

## South Africa: the transition to violent democracy

Karl von Holdt\*

*Society Work and Development Institute, University of the Witwatersrand, Johannesburg, South Africa*

South Africa is torn between the persistence of an exclusionary socioeconomic structure marked by deep poverty and extreme inequality on the one hand, and on the other the symbolic and institutional rupture presented by the transition to democracy. This relationship produces a highly unstable social order in which intra-elite conflict and violence are growing, characterised by new forms of violence and the reproduction of older patterns of violence, a social order that can be characterised as *violent democracy*. I analyse three different forms of such violence – the struggle for control of the state institutions of coercion, assassination, and the mobilisation of collective violence. The prevailing forms of politics may shift quite easily between authoritarianism, clientelism and populism, and indeed exhibit elements of all three at the same time. Violent practices accompany each of these political forms, as violence remains a critical resource in a struggle for ascendancy which democratic institutions are unable to regulate.

**Keywords:** violent democracy; intra-elite violence; rule of law; authoritarianism; clientelism; populism

[Transition vers la démocratie violente en Afrique du Sud.] L'Afrique du Sud est déchirée entre d'un côté la persistance d'une structure socio-économique élitiste marquée par une pauvreté et des inégalités extrêmes, et de l'autre la rupture symbolique et institutionnelle offerte par la transition vers la démocratie. Cette conjonction produit un ordre social très instable dans lequel les conflits et les violences au sein des élites progressent, caractérisés par de nouvelles formes de violence s'ajoutant à la reproduction de modèles de violence plus anciens, un ordre social qui peut être qualifié de démocratie violente. J'analyse trois différentes formes de violence – les luttes pour le contrôle des institutions étatiques de coercition, les assassinats, et les mobilisations collectives violentes. Les formes prédominantes de doctrine politique pourraient glisser assez facilement vers l'autoritarisme, le clientélisme et le populisme, et même relever des trois en même temps. Les pratiques violentes accompagnent chacune de ces formes politiques, puisque la violence reste une ressource cruciale dans la lutte pour la domination, que les institutions démocratiques ne sont pas capables de réguler.

**Mots-clés :** démocratie violente ; violence au sein des élites ; règle de droit ; autoritarisme ; clientélisme ; populisme

The transition to democracy in South Africa (1990–1994) appeared to mark a break in the violent confrontations of the apartheid era, and provide a broad basis for the mediation of social conflict, including a redistribution of political, social and economic power through the institutions of a constitutional democracy. The first decade of democracy was marked by a decline in strikes and protest movements, as well as the violent repertoires of

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\*Email: [karl.vonholdt@wits.ac.za](mailto:karl.vonholdt@wits.ac.za)

Table 1. Gatherings and unrest, 2004–2012.

	Peaceful	Unrest	Total
2004/05	7382	622	8004
2005/06	9809	954	10,763
2006/07	8703	743	9446
2007/08	6431	705	7136
2008/09	6125	718	6843
2009/10	7897	1008	8905
2010/11	11,681	973	12,654
2011/12	9942	1091	11,033

Source: Alexander (2012).

police, strikers and protesters. The period saw a shift towards engagement in electoral politics, parliamentary debate and legislation, and in the institutions of collective-bargaining, land claims, black economic empowerment, and constitutional law.

In the second decade of democracy, contentious confrontations marked by increasingly violent actions by the police, protesters and strikers began to escalate, as Table 1, compiled from police statistics by Peter Alexander, indicates.

The scale of the increase in all gatherings, as well as ‘unrest’ gatherings defined by the use of force on the part of the police through the years 2009–2011 is clear – particularly because the statistics for the last year only cover the first three months! The increase in levels of both police and subaltern violence was dramatically evident in the wave of violent strikes in the platinum sector in 2012, marked by high levels of intra-worker violence, including murders, and which culminated in the death of 34 strikers, shot by police. Political violence within the organisational structures of the African National Congress (ANC), in the form of disruptions at meetings (ANC 2010) and assassinations, has also risen. The question arises as to the relation between such violent practices and the constitutional democratic order that emerged from the transition. Democracy is usually considered to be the antithesis of violent contestation: ‘democracy, considered as a set of institutions and as a way of life, is a non-violent means of equally apportioning and publicly monitoring power within and among overlapping communities of people’ (Keane 2004, 1). To the extent that violence persists, it is regarded as symptomatic of the failure of democracy.

In this article I avoid such assumptions, exploring instead how the interaction between democratic institutions and power relations within the elite and between the elite and subalterns produces particular forms of violence. Rather than democracy and violence being mutually exclusive, democracy may configure power relations in such a way that violent practices are integral to them – producing a social system we may call *violent democracy*. It may be objected that a violent democracy is not a democracy at all. This is not a helpful stance if we want to understand the dynamics of the kind of actually existing democracy emerging in South Africa, which resembles many other democracies in the developing world. It is all too clear that democratic systems can continuously produce violence without systemic breakdown.

