view, this caused two bills to be "indecently hurried through parliament." These were the Immigration Law (targeted against Indians and other Asian sections of the population), and the other was the Natives Land Act, intended at securing farmland for white people at the expense of the native population. Thus, the agricultural prime minister's longest-lasting legacy was in no other area than land expropriation and consolidation in white people's hands.

6.2. Jan Smuts: Interior, Finance, Defence and Native Affairs

Like Grover Cleveland in the US, Jan Smuts is the only person in his country to have assumed leadership of the executive in non-consecutive stints. In him, the first premiership (1919 to 1924 seems like a rehearsal for the second (1939 to 1948): confronting internal rebellion, world war, international statesmanship and political defeat at home due to the race question. Throughout both periods, Smuts was both prime minister and minister of two portfolios - defence and native affairs at first, and then defence and external affairs in the second. (He had also simultaneously served as minister of mines and the interior between 1910 and 1915, and then defence and finance from 1915 to 19 under Botha.) The defence portfolio had always been important to him, in part because he founded it.

For about two years after its founding in 1910, South Africa did not have a national military. The Defence Act of 1912 made provision for a permanent force, as well as a part-time active

citizen force, and a citizens' reserve. Military training would be compulsory for eligible men, who would either join the Union Defence Force, or rifle clubs that were akin to the commando system that had existed in the Boer republics. Smuts, already minister of the interior and of mines, "with great energy" went about building the Union Defence Force (UDF) in order to "enable the country to participate in the defence of Empire" (Steyn, 2015: 175).

In July 1913, a white miners' strike on the Witwatersrand mines turned violent. "In the rioting, shops were looted, the Johannesburg railway station set alight and the office of *The Star* newspaper, regarded as the mouthpiece of the mine owners, burnt down. Twenty-one people died and 47 were injured" (Steyn, 2021: 186). The police were unable to control a mass meeting that turned violent. Here, Smuts' simultaneous command of multiple ministries proved advantageous. Being both minister of mines and defence, he would be able to respond directly. At this time, however, the country still had to rely on imperial troops, as the South African army was still practically non-existent (the Boer republics had relied on voluntary citizen armies in the *commando* system). Eventually prime minister Botha and minister Smuts, both military men and bitter enders of the 1899 to 1902 Second Anglo Boer War, were forced to capitulate to the striking workers and signed the 'Bain Treaty.' It was a humiliating experience, and Smuts said it was one of the hardest things he had ever had to do and vowed that he would never find himself in a similar situation again (Steyn, 2021: 186).

Just a few months later, a Natal coalminers' strike spread to railway workers in Pretoria, and gold miners of the Witwatersrand (where a general strike involving some 20,000 workers of all races had been declared. Richard Steyn observes that:

> "This time, Smuts was ready. He called up units of the newly mobilised UDF, ordered burghers in the rural districts to protect railway stations and other strategic points, and sent General Koos de la Rey and his men into Johannesburg to train their guns on Trade Hall, the strikers' headquarters" (2021: 186).

The miners realised that they were outgunned and quickly capitulated. Smuts, who was not entirely pleased with this outcome and wanted to take no further risks, rushed nine migrant trade union leaders by special train to Durban, where they were put on a ship, the *Umgeni,* bound for Britain. Having both the departments of defence and the interior, effectively the precursor of the present-day department of home affairs, must have enabled Smuts to accomplish this with ease. Still, the deportation was not legal, thus Smuts had to argue his case before parliament, which eventually indemnified the government's actions.

6.1.2. Smuts at the Helm: World War, Rebellion, and Race Relations

August 1914 saw the outbreak of World War I in Europe, which roped in much of the world. After the assassination of Archduke Franz Ferdinand (effectively the crown prince of Austria-Hungary) and his wife Duchess Sophie, by a Serbian nationalist in Sarajevo on 28 July, his uncle, Emperor Franz Joseph, soon sought retribution, to which Russia began mobilising, ready to defend its smaller ally Serbia. In return, Germany, an ally of Austria-Hungary, offered a 'blank cheque' - Germany would come to Austria's defence no matter what. In turn, Russia called on its western ally France to join in on its side should Germany enter the war. The Germans were perfectly happy to go to war with their long-standing rival; however, the most effective way to do so was to go overrun Belgium and invade France through its less-defended north-eastern border. Britain was obligated by treaty to be a guarantor of Belgian neutrality and security and was brought into the war by the German plan. International law was especially important to the British who, as a trading empire, were reliant on some of its key principles and conventions, including freedom of navigation of the seas. The network of obligation was extended not only to allies in Europe, but also the colonies in Africa and Asia. British entry compelled South Africa to enter the conflict.

The British soon requested South Africa to invade German South West Africa (SWA) (now Namibia). On 10 August, "after intense discussion among members of a divided cabinet, South Africa informed the British government that its request would be met. But parliamentary approval had first to be obtained, and only

volunteers would be used in any invasion of South West Africa" (Steyn, 2021: 190). At this time, the UDF consisted of two arms: the permanent force led by Brigadier-General HT Lukin, and the active citizen force led by Commandant-General Christian F Beyers. Neither commander outranked the other; both reported directly to the Minister of Defence. Beyers disliked the Union Defence Act being used to realise the ideal of national statehood by integrating Englishmen and Afrikaners under arms.

In the House of Assembly, 92 to 12 voted in favour of invading SWA, while the vote was 24 to 5 in the Senate. On 14 September, parliament adjourned and that same night the first UDF troopships departed for the coast of SWA; Beyers resigned on 15 September. "At a cabinet meeting on 26 October, Botha announced to his colleagues that he would have no truck with treason but would go into action himself against Beyers" (p. 210). He took personal command of the UDF forces and invaded. Smuts would later be tasked with instituting martial law in 1914 (October). With German SWA defeated and virtually annexed by July of 1915, Smuts was soon compelled to turn his attention towards German East Africa (Tanganyika), doing so in 1916. With his core objectives accomplished in January 1917, he returned to South Africa before setting off for Britain to join the Imperial War Cabinet. During this time, he began to be regarded as seeing himself too big for South Africa. He retorted that:

> "South Africa is not too small for me, and … every drop of blood and every bit of courage and determination I have in me will go to the service of my country. Whether it is here in the Union, whether it is away in East Africa, or whether it is in the Council Chamber of the Empire, I pray that I may have the strength to do my duty" (in Smuts, 1952: 179-180).

This was incredible foreshadowing of the global career he was to embark on, straddling both his home country and the world, and always advancing the interests of the British empire, to the perception that he neglected the domestic situation. With his time in the Imperial War Cabinet expiring, he was upgraded into the War Cabinet of Britain itself. British Prime Minister David Lloyd George pushed through for an exception to be made to the six-

member limit to make Smuts its seventh member. With Germany and its allies defeated by the beginning of 1919, Smuts took part in the Paris Peace Conference, which platformed negotiations to determine the post-war order. Though not playing a leading role - that was reserved for the Big Four: Woodrow Wilson (US), Lloyd George (UK), Georges Clemenceau (France), and Vittorio Orlando (Italy) - Smuts did influence the agenda in informal ways, and through Lloyd George. At the beginning of the conference, he published a pamphlet titled '*The League of Nations - A Practical Suggestion*,' which argued that the League of Nations, a Wilson proposal, to be the main item on the agenda of the conference. Moreover, he argued for a broader mandate for the League than was being entertained at the time:

> "It is not sufficient for the League merely to be a sort of *deus ex machina* called in in very grave emergencies when the spectre of war appears: if it is to last, it must be much more. It must be an ever-visible living, working organ of the policy of civilisation" (in Smuts, 1952: 215).

While the League never became this, another institution since established has come close: the United Nations (UN). Smuts would be the only person to sign the founding documents of both the League and the UN. Where Smuts did succeed, however, was in securing South African rule ('mandate') over German South West Africa.

After Louis Botha's death in 1919, "Governor-General Buxton now called upon Smuts to form a new government" (Steyn, 2021: 267). "Reluctantly, Smuts accepted, aware of the 'colossal responsibility' that he had inherited, but also keenly aware of his own temperamental deficiencies. At his first party caucus meeting, he warned his colleagues that, unlike Botha, he had 'neither tact, nor patience'; they would have to take him for what he was worth" (p. 267).

But like Botha, he did carry on with the act of running a cabinet ministry, particularly that of Native Affairs.

Historian and political sociologist Dr Bongani Ngqulunga observes that before assuming the premiership in 1919, Smuts had

never particularly dealt with what was then referred to as "native policy" (2022: 7). He notes, however, that he picked up the ministries of defence and native affairs, both of which would be relevant in his tenure. "It was in his capacity in this latter portfolio that Smuts introduced two pieces of legislation that expanded upon the notorious 1913 Natives Land Act by entrenching territorial and institutional segregation" (Ngqulunga, 2022: 7) - these being the Native Affairs Act of 1920 (creating an all-white Native Affairs Commission and entrenching "cultural" segregation) and the Native (Urban Areas) Act of 1923 (which codified residential segregation in urban areas).

It was during his first premiership that Smuts effectively signed off on the massacre of 163 black South Africans, in May 1921, in what has become remembered as the Bulhoek Massacre (Ngqulunga, 2022: 7; see also Kriek, 2019b). As both prime minister and minister of native affairs, he denied repeated requests made by a religious group of black people called the "Israelites", who had overstayed their permit for religious observance in Bulhoek, in order to listen to their pleas. Instead, he sent members of his department's Native Affairs Commission (NAC) to negotiate with the congregation (Ngqulunga, 2022: 1). When these negotiations failed, and the Israelites still refused to move, he deployed some 800 policemen, armed with rifles and machineguns. Ngqulunga (2022: 11) rightly argues that:

> "[Secretary for Native Affairs] Barrat's presence is significant because of his official relationship to Smuts, who was not only the prime minister but was also Minister of Native Affairs, which means that Barrat reported to him directly. This indicates the Smuts government's involvement at the highest level in the massacre."

In his second premiership, Smuts' coalition government was centred on the war, and is remembered for having been largely incompetent, with the exception of the prime minister himself and Jan-Hendrik Hofmeyr. In his triple capacity of Prime Minister, Minister of Defence and Officer Commanding the South African Forces, "Smuts threw all his amazing energy into the South African war effort" (Liebenberg, 1984b: 442). He established the

office of Director-General of Supplies and duly appointed Dr Van der Bijl to its leadership. Smuts also took charge of growing the Union Defence Force. As evident in Table 6.1, the Army, Air Force and Navy grew dramatically.

Table 6.1. Growth of the UDF.

	Army	Air force	Navy
1939	17,038	1,837	432
1948	132,194	44,569	9,455

In the battlefields of Eastern and North Africa, the UDF enjoyed successes in El Wak (1940), Addis Ababa (1941, April), Sidi Rezegh (1941, 18-23 November), Taon el Esen (1941, 22-26 November) and Bardia and Sollum (16 December 1941-17 January 1942). But there were catastrophic reversals in Tobruk on 21 June 1942, where 25,000 men surrendered under Major-General H.B. Klopper to the Germans. There were also contributions in El Alamein in Egypt under General Montgomery, but that was effectively at the end of the war in Africa.

But still eager for South Africa to play a role in the war in Europe, Smuts reneged on his 1939 promise that South Africans would fight only in Africa and not be sent overseas. On 27 January 1943, he requested from Parliament approval to send South African soldiers to Europe. In April of that year, the Sixth South African Armoured Division entered the war in Italy. There was a total 753 South Africans killed in Italy, 152 in East Africa, and 2,014 in North Africa. What was the reaction to all this? Although there was no repetition of the 1914 rebellion, there was bitter political reaction. In particular, "the Afrikaners were sharply divided into two groups, those who supported South Africa's war effort and those who opposed it" (Liebenberg, 1984b: 444). The National Party had remained under the leadership of Hertzog until July of 1940, when his constitution was rejected. At this time, there were various other Afrikaner parties, as Hertzog's followers either remained with Malan's NP or those who were more loyal formed the Afrikaner Party under Havenga. Oswald Pirow founded the *Nuwe* Order, a pro-German grouping. The *Ossewa-Brandwag* was

also established during this time, ostensibly as a 'cultural group', but it had an overtly political character. In light of these domestic threats, Smuts made the decision to confiscate all privately licensed firearms to prevent another 1914-style rebellion.

The 1943 elections were a showdown between a divided opposition against a self-confident United Party. Further aiding the UP is the fact that in 1943, the war was beginning to turn around with the Allies making advances. To quote Blackman and Dall (2022: 200), Smuts, the UP and its pre-war allies in Labour and the Dominion Party enjoyed "a relative cakewalk" (Blackman and Dall, 2022: 200). With the war being the main issue in the voters' minds, the UP grew by 105 seats, and supported by two Independents and three black representatives. The opposition declined from 63 to 43. By the time of the 1948 election, however, matters had changed drastically. That year's singular issue was domestic policy, particularly the direction of the country on race relations. It was a referendum on either the Fagan report (mid-way between equality / integration and segregation) and the Sauer report (apartheid) (Liebenberg, 1984b: 457). 26 May was when the 1948 general elections took place (Liebenberg, 1984b: 462). For voters, 'apartheid' was a proposal altogether clear and concrete: "it was not the stumbling, bumbling, piecemeal patchwork approach that had characterised Botha, Smuts and even Hertzog's segregationist policies: it was total onslaught" (Blackman and Dall, 2022: 213). When the results were counted, the *Herenigde Nasionale* Party (HMP) had received 70 seats (up from 43), and its ally the Afrikaner Party nine (from zero). The two would go into coalition government, and merge to form the National Party in 1951. For its part, the United Party declined to 65 from 89. The Labour Party lost three seats, coming back with only six seats.

Evidently, Smuts' middle way was out of step with the rest of the post-war international mood as espoused by the United Nations but was too timid for voters at home. The alliance between Malan and Havenga won a majority of five seats against the United Party, the Labour Party and the black representatives (Liebenberg, 1984b: 462). Smuts, bitterly disappointed in the outcome, resigned and Malan formed a cabinet. The United Party had emerged so strongly in 1943 because of the war tide,

but by 1948 the issues had changed. Under prime minister and minister of defence Jan Smuts, the UP had not kept up with the domestic and economic issues that now took precedence. The apartheid policy of the NP was also attractive to the white voters, particularly the Afrikaner section, which represented 60% of the voting population at this time. Many of these were drawn to apartheid in light of decolonisation in Asia. On the other hand, food shortages began during the war, but continued afterwards. Though the issue had abated in 1946, housing remained an issue. "The war was its chief issue, but the government was not blameless in the matter. In February 1944 there was a shortage of 30,000 houses for whites and 120,000 houses for the other races. The government made many promises but did little to fulfil them" (Liebenberg, 1984b: 465). That Smuts and his party were out of touch is demonstrated by the focus of their attack on the HNP's poor war record (Blackman and Dall, 2022: 214). By 1948, global events were no longer front of mind to the voters. The housing shortage grew by another 6,000 in 1947 (Liebenberg, 1984b: 465). This was a consequence of Smuts, preoccupied by his defence portfolio and the war abroad, surrounding himself with a largely hapless cabinet on the domestic front, whose only leading light, as seen, was Hofmeyr (Blackman and Dall, 2022: 211).

The deputy prime minister merits a close look as well. A single account will suffice to illustrate his immense capacity for work. In June of 1940, Hofmeyr, speaking at the opening of the Wits (University of the Witwatersrand) Great Hall, was attending in three capacities: as Chancellor (having been appointed in March 1939), as Minister of Finance, and as Minister of Education. Paton (1964: 201) reports that as Minister of Finance he thanked the Chancellor for the proper spending of state funds; as Minister of Education he congratulated the Chancellor on the University's trajectory; finally, as Chancellor he thanked the Minister of Finance for his interest and the Minister of Education for his message of congratulation (Murray, 2022: 9)! Taking over the three ministerial portfolios from Dr DF Malan in 1933 (Public Health in addition to the two already mentioned), "he mastered the business of his three departments in as many days" (Paton, 1964: 201). Finance, however, "Hofmeyr took over … with a

mixture of elation and trepidation." (Paton, 1964: 330). His first budget was nevertheless an outstanding success. In sum: he proposed a budget from £40 million to £79 million, of which £14 million would go to a new War Expenses Account and abolished the 30% income tax rebate and institutionalised an Excess Profits Duty.

It has been said that "he was the brain and power behind the South African war machine, in all except the military. Smuts did not hesitate to load him with work and he did not hesitate to accept it" (Paton, 1964: 333-4). One of these was the role of Deputy Prime Minister. His relatively progressive views on race, from such a prominent position, further tilted voters towards the right-wing alternatives. "The strategy was clear - to exploit post-war dissatisfactions, the dangers of UNO and communism, the breakdown of the Natives Representatives Council, the menace of the Indian population, and above all, the colour policy of the United Party, which, now that Hofmeyr had been appointed Deputy Prime Minister, was clearly the colour policy of Hofmeyr" (Paton, 1964: 473). For the future prime minister JG Strijdom, "it was a Hofmeyr election" (Paton, 1964: 473). In the devastating defeat of that election, Smuts's loss of his own seat in Standerton by WC du Plessis, a virtually unknown figure in South African politics, by 3,750 votes to 3,535 was especially humiliating (Blackman and Dall, 2022: 215). An earlier embarrassment, almost twenty-five years earlier had brought another more right-wing leader into power at Smuts' expense, JBM Hertzog.

