South Africa’s negotiated transition: context, analysis and evaluation

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“...We, the people of South Africa, recognise the injustices of our past...[and] believe that South Africa belongs to all who live in it, united in our diversity. We therefore...adopt this Constitution as the supreme law of the Republic so as to heal the divisions of the past...[and] to improve the quality of life of all citizens and free the potential of each person.”

—Preamble, South African Constitution

From the mid-1980s until 1996, South Africans at all levels of society engaged in an extraordinary process of negotiating a transition from a repressive and discredited apartheid state based on racial segregation to a constitutional state with a justiciiable bill of rights and a legitimate democratic government. Yet despite profound political changes, South Africa is still a divided country; over 340 years of colonialism and apartheid has not been undone in eight years. Issues of ethnicity, identity and racism are part of the nation’s psyche. Although the government has made significant progress in addressing some basic human needs by building houses and health clinics and supplying clean water, the gap between the ‘haves’ and ‘have nots’ is still increasing. Up to 22% of the population is infected with HIV/AIDS. Frustration of fundamental needs — as manifested in poverty, unemployment, crime and socio-economic woes — are the underlying causes of ongoing deep-rooted conflict. Despite these difficulties, political violence is largely absent. It is safe to say that the dialogue processes at the heart of the transition helped to establish a culture of peaceful negotiations, entrenching and affirming a habit of constructive cooperation and coexistence, politically as well as economically. Yet determined action to fulfil the promise of the Constitution’s preamble remains necessary; otherwise the dream could explode.

European colonization and the apartheid state

Numerous peoples have long inhabited the territory that comprises contemporary South Africa: indigenous Khoisan groups, Bantu-speaking groups, and more recently those with European origins, Indian and Malay backgrounds, Jews and those of mixed ancestry classified...
by the South African state as ‘coloured’. The process of negotiating South Africa’s democratic transition in the 1990s was challenged with transforming a state structure founded on principles of segregation and inequality that gave members of these groupings differential status.

The apartheid system had its roots in 350 years of religious, land and labour conflicts. In 1652, a group of Dutch settlers landed in the Cape of Good Hope and gradually established a rigidly stratified colony based on slave labour from Africa and Asia to farm the productive lands. The British gained control in 1795, with many Dutch-speaking Afrikaners fleeing further into the interior where they established new colonies. Over the next century, the British conquered the remaining African kingdoms and expanded their control to subsume the new Afrikaner republics. They also controlled many of the lucrative gold and diamond mines, worked mostly with indentured Indian labourers. The British suppressed the Afrikaner Boers rebellion from 1899-1902, deploying a scorched-earth policy and internment Afrikaner and African civilian communities in camps where thousands died of hunger and disease.

With the inauguration of the new Union of South Africa in 1910 – comprising the former British and Afrikaner controlled territories under the British monarch – the Afrikaners gained predominance and were decisive in shaping a constitution based on white supremacy. Successive legislation was passed introducing racial segregation, reserving almost all land for white ownership and progressively excluding the African, Asian and ‘coloured’ populations from political participation. The South African Native National Congress, which in 1923 became the African National Congress (ANC), was formed shortly after the Union of South Africa to oppose racial discrimination, extend the franchise and gain equality. Their demands were rejected by successive governments.

After the Afrikaner extremist Nationalist Party assumed power in 1948, they began to systematically extend the policy of apartheid to promote the economic and political power of Afrikaners, resulting in one of the world’s least equitable distributions of wealth. People were segregated into racially defined group areas and whole communities were displaced from areas designated as white only, with ‘pass laws’ used to control the movement of non-whites. The majority demand in South Africa came to be for a political system based on the principle of ‘one person, one vote’. Slogans such as ‘power to the people’ and ‘the people shall govern’ called for the creation of a system of governance where all citizens could vote. This was not a challenge to the prominence of the South African state but rather the specific uses to which state power were deployed.
Congress of the People and the Freedom Charter

Drawing on Mohandas Gandhi's earlier campaigns to promote the rights of South Africa's Indian labourers, in 1952 the ANC and the South African Indian Congress organized a mass civil disobedience campaign that broadened the base of organized resistance. In 1955, five years before it was banned, the ANC convened a Congress of the People to develop a Freedom Charter for all South Africans. The charter articulated not just what they opposed but also what they stood for. It shaped the development of political thinking, formed the foundations for a pro-democracy movement and influenced the negotiations in the 1990s. It was a unique experience of mass participation in a political visioning process amidst hostile political circumstances and shaped the implicit expectation for public participation in creating a new South Africa.