I argue that violence is integral to the processes of class formation and emerging class relations in democratic South Africa. The argument is not dissimilar to Mushtaq Khan’s argument that democratisation in developing countries tends to accommodate patron–client politics rather than replace them (Khan 2005); indeed, the arguments are quite closely related, as much of the violence discussed in this article springs from the particular nature of competition between different clientelist factions in South Africa. I conclude by discussing the forms that politics takes in this nexus of democracy, violence and clientelism.

Violence is not new to South Africa. Colonialism and apartheid were violent systems, marked not only by the violent domination of white settlers, the coercive institutions of the mining industry, and their state, but also by the violent responses of the dominated – including a diversity of intra-black violent repertoires within subaltern communities and formations such as vigilantism, gang violence and faction fighting (Kynoch 2008). Historical patterns of violence continue, albeit with altered meanings in the substantially different symbolic universe of democracy, alongside new patterns of violence specific to the emergence of democracy.

### **Violent democracy**

Internationally, a growing body of literature is devoted to a critique of standard democratisation theory, in which violence is seen as symptomatic of democratic failure, replacing this with an analysis of the intertwining of democracy and violence in many societies of the global South (for example, Arias and Goldstein 2010a; Auyero 2007; Chatterjee 2004, 2011; Hansen 2001; North et al. 2012; O'Donnell 1993). In particular, Arias and Goldstein (2010b) propose the provocative idea of 'violent democracy' characterised by 'violent pluralism', or the dispersal of violent capability in society beyond the state. North, Wallis, and Weingast (2009) put forward a model for analysing the dynamics of intra-elite conflict, and the contrasting prospects for violence and stability in societies characterised by this kind of violent pluralism, following it up in the North et al. (2012) volume with studies that attempt to apply this model in countries of the 'developing' world.

They argue that in these societies elite coalitions evolve to incorporate all factions with violent capability, establishing stability based on a distribution of rents such that the interests of each faction are satisfied. Various factors, however, tend to destabilise such arrangements – particularly changes to the relative power of different factions within the elite coalition, or the emergence of new factions, and a new cycle of violence breaks out. North et al. (2012) explore the conditions under which dominant coalitions stabilise or break down in the 'developing' world. While several of the features and assumptions of the North et al. line of analysis are questionable – notably the lack of class analysis of elite factions, and the assumptions surrounding the success of Western democracy – it provides fertile ideas for exploring the dynamics of Arias and Goldstein's (2010b) violent democracy and violent pluralism.

In this article I argue that South Africa is torn between the persistence of an exclusionary socio-economic structure marked by deep poverty and extreme inequality on the one hand, and on the other the symbolic and institutional rupture presented by the transition to democracy. This relationship produces a highly unstable social order in which intra-elite conflict and violence are growing, characterised by new forms of violence and the reproduction of older patterns of violence, a social order that can be characterised as *violent democracy*.

Democracy and its institutions structure and distribute power in particular ways and, in an unequal society such as South Africa's, tend to distribute power in highly unequal ways. Violence is deployed to defend this distribution and to challenge or reconfigure it (Burawoy and Von Holdt 2011, 94–6; Von Holdt 2013). In the process, existing fault lines or fractures – such as those of ethnicity, insider/outsider status, nationality and gender – are activated and expanded. The result is multiple forms of violence – including subaltern forms such as protest violence, vigilantism and xenophobic attacks. The focus of this article, however, is on intra-elite violence. Intra-elite violence is an important dimension of intra-elite conflict, shedding light on the nature of that conflict and the processes of elite formation that underlie it, as well as the broader contradictions in the new constitutional order; at the same time, intra-elite violence is intertwined with subaltern mobilisation and the emerging forms of

politics through which elites mobilise and incorporate subalterns, including practices of clientelism and populism. Sociology tends to view practices of elite and subaltern violence as taken for granted, or epiphenomenal; in this paper I take the view that it is important to integrate the study of violent practices into the analysis of politics.

### **The transition**

In some senses the situation in the late 1980s amounted to a stalemate between the liberation movement and the apartheid regime. While the former was based in a mass movement with disruptive capability and occupied a powerful symbolic and moral position with wide international support, the latter had by far the greater direct violence capability in the form of police and army as well as proxy ‘third forces’, and continued to occupy the institutions of the state. By the end of the 1980s the democratic movement had accumulated sufficient power to make apartheid unworkable. At the same time, the international context was changing with the collapse of communism, and the growing pressures on the frontline African states to persuade the ANC to settle.

Both the leaderships of the liberation movement and the apartheid regime realised continued confrontation – which was not essentially military but comprised a kind of ‘war of position’ for the control of civil society, social space and the functioning of state institutions – would simply deepen and prolong conflict, destruction, economic stagnation and decline. The result was a move towards negotiated settlement.