6.2. Hertzog: The Prime Minister of Native Affairs

In 1924, Smuts had called an early election - two years before necessary; there had been no consultation with his party. He was alarmed by the scale of losses in the result. The Nationalists won 63 seats (from 45), whereas the SAP declined from 79 to 53. In third place was the Labour Party with 18 seats (from 9). An independent obtained the remaining seat. "Smuts, who had been Prime Minister for five years, resigned and the Governor-General invited Hertzog to form a cabinet" (Liebenberg, 1984a: 411), and paved the way for a 'Pact Government' between the Nationalists and Labour. Hertzog would be the new prime minister, a position

he would occupy for fifteen years - longer than anyone in South African history (a record he is likely to hold, given the two five-year term limitation in place under the 1996 Constitution). It would be a calmer fifteen years, with no rebellion or major strikes. Relations with the black population would also be more stable. This was an outcome of Hertzog's vision, which was centred on two ideals: obtaining sovereignty for his country and ensuring continued white dominance over the black majority. To this effect, when he formed his cabinet, Hertzog assumed not only the duties of Prime Minister but also the portfolio of Native Affairs (Liebenberg, 1984b: 412). He would later also become minister of external affairs, when that department was eventually established. In the meantime, he divided the rest of the portfolios amongst seven Nationalist and two Labour Party members. The leader of the Labour Party, Colonel FHP Creswell, was appointed Minister of Defence, and was also given leadership of the Department of Labour when it was established several months later. Tielman Roos, described as "brilliant but capricious," was the leader of the National Party in the Transvaal, became Minister of Justice and Deputy Prime Minister. Future prime minister of apartheid DF Malan was given three ministerial portfolios, those of the Interior, Public Health, and Education.

With the power it had, the Pact Government pursued a number of initiatives, including its policy of 'civilised labour' (job reservation for white people); the introduction of protective trade tariffs; establishment of Iscor; founding of the Department of Foreign Affairs; a new national flag; introduction of job reservations for white people in mines; and introduced legislation in parliament aimed at the abolition of the Cape Native franchise. "During the pact government's first five years in power there were various new developments in the economic sphere, for example the discovery of new diamond fields, measures were taken to protect agriculture, and the encouragement of local industries" (Liebenberg, 1984b: 417). GDP grew from £24 million, to £33 million between 1925 and 1928; from 115,000 to 141,000 workers.

In October of 1926, the Imperial Conference took place in London and South Africa's status was changed. Hertzog, along with the leaders of Australia and Canada, attained a commitment

in writing (the Balfour Declaration) that the dominions and Britain were equal in status, "though united by a common allegiance to the Crown." Hertzog could finally proclaim that "Of the old Empire nothing remains. All that remains is a free association" (Hertzog in Liebenberg, 1984b: 418). In 1927, the Department of Foreign Affairs was created and in 1929 Hertzog sent South Africa's first ambassadors abroad.

On the domestic front, 1928 saw the establishment of Iscor (after Senate opposition in the previous year, thereby requiring a vote in a joint sitting). Dr HJ van de Bijl was appointed its first chairman. On the other hand, Hertzog's policy of "civilized labour" ensured job reserves, by exclusion black people, and thus vast improvements in the standards of living for thousands of poor white people. It had been introduced by circular issued on 31 October 1924. The policy was also legislated through the Wages Act (No. 27 of 1925) and the Mines and Works Amendment Act (No. 25 of 1926). These were all very popular measures. By the election of 1929, the year of the election, the government was confident of victory, buttressed by annual budget surpluses. The election was still a nasty campaign, characterised by especially anti-black rhetoric against the "K----r Apostle" Jan Smuts by the National Party. Those with a franchise were explicitly told to "vote white" (Liebenberg, 1984b: 412). They listened, bringing the Nationalists back to the House of Assembly with 78 seats (an increase of fifteen). The SAP improved by 8, to 61 seats. The Labour Party, which had split into two factions, came back with a substantially reduced 8 seats (from 18). There was one more independent MP, bringing their total to two.

One of the most important developments of the Hertzog era occurred in the area within which he had taken up a second portfolio: black land ownership and leasing. Feinberg and Horn (2009: 43) note that one of the more under-examined aspects of the Natives Land Act is the power it gave, in Section 1(1), to the government to make exceptions to the law and approve new land purchases and rentals by Africans, outside the scheduled areas. Reviewing how this exemption was used by different prime ministers between 1910 and 1936, they find that, far more than his predecessors combined, Hertzog's administration permitted more

land transfers to the native population. While at first glimpse this may seem at odds with his avowedly more racist attitude, when compared to Botha and Smuts, the move makes some sense. For it was he who wished to see more land in the hands of the native population so that, in time, that segment would live entirely separately from their white counterparts (Ngcukaitobi, 2018: 251)

Soon the global economy was in a dire state, however. In 1929, the world was hit by the Great Depression. Britain, South Africa's main trade partner, dropped the gold standard, while Hertzog maintained it for his country. There was rampant capital flight. By 1933, a coalition government (non-partisan) seemed attractive, for the purposes of uniting the country and drawing from the best talents, in a non-partisan way. The arrangements were negotiated by Herzog (with Havenga) and Smuts (with Duncan) on 13 February 1933 and for a few days thereafter. In the end, it was agreed: Hertzog would be PM and Minister of Foreign Affairs and Smuts would be Deputy Prime Minister and Minister of Justice. The rest of the cabinet would be shared by six National Party and six SAP ministers. It came into effect from 29 March 1933. In the 17 May 1933 general election, the two parties put up a candidate in each constituency and deliberately did not contest one another. The National Party lost three seats but still emerged with the highest share at 75. The SAP returned with the same number as they had in the previous 1929 election (61). In the following year, on 5 December 1934, the two parties announced a 'fusion', both now merged and renamed as the United South African National Party (United Party, or UP for short). DF Malan and those loyal to him stayed outside the fusion, and instead maintained a 'Purified' National Party. They became opposition, with 19 MPs.

Hertzog's answer to the 'Native-Coloured question' was the integration of coloured people and segregation towards black people (Liebenberg, 1984b: 430), enacted through the Representation of Natives in Parliament Bill, the Union Native Council Bill and the Natives Land Act (Amendment) Bill (Liebenberg, 1984b: 432). He also reduced black people's franchise share from 3.5% of the total to only 1.1% between 1930 and 1931 through Women's Enfranchisement (1930) and the Franchise

Laws Amendment Act (1931). He also dropped tests for white people, thereby diluting the Cape black vote from 1.4% to 1.1%:

> "Hertzog's two segregationist acts of 1936 are important cornerstones in the history of relations between White and Black in South Africa. The Representation of Natives Act (No. 12 of 1936) embodied the principle that Blacks should not share the franchise with Whites. It was an important step in the direction of political segregation and away from political integration, and subsequent governments, such as those of Malan, Strijdom, Verwoerd and Vorster, were to continue to build on this foundation" (Liebenberg, 1984b: 435).

The Native Trust and Land Act (No. 18 of 1936) further extended the principle of territorial segregation which had already been incorporated in the Natives Land Act (No. 27 of 1913), and which was also to be followed by the later governments of Malan, Strijdom, Verwoerd, Vorster and PW Botha. We turn to these in the next chapter.

6.3. Conclusion: Historical Precedents of Multiple Portfolio?

To conclude, it is worth asking what the roots of the double portfolio are, which inspired Botha and Smuts to be their own leading ministers, which set the template for many of the governments to follow. At the time of the establishment of the Union, the norm had been the occupation of single office by national leaders in the Western world. Fears of an imperial ruler date as far back as antiquity; in Rome, a consul had to forgo his position if he was to be governor, and vice versa, and could not command soldiers on Roman soil. Nevertheless, by the time South Africa was being colonised by the British, there had been a regular practice for a prime minister to play more than a single role - William Pitt the Younger had been his own chancellor of the exchequer and so had Robert Peel and the nineteenth-century's arch rivals Benjamin Disraeli and William Gladstone. Indeed, when the Boer republics were warring with the British during the

1899 to 1902 Second Anglo Boer War, their rival, Lord Salisbury, was both prime minister and his own foreign secretary (the equivalent of a minister of international relations and cooperation in our system). Salisbury had been appointed for a third time in 1895, having been prime minister twice before (1885-86 and 1887-92) - and both of those times he had chosen to be his own foreign secretary.

Another possible source of precedent and inspiration may lie in Boer Republican history. Two examples in particular stand out: Marthinus Pretorius and Paul Kruger. Pretorius had been President of both the Transvaal and the Free State in an early attempt at gradual unification of the two republics in 1860. Though short-lived, lasting only a few months, the experiment proved that a leader could play more than one role, as long as he was willing to bear the administrative and political burden. Kruger is a much closer figure to Smuts, both temporally and politically. They had worked together. The youthful Smuts had been Kruger's State Attorney and seen up close how the older man centralised power and exercised authority over multiple portfolios with relative ease.

By the time Smuts came back from his studies in Cambridge, Kruger was the nominal president of the South African Republic. But in actual fact, all departments, including the police, the detective and secret services, were under his hand with little oversight by the parliament of the day, the *Volksraad* (the Assembly of the Representatives of the People). That body "obeyed his orders: any Bill he placed before it was passed with little discussion and no opposition." There was one exception, and one which would catapult Smuts into Kruger's orbit: only the courts asserted their independence from him. This did not prevent him from attempting to interfere with their findings. "More than once he sent for the Chief Justice and instructed him what he should find in cases before him, but Kotzé refused to take such instructions" (Armstrong, 1938: 66). The matter intensified. The major bone of contention was the "resolutions" through which Kruger tended to issue his dictates, typically rushed through the *Volksraad* to give them force of law. This practice led

to a constantly shifting legal framework, affecting commerce (Armstrong, 1938).

The dispute between President Kruger and Chief Judge Kotzé became personal between the two men, to the point of the latter threatening to resign from his position. With an election coming up, the President nonetheless bided his time. His popularity was helped immensely by the failed Jameson Raid, and he won his fourth term easily. One of his first actions was to dismiss the chief justice. In the Transvaal and the Cape, the legal fraternity was united in its anger against the president, and the blow to one of their own and the judiciary. There was one main exception; a young Jan Smuts, who either saw an opportunity to endear himself to the president or agreed with his actions - or both. "Alone among the lawyers he backed the President and the politicians against the Chief Justice and the legal profession" (Armstrong, 1938: 67). He decided to write a thesis, which drew on research on English and American laws to argue that Kruger had been correct in his actions: "The President exercised the powers entrusted to him with singular patience and forbearance," it said. Sidestepping the encroachments on judicial independence, the only aspect in which it disagreed with the president's approach was that he ought to have had the chief justice tried before a tribunal for insubordination. Despite the negativity it produced towards Smuts, the work "lifted Smuts out of the ordinary ruck of briefless barristers in Johannesburg into the limelight" (Armstrong, 1938: 68). The President had needed legal minds that could provide him support against the overwhelmingly united anger of the lawyers in South Africa. He met Smuts, whom he determined could be a useful figure. He appointed him to the position of state attorney in 1895, from which position he worked closely with the powerful president, soon developing a 'father and son' relationship in Kruger's view (Smuts, 1952), during which the younger man must have observed the older exercise a firm grip on government. As state attorney, Smuts dismissed the ineffective head of the Criminal Investigation Department, Bob Ferguson, and ran it himself. Reflecting on this decision, Smuts claimed that "I succeeded in cleaning out the...Stable of corrupt Detective Administration and established in its stead a system

which has worked with admirable results" (in Smuts, 1952: 40). Oftentimes Attorney General Smuts represented President Kruger in important discussions with the British. One of these was the ill-fated negotiations that led to the 1899 to 1902 Second Anglo Boer War, that would eventually produce the Union of South Africa.

Whatever the historical inspiration - or lack thereof - for Botha and Smuts to assume ministerial portfolios, one thing is clear: in their times, there was a permissive Constitution. One which did not place restrictions on a leader willing to play more than one role. As we shall see, the same can be said of the South Africa which followed Botha, Smuts and Hertzog, and the same can be said of the South Africa of today. We turn to these cases in Chapter 7 and return to the question of the contemporary constitution in Chapter 10.

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Chapter 7

Apartheid's Leading Men

Apartheid was rapid, widespread, and long-lasting. At the root of its success is the priority it enjoyed, as a project, from an active executive leadership, and the popular support it generated amongst the white population. It was also the product of a trend clearly observable amongst this demographic from 1910 to 1989, particularly its Afrikaner section, and the leaders it produced: over the years, the story of Afrikaner nationalist politics shows a tendency to shift more and more towards the right. First noted as the torchbearer of Afrikaner nationalism in the 1910s through to the 1930s (amid the Anglophilic Louis Botha and Jan Smuts), Hertzog came to be regarded as too moderate (particularly on the 'Coloured question'), leading to the emergence of Dr DF Malan, who also came to be similarly perceived, and was supplanted by JG Strijdom in 1954, who too seems to have become moderated by his time in office. He was succeeded by HF Verwoerd in 1958, the arch-practitioner of domestic apartheid, for which he was, in a sense, martyred. Verwoerd's death, a consequence of a fatal stabbing in parliament by a parliamentary messenger, hardened the resolve of the Nationalists, bringing to power two successive leaders who, once more, came from a securocrat background and who would take the war of repression to the townships and to the black countries neighbouring South Africa: BJ Vorster in 1966 and PW Botha 1978. It was only in 1989, with the affliction of a stroke on the latter, that a moderate succeeded an extremist in Afrikaner nationalist politics. By then, the system was complete, and had in some regards reached its logical conclusion. It had been pursued with intensity, what we may call an *embodied executive philosophy* - a term which seems appropriate to describe the process by which heads of executive put as first priority those areas of government in which they have prior or concurrent ministerial experience: a process which makes them not only effective in their policy pursuits, but in their management of their cabinet colleagues. Laws become passed at breakneck speed. Portfolios are closely

watched, and directly assumed if they must. As a result, policy is enacted, not merely discussed or written out.

In this sense we can group them into three embodied philosophies. Firstly, Malan, Strijdom and Verwoerd had experience in native affairs and social portfolios and could thus be regarded as the architects of social, economic and political apartheids. Secondly, Vorster created a police state and PW Botha, as both PM and minister of defence, advanced war as a pre-emptive policy. They may thus be regarded as embodying a militant apartheid. One produced the other: by rendering black life unbearable, and in turn shutting down the already 'broken telephone' of dialogue between the state and those black organisations which opposed its policy, Vorster's police state created exiles, who then had to be pursued all the way through to their training grounds by the Botha administration. Thirdly, and finally, De Klerk, an experienced mandarin who had run six cabinet portfolios (sometimes more than one simultaneously), was by historical contingency tasked with reforming apartheid.

7.1. Malan, Strijdom and Verwoerd: Apartheid's Practitioner-Visionaries and *Herrenvolk* Democracy

In *The Super-Afrikaners*, their history of the Afrikaner *Broederbond*'s influence in South African public life, Ivor Wilkins and Hans Strydom describe a DF Malan caught somewhat off-guard in the aftermath of his party's victory in 1948. He barely had his shadow cabinet ready. He would go on to form the first exclusively Afrikaner cabinet in South Africa's history. Amongst the ministers was JG Strijdom, the future prime minister. For the time being he would be in charge of lands and irrigation. The first time the word 'apartheid' appeared in print seems to have been in 1929; but the first person to utter it in South Africa's parliament was Malan, in 1943 (Scher, 2021: 329).

How different was apartheid from segregation? Historian Liebenberg writes that:

> "[T]he pre-1948 apartheid policy and the policy applied after 1948 were not quite the same. The difference lay in the singlemindedness, consistency, and ruthlessness with which, from 1948, this policy was implemented in South Africa. What had been to a great extent unwritten custom, was now enforced by the governments of Malan, Strijdom, and Verwoerd with the aid of legislation" (Liebenberg, 1984d: 481).

Social apartheid was pursued through a rash of legislation, namely the Prevention of Mixed Marriages Act (No. 65 of 1949); the Immorality Act (No. 21 of 1950) and the Population Registration Act (No. 30 of 1950). The latter of these created a central population register in which all persons would be classified into one of the three groups: white, coloured, and black people, with the coloured group further divided into Cape coloureds, Cape Malay, Griquas and Indians. In turn, black people were further divided into ethnic groups such as South Sotho, Xhosa, Venda, and Zulu. The Group Areas Act (No. 41 of 1950) and the Natives Settlement Act (No. 19 of 1954) removed 'black spots' from the western areas of Johannesburg such as Sophiatown, Martindale, and Newclare and relocated them to Meadowlands. Alongside the futile opposition of the United Party, the Johannesburg City Council and the ANC (which held protests), the policy succeeded. As minister of native affairs, Dr Hendrik Verwoerd oversaw the removal of the black population in February 1955. Politically, the Afrikaner Party merged with the *Herenigde Nasionale* Party in 1951 to form the National Party (a reversal of the name used between 1914 and 1939). The NP increased its share of parliamentary seats in the 1953 elections, from 85 to 95, while the UP declined from 64 to 57. Apartheid was clearly proving popular amongst the electorate. Having run his course aged 80, Malan announced his retirement in October of 1954.

7.1.1. *Executive-legislate power and the debate over parliamentary supremacy*

In the provincial elections of March 1949, the UP gained two seats from the National Party with much of their support coming from "the Coloured vote" (Liebenberg, 1984d: 477).

This incentivised removal from the voters roll in 1951. When the government introduced the Separate Representation of Voters Bill in the House of Assembly, it was aware that Sections 35 and 152 of the 1909 South Africa Act required that any amendments to the population's voting rights could only be effected by means of a two-thirds majority, in a joint sitting of the House of Assembly and Senate (Liebenberg, 1984d: 477). "However, there were leading jurists in South Africa and abroad who were of the opinion that sections 35 and 152, the so-called entrenched clauses, were no longer entrenched" (Liebenberg, 1984d: 477). Their argument was threefold. Firstly, the Statute of Westminster confers sovereign independence on the Union of South Africa. "The parliament of South Africa had therefore become competent to change the constitution at will, with or without a two-thirds majority" (Liebenberg, 1984d: 477). Secondly, "[I]t was argued that in 1937 the Appellate Division of the Supreme Court had found, in the case of *Ndlwana v Hofmeyr*, that the South African parliament was sovereign, that parliament could adopt legislation by means of any procedure, namely, with or without a two-thirds majority, and that no court was competent to determine the validity of an act of the South African parliament" (Liebenberg, 1984d: 478). Finally, "[I]t was argued that the requirement of a two-thirds majority did not apply in this case, since the Coloureds were not being deprived of their right to vote, but were merely being placed on a separate voters roll" (Liebenberg, 1984: 478). There were opposing views, of course. Notably Professor VD Cowen of the University of Cape Town argued that the Westminster Statute did not abolish entrenched clauses and that *Ndlwana v Hofmeyr* was wrongly decided.