Preparations began in 1953 as hundreds of activists organized meetings and house-to-house canvasses to alert South Africans to the project. Ordinary citizens were asked the open-ended question: “what needs to change in South Africa for you to enjoy full and abundant lives in terms of country, community and individual?” The organizers learned that if they wanted people to participate, they needed to meet them where they lived, worked and played. This lesson became a powerful operating principle for the democracy movement that emerged in the 1980s. The organizers were instructed not to write demands on behalf of the people but rather to collect and collate the perspectives they heard; to enable processes that allowed the dispossessed and disempowered to find their own voice rather than see themselves as representatives who could ‘speak for’ the people. Communities also nominated delegates to represent their group at a mass gathering and collected money for their travel.

The government tried to impede the Congress as it became obvious that the process was gathering momentum: meetings were banned, gatherings disrupted by the police, and materials confiscated or destroyed. Despite a police cordon on 26 June 1955 in Kliptown, Johannesburg, the Freedom Charter was written, based on the deliberations of the 2,800 delegates who had gathered on a dusty patch of ground to debate the results of the consultations. Its central principle was that: “South Africa belongs to all who live in it, black and white, and no government can justly claim authority unless it is based on the will of the people.”

Anti-apartheid struggle

Popular resistance increased in the 1950s and in 1960 the government outlawed the ANC and its rival, the exclusively African Pan-Africanist Congress (PAC). In the
In June 1976, police responded to a student protest in Soweto by shooting at and killing children. It sparked a revolt that rapidly spread throughout urban black townships. Government forces killed hundreds of protesters that year and the growing Black Consciousness movement revitalized activism. In 1982, attempting to curtail the continued uprising, Prime Minister PW Botha implemented constitutional reforms that split the NP; leading to the formation of the Conservative Party (CP). Botha’s reforms continued the logic of divide-and-rule to maintain control and the 1983 Constitution created a Tricameral Parliament with separate chambers for white, coloured and Indian representatives. The latter were offered a degree of authority over the affairs of their community, while the white chamber retained power to decide national issues and could veto decisions by the other chambers. Africans were granted township councils and nominally independent ‘homeland’ governments.

The reforms made the reality of political exclusion all the more stark. They spurred the development of a cross-community popular opposition movement to resist co-option by the tricameral system. The new United Democratic Front (UDF) was an ANC-affiliated umbrella organization that drew members from across South African civil society, including religious, community and professional organizations. It linked with the mostly black and ANC-aligned Congress of South African Trade Unions (COSATU) to form the Mass Democratic Movement, which endorsed the Freedom Charter as its guiding document. Throughout the mid-1980s, a series of urban uprisings, strikes and consumer boycotts combined with the ANC’s strategy of economic warfare, industrial sabotage and attacks on government targets to bring the country to a standstill. The government responded by repealing some apartheid laws while imposing a national state of emergency. Most political activity was banned, over 30,000 were arrested, thousands killed, and key political activists assassinated by the security forces. Yet as the country became increasingly ungovernable, some NP leaders began to realize that incremental reform would be unlikely to contain the conflict over the longer term.

**Incentives for negotiation**

A combination of internal and external factors created conditions that led both the ANC and the NP towards the realization that their aims might be best met through political negotiations. The apparent problems of governing South Africa by apartheid were compounded by inherent economic inefficiencies. Although the social and political objectives of apartheid were to confine...
black South Africans in separate territories, the industrializing economy needed their labour in the 'white' urban areas. These contradictions were compounded when Botha declared a state of emergency in 1986 that prompted international banks to suspend loans to South Africa, precipitating an immediate 50 per cent drop in the currency's value and creating severe capital scarcity. This was exacerbated by the increasingly widespread economic sanctions and embargoes on South African companies and goods — which also had significant symbolic political impact. These factors convinced many in South Africa's influential business community that it was necessary to seek a more dramatic solution to the conflict.

External political developments also influenced the government and the ANC. In the global context of decolonization and expanding civil rights, apartheid South Africa had been treated as an international pariah for decades. Yet the Cold War confrontation had combined with South Africa's profitable investment environment to encourage many Western governments to support the National Party government as an ally. As the communist governments in Eastern Europe collapsed, this polarization eased and Western allies began to pressure the government to reform. The peace processes in neighbouring states and their rapprochement with the South African government meant the ANC was cut off from some of its previous bases. From the mid-1980s the Soviet Union and many African governments put increasing pressure on the ANC to negotiate a political resolution to the conflict.

Negotiating the transition

From the early 1980s, there were a number of quiet initiatives by civil society intermediaries to open lines of communication between influential people in the ANC and NP. They facilitated the initial exploratory 'talks about talks' and, by encouraging the development of personal relationships across the lines of conflict, helped to build confidence in the potential for a negotiated settlement. In the mid-1980s, Nelson Mandela began preparing for the possibility of negotiations. Soon the ANC and NP began to explore options through a series of secret exchanges. Elections in 1988 brought F.W. de Klerk — a pragmatic reformist — to the presidency. In December 1989, the Mass Democratic Movement held a meeting where its 4,600 delegates passed a resolution in support of the ANC's Harare Declaration setting out the preconditions for negotiations — thus providing consent for the new strategy.