The settlement process – that began with the release of political prisoners in 1989 and the unbanning of political movements in early 1990 – was shaped by the stalemate as well as the qualitative difference in the kinds of power available to the contenders. The apartheid regime made use of its control of state institutions and of violence capabilities to unleash a reign of terror against communities in the heartlands of the ANC and the democratic movement in the Pretoria–Witwatersrand–Vaal complex, disorganising the ANC and its allied mass organisations and putting immense pressure on its approach to negotiations. The violence in the four years of transition surpassed that in the most brutal period of repression of popular resistance under apartheid (1985–1989): 250 people killed per month versus 86 killed per month, a total of 14,800 people killed in a period where armed hostilities had been suspended, versus 5400 people killed during the years of most intense confrontation (Hamber 1998, quoted in Marais 2011, 72).

Thus the new Constitution for South Africa was born out of the most extreme violence in the history of the country. Negotiations – essentially between the apartheid regime and the ANC – produced an agreement on the outlines of a constitutional democracy, providing the institutional basis for a democratic regime based on the rule of law. At the same time, the settlement enshrined the separation of the economic and political domains, such that a new democratically elected government would not be able to seize the assets and property of either the white middle classes or the owners of capital.

The negotiations, the draft constitution, the first democratic elections in 1994, the inauguration of Nelson Mandela as president and the drafting of the final constitution represented a profound political rupture and the formation of a new symbolic order founded on democracy, the rule of law, and human rights, in which for the first time the black majority were recognised as full citizens. While 1994–1996 constituted the founding moment for this symbolic order, it was shot through with tensions, ambiguities, contestations and contradictions.

The constitution is marked by these tensions. It is a complex document reflecting the stalemate between the contending forces and the need for redistribution of power and resources in order to right historical injustice. It provides protection for property owners, while recognising the legacy of black exclusion from such ownership by permitting the expropriation of

property to achieve land reform and the redress of past racial discrimination. Such expropriation is limited by the requirement for fair compensation. It also recognises the legacy of poverty and socio-economic exclusion with far-reaching third-generation human rights clauses such as the right to housing, health, food, water and social security.

It is important to note that in recognising and protecting property rights the constitution ratifies the outcome of over three centuries of colonial and apartheid violence – conquest, dispossession, and the Land Acts of 1913 and 1936, as well as the successive labour regimes of slavery, forced labour, migrant labour and cheap rightless labour on the basis of which capital accumulation took place. Not only was the constitution born in violence, in this sense it obscures the founding violence of South African society. More perhaps than in most societies this constitution is a ‘founding fiction designed to disguise the act of lawless violence which is the basis for the establishment of law’ (Bourdieu 2000, 168).

Nonetheless, the progressive provisions of the Constitution create space for policy innovation as well as contestation over the meaning and interaction of the various rights, while attempting to subject these processes to the rule of law. As Marais points out, the settlement was ambiguous, constituting a dramatic political shift but leaving socio-economic inequality intact and open to further struggle (Marais 2011, 79).

It is an open question how far the Constitution and the institutions it establishes are adequate to facilitate redistribution, since the ANC in government has hardly tested the possibilities. It has precluded such innovation through conservative policy choices (see other articles in this edition) shaped by internal developments, the pressures and inducements from business, international development institutions and ‘expertise’, and the constraints of global capitalism.

The constitutional architecture, local and international structures of power and ANC policy choices have placed powerful constraints in the way of overcoming the legacies of apartheid. The question is whether in this context the core institutions underpinning democratic orders in the West – namely, the rule of law, democracy, and the separation of the economy and politics – support the project of transforming the socio-economic foundations of the apartheid order or not.

There are two distinct classes, or clusters of classes, within the newly enfranchised black population that may be disadvantaged in contrasting ways by this institutional set-up: on the one hand, a nascent black bourgeoisie and an associated state-based petty bourgeoisie seeking to establish a capital base in an economy dominated by large-scale white-owned corporate capital and by smaller-scale white family capital; and on the other hand, the working class, the massive population of the working and survivalist poor, the rural poor, and the unemployed, who aspire to overcome their marginalisation and poverty. The real beneficiaries of the democratic breakthrough have been the various fractions of the black middle classes, which have seen rapid growth (Plaut and Holden 2012, 226–227, 237).

The focus of this article is on intra-elite conflict. The mobilisations and recourse to violence of the latter cluster of subaltern classes is analysed elsewhere (Alexander 2010; Alexander et al. 2012; Chinguno 2013; Langa and Von Holdt 2011; Von Holdt et al. 2011) and will only be referred to in passing.