Nevertheless, the Bill was introduced in parliament, during which UP leader, JGN Strauss, objected. Speaker JH Conradie "in a long judgment which leaned heavily on the views of British jurists, dismissed the objection of the leader of the opposition" (Liebenberg, 1984d: 478). The UP "took the act to court in the name of four Coloured voters. In October, 1951 the Cape Provincial Division of the Supreme Court found that it was bound by the Appelate Division judgment in *Ndlwana v Hofmeyr*, in 1937, to acknowledge the validity of the act concerned" (Liebenberg,

1984d: 478). The UP took the matter on appeal to the Appellate Division in Bloemfontein. There, five judges in a period of six days heard the arguments. In March 1952, the court unanimously decided that the act in question was invalid, since parliament had not followed the prescribed procedure. Sections 35 and 152 of the Constitution had not been displaced by the Statute of Westminster, it wrote. Nor did the act not disenfranchise. And, moreover, it overturned *Ndlwana v Hofmeyr* (in which judges had presumed that the Statute of Westminster had displaced Sections 35 and 152).

Much division was caused by the judgement of the Appellate Division, with the Prime Minister, Dr Malan, commenting that his government would do everything necessary to assert parliamentary sovereignty. To him it was unthinkable that a court could trump a law passed by the elected legislature. Minister of the Interior Dr TE Donges introduced a bill in April: it made provision for a High Court of Parliament which would consist of members of the House of Assembly and the Senate and would be empowered to validate laws declared invalid by the Appellate Division. This was in turn found by the Appellate Division to be invalid: it violated the legal principle that no-one may be their own judge. The government's response was, in May 1955, to enlarge the Appellate Division (Appellate Division Quorum Act, No. 27 of 1955). The Senate Act (No. 53 of 1955) also enlarged government representation in the Senate. In February 1956, the Separate Representation and Amendments to Sections 35 and 152 passed with 173 to 68 votes.

7.1.2. Strijdom

By 1954, a new tide of even more right-leaning sentiment swept the Nationalist Party. The principal figure in this move was JG Strijdom, then the minister of lands and irrigation since 1948 (a weak portfolio he deliberately chose in order to better dedicate himself to the party). He espoused a worldview of *baasskap* (total white supremacy). On 30 November 1954 he was elected by the NP as leader and duly assumed the premiership. Nevertheless, he retained much of his predecessor's cabinet. His would prove a short-lived premiership, dying on 24 August 1958 of natural

causes. Before dying, he had secured the NP an electoral gain in April, in which apartheid, by then in its tenth year, was still the main issue on the ballot. The NP grew from 94 seats to 103, while the UP declined from 57 to 53. Under Strijdom, who in 1954 relinquished the convention of prime ministers also being ministers of foreign affairs, there were still important legislative developments, including the Natives (Urban Areas) Amendment Act (No. 16 of 1955) aimed at eradicating the "locations in the sky" (black servants' living spaces), and the Industrial Conciliation Act (No. 28 of 1956) ensured that there would be no more multiracial trade unions.

With the August 1958 death of Strijdom, the ruling party had a leadership contest. All the contestants were cabinet ministers: CR Swart (justice minister and leader of the NP in the Free State province), Dr TE Donges (minister of the interior and leader of the NP in the Cape Province), and Dr HF Verwoerd (minister of native affairs). In the first round of results, Swart, with 41 votes against 52 for Donges and 80 for Verwoerd, was eliminated. In the second round, Donges, with 75 votes, lost to Verwoerd, who obtained 98 votes and assumed the position of prime minister on 2 September.

7.1.3. Verwoerd: Chief architect

As minister of native affairs Dr Verwoerd held strong views, which would inform his hardline policy as prime minister. This was particularly true for black separate self-government. His experience meant that he differed markedly from his predecessors (neither of whom had held the native affairs portfolio) on this question. Both Malan and Strijdom had always maintained the paternalistic view that the white people were the guardians of the natives and that this would not change at any time soon (Liebenberg, 1984d: 489). Without Verwoerd as prime minister, and without him having headed native affairs, it is therefore very likely that there would not have been a homeland system. In his native affairs portfolio, Dr Verwoerd had championed the Bantu Authorities Act (No. 68 of 1951), which abolished the Native Representative Council and expanded the self-government in the black homelands. Expanding on the latter idea in 1961 in parliament, he opined that:

> "As long as the Native community has no experience of authority on a small scale it cannot handle comprehensive bodies. It is therefore that I want to turn the whole process around and want to start from the bottom by first giving experience of government in tribal matters and then to use the experience of higher bodies" (Senate Debates, 7 June 1961 col. 5563-4; see Liebenberg, 1984d: 485).

Under Verwoerd's leadership the National Party grew in support. First, in the referendum of October 1960, some 52% of the voters cast their vote in support of his proposal to make South Africa a republic (which was, alongside native affairs, his other cherished ideal). Secondly, in the 1961 election, the NP grew from 103 to 105 seats. It is easy to understand why the party grew from strength to strength within the small segment which could vote. Its policy was simple, prioritised at the highest level, by men who had experience in segregation, and thus it was popular. With the rest of Africa by then becoming independent, the racist government played up the fears of white voters who in turn "were satisfied that the apartheid policy would protect them against competition from the other races and that the Whites would not lose their political power" (Liebenberg, 1984d: 469).

All the while, apartheid hummed on, touching every facet of life in the country. The Extension of University Education Act (No. 45 of 1959) established university colleges for the non-white races; namely, the University of Zululand, the University of Durban-Westville, the University of the North, and the University of the Western Cape. The act also incorporated the University of Fort Hare into the University of South Africa, which oversaw all the other institutions.

Following up on the Bantu Authorities Act of 1951, the Promotion of Bantu Self-Promotion Act (No. 46 of 1959) abolished black representation in the House of Assembly, laid down further guidelines for the development of systems in the homelands and ensured that the three black representatives would cease to exist in May of 1960. The first "homeland" to opt for the system was QwaQwa (then Witsieshoek) near Harrismith. Afterwards, several homelands in the Transvaal followed suit. Elites in the

Transkei were at first divided, with some wanting greater black representation in the House of Assembly instead, while others in the *Bhunga* (the legislative assembly in the Transkei), were in favour of Verwoerd's system of black authorities. One of these was Chief Kaiser Matanzima who, in November 1955, succeeded in persuading the rest to accept the proposal. Shortly after assuming the premiership, Verwoerd conceded that his policy would lead to the creation of a number of independent black states in South Africa (Liebenberg, 1984d: 489). Against opposition, Verwoerd defended his policy, arguing that a little white South Africa was preferable to a large black one:

> "Then I say again with an open mind and in the best interests of the White people of South Africa I choose an assured White state...rather than to have my people absorbed in one integrated in which with the Bantu must eventually dominate" (House of Assembly Debates, 20 May, 1959, col. 6223; see also Liebenberg, 1984d: 489).

In March 1963 the Transkei Constitution Act (No. 48 of 1963), which had been drawn up by the Matanzima Committee and approved in December 1962 by the Transkeian Regional Authority, was passed. It granted a Legislative Assembly (64 seats for elected members and 45 for traditional authorities), a cabinet, citizenship, a flag, an anthem and three official languages (IsiXhosa, English, and Afrikaans). It had more legislative powers than the provinces of South Africa, but, at the same time, its statutes needed to be approved by Cape Town and Pretoria. Led by a Chief Minister, the cabinet would consist of five ministers (finance, justice, the interior, agriculture and forestry, education, roads and works). On the other hand, defence, internal security, postal services, railways, immigration, money and banking, custom and excise remained under control of the South African government. Its total population, 2.9 million people, was 1.7 million people in the Transkei and 1.2 million Xhosas born in the region and residing in South Africa.

In the November 1963 election held by the Legislative Assembly, the pro-independence Matanzima, beat Chief Victor Poto, who was pro-multiracialism by five votes. This 'Transkeian

partial self-government' paved the way for similar constitutional developments in other homelands. By 1971, the government put together a template, a general framework, through which other homelands would also obtain their self-government status: this was the Bantu Homelands Constitution Act (No. 21 of 1971), which also empowered the government to affect changes in the homeland constitutions through proclamation. A year before, in 1970, the South African parliament had passed the Homeland Citizenship Act (No. 26 of 1970), which codified that black people could no longer be citizens of South Africa. On 26 October 1976, after unsuccessful attempts, between 1973 and 1974, to obtain territorial concessions, Matanzima's Transkei finally achieved 'full independence.' It was the culmination of Verwoerd's dream, but by then he had been dead for little over a decade. By then a new crop of apartheid leaders had emerged, with broadly similar objectives as him, but, conditioned by a different line of ministerial expertise and contextual circumstances, pursued a more police- and military-based policy.

7.1.4. Vorster and Botha: Securing apartheid at home and abroad

The Suppression of Communism Act (No. 44 of 1950) - effective on 26 June 1950 - had a provision which empowered the Minister of Justice to forbid communists to remain members of political organisations, such as the ANC and trade unions, restrict a person to a particular area, prohibit gatherings if they were of the opinion that the aims of communism could be prevented at such gatherings and banned publications, notably *The Guardian* in 1952. In turn, the Public Safety Act (No. 3 of 1953) gave that same minister the power to proclaim a state of emergency in any part of the country if public safety was threatened, and the Criminal Law Amendment Act (No. 8 of 1953) - prescribed severe penalties for those who controlled laws by means of protests or encouraged others to do so.

On 21 March 1960 69 people were killed in Sharpeville and two in Langa after protests resulted in bloodshed. In response to these protests, the government declared a state of emergency (30 March to 11 April), some 11,500 black people were arrested. The Unlawful Organisations Act (No. 34 of 1960) banned the ANC

and the PAC (Pan Africanist Congress). The state of emergency would end in August across the entire country. By the following year, the ANC had decided to take up the armed struggle. From the early 1960s, a different kind of leader was sought by the white population: the emergence of black armed resistance signalled the need for a security man to the white voter. Two would emerge as the subsequent prime ministers: BJ Vorster and then PW Botha.

In October 1958 Verwoerd had appointed Vorster as deputy minister of education, arts and sciences, and then in August 1961, he was made minister of justice. From this period, "Vorster was virtually always in the news," as the anti-apartheid armed resistance gained traction in the 1961 to 1966 period, and as minister of justice he was the point person tasked with combatting them. He made the argument to parliament that his powers needed to be expanded beyond the ordinary. In April 1963, for example, the first law authorising detention without trial was piloted through parliament by Vorster in his capacity as minister of justice. this law was the General Law Amendment Act (No. 37 of 1963), whose aim was to bolster the power of the police so that it could target *Umkhonto we Sizwe* and Poqo (later, Azanian People's Liberation Army (APLA)) (Liebenberg, 1984e: 536). The two most controversial clauses in the act were the "90-day clause" and what came to be known as the "Sobukwe clause." The 90-day clause provided that a police officer could arrest without warrant any person he suspected of sabotage and detain them for 90 days without bringing him to trial, and without access to a legal advisor or any visitor. It was in force from 30 June 1963 to 11 January 1965. In these 18 months, 1,095 persons were detained in terms of this section. The Sobukwe clause "authorised the Minister of Justice further to detain a person whose term of imprisonment for a political offence had expired" (Liebenberg, 1984e: 536). It enabled the Minister of Justice to detain Robert Sobukwe (due for release in May 1963) for a further six years. In January 1965 the 90-day clause was replaced by a 180-day clause. The Criminal Procedure Amendment Act (No. 96 of 1965) empowered the attorney general (instead of a police officer) to detain any person who could possibly be required as a prosecution witness in a criminal case, for a period of up to 180 days if there was a possibility that they

could be interfered with, or that he could flee the country. And unlike the 90-day clause, it was permanent, not to be renewed each year. In 1976, the clause would be removed from the Criminal Procedure Amendment Act and incorporated into the new Internal Security Act (No. 79 of 1976). That same year, the autocratic powers of the government were extended yet further when the Suppression of Communism Act (No. 44 of 1950) was taken up in amended form in the Internal Security Act (No. 79 of 1976). Section 10 of that law authorised the minister of justice to detain any person who, in their view, constituted a threat to the security of the state, or in the maintenance of public order. It also omitted 'communism' to encompass threats beyond individuals falling within this group and it introduced book banning, criminalising the quoting of certain individuals. All this took place under the watchful eye of the prime minister, BJ Vorster, who after the assassination of Verwoerd on 6 September 1966, had emerged as the next leader of the NP, and took up the premiership on 13 September. Importantly, he retained his portfolio, renamed to minister of police in April of that same year.

As seen, Vorster's most notable accomplishments were in the realm of policing, an area he knew better than most. Another important piece of legislation to come out during his tenure as prime minister and minister of police was the Terrorism Act (No. 83 of 1967). Section 6 provided that a suspected terrorist could be detained for an indefinite period without trial, and that no information about the detainee would be made public (Liebenberg, 1984e: 536). Oddly, it was made effective *retrospectively* to June 1962, which was when freedom fighters began leaving the country for military training in exile.

On 20 September 1978, having been head of the executive for twelve years (the second-longest consecutive tenure after Hertzog, and third overall after Smuts), the prime minister announced that he intended to step down from active politics, citing his health. On 28 September, he had his last day as prime minister. That same day he was nominated by the NP caucus to assume the largely ceremonial position of state president. He was elected to the position on 29 September and on 10 October he was inaugurated. He was succeeded to the premiership by PW Botha.

7.1.5. The Border War (1966-89)

By the late 1970s, South Africa had three overlapping priorities. First, the country sought to still hang on to South West Africa. Second, it needed to prevent anti-apartheid forces from training in the territories of neighbouring states, and potentially launching attacks from across its borders. Thirdly, and related to this, Pretoria sought to ensure friendly regimes in the region and eliminate unfriendly ones, especially those which espoused communism or leaned towards the Soviet bloc. With Vorster's resignation, there thus occurred a shift, with power moving to a military man. PW Botha, minister of defence since 1966, became prime minister on 9 October 1978. He also held onto his portfolio as defence minister, until nearly three years later, in 1981.

Up until 1974, Portugal had held both Angola and Mozambique, although there were nationalist movements rising in both countries from at least the 1960s (Nattrass, 2017: 200). FRELIMO were active in Mozambique and the MPLA (Movimento Popular de Libertação de Angola), FNLA (Frente Nacional de Libertação de Angola) and UNITA (União Nacional para a Independência Total de Angola) in Angola. The MPLA and UNITA had initially cooperated. An alliance therefore existed between the two fascist governments of South Africa and Portugal: "[a]s early as February 1968, the MPLA was reporting that South African helicopters in Southeast Angola were attacking MPLA positions" (Nattrass, 2017: 201). A year before, in 1967, the South African Defence Amendment Act had been introduced to make military service compulsory for white males aged 18 and over. In coming years, "many young men would be sent to Namibia and Angola to defend South Africa's borders, and later they were sent to South African townships to quell the tide of unrest there" (Nattrass, 2017: 201).

In April 1974, matters changed drastically for the Pretoria-Lisbon alliance, as a coup took place in Portugal and instantly caused it to surrender its African colonies. The Carnation Revolution, as the change in government was called, had taken place precisely due to exhaustion amongst Portuguese soldiers and civilians over fighting a senseless, and seemingly endless war

of colonial rule, when other empires had bowed to the inevitable and granted independence to their former possessions. The sudden withdrawal of Portugal created instability, as, unlike the British and the French had done, they did not organise elections or formally hand over power to an independent government. In January of 1975, the MPLA, FNLA, and UNITA signed the Alvor Agreement. Nevertheless, a power struggle ensued, and the agreement collapsed (Nattrass, 2017: 201): leading up to the planned elections, "each of the three liberation movements began to secure Cold War patrons. The MPLA solicited the help of the Soviet Union as well as Cuba, whereas UNITA secured the support of the South African government" (Nattrass, 2017: 201). For the South African government, the MPLA's rise to power was a threat to its occupation of South West Africa, which was a border neighbour with Angola (Nattrass, 2017: 202). Apartheid client UNITA moved its headquarters to Jamba, near South West Africa, "to be closer to South Africa" (Nattrass, 2017: 202).

In 1981, the SADF's (South African Defence Force) 11,000 troops, armed with advanced artillery, invaded Angola and occupied the southern provinces of Cunene and Cuanda Cubango (Nattrass, 2017: 203). With the Angolan army caught unprepared the provincial capital in Ngiva was sacked and some 100 000 rural dwellers fled their homes (Nattrass, 2017: 203). The SADF kept up the occupation for the next seven years, in the face of a UN resolution which condemned it (Nattrass, 2017: 203). In 1987, an Angolan counter-offensive took place, supported by arrival of Cuba, in the famous Battle of Cuito Canavale.

The following year, the Tripartite Agreement, was signed in New York at the UN by representatives of Angola, Cuba and South Africa (Pik Botha for the latter). The Tripartite agreement compelled Cuba and South Africa to mutually withdraw their troops from Angola and Namibia (Articles 2 and 4), and guaranteed independence for Namibia in accordance with United Nations Security Council Resolution 435, per Article 3 of the Tripartite Agreement (see Crocker, 1992: 510). In January 1989, the 73-year-old prime minister suffered a stroke. On 2 February, PW Botha resigned as leader of the NP. To his disappointment he

was not succeeded by his preferred hardliner candidate, as the NP's MPs chose a reformer instead.