A historic breakthrough came on 2 February 1990 when de Klerk opened parliament with a speech announcing the unbanning of political organizations, the release of imprisoned political leaders and conditions free for political activity. This step laid the foundation for a return of the exiled ANC leadership and talks between the estranged political and social leadership on all sides of the conflict. The stage was set for formal negotiations.

Although the ANC was the largest of the opposition political groups, it was composed of sub-groupings. There was also a range of separate political formations — some of which opposed negotiations — that comprised the anti-apartheid movement together with the ANC. There were a number of political groupings within the white population, ranging from radicals opposed to any form of negotiations to people who supported a democratic transition to full equality. There were also a number of parties that had formed around the different homeland governments or to represent specific ethnic group interests — such as the Transvaal Indian Congress. Of these, the largest was the Inkatha Freedom Party (IFP), led by Chief Mangosuthu Buthelezi, which drew its support primarily from the Zulu community. As an ethnic and regionally-based party, it tended to be conservative and realized that a state based on some form of ethnic federation would favour its interests more than even a minimum degree of majority rule. As the process developed, it partnered with Afrikaner conservative parties in an effort to strengthen their positions. Although the ANC and NP were the engines that drove the negotiation process — and it was inconceivable that agreement could be reached without the consent of these key parties — the proliferation of political groupings that together drew support from large numbers of South Africans had to be represented in the talks if the process and its outcomes were to be seen as legitimate.

Owning the process

The ANC drew lessons from watching its counterparts in the peace negotiations directed by international mediators in both Zimbabwe, where ZANU was forced to dilute its major objectives, and in Namibia, where SWAPO was shut-out of the negotiations. It was determined to seize the initiative while it had full support from allies and to avoid international mediation. The NP had found the experience of US and British pressure in the Namibian negotiations to be humiliating and it too was eager to avoid international mediation.

Thus South African leaders, with the assistance of civil society peacekeepers and technical experts from home and abroad, slowly constructed an inclusive and principled process for managing the multiple transitions to a post-apartheid State, followed by a power-sharing transitional government, and finally a new constitutionally-mandated state structure and governing system. The process moved from the initial secret talks between NP and ANC representatives; to the post-February 1990 bilateral pre-negotiation talks between key parties to determine the shape of the negotiation process; to the initial multilateral negotiations between political parties to develop the 1991 National Peace Accord (NPA) to address the political violence; to formally
constituted multi-party negotiations to agree the rules for a transitional government and key constitutional principles; and finally culminated in an elected Constitutional Assembly with an ambitious public consultation programme to draft the new Constitution. From its secretive origins, the process became slowly more open to public scrutiny and, in some cases, direct participation.

There were two main facets of the multi-party process: constitutional negotiations to create a new set of rules to govern the state and the NPA structures to prevent violence (much of which appears to have been instigated by some of the political parties). Although distinct, they interacted in important ways. Many of the party representatives involved in negotiating the NPA were also involved in the constitutional negotiations. The collegial relations formed in the NPA helped with the later negotiations, as did collaborative problem-solving techniques introduced by the business and church facilitators in the NPA process. The national, regional, and local structures set up by the NPA to address the problems of political violence appear to have both contributed toward stabilizing the country during the transition and to creating spaces where South Africans could meet to address specific conflict issues in their community. At times when the constitutional negotiations were suspended, the national NPA structures remained active and continued to provide a channel of communication between the signatory parties that retained oversight of the process. The transition would doubtless have been much more difficult if either of these facets was missing.

The negotiated processes that guided the transition were rooted in the mass political organization that had emerged over almost a century of struggle, as well as in the political organizations of South Africa’s white population. Both had evolved representative political parties with systems to hold leaders accountable to their members and constituencies. During the negotiations, political leaders had to pay careful attention to bringing along their supporters when making agreements. The South African public had the opportunity to witness much of the later negotiations through media broadcasts. Many of the political parties consulted frequently with members to gauge their reaction to proposals and to identify issues of continued concern. There were opportunities to contribute ideas and comment on the draft Constitution and to participate in peacemaking through the local and regional peace committee structures of the NPA. It seems that these strategies greatly increased both the sense of public ownership of the terms of the transition and gave legitimacy to the new state structures that emerged from the process.

During the transition, South Africans started to debunk misperceptions and myths about each other. As trust increased, they began to make the political compromises necessary for a mutually acceptable future. They soon learned that the benefit of engagement was in the process itself as well as in its outcomes. Those involved gained a sense of the reasons why specific compromises were necessary and a commitment to ensuring the success of agreements reached. And to this end all stakeholders – and as many people as possible – needed to be engaged and the process as transparent and accessible as possible. The parties learned these lessons well and over time the negotiating forums became increasingly open. In so doing, the process itself created conditions for a radical change in South Africa’s formerly exclusionary and secretive political culture and helped to create a more truly democratic state and society.