In relation to the formation of a black bourgeoisie, the constitutional settlement required the negotiation between the old (white) elite and the emergent new (black) elite of a raft of measures to regulate the transfer of a portion of assets from the first to the second – the process of black economic empowerment (BEE). These efforts attempt to establish a bridge between the political realm where the black majority has power, and the economic realm, dominated by white business. Such negotiations take place at different levels, ranging from corporate partnerships between white and black companies, the negotiation of sector-wide transformation charters, and the passing of BEE legislation.

BEE does not consist of an unfettered transfer of assets; share transfers are financed through a range of mechanisms which entail substantial debt financing for new black owners. Although transferred assets may be priced at a discount, thus entailing some transfer of value from white to black in exchange for the credibility and ‘licence to operate’ provided by the black partner, these transactions both establish black capitalists as junior partners and constitute a new source of profit for (white) financial capital. Few of these rentier capitalists have any involvement in business operations or production. While in some cases BEE may have created the basis for an elite coalition between black and white business, the minority stakeholding and high financial gearing of black partners has made the constraints of this model increasingly clear. This ‘empowerment’ elite remains small, economically weak and dependent, politically dependent on the ANC, and compromised by the increase in inequality over the same period in which they were empowered. The result, Plaut and Holden argue, is ‘that the power of the BEE elite remains precarious’ (2012, 213–238).

Faced with these limited forms of institutionalised transformation, there is growing pressure on the rule of law, as both elites and subalterns engage in struggles over the distribution of resources, including seeking new ways to access the assets and resources concentrated in the hands of white South Africans. The rest of this article explores these pressures and the strategies adopted by elite factions in particular.

### **The state, elite formation and the law**

The negotiated settlement has virtually eliminated the independent armed forces that characterised the confrontations of the last decade of apartheid, establishing a unitary police force and a national defence force under the control of the state. In South Africa, in contrast to many of the more violent societies of the global South researched in Arias and Goldstein (2010a) or North et al. (2012), the democratic state does hold a substantial monopoly over the forces of violence. However, this holds mostly at the broad national and sub-regional levels, with twofold results: intensifying struggle for control of the state’s institutions of law and coercion, and the emergence of decentralised local violence capabilities.

The political system has evolved rapidly in the direction of a one-party dominant democracy, with the ANC winning every election by large majorities. The ANC has become increasingly enmeshed in the institutions of the state. The state constitutes the primary agency for redistribution and class formation, not only in the sense that it makes and implements policy for society, but also that it controls the biggest revenues, budgets, assets and payroll in the country, as well as access to mining rights, broadcast rights, and other lucrative opportunities. This makes the state itself the key site for black economic empowerment, and the constitutional constraints on the redistribution of assets in the private sector have driven the struggle for asset accumulation and elite formation into the state.

This has meant elite factions have conducted their struggles within the state rather than through the kind of violent disruption in society discussed by North et al. (2012). The process is complex, entailing the struggle for positions of power and influence over the deployment of cadres, the allocation of tenders and other opportunities for fraud, the opportunities for preferred status in BEE deals with private sector corporations, and the distribution of employment opportunities.

The focus for the accumulation of wealth and productive assets has been on the process of bidding for tenders for state contracts which are critical to the future of many emerging black-owned businesses. Competition is fierce, and collusion between state officials and contenders for contracts in order to rig the tender process and inflate contracts has become widespread. A variety of methods are used to circumvent formal procedures and



regulations. These arrangements create opportunities for transactions between political status and wealth accumulation, and since they entail breaking the law the result is intense struggle for control of the state institutions responsible for the rule of law, the police and the National Prosecuting Authority (NPA) in particular.

The paradigm case for these practices was the arms deal of the 1990s, both because of its scale and the way it has continued to ramify through the ANC and the state. The deal and associated kickbacks transgressed tender regulations and the law. Efforts to contain the damage included executive intimidation of Parliament, curbing the involvement of the auditor general and the public protector, disbanding the Scorpions<sup>1</sup>, political interference with the National Prosecuting Authority (NPA) to protect then-Deputy President Jacob Zuma from prosecution, and selective leaks and disinformation from state intelligence agencies. The intense struggles within state institutions over the arms deal was linked to the battles between then-President Thabo Mbeki and Zuma for leadership within the ANC (Plaut and Holden 2012, 95–127).

Struggle for the control of police institutions and the NPA has surfaced several times during the Zuma presidency. One example concerned the position of Police Commissioner Bheki Cele and the head of Police Intelligence, Richard Mdluli. The first was accused of plotting against Zuma and of corruption. The second was behind allegations that a group of senior police officers, including Cele, was plotting against him and the police minister (*Mail and Guardian*, 20–26 July 2012). Cele was eventually axed, while Mdluli was charged with murder, fraud and corruption in 2011. The charges were dropped in 2012 and the prosecutor on the case was suspended. The charges of misconduct laid against her related to another investigation of fraud against a BEE company owned by figures close to Zuma, including his son, which was alleged to have connived with government officials to defraud Kumba Iron of its mining rights (of which more below), but she maintained that the real reason for her suspension related to her case against Mdluli. The disciplinary enquiry dismissed all the charges against her, and she was reluctantly reinstated by the NPA – but removed from both the cases she had been handling (Plaut and Holden 2012, 154–156; *Mail & Guardian*, 4–10 May 2012; 8–14 June, 2012; 1–7 February 2013; 8–14 February 2013; 31 May–6 June 2013).