7.1.6. De Klerk: Insider-Reformer

PW Botha took up the head of cabinet position as prime minister and left it as an executive state presidency, that constitutional change having taken place in 1984. By the time De Klerk took over, the country was in a state of emergency which had been introduced in June 1986, in the face of widespread, popular anti-apartheid resistance. His election raised hopes for those in favour of reform, while raising anxieties of those who still wished to see apartheid continue. As a politician with vast ministerial experience - at six portfolios, this is more than anyone else who ever assumed the head of the South African cabinet - he proved the ideal person to oversee the eventual transition to majoritarian democracy. Over the previous decade, he had held the ministries of social welfare and pensions (1978), posts and telecommunications (1978-79), sport and recreation (1978-79), mines and energy (1979-82), home affairs (1982-85), and national planning and education (1984-89). Having such diverse ministerial insight meant that he would be best placed to detangle the apartheid maze.

When he assumed the presidency, he placed emphasis on normalisation, both in society and in cabinet. As president, Botha had relied on 'securocrats', individuals who were seconded from the security establishment into the cabinet. They came to exercise the most influence over decision-making and policy. The dominant body within this structure was the 1972-established State Security Council (SSC) and the National Security Management System (NSMS). By the end of Botha's presidency, the composite members were defence minister General Magnus Malan, law and order minister (as the police portfolio had been renamed once again) Adriaan Vlok, justice minister Kobie Coetsee, and foreign affairs minister Pik Botha. De Klerk retained these figures, but substantially reduced the powers of the SSC and NSMS, placing them into the presidency. One of the president's initial acts came in in September of 1989 (following a general election during which De Klerk's NP won but with a reduced majority) when he moved the Bureau of Information and the

National Intelligence Service to the presidency, to report directly and exclusively to him (instead of the SSC as had been the case under Botha [Canadian Security Intelligence Service, 1991]). This effectively made him minister of state security, a fact which would enable him to oversee covert activities, and, at the same time, credibly accused of inciting the violence seen in the Transvaal and Natal in the late 1980s and early 1990s during the negotiations and transition period.

De Klerk's reforms took place not only in South Africa, but also in South West Africa, following the 1987 Tripartite Agreement previously discussed. It fell on him, the reformer president, to undo the legacy of Botha and Smuts, the generals and land grabber prime ministers. In November 1989, elections finally took place in that country, with observers from the United Nations, who deemed it free and fair. The country renamed itself to Namibia upon independence on 21 March 1990. In South Africa, on 11 February, Nelson Mandela and other political prisoners were released unconditionally, following an announcement by De Klerk in that year's SONA. From May, protracted negotiations between the NP government and the liberation movements began, lasting until 1993. These were shown popular white support in the white people-only referendum of 17 March 1992, on which the question on the ballot was "Do you support continuation of the reform process which the State President began on 2 February 1990 and which is aimed at a new Constitution through negotiation?" A total of 1.9 million of the 2.8 million who voted chose "yes." Accounting for invalid votes, this was 68.7%. The next general poll, the election of April 1994, saw the NP lose, but still win enough seats to be in the Government of National Unity in terms of the Interim Constitution. De Klerk, alongside Mbeki, would be an executive deputy president to Mandela, before resigning in 1996. The insider-reformer's arc was complete.

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Chapter 8

A Global Benchmark of Dual Executive Power

8.1. Introduction: Surveying Complexity

One of the key and warranted, criticisms raised against the argument for heads of cabinet becoming ministers in their own cabinets has been that South Africa is now more complex than it was during the Union and apartheid periods. Indeed, when we compare South Africa now and the country then, we find that it is vastly more populous, operates in a fast-paced, digitalised global environment, and the government itself is a much bigger entity. Yet the complexity argument does not hold when we consider that there are countries today that can be said to be equally or more complex than South Africa but whose leaders nonetheless frequently, or permanently, hold ministerial portfolios in their own cabinets.

There are of course limits to the comparative method. There is all manner of countries in the world. So much so that the basis of comparison risks being arbitrary, with the possibility that the researcher has hand-selected only cases which will confirm her theory. For example, by what metric should one select the countries with which to compare: population, geographic size, constitutional scheme, economic profile or something else entirely? It is also clear that South Africa does not have like-for-like peers. It is, by far, the smallest member in the one of the associations it prides itself the most for being a member: BRICS. Yet it is, by reverse, the largest economy in its region, with the closest second (Angola) being three times smaller than South Africa. At the same time, millions of its citizens experience crushing poverty, the country being the most unequal in the world, yet they are classified as being residents of an upper middle-income economy by the World Bank.

Short of an exact replica state for contemporary South Africa, it is prudent to look at a litany of case studies. Thus, in this chapter we compare the experiences of three other countries: India, Nigeria, and Canada. These countries tick several boxes. Firstly, and crucially, they are all states in which heads of cabinet have held ministerial portfolios in their own administrations in the last ten years. This is not to imply that they are the only ones - for example Sri Lanka and Malawi have presidents who simultaneously hold ministerial portfolios. However, those other countries do not meet the other criteria of being more complex than South Africa. Secondly, then, the chosen case studies are much larger than South Africa in economic, geographic and demographic. India's population (at 1.4 billion people) is 23 times larger than South Africa, while Nigeria (at 213 million) is four times larger than South Africa. Territorially, Canada is the second-largest country in the world (behind only Russia), and eight South Africas could fit within its borders.

Thirdly, like South Africa, all five leaders have to manage ethnically diverse landscapes. India has over 121 language groups and a sometimes religiously charged environment of Hindus (1.1 billion), Muslims (204 million) and Sikhs (28 million), along with smaller groupings. On the other side of the world, Canada's government has to balance its English- and French-speaking interests, while also honouring commitments to the country's First Nations, in addition to advancing a policy of multiculturalism in light of its growing immigration (which, for a time, was highly encouraged by the Justin Trudeau government). Additionally, the countries are themselves a diverse set and represent Africa, Asia, as well as North America.

Fourthly, though there may be legitimate question marks about the quality of their democracies, they hold regular elections and are classified as democracies. They are not, in other words, countries in which the leader is not subject to scrutiny or, more to the point, pins ministries on themselves outside of, or against, a constitutional framework. Rather, in taking up the ministries that they have, all these leaders have worked within their existing constitutions (something which could similarly be done within South Africa's current constitution, as I argue in a later

chapter). Fifth, they are a mixture of presidential (Nigeria) and parliamentary (India and Canada) democracies. This comparison has more of a tilt towards the parliamentary system (four cases against one), as that is the system that South Africa uses.

8.2. Modi: Pensions and Outer Space

One would be hard-pressed to find a country more complex than India. The nation's first general election was conducted over 68 days, from October 1951 to February 1952. Seventy years later, in May 2019, the country had 900 million eligible voters, the size of the European Union and the United States put together. The election workforce constituted a nationwide team of nearly 11 million servicing 1,035,927 voting stations across 29 states and seven Union territories. Amid all this complexity, the prime minister is expected to not only head the cabinet, but also to lead a number of important portfolios, dealing with energy, pensions, and outer space policy, directly.

The Department of Atomic Energy (DAE) was established on 3 August 1954 with Prime Minister Jawaharlal Nehru as its first minister. By virtue of a presidential order, all government businesses related to atomic energy and other provisions of the Atomic Energy Act (29 of 1948) were mandated to fall under the direct oversight of the prime minister (Department of Atomic Energy, 2023). By 1958, the Indian government was cognisant of the potential atomic energy presented, both for peaceful and military purposes and decided to intensify research and development. In March of that year, the government set up the Atomic Energy Commission, which is responsible for helping formulate policy for the department. Today, the department has an annual budget of $3.1 billion and consists of six centres working on atomic energy (Bhabha Atomic Research Centre, the Indira Gandhi Centre for Atomic Research, the Variable Energy Cyclotron Centre, the Raja Ramanna Centre for Advanced Technology, Indore Variable Energy Cyclotron Centre, and the Kolkata Global Centre for Nuclear Energy Partnership), advanced technology (Raja Ramanna Centre), atomic minerals exploration, and international cooperation (Global Centre for Nuclear Energy Partnership). The department also oversees the equivalent of five

state-owned enterprises and 11 institutes specialising in training physicists and mathematicians.

The prime minister is also typically in charge of the Ministry of Personnel, Public Grievances and Pensions. Typically, the PM is assisted by a minister of state who reports to him. Established in 1985, this portfolio serves as "the coordinating agency of the Central Government in personnel matters specially issues concerning recruitment, training, career development, staff welfare as well as the post-retirement dispensation. The Ministry is also concerned with the process of responsive people-oriented modern administration." The Ministry comprises of three Departments, these being the Department of Personnel and Training (DOPT), the Department of Pensions and Pensioners Welfare (DOP & PW), and the Department of Administrative Reforms and Public Grievances (DARPG). An online system for directly communicating grievances to the prime minister - called the 'Centralised Public Grievance Redress and Monitoring System' (CPGRAMS) - has been active since 2007. The CPGRAMS is responsible for funnelling public grievances submitted online by India's citizens. Most of these concern the federal government, individual ministries, departments and state-operated entities, along with sub-national governments. A guiding rule for the CPGRAMS is that complaints must be addressed within two months. The system has resulted in enviable transparency and data regarding citizens' experiences with government. For example, in 2020, government data revealed that:

> "Public grievances regarding central government departments have touched a record high of nearly 2.1 million so far this year, increasing almost 15 per cent from last year, with just seven departments accounting for nearly 70 per cent of all complaints, as per data reviewed by ET. The highest number of complaints are against banking and telecom services, as per data from the Centralized Public Grievance Redress and Monitoring System ... About 478,139 complaints were received against the Department of Financial Services, pertaining to banking services, while the telecom department was the second among 88 central

> government departments, with 277,869 complaints, and the railways (Railway Board) received about 203,115 complaints" (Sharma, 2020).

A 2020 *Economic Times* review reports that the priority received by the department from the prime minister has resulted in "a high disposal rate of public grievances," with CPGRAMS data showing almost all complaints received in 2020 were resolved: from 1.5 complaints received by about seven departments, only some 11,370 pended for longer than six months (Sharma, 2020). By 2023, the response time had been reduced from the initial two months to only 16 days (*Mint*, 2023).

> The Department of Space, established in 1972, today consists of eight centres located in different regions across the countries. The Department of Space has a budget of some $1.2 billion and made up of the Indian Space Research Organisation (ISRO), which in turn has seven agencies and institutes, as well as six research facilities and two testing facilities. As a result of the closeness and support it has constantly enjoyed from the prime minister, India's space programme has made strides rarely seen in the developing world, with the exception of China, a major competitor. This is especially true since 2003 when both countries expressed ambitions for manned moon landings. In the meantime, China's rovers made a landing on the far side of the moon in 2019. Not to be outdone, India made its own history by being the first country to land on the moon's south pole in 2022. Prime minister Modi, as the minister responsible for the department of space, personally chairs meetings on specific missions while at the same time he is also in-charge of setting his country's long-term vision.

Proximity to the prime minister does not indicate that the vison is always achieved as set. But it limits the scope for miscommunication and deflection of accountability. For example, in 2018, the government of India announced its aim to be the fourth country (after China, Russia and the US) to send astronauts to space by 15 August 2022. The date would coincide with 75

years of India's independence. The ISRO chief secretary outlined the training for the mission, named *Gaganyaan* and emphasised that the human programme would be "a major turning point" in ISRO's history and would happen before the 2022 deadline, a target set by Modi himself. This did not come to pass, for reasons of safety and Coronavirus disease 2019 (COVID-19). Nevertheless, the programme is still forging ahead (and with a much more realistic deadline). This offers a key lesson for my argument; while the direct oversight of a department by a prime minister can lead to more realistic target-setting, it can also result in exuberance. But, just as well, it has scope to create guardrails for more thoughtful decision-making. As time goes on and as their term racks up, the head of government can actually accumulate *direct* experience on a portfolio, and not just on managing ministers. Time in office thus means something more.

8.3. Nigeria: "Mr. President has refused to appoint a Minister of Petroleum Resources"

> "There are Ministers and there are Ministers but the Minister of Petroleum in this country [Nigeria] is in a class of its own. He or she holds the key to the nation's treasury," writes Eric Teniola, a retired former director in the Nigerian presidency (Teniola, 2023). Responsibilities amount to twenty, including formulation and implantation of policies and programmes; supervising the NNPC (Nigerian National Petroleum Corporation); supervising National Petroleum Investment Management Services (NAPIMS); crude oil matters; OPEC (Organization of the Petroleum Exporting Countries) matters; Nigerian Gas Company; Nigerian Liquified National Gas; Department of Petroleum Resources and Nigerian Petroleum Company; R&D (research and development); Petroleum Training Institute; African Petroleum Producers Association matters. The Minister of State for Petroleum or special advisor to the president on petroleum matters "may carry out any of these schedules as may be delegated by the Minister of Petroleum" (Teniola, 2023).

Following the death of military leader Sani Abacha on 8 June 1998, General Abdusalami Abubakar took over. He refused to appoint a Minister of Petroleum. Under pressure from his deputy, Admiral Mike Akhigbe, he did name a special advisor of petroleum affairs. General Abubakar performed the functions and exercised the powers of the minister of petroleum in all but name. "When President Obasanjo came to power in 1999, he did not make any pretence about it, he just named himself Minister of Petroleum" (Teniola, 2023). In September 2002, the then House of the Representatives, queried President Obasanjo for appointing himself as Minister of Petroleum:

> "Mr. President has refused to appoint a Minister of Petroleum Resources which action has occasioned the following: (a) that since inception of this Government in 1999 Mr. President refused, failed and or neglected to appoint a Minister of Petroleum Resources contrary to the Petroleum Act cap 350, laws of the Federation as amended by the Petroleum (Amendment) Act No. 22 of 1998 and thereby authorizing the performance of or performing yourself the functions of the Minister of Petroleum Resources (b) that in breach of Section 9 (1) d III laws of the Federation 1990 appointed the Committee which has increased the prices of petroleum products which function is that of a Minister of Petroleum Resources under the said Act, which Act constitutes a gross misconduct (c) that a process of establishing the refineries through bidding was established and provisional licenses were issued without the approval of the Minister of Petroleum as required by 3 (1) of the Petroleum Act which Action amounts to gross misconduct."

President Olusegun Obasanjo's response, which should be the retort of any executive whose constitutional powers are improperly questioned, is worth quoting at some length:

> "Under Section 5 of the 1999 Constitution, the Executive powers of the Federation are vested in the President who may exercise same directly or through the Vice President,

> Ministers or officers in the public service of the Federation. It is apparent from the wordings of this section that it is within my discretion to exercise these powers directly or delegate same to certain functionaries. In the same vein, Section 147 (1) of the Constitution makes provision for such offices of the Ministers of the Government of the Federation as may be established by the President. This clearly gives me the discretion over which office of Minister to establish. The Constitution does not specify the Ministries which I have to establish or the powers which I may delegate to Ministers. It is therefore within my constitutional powers to choose not to establish the office of the Minister of Petroleum Resources and directly exercise executive control over petroleum matters. It is immaterial that the office of Minister of Petroleum Resources is provided for in the Petroleum Act as the provisions of the Constitution take precedence over that of an existing law in the event of a conflict."

In September 2015, President Muhammadu Buhari, following in the footsteps of Obasanjo (unlike his two immediate predecessors Umaru Musa Yar'Adua and Goodluck Jonathan), appointed himself his own Minister of Petroleum (Umegboro, 2017). Speaking to journalists from the sidelines of the United Nations General Assembly six months into his presidency, he intimated that the portfolio was crucial and required his direct oversight (*Reuters*, 2015). He would go on to be the longest-lasting minister in that portfolio. What did he do with it? There was a lot to do. A development which made the portfolio more of priority area than it already had been, was the collapse in global oil prices to $31.39 per barrel - the most sudden plunge in price in the past decade before the Coronavirus disease 2019 (COVID-19) pandemic. This had a negative effect on Nigeria's government revenue as well as inflation, depressing the value of the naira. There were, as a result, delays in the payments of salaries for civil servants. There was also corruption in the sector. The president said his goal was to diversify the country away from oil, as well as recover "mind-boggling" sums of money which had been stolen over the years from the oil sector. "The dealings inside the state-

owned company Nigerian National Petroleum Corporation are so opaque that PricewaterhouseCoopers, commissioned to conduct an audit over the missing funds, said it was unable to obtain sufficient account documentation," a newspaper reported at the time (*Reuters*, 2015). It had been reported that politicians tended to use the Nigerian National Petroleum Corporation (NNPC) as a patronage tool, diverting funds away from modernisation and upkeep of the NNPC's refineries and other important business functions (Katsouris, 2019).

From the onset, there were thus competing priorities within the ministry confronting the president / minister: what we may call the economics of oil on the one hand (availability of fuel and economic performance) and, on the other, what we may term the administrative dimension. The slow pace of movement on the former, being more visible and felt, incensed the population.

Writing in April 2016 for *Nigeria Punch* newspaper, Jesusegun Alagbe adjudged that "Nigerians, contrary to their expectations, are witnessing the third fuel scarcity crisis in 10 months even with President Muhammadu Buhari as the Minister of Petroleum Resources." The first shortages were so severe that Nigerians were spending nights at fuel stations, including over the Christmas season (December 2015). Blame was put on the fact that Buhari was "devoting a major chunk of his time "fighting corruption" and not addressing the fundamental issues which affect Nigerians on a daily basis." Said one Lagos resident interviewed:

> "Don't get me wrong. Nobody says he shouldn't fight corruption, but don't spend 90 per cent of your time on that. Corruption cases sometimes take a long-term approach to tackle. But talking about the real economy, that's what the President should focus on right now" (in Alagbe, 2016).

The pressure was felt at the political level. The then national leader of the ruling All Progressives Congress (APC) (and now president of Nigeria), Bola Tinubu, criticised the minister of state for petroleum, Dr Ibe Kachikwu, for the situation, instead of the Minister of Petroleum - the President himself. Dr Kachikwu, who

had told Nigerians that he was "not trained as a magician" when he was asked about when the crisis would end, given that it had gone on for several weeks. It was also not lost on the media that "even the leader of the party, Tinubu, who castigated Kachikwu, knew who to blame, but decided to blame the junior minister."

What are we to make of Buhari's performance as minister of petroleum? In sum, he failed on the economic dimension, but achieved moderate success on the administrative - though we can only speculate at the counterfactual and imagine how much worse things could have turned out had he not assumed the portfolio himself.