Such struggles are not only driven by national political disputes, but also by regional power struggles within the ANC and the state – although these are often linked to national disputes. In 2012, for example, the NPA in KwaZulu-Natal was the site of struggles over whether to pursue charges or withdraw them in two cases involving allegations that key political figures engaged in collusion with businessmen to defraud the state of hundreds of millions of rand (*Mail & Guardian*, 6–12 July 2012; 20–26 July 2012; 22–28 February 2013).

In the fierce competition for access to lucrative contracts the law becomes a formidable weapon – exposing transgressions of the law can subject transgressors to sanctions, opening space for rivals to take their place. Contestation takes place in and around formal codes and laws, and in the process the law is alternately subverted and wielded by rival contenders. Control over key legal instruments becomes a strategic resource. For those who have transgressed, control holds the prospect of immunity. For those seeking the downfall of powerful rivals, control might tip the balance. The goal, then, is selective application of the law. A recent case was the downfall of Julius Malema, the populist ANC Youth League (ANCYL) leader after he turned against President Zuma; as the full might of the ANC machinery turned against him, so the police and the South African Revenue Services began intensive investigations of his affairs, with the result that his property has been seized to pay tax arrears and he has been charged with extensive corruption. There had been several allegations of corruption against Malema in the preceding years, but state agencies appeared to swing into action only once his political fortunes were in decline.

The cases cited above suggest that control of the intelligence agencies, police and the NPA allows the law to be applied selectively, with attempts to spare allies of the current dominant faction in the ANC from prosecution or investigation. These attempts are not necessarily successful, as they run into resistance both from those state officials who do take seriously the impartial procedures that are central to the rule of law, as well as from allies of opposing factions who attempt to protect or reinstate investigations, or leak sufficient information to force application of the law. All parties use the press to publicise allegations of wrongdoing, making it difficult to separate fact from disinformation. While the judiciary is relatively independent, there are fears that factions in the ANC are intent on reducing the independence and progressive character of the judiciary.

These trends suggest that the emphasis of both ‘violent pluralism’ (Arias and Goldstein 2010b) and North et al.’s analysis (North, Wallis, and Weingast 2009; North et al. 2012) on the dispersal of armed or disruptive force across society tells only half the story. Rather than resulting in armed conflict, intra-elite struggle over the distribution of economic resources may take the form of conflict within the state for control over its violent capabilities. Thus, the forms of the rule of law are preserved, while the substance is transformed into its opposite.

White capital is not situated outside of these dynamics. Firstly, an important consideration in the choice of BEE partners is their degree of political connectedness, reinforcing the competition between political factions. Second, there is the direct involvement of white capital, both foreign and local, in tender rigging – notably French corporation Thales in the arms deal, and the recent exposure of systematic tender rigging in the large-scale construction sector. Finally, though, while white capital has been a protagonist in deal-making, it appears to have been shielded from direct attacks by the emerging nexus of state officials and black capitalists. There are signs that this may be changing, discussed below.

The subordination of state, legal and constitutional institutions to the goals of personal and factional enrichment and accumulation is frequently condemned in the public arena as ‘corruption’, or the criminal activity of a small number of rotten apples. However, these practices are so pervasive that they amount to collective and tacitly acceptable practices in wide political circles; it can be argued that the informal rationales that support elite formation through such practices constitute a local moral order within the elite, legitimating this as an avenue for overcoming the constitutional and policy constraints of the democratic settlement in order to establish their own economic bases.<sup>2</sup> For the purposes of this article, what is more important is that such an elite moral order destabilises the symbolic order of democracy with an alternative symbolic order in which the institutions of state, processes of law, business practices and the accumulation of wealth are saturated with competing meanings.

There are continuities and discontinuities with practices in the apartheid state. Under apartheid the state was a site of power that privileged white and specifically ethnic Afrikaner employment (Posel 1999), and that facilitated the formation of white Afrikaner capital. There was also patronage and corruption, but these were generally successfully concealed from the media. The rents generated by Afrikaner control of the state and ethnic mobilisation were directed to productive investment and capital accumulation. All of these practices were consistent with the apartheid symbolic order, serving to deepen and strengthen it.

In contrast, intra-elite conflict and the elite moral order of personal enrichment in post-apartheid South Africa tend towards the dislocation of the democratic symbolic order and are in many cases directed towards conspicuous consumption rather than productive investment. Intra-elite conflict ramifies through party, state and society, is unstable, publicly visible and increasingly violent, in contrast to the practices of domination and control within the apartheid regime.



### Intra-elite conflict and the use of violence

The kind of institutional struggle described above has its limits, and continues to exclude numerous contenders. The result is, increasingly, the direct use of violence outside of state institutions.

Assassinations of ANC office bearers and representatives have become increasingly visible over the past few years. Initially Mpumalanga appeared to be the epicentre of internal ANC assassinations. In one research site in Mpumalanga both the first mayor elected under democracy and the man chosen to replace him were assassinated, and two subsequent mayors claim to have been victims of assassination attempts (Langa and Von Holdt 2012). Provincial leaders have also been gunned down. In July 2012 the mayor of Rustenburg in North West province was found guilty, together with his bodyguard, of arranging the murder of a rival councillor who had submitted a dossier of evidence about the mayor's corrupt dealings to the police, while rival ANC factions faced off outside the courtroom (*The Star*, 17, 18 July 2012). They have both since appealed. Early in 2013, an MEC and deputy chairperson of the ANC in North West Province was arrested together with the provincial chair of the ANC Youth League, a councillor and a ward secretary, for the shooting of a district secretary on the eve of the Mangaung national conference of ANC (*Business Day*, 26 February 2013).

But it is in KwaZulu-Natal, previously the site of high levels of political violence between the ANC and Gatsha Buthelezi's Zulu ethnic political party, Inkatha, that the greatest increase in intra-ANC assassination seems to have taken place. As Inkatha's fortunes have waned, and the ANC has come to dominate the province, political violence has come to characterise internal conflict over power and access to state resources. At the same time, Inkatha-linked violence continues, seemingly focused on the rivalry between it and a breakaway, the National Freedom Party, with the latter claiming 27 of its members had been killed since the party's formation in 2010. Thirty-eight ANC members were killed in KwaZulu-Natal between February 2011 and October 2012, compared to 10 politically linked murders in the previous three years. A journalist was told by one informant that all the 'comrades' now found it necessary to carry guns (*Business Day*, 17 October 2012; *Mail & Guardian*, 20–26 July 2012).

These killings are closely linked to rivalry for positions in the ANC, and local and provincial government, which provide access to state resources and patronage. The *Mail & Guardian* reporter was told violence in the ANC was linked to 'city contracts, ranging from the building of low-cost housing to waste collection, [that] were awarded to influential business associates, who would channel money back to the ANC for its operations, or to small and medium-sized businesses connected to the ANC at ward level' (*Mail & Guardian*, 20–26 July 2012). An ANC National Executive Committee member told the *Business Day* reporter that:

Having ANC membership is the best CV in town. The higher you go in the party, the more you can dish out patronage. It's about taking care of yourself and those close to you ... People are reducing the ANC to their personal kitty and are prepared to kill to get their slice of the wealth. (*Business Day*, 17 October 2012)

Regarding the murder of Mthembeni Shezi, a local councillor gunned down by two men in a public meeting, his fiancée claimed people hated him because he was fighting corruption, while an ANC official said:

There are as many bad things to say about Shezi as there are good. People look at his lifestyle and ask, 'how does a herd boy from Nkandla go from having absolutely nothing to a fancy 4 ×

4 and several houses?’ People start to see that being a local councilor can be a means to acquire wealth.

Assassination is not only a repertoire in political struggles within the ANC. Recently internal auditors in the national transport department spoke of their fear after a colleague investigating corruption was found strangled in his hotel room following death threats, while another’s car was torched on department premises, and others reported that equipment used in investigations such as laptops and cameras had been stolen (*City Press*, 24 June 2012).

Under the apartheid regime assassination was widespread, but it was mainly used by covert institutions of the state to eliminate figures in the democratic movement – such as Steve Biko, Rick Turner, Griffiths and Victoria Mxenge, and many others. The ANC and the popular movement used assassination to eliminate lower-level black agents of the state and its security forces – those regarded as traitors to the liberation struggle, and at times such repertoires were deployed against political rivals as well. However, assassination was not generally a repertoire in struggles within the state apparatus or the National Party (NP). The kind of assassination that appears to be spreading is a new phenomenon, made possible by the lack of a centre of authority in the ANC and the many fracture lines and struggles within it.

### **Collective violence and intra-elite conflict**

Communities are with increasing frequency mobilising and engaging in protest to raise demands for jobs, social services and consultation. At one level, these protests are a manifestation of citizens confronting authorities, and constitute a widening of the space of democracy and participation. Research into eight protest sites discovered that the reality was more complex, however, and in most cases several among the protest leadership were members of a local ANC faction involved in a struggle with other factions for control of the town council (Langa and Von Holdt 2012; Von Holdt et al. 2011).