By the end of his first term, in 2019, the country's oil production was lower than it had been 15 years earlier, with state-owned refineries only functioning at a proportion of their total capacity and unmodernised (Katsouris, 2019). The country had also failed to diversify, despite the president's earlier commitment in 2015. The resource (oil) still accounted for over 90% of its foreign earnings and accounted for 50% of government revenues (Katsouris, 2019). Another four years later, the same negative sentiment towards Buhari as petroleum minister still held for some. By the end of Buhari's presidency, it could be said that "although the [oil] industry recorded some gains notably with the passage of the Petroleum Industry Act, Mr Buhari failed to turn around the nation's moribund refinery, among other challenges" (Izuaka, 2023a, 2023b). On 17 February 2022, the opposition PDP (People's Democratic Party) was calling on him to quit as minister and appoint someone "more competent" (Akpan, 2022). This is precisely how the scheme is meant to work; it gives the government the opportunity to perform where it deems to be most important, or it gives the opposition something specific, a glaring weakness, to accurately attack. In this case, the opposition was responding to the government's apparent request for N201 billion (about $417 million) to clean up toxic fuel imports estimated at 170.2 million litres.

By the end of his term, President and Petroleum Minister Buhari's administration registered the highest average inflation - at 14.56% (Nairametrics, 2022). A study of the country's recent

economic history also concludes that amongst the four presidents since 1999, Nigeria has recorded the worst average GDP growth of 1.1% under Buhari. On the flip side, the short-lived Yar'Adua administration recorded the highest average annual real GDP growth rate of 7.13%, followed by Obasanjo's regime with 6.99%, while Goodluck Jonathan's administration recorded an average 6.1% annual growth rate.

The Nigerian case presents two core lessons for South Africa. Firstly, it highlights that should a president assume a portfolio, precisely because it is crisis-stricken, there should be expectation of good performance on one dimension, while there may be trade-offs for another. It also moderates our expectations in this regard: part of the logic of a head of cabinet assuming a ministerial portfolio is to expose whether they are effective or not. In the Nigerian case, we have seen that Buhari was not exceptional at either the economics or the administration of the petroleum sector - though, seemingly, not enough for his country to vote him out (despite the citizens spending nights at fuelling stations). Secondly, Nigeria shows us that if a South African president were to decide, as is being argued for by this book, to become a minister in their own cabinet, there should be clear lines of accountability. South Africa is salvaged by the fact that the country does not have 'ministers of state,' who rank below ministers (as seen earlier with India and now with Nigeria). It would also be impossible to blame a deputy minister, since they do not form part of cabinet in the South African system.

8.4. Trudeau: Youth Minister

In 2015, Justin Trudeau of Canada made history when he chose an equal number of men and women to serve with him in his 31-member cabinet. Importantly, Trudeau, who had never been in government before (having entered parliament seven years prior, in 2008, and ascended to his party's leadership five years later) had himself sworn in as minister of intergovernmental affairs and youth (Edwards, 2015). There were other roles to fulfil by virtue of his position, including being a member of the Privy Council and the Security Intelligence Review Committee (Ie, 2017: 32). Youth matters were likely the prime minister's chosen portfolio because

of his previous lines of work. Before entering politics, Trudeau's only full-time employment, much to the continued amusement of his opponents, had been that of schoolteacher (teaching French and mathematics in Vancouver). In the opposition benches in the Canadian House of Commons, he was critic for Youth, Post-Secondary of Education, Amateur Sports, Multiculturalism and Citizenship, and Immigration. He had also chaired the *Katimavik* ("meeting place" in Inuit, one of Canada's First Nation languages), a youth volunteer programme. During his opposition career, he had been outspoken against Stephen Harper's government's decision to reduce funding and eliminate support for the programme. Once in office, he revived it in 2018. Clearly, then, there is some link between the leader's personal life and his decision to take up the specific portfolio. Indeed, when he spoke in a speech at the Economic Club of New York, on May 17, three years into his administration, he was introduced, presumably with his or his team's permission, as follows: "Justin Trudeau, Canada's 23rd Prime Minister. He also serves as Minister of Intergovernmental Affairs and Minister of Youth. His experiences as a teacher, father, leader, and advocate for youth have shaped his dedication to Canadians and his commitment to make Canada a place for everyone with the opportunity to succeed" (Economic Club of New York, 2018: 2). The introduction went on:

> "Before entering politics, Justin served as the Chair of *Katimavik*, on the board of Canadian Avalanche Foundation, and as an advocate for young people on the environment. In these roles, he consistently encouraged young people to engage with the issues important to them and to participate as active citizens of Canada. These experiences made it increasingly clear to him that the issues young Canadians care about, such as education, the environment, and their generation's economic prospects, needed a stronger voice. In 2007, he built a community-based, grass roots campaign to win the Liberal Party nomination in the Montreal riding of Papineau and he was elected in 2008, and then re-elected in 2011 and '15" (Economic Club of New York, 2018: 2).

Thus, beyond the personal background, which clearly shaped his interests once in power, another factor may explain Trudeau's decision to focus on young people. The youth had been a major factor behind Trudeau's ascendance to his office. Those aged 18 to 24 were voting in greater numbers, with turnout moving from 39% to 57% between 2011 and 2015. This was the highest jump by any demographic (Ballingall, 2017). On 20 September 2016, Trudeau was appointed a HeForShe Champion for Youth Engagement at the UN Women HeForShe second anniversary event, held at the Museum of Modern Art in New York City. There, the Prime Minister / Youth Minister expressed this sentiment: "Everything we do needs to focus on young people, on building a better world for the long term, and not just in time for the next election cycle. And being focused on young people and their dreams of a better world, keeps us all in government thinking about what really matters" (HeForShe, 2016).

Yet there were flaws from the start; the prime minister was transparent about all his cabinet colleagues' key performance indicators except his own. As the *Toronto Star* put it in February 2017, "While some relevant platform points were included in his missives to ministers in the Finance and Labour departments, Trudeau published no mandate letter for his self-imposed gig for youth." The loophole provided by lack of responsibility to a prime minister was evidently showing. "A sense has emerged," the *Star* continued, "that rather than bringing welcome gravitas and attention to the issues facing young people today, Trudeau the prime minister is overshadowing Trudeau the youth minister." Amongst those displeased with the minister were student activists, who deemed him to have been a failure on increasing access to education, and lowering student debt and youth unemployment (which was double the national average). The newspaper quotes Bilan Arte, president of the Canadian Federation of Students, as saying that "This government pays a lot of lip service to youth. We're not just a voting bloc that can be accessed every other election. We are concerned and we're an active part of the electorate in this country. The only conclusion you can come to is this government doesn't think this is a priority" (Ballingall, 2017). Amongst parliamentarians, where he

had made a habit of not addressing matters related to his chosen portfolio, there were calls for the prime minister to step down as youth minister from both the Conservatives and the left-leaning New Democratic Party (NDP).

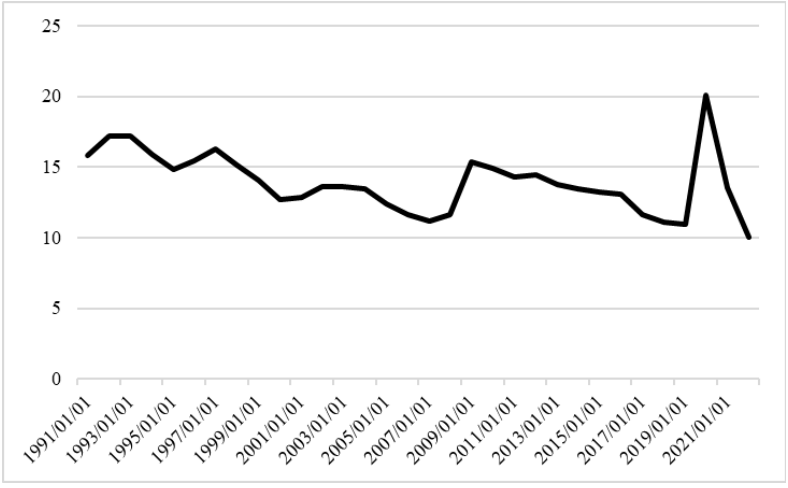

Figure 8.1. Rate of Canadian Youth Unemployment (15-24), in %. Source: Author.

Objectively speaking and with the benefit of hindsight, though, the record was mixed, and the government registered some genuine progress. Beneath the mirage of short-term failure lay, in no small way, long-term planning which yielded fruit. On the face of it, Trudeau had promised that "We will create 40,000 good youth jobs - including 5,000 youth green jobs - each year for the next three years, by investing $300 million more in the renewed Youth Employment Strategy" but in reality, however, there were 9,000 jobs created for people aged 15 to 24 in 2016. In response to this, the government changed tempo: while the 2016 budget had designated $164.5 million for the Youth Employment Strategy, Trudeau ended up making an additional $339 million investment over three years in the Canada Summer Jobs Program. The numbers vindicate the Trudeau decision, at least on diminishing youth unemployment. Standing at 13.1% in 2016, it fell to a historic low of 10.98% by the end of 2019, following four years of

consistent decline under Trudeau's ministry and government. In 2020, under the impact of Coronavirus disease 2019 (COVID-19), it rose by 9% year-on-year and climbed up to 20.11%. However, by 2021, it had declined once again and by the end of 2022, youth unemployment was 10%, the lowest rate on record (dating back to 1991 when detailed statistical record-keeping by the government began).

Trudeau fulfilled four pledges. His government was able to increase the maximum Canada Student Grant for low-income students to $3,000 per year for full-time students and to $1,800 per year for part-time students. He also fulfilled his promise that he would ensure that those owing student debt would not be required to start paying back until they earned at least $25,000 (from $20,000) per year. Thirdly, he fulfilled his pledge to create a prime minister's Youth Advisory Council consisting of Canadians aged between 16 and 24 years of age to advise the prime minister. With the prime minister relinquishing the position of youth minister in July 2018, the Council continues to offer advice to him.

8.5. Conclusion: Typology of Experiences and Lessons

Our case studies can be placed on a broad typology of experiences: whereas in some instances a head of cabinet may take up a ministerial portfolio as a matter of constitutional or conventional expectation, in others they may do so as a matter of discretion (not to say that some, such as Modi, have not made use of a combination of the two). Thus in the case of India, the prime minister has to be minister of pensions and grievances, whereas the leaders of Canada and Nigeria have taken up portfolios based on priority and personal inclinations and of their own accord. The latter is more recommendable, not least for South Africa. To require a head of cabinet to assume a specific portfolio (or set of portfolios) would take away the ability to signal priorities of a given administration. It would also take away the ability to use the office to shine a light on new or future-oriented initiatives.

The are other systems which are different from the parliamentary / Westminster model in use in South Africa and

the cases covered so far, but which nonetheless offer analogous insights for my 'super president' argument. This is unpacked in the next chapter, through the American case study. It bears repeating that each country is unique. Even if there are lessons to be learned, that does not mean that what they have to teach will be fit within the country that is meant to do the learning. As Mandela reminds us in *Long Walk to Freedom*:

> "In our efforts, we draw inspiration from countries that have to address problems to varying degrees similar to ours... Wherever we go internationally, we are always moved by the appreciation of the world for our efforts in resolving problems that seemed intractable. These international forces are always willing to assist in our exciting transition. But they recognise that, in the final analysis, our success will depend on our own efforts. They appreciate and have confidence in our economic environment, and equally, they expect the same among South Africans themselves." (Mandela, 1998: 19).

Admittedly, the history and experience of each country is generated by specific contextual circumstances. Yet, it must be said that if five countries, which are as different from South Africa as they are to each other, can find success through the same mechanism, then such a mechanism transcends differences and must be given a try (or a second try in the case of South Africa).

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Chapter 9

The American Way: Lessons from the First Presidency

9.1. Introduction

At over 230 years, America's is the oldest existing Constitution in the world still in use, having been introduced in 1789. It is also the oldest presidential system, which makes it the oldest presidential office (at the time of writing it is also run by the oldest president in that country's history). This is a rare phenomenon. Globally, many countries undergo many constitutions and are forced, either by domestic or external factors, to rewrite their constitutions time and time again. France, for example, is in its fifth republic - having undergone a revolution within a decade as the colonies that would eventually become the United States. On the African continent more broadly, there have been numerous constitution-overturning revolutions and coups d'état; a phenomenon that is re-emerging with notable vigour. For its part, South Africa is, at a minimum (depending on how one views the Westminster Statute and pre-Union republican legal frameworks), on its fifth Constitution: 1910, 1962, 1983, 1993 and 1996. Mathematically, that works out to an average of a new constitution every 17 years!

At the heart of America's constitutional stability is its system of checks and balances. Article 1, Section 1 of the US Constitution states that 'All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.' Article II, Section I on the other hand, states that 'The executive Power shall be vested in a President of the United States of America.' Finally, Article III, Section I states that 'The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.' In this regard, the document nowhere makes specific

mention of the phrase 'separation of powers' - but it instead institutes it. In practice, there are distinct areas of primacy for each branch (for example, Congress passes the laws; the President nominates the Cabinet and directs it; and the Constitutional Court of the US interprets the law in cases brought before it and which it accepts). Nevertheless, there are a number of overlapping exercises, which give rise to a system of checks and balances, *alongside* the separation of powers. As such, while Congress alone makes and passes laws, the President nonetheless signs bills or, conversely, can veto them, whereupon Congress can in turn let them 'die' or amass a supermajority of two-thirds of members and override the veto. On the other hand, the President is bound by the budget items as passed by Congress, though they alone may initiate the annual budget. Finally, the Court may deem certain acts of Congress to be unconstitutional, while the Congress may amend the Constitution if it can amass enough support amongst its members and the states.

The refinement of specific functions towards each branch took centuries to be clarified and, in some regards, is still being developed. It has developed over time, with each branch - particularly the two political branches (Congress and the Presidency) - sometimes overreaching its bounds and receiving pushback. With such historical experience, therefore, the American case has both positive and negative lessons to offer. In particular, for our purposes, the president was for a time only a secondary actor in American politics, but has now emerged to become the energetic player we know it to be. That process has been shaped by numerous factors, including interpretations of the American constitution, personality and ambition of the occupants of the White House and Capitol Hill (especially its Senate), as well as popular sentiment over the issues of the day. Thus, we can, in summary, state that the first group of presidents, from Washington to Monroe (1789-1825), were preoccupied with entrenching the office, ensuring that it did not encroach on the other branches established by the Constitution that they had helped write and at the same time taking care that it was capable of consequential action for protecting America's newly-won sovereignty. Carrying the same broad mandate, the second crop,

from Monroe to Polk (1825-1849) used the presidency to expand America's markets and territories. The subsequent group, from Taylor to Lincoln (1849-1865) dealt with the chief consequence of that expansion, namely slavery and the balance it threatened amongst the different interests of the country. This culminated in the American Civil War (1861-63). It has been said that the slave-holding southern states lost that war but won the country: the fourth crop of presidents, for reasons of reconciliation but also of personal self-interest, hastened the reintegration of the south, which in turn took over the Senate (where each state gets two seats regardless of size, and where the seniority-based system of allocating committee chairs came to favour the region). The outcome was a strong Congress, at the presidency's expense. Thus from Andrew Johnson to William McKinley (1865-1901), policy action tended to emanate from the Senate, and not the president. Matters came to a head with the emergence of Theodore Roosevelt (1901-08), whose reading of the Constitution was in favour of a strong executive. His successors varied in their own use of executive power (Taft, Harding, and Coolidge were coy, while Wilson showed the same force of energy and even went a step further on some issues). The economic crisis of the late 1920s and early 1930s now known as the Great Depression, gave way to an executive-centredness that has not since been done away with in American politics. The two dominant parties may differ on their principles and ideologies, but they both seek to *use* the presidency, not roll it back. In this chapter we trace this history, and subsequently draw out some lessons for the South African context in light of this book's argument.

9.2. Historical Review

Following the Declaration of Independence in 1775, the thirteen original colonies that made up the United States formed a loose republic through the Articles of Confederation. These articles were the country's first national constitution. But they were the cause of inaction. For example, under the Articles of Confederation, there was a requirement for unanimous approval from all thirteen states in order to pass suggested changes, and the states only gave revenues to the national government on a voluntary basis.

Doubting that all the states would ever agree, Congress never acted to compel them. Alexander Hamilton drafted an address to the states, inviting them to a convention to be held in Philadelphia in 1787, to discuss not only commerce, but all matters necessary to improve the federal government. After debate, on 21 February 1787, Congress endorsed the plan to revise the Articles of Confederation. Between May and September of 1787, the country's leaders met in Philadelphia for a constitutional convention. The following year, on 2 July 1788, Congress announced that the Constitution had been adopted. It had taken a lot of negotiation to get there, particularly on the question of the presidency.

The national government of the Articles of Confederation, such as it was, had no chief executive at all. As such, the "presidency emerged not from the clash of wills to gain a long-contested point, but from a series of ingenious efforts to design a new institution that would be suitable but safely republican" (Milkis and Nelson, 2011: 27; see also Rakove, 1996). At the core of their quagmire was that the delegates wanted a strong executive, capable of enforcing laws and checking the legislative branch, but not, at the same time, despotic (Milkis and Nelson, 2011: 28).

The delegates were in disagreement about the structure of the executive. Some thought that instead of a single officeholder, the executive should consist of a council of sorts (particularly a triumvirate), while others thought that, at a minimum, the president should be compelled to consult with a council before making any decisions. In the end, on 4 June, the convention overwhelmingly decided on a unitary executive: its head would be a single individual. The delegates thought it crucial for there to be accountability, and a three-person presidency would provide room for scapegoating. One of the proponents of the single-person executive was George Washington, the leader of the American revolutionary forces which had defeated the British. His views stemmed from his experience in that war, during which he regularly struggled to even appoint his own officers due to having what he called "power without the means of execution when these ought to be coequal at least" (Milkis and Nelson, 2011: 31; see also Allen, 1987: 118). Having politically come of age during the revolutionary period and the early republic, the younger delegates

also favoured a unitary executive. They did not have, as the older ones did, memories of the tyrannical royal governors. Another controversial issue in the convention was whether the head of the executive should be directly elected, and whether he should be eligible for reelection.