We concluded that the protest movements had a dual character – composed on the one hand of masses of residents with concrete grievances, and on the other, of figures from local leadership circles of the ANC. It was not that the crowds engaging in protest were oblivious to the role of these leaders in the ANC – indeed, they were frequently quite clear that the protest leaders were using them in order to secure lucrative positions or access to council tenders. ‘It is not service delivery, but people are just fighting for tenders, but using the community to do so’, one young protester told us, while another asserted that, ‘some of the leaders were angry that they were no longer getting tenders and then they decided to mobilise the community against the municipality’ (Langa and Von Holdt 2012, 89). In a sense the crowds were using these leaders to articulate their grievances within the ANC, just as these leaders were mobilising popular grievances in their own campaign to reconfigure power relations within the leadership of the local ANC.

In several cases prolonged protest campaigns resulted in the national or provincial ANC leadership intervening and removing the leadership of the town council, opening the way for by-elections for new councillors. At this point, typically, the crowds dispersed and the protest committee disbanded, while the protest leadership were reabsorbed into the official local structures of ANC in a strengthened position. They or their proxies would be nominated as ANC candidates and then elected into place in the by-elections. Contrary to our expectations, no durable association of citizens emerged to occupy the space of civil society and represent their concerns over a longer time period.

The ANC, it seems, absorbs everything, and everything takes place within it. It is the place that the local elite, activists, those with organisational ability, the talented and the ambitious congregate. The contestation between factions for power as well as the mobilisation of popular discontent continues to take place through the ANC, reproducing in the process the practices of patronage as protesters expect their leaders to dispense opportunities for work. Our findings resemble those of Auyero (2007), who found that local elite leaders played a key role in instigating and leading community protests and collective violence in food riots in Argentina.

In South Africa this kind of protest is increasingly violent, at least on a trend line from 2004 to 2012 (Alexander 2012; Municipal IQ 2012). In our research case studies, violence included setting up burning barricades and engaging in running battles with police, burning down symbols of governmental authority, attacking homes of targeted local councillors, and looting shops owned by foreign nationals. To the extent that such protests are mobilised by disaffected factions of the ANC elite, this constitutes the use of collective violence and disruption in order to reconfigure local power relations and lay claim to inclusion in local elite coalitions. At the same time, such violence constitutes a message from marginalised communities to the ANC leadership about the depths of their frustration and grievances – the ‘smoke that calls’, as one of our informants put it.

Other forms of collective violence that attend intra-elite conflict include the growing use of violence to disrupt or control constitutional meetings of the ANC and the ANC Youth League, whether branch meetings or regional or provincial congresses. Thus the Secretary General reported in 2010 that a ‘general collapse of discipline has characterised the period under review [the previous two years]. Disruption of ANC meetings, assault of members in ANC meetings and taking the ANC to court without exhausting the internal processes are widespread’ (ANC 2010, para 4.23) and that the leadership had to oversee ‘many rowdy provincial conferences’ (ANC 2010, para 4.20). This ‘alien culture’ (para 4.20) started in North West Province, at the first provincial conference held after the bitterly divided Polokwane National Conference of the ANC, that ‘ushered in a new culture of open physical fights in ANC meetings’ (para 8.110). In the same year violent conflict at a regional conference in the Northern Cape led to one death.

This kind of internal collective violence has not abated. For example, in the run-up to the 2012 ANC congress in Mangaung, meetings were disrupted by brawls, armed men threatening violence, gunshots, assaults, stabbings, burning down of opponents’ houses, and the aborting of meetings (*The Star*, 16 November 2012; *Business Day*, 7 August 2012, 19 November 2012). Again access to state power is an important resource, as the police are frequently called in to monitor such meetings and restore ‘order’ in the case of disruption, usually on the terms of the faction that dominates the state in that particular locality. For example, in the run-up to Mangaung, a Limpopo provincial general counsel was ‘stormed’ by a group of Zuma supporters who hurled bricks and stones, and kidnapped, assaulted and threatened to ‘kill’ a key supporter of expelled ANCYL leader Julius Malema. The police withdrew, ‘allegedly at the instruction of police top brass’, after which ‘pandemonium erupted’ (*The Sunday Independent*, 2 December 2012).

### **Class formation and violence**

Intra-elite conflict thus takes several forms. The first is the struggle for factional control over the coercive instruments of the state. These practices subvert the rule of law from within state institutions. The second is the use of direct violence in the form of assassinations. The third is the mobilisation of collective violence, whether within ANC structures or

through mobilising or supporting community protests. All of these practices are associated with intense intra-elite competition for access to state resources, and suggest unstable coalitions of different factions within the ANC.