> "The source of the unhappiness was that, in the delegates' minds, a legislatively selected executive could not be allowed to stand for reelection lest executive powers and patronage be used, in effect, to bribe legislators for their votes. But the delegates also believed that eligibility for reelection was a valuable incentive to good performance in office and regretted that legislative selection ruled out executive reeligibility. The result was an ongoing search for a selection process that was desirable in its own right and allowed for reelection" (Milkis and Nelson, 2011: 33).

On 4 September, the committee proposed the idea of an Electoral College, and recommended "no restriction on the president's right to seek reelection." Each state would devise its own method of selecting electors. The rationale for allowing presidents to run for re-election was that it would create incentives for good performance on the part of the president. Expanding on this, Hamilton wrote in the *Federalist Papers* (No. 72) that even an executive whose behaviour was governed by personal motives such as "avarice," "ambition," or "the love of fame" would be encouraged so that he may hold the office precisely for these reasons.

The name 'president' for the office holder was one of the less controversial aspects of the quarrelsome convention. On 6 August, the Committee of Detail had included the term "president" in its report to the convention. The title was familiar, having been used to refer to the presiding officer of the Continental Congress, and for the chairperson of the convention. It was "reassuring to those who feared that the delegates might be creating a monarchical or tyrannical office," and was promptly accepted without any debate (Milkis and Nelson, 2011: 52).

Once the constitution was passed, it became clear that the personality of the president mattered as much as the constitution itself. In this regard, America has had only a few exceptional (impactful) presidents. In the eighteenth and nineteenth centuries, the standout figures were George Washington, Thomas Jefferson, Andrew Jackson, and Abraham Lincoln. Despite their vast differences - in temperament, backgrounds, support bases, ideology and the issues that they dealt with - they are joined by their belief in presidential leadership, and broad interpretation of the powers granted to them by the Constitution. Absent such executive force, America tended to experience what political scientists call 'congressional government' - the primary of the legislative branch over the executive in policymaking. In light of the presidential weakness which was the norm rather than the exception, congress took advantage: it reorganised itself from being a purely deliberative body, to one with personnel and resources that signified a "complex and well-disciplined institution that was organized to govern" (Milkis and Nelson, 2011: 207).

The balance changed, almost irreversibly, with the emergence of Theodore Roosevelt to the presidency, whose term of office (1901-1909), almost coincided exactly with the war and convention that created South Africa's own Union Constitution. In his wake, the presidency regained the initiative in public policy and became the centre of government.

> "In his aggressive pursuit of a policy agenda and, especially, in his active courting of public opinion, TR (the first president to be known by his initials) recast the presidency in both foreign and domestic affairs, charting the path for future presidents, such as Woodrow Wilson and TR's cousin, Franklin D. Roosevelt, to follow" (Milkis and Nelson, 2011: 219).

The president strategically pursued a direct relationship with the people, rather than being beholden to the congress and his party. In this way, he could promote his ideas to the broader public, who would in turn pressure their politicians by either reelecting them or their opponents depending on whether their own

views were in tune with the popular president's. Showing that a president could exercise broad powers even in times of peace, Roosevelt pursued things which were ordinarily thought beyond the government's responsibility: food and drug regulation, meat inspection, conservation, and wage negotiations. This policy he termed 'the Square Deal.' This was the first time a president attached a slogan to a programme of action, or vision, for his tenure. Future presidents would do likewise, including Franklin Roosevelt ('New Deal'), John F. Kennedy ('New Frontier'), George Bush ('Compassionate Conservatism'), Barack Obama ('Hope and Change'), and Donald Trump ('Make America Great Again'). In South Africa's own landscape, this seems to apply too, as seen by Mbeki's 'African Renaissance,' Zuma's (belated) 'Radical Economic Transformation,' and Ramaphosa's 'New Dawn'. Another Roosevelt, Franklin D Roosevelt ('FDR') president between 1933 and 1945, introduced another concept in presidential jargon: the first 100 days. Coming into power in the wake of the Great Depression, once he was sworn in, FDR "did not hesitate to use the full powers of his office to address the national emergency." (Milkis and Nelson, 2011). In particular, four days after coming into office on 9 March 1933, he introduced the Emergency Banking Bill, which compelled the Federal Reserve System to avail funds to the troubled banks, in order to restore confidence in the banking system by the public. Having summoned congress to an emergency session, the Bill was passed immediately and subsequently signed - all in less than eight hours. It raised the expectation that a president should accomplish something meaningful within the first one hundred days - a concept which has caught on in the SONAs of South African presidents as well (recall Mandela's direct oversight of social development functions during his first 100 days in 1994, discussed in Chapter 2), though often falling short in concrete implementation. Since Franklin Roosevelt, it has been impossible to roll back presidential initiative, even amongst right-leaning politicians who ostensibly seek a smaller government. At the core of the American Constitution, however, is the ideal of a super president; a head of the national executive who is their own leading minister. I unpack this argument in the next section.

9.3. Already a Super President

Article. II, Section. 1 of the US Constitution states that "The executive Power shall be vested in a President of the United States of America." Article. II, Section. 2 further establishes that:

> "He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments."

The American presidential campaign is one of the longest in the world. It normally kicks into gear about a year-and-a-half from the actual election date. The candidates first have to contend against each other within their own party so that they become the nominee who will then take on the other party's nominee within a space of three months. This allows for the candidates to lay out the issues which they think are most important and put forward their proposals. By appealing directly to the population, first against their own party members and then against the opposite nominee, they participate in priority signalling during the campaign. Additionally, by being the face (but not administrative leader) of their party, they partake in direct accountability. They partake in direct accountability in another sense: their ability to pick their own cabinet from anywhere. They are not confined to the legislative branches, as is the case in South Africa and many parliamentary democracies. Over the two months' transition period, they usually announce the members of their forthcoming cabinet. In this way, they are not beholden to a party manifesto (having directly appealed to the population through their own platform), they are in a sense their own leading minister. They set their priorities, and the cabinet implements. Though

they are accorded the title of Secretary, they are in a sense all 'Deputy Secretaries' at the service of the main Secretary, the president themself.

Data published in the *Wall Street Journal* about the most common themes in post-Cold War State of the Union (SOTU) addresses in the US showcases that they are economic in nature: tax, spending, the deficit, the budget, and jobs. Behind these are children, healthcare, and education (Elliott, Mellnik and Johnson, 2016). Conspicuously missing, however, is the one area of the role that many seem to relish the most and in which they have had their greatest outlet: military leadership. It is in this function that we see the necessity of a president being their own leading minister. Precisely because not all presidents have prior military experience but are charged with being the commander-in-chief, it is important (for democracy and effectiveness) that they lead from the front on the key details of American defence policy.

The first president to demonstrate this was James K. Polk who fought the Mexican-American War. He succeeded "because he insisted on being its [the administration's] center and in overruling and guiding all his secretaries to act as to produce unity and harmony" (Milkis and Nelson, 2011: 148). Polk, unlike James Madison in the War of 1812, was able to showcase that a president whose life had entirely been one of a civilian could be a decisive and effective wartime leader by immersing himself in the details:

> "He determined the general strategy of military and naval operations; he chose commanding officers; he gave personal attention to supply problems; he energized so far as he could the General staff; he controlled the military and naval estimates; and he used the cabinet as a major coordinating agency for the conduct of the campaign" (Milkis and Nelson, 2011: 149).

Lincoln was equally involved in the details during the American Civil War, as has every president who has succeeded him. Since Polk, however, there has been a dark side to this: the role of Commander-in-Chief has been outward and not only defensive. With the two World Wars, America reluctantly became a global

power, and with the Vietnam War, the presidency came to disregard the Constitutional procedures which have to be followed for the country to be in a state of war, or to couch adventurist wars in the language of national security. The principle nonetheless stands: a president can, and must, be their own leading minister. Whatever its undesirable undertones, US presidential command over military operations shows the necessity of acquiring experience on the job. There is no shortage of life-or-death policy questions in the South African domestic domain which should be treated with such regard, with the president at the helm, both as head of the executive and minister.

9.4. Conclusion

The American experience offers a number of lessons. The first is the need for a balance between legislature and the executive branch; particularly for each to be clear to its constitutional role, and to exercise its powers fully, while at the same time staying within the bounds prescribed to it.

The second lesson is that the presidency changes over time; this makes the successive holders of that office crucially important. As we have seen with the US case and those discussed in Chapter 10, the personality and ambitions of the *president* are often determinative. This leads to a third lesson: the importance of clear and direct policy priorities. This exposes the limitations of the South African constitutional scheme. While the American presidents pick their own cabinet, so long as they can get them confirmed in the Senate, their South African counterparts are pre-selected to only 398 in a nation of some 60 million people. By contrast, the American presidents can pick the best and most relevantly experienced as they see best. They are not limited to career politicians, but can draw from a wide spectrum of professionals and leaders across civil society, the private sector, and academia amongst others.

The fourth lesson is that party change presents dilemmas. For example, in 1968 Richard Nixon won the presidency after about a decade of Democratic control of the government, and overall only eight years of Republican control (by President

Dwight D. Eisenhower) since 1933 - effectively a twenty-year exile, with an eight-year interlude (1933-1953), and resumption of Democratic leadership during the hyper-active John F. Kennedy and Lyndon B. Johnson administrations. Moreover, in the 1968 election, the Democrats retained clear control of both houses of Congress. This meant that Nixon was the first president since Zachary Taylor in 1848 to be elected without a majority for his party in either the house or the Senate. Congress was not the only rival for power that Nixon faced. Because the country had elected only one other Republican president since 1932, the departments and agencies of the executive branch included a large preponderance of Democrats, who had repeatedly evaded Eisenhower, predicting (accurately) that a Democrat would return to power. Faced with such a reality, Nixon decided to work around the hostile Congress and to lead through executive orders. Successive presidents, including George W. Bush, Barack Obama and Donald Trump, have similarly worked through executive orders and signing statements. As South Africa contemplates a future that may be characterised by a break in single-party dominance after numerous decades in power, a resistant civil service, still with loyalties to the previous dispensation, is a real possibility in waiting.

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Part 3

Super Possibilities

Chapter 10

Permissive Constitution

> "The magnitude of presidential responsibilities demands that the incumbent be clothed with sufficient governance-enabling authority to be the critical difference-maker and transformation-agent that national aspirations demand of the office. The President should, therefore, not be unnecessarily constrained in the exercise of constitutional powers." - Constitutional Court in *Law Society of South Africa and Others v President of the Republic of South Africa and Other* (2018).

10.1. Introduction

So far, we have established that there is a problem in South African politics: its democratic-era presidents do not have ministerial experience, which makes them to be less effective leaders, unable to optimally exact performance out of their cabinet ministers, and thus undermine the country's prospects. I have then put forward a workaround: the president should become a minister in their own cabinet. I have then gone on to show that this is not only a historical precedent in South African history, with prime ministers and state presidents from the Union to the apartheid regimes always having had ministerial experience and regularly being ministers in their own cabinet. Moreover, we have also seen that heads of government leading vastly more complex societies, economies and populations are able to do this in our own busy twenty-first century. But just because something *has been* done in the past and is presently being done *elsewhere* does not by that fact alone mean that it is possible here and now. In other words, alongside the historical and comparative political cases, a constitutional case has to be made in its own right. In this chapter we do precisely that. My argument simply is this: the proposed scheme can be put into action without a single word of

the Constitution (RSA, 1996) being altered. Sections 84, 85, 91 and 209 contain nothing in them which prevent a sitting president from taking up a ministerial role directly.

10.2. Vast but Regulated Powers

As already seen, when we draw the distinction between Section 84 and Section 85 powers of the president, we find them to be already enabled to perform both the powers of the head of state and of the head of government. My reading of Section 85(1) is that it vests executive authority on the president without being explicit on the number of ministries and without preventing them from taking up one of these directly. Indeed Section 209(2) already envisions a kind of president who is simultaneously a minister of intelligence should they choose not to delegate such a role to another "man or woman" - that's the language of the text. On the other hand, Section 91(3)(c) enables the president to make appointments within and outside parliament to a limit of two, they could be one of these appointees as they cease to be a member of parliament after being elected president. Finally, Section 91(5) only states that the deputy president must assist the president in the execution of the functions of government. There is nothing in this which prevents a sitting president from taking up a ministry that deals directly with their priorities, and at the same time allocating another to a deputy president with the aim of preparing them for a future role in their own presidency.

The Constitution thus grants vast, but regulated powers. Sometimes the courts have had to remind the president of the amount of power that they have. Looking at the *Apleni* case (Apleni v President of the Republic of South Africa and Another (65757/2017) [2017] ZAGPPHC 656; [2018] 1 All SA 728 (GP) (25 October 2017)), we see that the president's power to delegate determination of career incidents of DGs ('Heads') to ministers (minister of home affairs in this case) is non-existent as of 2007. In any case, the High Court found that the delegation had never been properly performed by President Mbeki in 1999. His 'delegating letter' was unlawful, having not been signed, and promulgated without another cabinet member's signature. Section 3B of the Public Service Act (PSA) (RSA, 1994) was

repealed by Section 5 of the 2007 Public Service Amendment Act (RSA, 2007).

The Xhosa word for minister, *umphathiswa*, roughly translates to "one who is given responsibility on behalf of someone else." They are, in other words, those to whom the president delegates. Thus, it would appear, a potential deficit in the book's proposed scheme is the foregoing of one of the benefits of having a minister as an actor of first instance. In other words, we can model a minister as a go-between: an actor standing in the way between developments and the actor of final resort. In this model, the minister is an actor of first instance such that matters arrive at the president's desk once they have failed to be worked out at the lower (ministerial) level. In this sense, were the president to assume direct ministerial control over a ministerial portfolio, they would have to respond to endless crises. We can respond to this in two ways. Firstly, the president is already looked to for intelligent, well thought-out responses during crisis points which span from health, to crime, to climate disaster and the economy. With the adoption of a specific ministry, he would be more informed and able to respond in a more agile way in at least one issue area. Secondly, the president would, as is already the case with current ministers, utilise the deputy minister in a manner akin to the ministers of state encountered in Bangladesh, India and Nigeria. A corollary argument, born of the Zuma years, may be put forward that ministers are sometimes required to stand up to the president when they are in the wrong. Such was arguably the case with Pravin Gordhan towards Zuma. Here again two rejoinders can be put forth. Firstly, if the Zondo Commission's report is to be believed, it scarcely matters what one minister does or does not do. A president determined to partake in corruption can appoint a myriad of other compliant ministers and officers of state. As established, only the president may allocate powers to ministers, and ministers may not do their own delegation. They may choose as many ministers and deputy ministers as desired. Secondly, and relatedly, malpractice which is of sufficient magnitude to leak through cabinet and seep into the public discourse (which would be the enabling condition for any minister who would be the conscience of the cabinet), is bound to

elicit wider public condemnation which would paint the president in a bad light. As Christina Murray and Richard Stacey (2019: 17-18) put it:

> "Generally it is believed that since Mbeki became President, he has managed Cabinet firmly. And there is some speculation about whether the president's advisers in the Presidency are more powerful than ministers. But the AIDS controversy shows how even a very powerful President, who may desire to exercise considerable control over government, must be responsive to political pressures. So, in 2002, in the face of the pressure of his Cabinet colleagues and the National Executive Committee of the ANC and despite his strong views on the subject, President Mbeki largely withdrew from the HIV/Aids debate and the government embarked on a major treatment programme with which he disagreed."

Above all, holding the president to account is not the work of cabinet. That task falls squarely with Parliament, the police (where crime is suspected) and Chapter 9 institutions (where there are specific alleged transgressions). It has also been established by the Constitutional Court that the provision that the president must exercise executive power "together with" cabinet does not equate to a requirement for consensus. Section 92(2) states that "Members of Cabinet are accountable collectively and individually to Parliament for the exercise of their powers and the performance of their functions" - there is nothing in this which precludes or takes away from the current line of accountability. Required to account, the adoption of the proposed scheme would just mean that the president accounts twice to parliament, either in person or through a deputy. It would also mean that their policy priorities and promises during the SONA and other platforms are realistic.

These criticisms nonetheless call our attention to a political and constitutional reality: ministries are not all created equal. The first indication should be that there are those which are the creation of a sitting president, while there are those which presidents are compelled to fill by the Constitution itself. These,

five in their number, are Finance (S224(2)), Local Government (S139(2)), Administration of Justice (S175(2)), Defence (S201(1)), and Policing (S206(1)). Two of these, Justice and Policing, are tasked with investigating crime committed by all, including the president, with whom the stakes are especially high. The NDPP is, for example, a presidential appointee, yet expected to act independently and not take political considerations into account in making prosecutorial decisions. As a matter of prudence, including perceived financial prudence, it is worth conceding that these ought to be 'off the table' for the president should they wish to take up a ministry.

Section 102 of the Constitution states that:

a. If the National Assembly, by a vote supported by a majority of its members, passes a motion of no confidence in the Cabinet excluding the President, the President must reconstitute the Cabinet.

b. If the National Assembly, by a vote supported by a majority of its members, passes a motion of no confidence in the President, the President and the other members of the Cabinet and any Deputy Ministers must resign.

This means that the President may, in their capacity as a minister of a chosen portfolio, be removed only as minister and not as president. But, in all likelihood, political realities may see them removed under Section 102(2).

10.3. What the Book is not Saying

In conferences, interviews and general conversations about the book's proposed scheme, one has been fortunate to receive critical feedback and potential flaws. Equally, I have been fortunate enough to be able to counter them. Four in particular have kept coming up time and time again. I deal with these here. Firstly, the book is not saying that you need to have been a minister to be president. In conversations about my argument, I have often had the question posed to me whether I mean to say that one needs

to climb through the ministerial rank to become president. My answer has been no. The book has not made the case for a new criterion for who can become president. Rather the book makes the case for optimising this already powerful office by ensuring that those who assume it are active presidents with evident priorities, realistic commitments, and a more surgical approach to managing their cabinet ministers.

Secondly, the book is not saying that a former minister will make a good or effective president by that fact alone. I can see the reasoning behind this. Indeed, the book began with the recognition that South Africa's presidents since 1994 have not held ministerial experience and therefore that this explained a lot about the country's present challenges. It would appear, then, that the logical conclusion is that former ministers are the ideal heads of government. While that may be possible, and certainly is an important consideration, it is not core to my argument here. Rather, the book is arguing that such a person will have fewer excuses for not exacting optimal performance from their own ministers. More to the point, they will have been part of the business of participating in performance agreements and target-setting and will therefore be attuned both to the practical capabilities of the state at the given time and, at the same time, to the evasive tactics that ministers sometimes use in their own MPAs (as dealt with in Chapter 5). Through a combination of past experience and future self-interest, they, now as president, would be incentivised to have stricter and more specified targets, especially under the column of 'Minister's Role'. Additionally, there is nothing preventing such a person from assuming their own ministry while president. In other words, the proposed assumption of ministerial portfolios is not only to for the benefit of those without ministerial experience, but also for policy use by those with such experience - akin to, for example, the cases of Smuts and Hertzog, who had held ministerial portfolios before becoming prime ministers, but decided to further assume ministerships in their own cabinet. This highlights the dual benefits of my proposed scheme: experience accumulation and prioritisation. Both can be achieved through one bold move and would benefit all heads of government. Additionally, as seen

in Chapter 5, many of the MPAs are quite vacuous such that one wonders whether there is any learning going on amongst ministers. Indeed, given their limited responsibility towards their president, it could be said that none of the current ministers have accumulated enough experience to not need the additional experience that dual office would endow.

Prioritisation leads us to the third critique of the argument: will the president, as minister, not be a victim of their own success? In other words, by choosing a ministerial portfolio, will not the 'other' portfolios suffer from neglect? My rejoinder to this is simple: a specialist president is more likely to exact more performance out of the rest of their cabinet than a generalist president. By being grounded in the practicalities of a ministry, they are enabled to deduce certain practices and generalise them across departments. This puts them at an advantage over one who only hovers above all departments, learning only vicariously. (Yet even this proposition is better than what we have seen since 1994 - better a president who excels at one area and effective at it than one who is head of all areas and master of none). Additionally, the separation of powers as well as the cautionary note presented above regarding certain ministries to avoid will be of use here as well: so long as parliament allocates budget and so long as the finance ministry is under a separate minister, the risk of excessive resource allocation towards the president 'pet ministry' can easily be averted. In summary, then, the book is not encouraging presidents to leave everything else and focus on one priority and, even if they did, that would not be possible for both constitutional and political reasons.

A fourth and final critique, again related to prioritisation, requires some attention: is the book's argument that priorities are unchanging such that a president can choose a ministry to lead for a set amount of time? Again, the answer is no. But, surely, there are long-standing issues that are of such long-term importance that a president can afford to pick and stick with them: education, crime, defence, energy, and state-owned enterprises are but some of these. Indeed, one of the consequences of the adoption of the proposed scheme may be to turn the president from a reactor, jumping from issue to issue, and into a leader who is anchored

in a mission while responding with agility where needed. That is, into one who becomes president for a mission. It is also possible that the president is often expected to respond to every little development because of the perception that they are available. Not being responsible for anything that the country knows of, and being a mere supervisor, they are a spokesperson more than a doing person.

10.4. Politically Feasible?

Having established that the book's proposed measure has strong historical precedent, global parallel, and passes constitutional muster, it is worth concluding with a reflection on that final crucible of all ideas: political incentive. Two potential bones of contention are worth reviewing: would the governing party, whatever it may be, permit the president to assume a ministerial portfolio and, secondly, would the broader population endorse such a move?

Regarding the first potential stumbling block, we can point to the fact that any ruling party has fundamental incentive to be at least seen to be serious about governing. Additionally, there is nothing in presidential assumption of a ministerial portfolio which should put the president at odds with their team by that fact alone. The president's prerogative to create any additional ministerial portfolios and deputy ministers as they want - seen especially during the Hertzog, Zuma and Ramaphosa administrations - can be put to use to placate any potential complaints and tensions about limitation of space through reduced ministerial portfolios. In other words, though regrettable in some regards (not least because it tends to lead to overlap in functions and blurred accountability), there is no limit to the number of ministries that can be created for those eager to play a role or simply to be 'rewarded' or 'silenced' depending on which faction they belong to vis-à-vis the president of the day. Additionally, the incentive structure is such that those opposed to them as well as those allied with them stand to be rewarded should a president take up a ministerial portfolio: for the former, they would be exposed as incompetent, and for the latter, the president and the party would have something to concrete on which to stand for re-election.

The response to the second stumbling block is implied in the final part of the answer to the first: transparency. The main issue facing South Africa is not excessive use of executive power. To the contrary, as demonstrated by the overwhelming mixture of indifference, passivity and welcome which the 750-day Coronavirus disease 2019 (COVID-19) State of Disaster received, it is the limited way in which it is put to use during 'normal' times. Ramaphosa was cheered on, with the superlative 'decisive' applied to him as never before. In no uncertain terms, the North Gauteng High Court affirmed the president's prerogative in exercising his powers and taking measures he saw fit, and following due process, in responding to the pandemic. In *One South Africa Movement and Another v President of the Republic of South Africa and Others*, a case ironically litigated by Mmusi Maimane's organisation to institute a *more* stringent lockdown (reversal to alert level 4 from 3), Judge President D Mlambo and Judges N Kollapen and R Keightley (at para 30, read against para 34 and section 3 of the Disaster Management Act), reaffirm the executive's constitutional powers and responsibilities during states of disaster. Further, at paragraph 87, the court reminds us that, even in times of disaster, there are constitutional fundamentals that cannot be neglected:

> "It may seem, to the ordinary person in the street, to be counter-intuitive or illogical to ease lockdown measures when the number of cases is rising at an increasing rate. However, when it comes to vetting the constitutional validity of the respondents' decision to do so, intuition and logic are not the correct measures. This is because an executive decision of this nature is pre-eminently polycentric and policy-laden. The DMA gives the executive the power to make these difficult, multi-faceted decisions. In exercising this power, the executive must obviously respect, protect, promote and fulfil all fundamental rights implicated."

Having a president take charge of a portfolio would convey commitment to an outcome on an area that the president has deemed to be of particular, though not exclusive, importance to South Africans. The stakes are nonetheless high, and would

require communication of the president's aims, rationale, transparency, and financial prudence - including foregoing any additional renumeration and benefits so as to avoid any accusations (credible or otherwise) of double dipping. In its own way, the decision by a president to directly take up a ministerial portfolio may also open up space for debate, across society, within parliament and perhaps even in the courts. That would be welcome, as it would expand the scope of civic and constitutional education regarding the full extent of the president's powers.

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Chapter 11

Emperor at Home, King Abroad

11.1. Introduction

The previous chapter tied up this book's argument by demonstrating its constitutional validity. In this chapter, we turn to a ministry that the head of the executive should not grant themself: international relations. In a sense, we return to where we began: the scourges facing South Africa. These are undeniably domestic in nature. A weak country cannot, therefore, speak with an audible and respected voice internationally. Yet, as seen with the American case and with many of our own leaders, including Ramaphosa, when presidents are bogged down at home, either due to gridlock or because they feel themselves at an impasse, they turn overseas. When doing so from a position of a weak economy, however, they make banal statements. With the Russia-Ukraine War and the escalation of the forever war in Palestine / Israel, there has been no shortage of opportunity. The existence of a historically and contemporaneously imperialist West also provides endless opportunities for deflection. Yet South Africa's head of cabinet cannot help but be only a small player internationally. They are, in sum, an "emperor at home and a king abroad" - a useful phrase that used to describe the status of rulers in ancient China's neighbours in East Asia; whilst they were powerful monarchs in their own states, they had to pay tribute to the Chinese emperors, who were regarded as rulers of "all under heaven" in that part of the world. This is not to downplay the importance of foreign policy, but to critique South Africa's ability to meaningfully have one when its domestic house is not in order.

As this chapter argues, South Africa has a lack of demonstrably salient foreign policy interests following its reintroduction into the international community since 1994. This is reinforced by the weakened nature of a clear mandate for the Department of International Relations and Cooperation to fulfil

outside of economic diplomacy, routine staffing of embassies and other diplomatic missions, issuing of statements that either welcome or condemn developments on the international scene, and pursuing memberships in multilateral summits. This is buttressed by a poorly defined "African agenda" being pursued by a country whose capacity for policy action on the continent is declining rapidly at the behest of China, regional powers and newly emerging external players. The broadness of the ruling party's elite interests and its *selectorate* has led to an accommodationist stance that stunts any clear articulation of principles and inhibits coherent action on the few principles which are articulated due to - what may otherwise be termed foreign policy. South Africa's post-2008 economic decline, which in turn reinforces the country's pragmatism in pursuit of maintaining resource depth and middle power status has ironically diminished it in the process.

The second section of this chapter details the lack of foreign policy in South Africa's global engagement. Approaching the issue in a manner that understands the misunderstanding around South Africa's foreign policy and diplomacy to be both in official documents and in commentary (including journal articles, books and the popular press), the chapter thus forgoes a standalone literature review and integrates arguments/counterarguments into its analysis. The third section presents some of the causes behind South Africa's lack of foreign policy, while the fourth section attempts to systematise by presenting a hierarchy of the causes in relation to each other, before the book concludes.

11.2. A Contested Foreign Policy History

South Africa's foreign policy, much like (and indeed because of) the domestic order of the country took a divergence in 1994, with the coming into power of the country's first black-led government under the leadership of Mandela. Subsequently, South Africa's foreign policy can be said to have evolved with each successive leader (Qobo and Dube, 2015: 145). What has remained constant over this three-decade period is South Africa's self-understanding as a regional leader and middle power. Nevertheless, the middle power ranking, though often

caricatured as the diplomatic equivalent of a 'global boy scout', has not precluded pragmatism given that the middle powers have self-interests too (Van der Westhuizen and Smith, 2015: 344). It is because of this that some foreign policy observers note that South Africa's foreign policy has been adrift since the Mbeki era. The country's interests have not been well articulated ever since. This is the point at which, the present chapter seeks to argue, South African foreign policy ceases to exist as a category.

The conventional wisdom is that under President Zuma, foreign policy was aligned more and more towards China and Russia, a process that has only continued under Ramaphosa, especially in the wake of the Russia-Ukraine War. Since Zuma's tenure, Russia became a high priority, receiving more visits by the South African president than any other country. Furthermore, the ruling ANC "has cemented party-to-party relations with both Vladimir Putin's United Russia, despite its right-leaning credentials, and the Communist Party of China" (Qobo and Dube, 2015: 151). Such associations have been received differently, and accusations of corruption have flared up, up to and including the Ramaphosa era.[1]

Holden and Isemonger's (1999) pioneering work - stemming from an interest in examining the country's trade

1 "News of SA's nuclear deal with Russia has raised the spectre of another arms deal in the making, with concerns over the tender process and funding for the multibillion-dollar project." See *Legal Brief*. 2018 (November). 'Concerns over SA's nuclear road ahead,' *Legal Brief*. Available at: https://legalbrief.co.za/diary/legalbrief-forensic/story/concerns-over-sas-nuclear-road-ahead/pdf/ (Last accessed: 3 November 2019). Writes another national publication, paraphrasing the former president's remarks in an interview one year after stepping down: "He has claimed that the agreement - despite its monstrous cost - would have helped prevent the mass schedules of load shedding we have seen in the last week" (Head, 2019; March 22). See Head, Tom. 2019 (March 22). '"I'm not corrupt: it's just propaganda" - Jacob Zuma goes nuclear on his critics,' *The South African*. Available at: https://www.thesouthafrican.com/news/jacob-zuma-news-nuclear-deal-russia-corrupt/ (Last accessed: 3 November 2019). See also Charles, Marvin. 2023 (September 13). "'They don't give a damn': Winde accuses ANC of receiving Russian funding in war of words," *News24*. URL: https://www.news24.com/news24/southafrica/news/they-dont-give-a-damn-winde-accuses-anc-of-receiving-russian-funding-in-war-of-words-20230915.

links with some of its 'non-traditional' trading partners to ascertain the nature of that market vis-à-vis the rest of the world - indicates that over the timeline between 1992 and 1995, "trade with the IOR [Indian Ocean Rim] consists mainly of the mutual exchange of natural resource products and that this trade is growing much faster than South Africa's trade in general" (Holden and Isemonger, 1999: 89). This fact has been embraced by a large section of the foreign policy community, with Qobo and Dube noting that the trade with the Eastern world "is active in shaping the development agenda with like-minded countries" (Qobo and Dube, 2015: 145).

This is a widely held view, expressed in various platforms by South Africans. From the perspective of the broader population, there is a recognition of China's significance. Carrying out ground-breaking work, Van der Westhuizen and Smith conducted a survey-based study that sought to gain an understanding of average South Africans' view on a litany of foreign policy-related issues, including its economic relations with the outside world. In the study, they found that South Africans not only envision, amongst others, a stronger role for their country in the continent, but also that they "strongly endorse the view that the fundamental purpose of our foreign policy should be to reduce unemployment and generate economic growth" (Van der Westhuizen and Smith, 2015: 344):

> "The strategic value placed on China as a key trading partner and potential ally, the significance of the Southern African region to the country's development, the prioritisation of trade over human rights as well as the key role of business as a social actor underscore the extent to which our international role should ultimately serve the country's developmental interests" (Van der Westhuizen and Smith, 2015: 344).[2]

2 It should be noted, however, that Van Westhuizen and Smith's survey did not directly ask its respondents about their feelings towards China. In an August 2017 published survey by Pew, it was indicated that "only 45 per cent of South Africans had a favourable opinion of China's role in the world. This level of support for Chinese foreign policy lagged behind all other African countries

This is where the crucial differentiation between diplomacy (including its economic variant) and foreign policy is needed, however. Additionally, it will be generally useful for trade, which is generally the only main by which the relationship between South Africa and China (itself taken as an indication of the country's "eastward turn") has grown in the past twenty years, needs to be set apart from the two. Even here, as will be discussed, the so-called break with the West is non-existent as trade ties remain, despite rhetoric that conveys dissatisfaction with the Western-dominated global order. This disjuncture between statements of principles and actual action is part of the reasoning behind the assertion that there is no foreign policy.

Below, I differentiate between diplomacy and foreign policy and subsequently argue that the country has increasingly had none of the latter.

11.3. South Africa's Lack of Real Foreign Policy

Diplomacy essentially refers to a set of procedures invented by empires thousands of years ago to frame relations between them in times of peace. This has evolved over time. For example, Article 3 of the 1961 *Vienna Convention on Diplomatic Relations* (UN, 1961) stipulates that the functions of a diplomatic mission consist, amongst others, of "Representing the sending State in the receiving State" and "Promoting friendly relations between the sending State and the receiving State, and developing their economic, cultural and scientific relations". On the other hand, foreign policy refers to the pursuit of clear objectives in the national interest and the methods for obtaining these. In other words, diplomacy is a signal of normalcy, whereas foreign policy is a signal of aims to achieve specific ends, which may mean affecting a change in the status quo. In *Understanding Foreign Policy*, Martin C. Needler makes the distinction that "the management of inter-state relations constitutes diplomacy, which one could describe in general as the art of adjusting the

represented in the survey, and was lower than the 53 per cent of South Africans who viewed the United States as a constructive force in international affairs" (Ramani, 2018; August 31).

varying and often clashing interests of states to the advantage of the state the diplomat represents, but also with a view to preserving amicable relations with other states where possible" (Needler, 1966: 63).

While diplomacy may be a necessary condition for the pursuit of foreign policy, it is by itself an insufficient condition in the pursuit of foreign policy (Weisbrode, 2014). In other words, a country may have diplomatic representation in corners of the world from which it has no ambitions outside of trade. Moreover, with the formation of the World Trade Organization (WTO)'s most-favoured nation (MFN) principle, countries actually increasingly need little active diplomacy to gain markets. However, trade can be an *instrument* in foreign policy as the US-China trade war as well as recent literature on weaponised interdependence should indicate (Farrell and Newman, 2019: 42; Garcia and Smith, 2019). In this way, then, trade negotiations, insofar as foreign policy issues hinge on them, are the only potential exception to the conceptualisation of diplomacy as distinct from foreign policy. In its 2001/2 *Yearbook*, we see the South African government itself differentiates between the two and noting the trend towards economic diplomacy: "Economic diplomacy is fast becoming the major focus of the activities of the Department of Foreign Affairs" (GCIS, 2002: 267).

Literature on South African foreign policy abounds. Oscar van Heerden's *Consistent or Confused: The Politics of Mbeki's Foreign Policy, 1995-2007,* and Adekeye Adebajo's double act of *The Eagle and the Springbok: Essays on Nigeria and South Africa* as well as *Foreign Policy in Post-Apartheid South Africa: Security, Diplomacy and Trade* (co-edited with Kudrat Kirk), along with the many popular press publications in the nation's op-ed pages. What seems to unify these works is a focus on the issues which have dominated South Africa's thinking after 1994: championing an 'African agenda,' strengthening the African Union, ensuring stability in Zimbabwe, reforming the United Nations, fair trade with big powers, being a voice for the Global South (notably Cuba and Palestine), and latterly wrangling with the International Criminal Court as well as retrospective blunders such as Libya and the Central African Republic). Equally crucial to all these works is a

focus on the unique set of challenges and opportunities (especially in soft power terms) brought on by foreign policymaking at the behest of a newly democratic South Africa, with a government accountable to a diverse, vibrant and active domestic audience (though this is not without its doubters).

Many observers of South Africa's interactions with the outside world would in no doubt highlight some points in defence of what they see as an active, if not always successful, foreign policy. These observers may assert that the country has a foreign policy driven by domestic developmental imperatives, that the country is a leader on the continent; that it stands for global reform. None of these, I argue, have been executed particularly well, if at all. Rather, they are statements of principle and principle is not policy.

11.3.1. Why the Lack of Foreign Policy

In many ways, this lack of foreign policy is owed to no particular individual (although some decisions and developments have not helped the situation) but was more the result of a natural conclusion to the nature of the country and the nature of its progression. For a time, South Africa necessarily did have a foreign policy - characterised by formation of new relations and a reintroduction of the country back from the diplomatic cold, and eager to shake off its pariah status. But given the nature of the country, and its placement in the global structure, it could only serve to reintroduce itself to the world and signal readiness to do business. Having thus reintroduced itself to the world under the energetic 1990s and early 2000s under Mandela and Mbeki, the country has entered a conservative phase since the late Mbeki era. Indeed, writing in the period immediately following the stepping down of President Mbeki, Sidiropoulos (2008: 107) thought it "highly unlikely that any major changes in foreign policy will be made by the caretaker government of President Kgalema Motlanthe before the 2009 elections." The same author predicted that the country would, while constrained by diminishing resources, seek to still be internationally active, especially in Africa. As indicated in the preceding paragraph, this view has indeed been the subsequent consensus throughout the literature

that looks back on the Zuma years. We go further in this chapter and assert that following the 2009 elections and the assumption of the presidency by President Zuma we have seen no actual foreign policy. This is owed to the causal reasons laid out below.

11.3.2. A Shrinking Policy Space in Africa

This is a period of maintaining existing relations, participating in as many multilateral forums as possible and occasionally condemning "unwelcome" developments on the continent and on the world stage. Moreover, with no exceptionally pronounced issues at play or at stake, the country's leaders commit the ultimate act of dilution: they speak in broad, continental terms, and even here have little to show for it due to structural and resource constraints. Africa was once the terrain on which the country could look forward to acting most assuredly within, as exemplified by the African Renaissance and the introduction of the New Partnership for Africa's Development (NEPAD) (Bond, 2004: 599). However, countries on the continent are increasingly needing no outside saviours due to their growing economies (e.g., Rwanda, Ethiopia, and Kenya) and increasingly active regional players (Adebajo, 2018; Odubajo and Akinboye, 2017: 61), and with China increasingly being looked to for that role where it remains (Marques, 2020; Dreher, Fuchs, Hodlerceh, Parksij, Raschky, and Tierney, 2019: 44), South Africa has lost its footing here as well. The best that can be done is the taking of rhetorical stances and restatements of principles, and championing of loosely defined "continental positions."

11.3.3. A Lack of Coordination?

A 2018 volume edited by Chris Landsberg and Lesley Masters titled *From the Outside In: Domestic Actors in South African Foreign Policy* is built upon the thesis that the country has a foreign policy, but that it is constrained by a multiplicity of domestic actors that harangue the government from centrally directing its foreign policy. Their volume consists of ten diverse chapters, nine of which are designed to highlight some particular sector, body, or division's role in or perception of foreign policymaking and all from various contributors, as well as a conclusion. While not uniformly so, the

focus of the contributors are the years between the late Mbeki era and the entirety of the Zuma era. Even a simple word association gleaned from the table of contents accrues this conclusion, with terms such as 'between', 'integrated', '(dis)engagement', 'periphery', 'grassroots' relaying a situation characterised by disjuncture and distance. The book ultimately acknowledges the insights of state-centric realism without being cowered by them - as the book seems to argue, it would be un-factual to proclaim the state as obsolete in the crafting of foreign policy, but it is also equally churlish to not take stock of the kaleidoscope of interests and power centres active and at work in the shaping of South Africa's posture towards the world.

An integral part of the volume is a study by Anthoni van Nieuwkerk (2018), who looks at various players apart from the Department of International Relations and Cooperation (DIRCO), in their differentiated pursuits of policy coordination and its impact the country's posited foreign policy. The chapter highlights the salience of integrated policymaking tools as well as challenges the prevailing notion that the presidency is the main actor in strategic policy formulation; rather, South African foreign policy, especially in the post-Mbeki era, is found to be the product of a myriad of departments pulling in different directions. Attempts to reconcile policy, such as an international relations cluster, have yielded mixed results at best. The chapter shatters perhaps the greatest of holy cows; highlighting that the White Paper on South African Foreign Policy (RSA, 2011) was not the product of the entirety of the foreign relations cluster under the DIRCO leadership. The relative devolution of power in foreign policymaking is not only horizontal across departments, but also vertical, between levels of government. Fritz Nganje (2018), in the same book, focuses on the subnational governance structures, which have developed their own approaches to international relations, and particularly the provincial and city authorities. Core to Nganje's argument is that these subnational actors are increasingly demonstrating their capacity to represent their interests at a global level independent of the national structures. In this sense, then, South Africa has not one but many *foreign policies*. This ties into the argument being made here, however,

as it would appear that the country pursues no *national interest* abroad. Indeed, the core of the "foreign policies" of these subnational entities is more akin to economic diplomacy than the pursuit of national objectives.

The DIRCO's 2011 *Diplomacy of Ubuntu* White Paper admits this deficit: "In order for South Africa to maximise the benefits from the successful implementation of its foreign policy, a coordinated approach is essential to address weaknesses of working in a compartmentalised manner." It is interesting that the Department also understands itself as only "the principal adviser on foreign policy, and lead coordinator and manager of South Africa's international relations and cooperation." On the one hand, principal advisor (as opposed to, say, custodian or driver) indicates some level of lack of ownership. A study by Jo-Ansie van Wyk (2018) focuses on the Portfolio Committee on International Relations and Cooperation (PCIRC) in the National Assembly. The first to explicitly make use of an analytical framework, the chapter adopts and seeks to apply Hagan's (1995) framework to account for the constraints faced in impacting foreign policies as well as the range of stratagems employed by this committee. The committee, Van Wyk (2018: 89) argues, fails to live up to its moniker of being an engine room of SA's foreign policy as it plays a rather limited role and is accorded little deference by the DIRCO, who nominally brief it only to inform it on its priority areas rather than to obtain direction. This renders the committee more of an *imbongi* (giving occasional criticism and counsel) than *inkosi* (i.e., not the source of origin for any major policy or legislation since its origins). Reduced to this, the committee, a portfolio within the people's house, is left only to reacting and participation through various strategies (accommodation, mobilisation, insulation and routinisation)[3], and playing a "discursive" role (i.e., initiating

3 Accommodation refers to the cooperation between the DIRCO and the PCIRC (though, once again, it is characterised by asymmetrical briefings with the former informing the latter more on what are its priority areas than seeking approval from it [pp. 77]); mobilisation refers to the legitimisation of the ruling party's foreign policy objectives and global solidarities (pp. 79); insulation refers to a deflection and ignoring certain foreign policy matters which have the potential of embarrassing the ruling party (this includes the PCIRC's silence over the 2015 Omar al-Bashir affair), while

conversations which are unlikely to manifest into policy). Thus, it would appear that the DIRCO, itself relatively marginal in the making of foreign policy, has further relegated the PCIRC to a marginal role in its own actions. But to critique this would be to assume that there is something to be attained from the outside world, whereas observation demonstrates that the country has little to no foreign policy goals. In many ways, it can also be argued that the country has attained all that it can from the outside world, if we take 1994 as a starting point (as so much of the literature reviewed here does).

11.4. A Lack of Real Foreign Interests?

Above all else, foreign policy is hinged on concrete stakes that require a country to take actions outside its borders. With no border disputes at play, and operating in a friendly neighbourhood, South Africa has tended to be lethargic. Moreover, even the most ardent proponents of foreign direct investment (FDI), seen as part of addressing the country's unemployment and poverty (and stemming from the economic diplomacy for the development school of foreign policy) have to paradoxically acknowledge that the country's pursuit of FDI begins and ends at home. FDI influxes can only be attained by affecting meaningful changes within the country, as foreign investors cannot be coaxed into investing in the country. Foreign policy has no role here, and this tends to be left to (economic) diplomacy. Moreover, the international economics of South Africa are out of step with the pronouncements of its leaders: more trade is conducted with Germany, the US, Saudi Arabia and others, whereas the country's foreign policy mouthpieces will speak of the country's desire to introduce a shift in the global system which they appraise as being unfair and too Western-dominated. Far from indicating some sort of Cold War scenario in which South Africa should choose one side or another, the data highlights the confusion brought on by its leaders when they speak as if it must pick sides, but fail to affect any change in course (Table 11.1).

routinisation involves a focus on budgetary issues and external humanitarian assistance.

Table 11.1. Change in South African exports to BRIC countries (in % of total exports)

Year	Brazil	Russia	India	China	US and Europe
2010	0.79	0.31	3.4	9.06	24.95
2019	0.48	0.44	4.7	11.1	29.33

Source: OEC (2022)

Table 11.1 showcases the extent to which South African exports to BRIC countries have seen little change since the country joined the association with most of the growth being attributable to China and India, and with Brazil and Russia collectively representing less than 1%. Nothing has changed since the Coronavirus disease 2019 (COVID-19) pandemic. It is notable that trade with China and India had already been growing before the formation of the BRICS and thus the trend is independent of South African entry. Ndzendze (2018) demonstrates the lacklustre influx of investments by BRIC financiers and institutions in the South African economy, including the stock market (Johannesburg Stock Exchange). On the other hand, trade with the US and Europe has experienced an increase. Indeed, the EU still forms 75% of South Africa's FDI - and President Cyril Ramaphosa's appeal for more FDI has seen increased engagement with financiers from the region in 2018 and 2019 (Ndzendze, 2020: 297). This, considered alongside the rhetoric of reforming the global order (as exemplified in reiteration of the need to challenge the "Continued dominance of countries of the North" and to counter it through "strengthening of south-south cooperation and strategic relationships as crucial to its vision of a better world" in ANC resolutions [ANC, 2012: 39-40]), makes for confusing "policy."

11.4.1 Domestic Audiences and Party Politics

The confusion is not only with the leaders but goes to the grassroots as well, who may indeed be sending mixed signals to its government. The domestic audience (constituencies) and the "selectorate"- that is, the vested interest groups behind the retention of power for the current authorities beyond their

voters - are themselves a diverse mixture, and profess different priorities (Bausch, 2014: 533; Schumacher and Giger, 2017: 162; see also Ripsman, 2009; Ripsman, 2017). For example, in their 2015-published survey Janis van der Westhuizen and Karen Smith find that the majority of respondents answered with "China" when asked "with which country or group of countries in the list should South Africa be seen to be an ally or close friend?," but responded with the United States, closely followed by Europe, when asked "If you could choose to live in another part of the world, where would it be?" (Van der Westhuizen and Smith, 2015: 339). Clark (2016: 44) puts it more bluntly: "South Africans are not sufficiently united as a people for their own government to act on their behalf in a coherent way."

The lack of foreign policy can partially be attributed to the nature of the ruling party. In her 2011 opus, *The African National Congress and the Regeneration of Power*, Susan Booysen perceptively notes that "there exists the world of ANC internal democracy (along with intra-Tripartite Alliance democracy) where the ANC relates directly to the people (often mediated by ANC provincial, regional, branch and league structures), and where most of the profound battles of South African politics play out" (p. 5). Organisations that have such a broad make-up can also lead to commitments that encompass everyone's priorities, but in so doing may tend to be so accommodative as to be too ambiguous to be actionable (Southall, 2005: 66; Carty, 2015). Formally outside the ANC but influential within it, is big business, whose interests inform the government's agenda domestically as well as its economic diplomacy due to ANC-business relationships cultivated during the transition in the early 1990s (Michie and Padayachee, 2018: 3; see also Ayodele, 2018).[4] For Habib (2009: 143), corporate interests took "centre stage" in South Africa's post-apartheid foreign policy. Clark (2016: 45) similarly observes the effect of the growth of ANC-linked black elites - an expanding constituency since the advent of majority rule - and the effect they on the government's international relations considerations.

4 "It would appear that Mandela often took the lead in cultivating close relationships with major international and local businessmen" (Michie and Padayachee, 2018: 3).

On the other hand, Mabasa and Orr (2018: 139) articulate the role of labour unions, particularly COSATU, in South African foreign policy and highlight that in the 2008 saga over the possible importation of arms into Zimbabwe through the port of Durban during the country's post-electoral violence, the South African Transport and Allied Workers Union (SATAWU) "made it clear that they would have no part in the repression of the working class in Zimbabwe" despite the relevant authorities equivocating that it was legal transfer of cargo. Subsequently, Mabasa and Orr highlight the internal divergences within the Alliance. One major area of divergence has been the issue of China; for the ANC-led government it is an economic partner with whom economic cooperation is appraised, but for the federation it is a job killer whose access to the South African market needs to be regulated. Clark (2016) and Mabasa and Orr (2018)'s works thus go a long way in demonstrating that the ANC's observed activist-businessman double face in its mixed neoliberal-progressive domestic policy (Bond, 2004: 599; Habib, 2009: 143) carries over into its international posture as well.

The ANC's strong suit (i.e., being a coalition or big tent party) is a modus operandi that necessitates a worldview that makes for great diplomacy and consensus-building but is ultimately inconsistent with the forging of a clear foreign policy. South Africa's mixed image of activism and business-mindedness is mirrored by the ANC's own posture domestically. This makes for confusing foreign policy, as any foreign policy analyst who has looked at South Africa as a case study; in their parliamentary handbook, the Institute for Global Dialogue (Jumat, 2016) comes up with the following as the main pillars of South Africa's national interest: "first, to ensure the stability of the Republic, its constitutional order and its institutions; second, to create an environment in which South Africans are and feel secure, and are free from want and hunger; third, prioritise the sustainable growth and development of the South African economy; fourth, prioritise the sustainable growth and development of the Southern African (SADC) region; fifth, commit ourselves to working for a stable African continent that enables peace and development to take root; and sixth, to work towards the creation of a just and

equitable world order." As we have already established, these are matters of principle, but they are not foreign policy objectives. But principles are meaningless if they are not backed by red lines. That is what transforms them into foreign policy. Does anybody, either domestically or (more importantly) internationally, know what South Africa's red lines are?

A part of foreign policy is, however, establishing clear red lines. Consensus-mindedness - perhaps best symbolised in the change in name of the Department of Foreign Affairs to being the Department of International Relations and Cooperation - is anathema to the role of foreign policy, save for countries that seek to position themselves as middle powers and are thus originators of ideas and take on the role of consensus-builder writ large. But even this cannot be performed that effectively anymore by the country, with indicators that have gone progressively worse since the Great Recession which impacted South Africa's capacity to effectively back its commitments and overall capacity for action on the continent (Sidiropoulos, 2008: 107). Since then, the country has come to be characterised by even slower economic growth, a growing deficit and growing unemployment (Freund, 2019: 191). Moreover, South African Reserve Bank data places the 2010s as the decade with the lowest growth on record since the 1960s (Stoddard, 2020). Part of being a true middle power is having relatively deep pockets; to enter platforms or to create them.

Observers who speak of a decline in South Africa's standing and the moral capital accumulated from its democratic transition fail to recognise that the perception of South Africa as a champion of human rights was an unsustainable base upon which to rest any country's foreign policy. Without wealth, two outcomes were likely to come about, and, incidentally, both have: the country could dwindle into irrelevance and/or the country could place its economy ahead of its foreign perceptions and seek pragmatic relations (Khadiagala and Nganje, 2016: 1561). This has been the natural progression from a country that once took to human rights championing and decisive if only controversial steps (controversy being itself an integral corollary of foreign policy decisions), to the present-day conservatism described in this chapter.

11.4. No Easy Victories

Is South Africa's present lack of foreign policy as postulated here, a bad thing? Not necessarily. Indeed, it can be a liberating realisation. After all, a policy should be pursued not for its own sake, but when there are issues at stake. While international engagement is important, it should not have a disproportionate share of the executive's attention. South Africa desperately needs to optimise its social and economic policy first. This may well enable it to reemerge stronger in the international community, for it would enable a stronger economy and military, and therefore a bigger voice with considerable weight behind it. In many ways, then, the relative lack of foreign issues over which the country is directly and measurably implicated, presents an opportunity to focus domestically. Then and only then would they be an emperor amongst emperors, and not merely one at home and a king abroad. Any would-be super president is strongly advised against taking the easy route of being a foreign policy president.

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Appendix A

POWER ALERT 2

Date: 07 January 2020

Eskom to implement Stage 2 loadshedding from 01:00 until 06:00 tomorrow morning in order to accommodate the release of matric results

Tuesday, 07 January: Eskom announced that it will implement stage 2 loadshedding from 01:00 until 06:00 tomorrow morning, Wednesday. In order to minimise the impact of the loadshedding on South Africans, loadshedding is scheduled at night to maximise electricity availability during the working day. Owing to a loss of additional generation capacity, emergency reserves had to be extensively utilised to supplement capacity during the day. These now need to be replenished to meet tomorrow's electricity demand. The system remains constrained and unpredictable with breakdowns (UCLF) sitting at 13 600MW.

In order to give matriculants an opportunity to receive their matric results, the implementation of stage 2 loadshedding has been delayed to 01:00 on Wednesday morning. This decision will also allow the matriculants enough time to make their way home safely. In order to plan their activities, Eskom customers can check their loadshedding schedules on the Eskom website (loadshedding.eskom.co.za) or through the customer contact centre on 0860037566.

Our teams continue to work tirelessly to return units back from planned and unplanned outages. Owing to inadequate maintenance over a number of years, the system remains vulnerable to unplanned outages. We, however, remind customers that loadshedding is an essential and controlled measure to protect the power system from a total collapse or blackout.

We continue to ask customers to reduce demand as a concerted collective effort can help to avoid or reduce lessen the level of loadshedding.

We will keep South Africans informed about the status of the electricity system and our recovery effort.

ENDS

Issued by: Eskom Media Desk
Tel: +27 11 800 3304/3343/3378/6103
Fax: 086 664 7699
Email: mediadesk@eskom.co.za

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