Political competition is closely tied to the struggle for access to sources of rent. South Africa is a constitutional democracy characterised by multi-party competition, elections, the independence of the judiciary, and the rule of law. However, the formal institutions of political competition are not the site for contestation over access to the prizes of asset distribution and income streams via the state. Rather, state institutions, the dominant political party, and local communities are the most important sites of political competition, and such competition is regulated through coercion or violence.

The formation of elite factions and the violent practices that attend them is integral to processes of black class formation in post-apartheid South Africa. A variety of classes is crystallising through these often quite inchoate and fluid processes, including rentiers, a state petty bourgeoisie, and capitalists. For the most part this competition has taken place within the new black elite, rather than between it and the old white elite whose power is organised in corporate structures.

There are signs that this may change. In the Kumba Iron case, a black business organisation made use of its access to state institutions to fraudulently transfer a mining licence from a large-scale white company to itself – not with any intention to actually engage in mining, as it subsequently entered into a deal with a steel producer to sell these rights for R800 million if it is successful in the case brought against it by Kumba (Makhaya and Roberts, this edition).

At another level populist claims that the political settlement, constitution and judiciary protect white wealth and reproduce black poverty have increasing resonance both among sections of the black elite who find themselves on the margins of such redistribution, and among the subaltern classes who see little prospect of improving their lives within the current dispensation. Calls for rewriting the constitution, ‘transforming’ the judiciary, seizing land, nationalising mines and other assets, all draw on a sense among aggrieved elites and marginalised citizens that the current order of things maintains historical injustice.

Both the Kumba case and the resonance of populism suggest that the pressures of black class formation are chafing against the constraints of the constitutional order that emerged from the negotiated settlement of the 1990s, just as they did prior to the land seizures in Zimbabwe, and they are likely to generate increasing demands for the redistribution of white assets.

### **Precarious politics: authoritarianism, populism and clientelism**

Our research on local communities and protest suggests that the ANC is highly unstable as different factions move in and out of power. In the struggle for power and access to resources, networks and factions form, compete and reform, in a process that mirrors factional power plays at provincial and national levels. As a further result, this instability and paralysis permeates state institutions.

The broader Tripartite Alliance between the ANC, SACP and the Congress of South African Trade Unions (COSATU) replicates these tensions. The struggles of organised labour for more political influence generate new fracture lines, and factional struggles within the ANC reproduce themselves inside COSATU, as do SACP power struggles. The current struggles within COSATU over the position of the general secretary and the modalities of the relationship with the ANC are a measure of just how bitter the conflict is. The growing incoherence and paralysis of the state and the ANC, coupled with the

emergence of multiple local contestations within society, erodes authority, both within the ANC, and more broadly.

One response to this is an attempt to increase ANC control of all centres of power. The deployment of cadres into such positions, and particularly positions of authority within the institutions of policing, justice and law is an element of this – although cadre deployment in turn reproduces factional divisions within those institutions. Authoritarian trends appear to be on the rise within the ANC – ranging from legislative initiatives to reduce public oversight and transparency, to hostile verbal attacks on non-governmental organisations (NGOs). ANC and SACP leaders increasingly articulate the view that the ANC and the transformation project are under attack from ‘anti-majoritarian liberals’ – for example, ANC Secretary General Gwede Mantashe included under this rubric the press, the judiciary, NGOs, business and opposition political parties in an intervention at the 2012 COSATU Congress, in which he warned COSATU not to join their ranks. In part these views derive from narrow political concerns with the way democratic institutions expose the ANC to uncomfortable scrutiny and constrain its power, but its sense of being under siege testifies as well to broader tensions in society over the constitutional order, and whether it deepens democracy or weakens transformation.

As another marker of increasing authoritarianism, policing of both crime and protests and strikes has become more violent, and each new police minister promises to use force to restore order. While an average of about 100 police officers per year had been killed on duty over the two-year period 2009–2010, an average of 590 people died as a result of police action over the same period, an average of 1600 were assaulted by police, and over a one-year period 294 died in police custody, seven of them after torture and 90 due to ‘injuries sustained in custody’ (*Mail & Guardian*, 27 May–2 June 2011). The Marikana massacre, in which 34 striking mine workers were killed, provides a ghastly insight into the authoritarian impulses that continue within the post-apartheid police force.

But the ANC’s relationship with its constituencies cannot be shaped by authoritarianism alone. Rent-seeking and clientelism are central to the projects of both elite classes and popular classes, as argued in previous sections of this article. Khan (2005) points out that the economic structure of developing countries ‘create strong incentives for the ... proliferation of patron-client networks, and the domination of personalised politics’, and the highly unequal and racialised socio-economic structure of South Africa can only reinforce this. From the point of view of the subaltern classes, the extremely high rate of unemployment and underemployment means that there is little alternative to seeking patronage from local elites; again, our research into community protests shows that they often end with a redistribution of access to work opportunities on tenders or municipality contracts.

Working-class organisations are not free of struggles over rent. Prior to the 2012 wave of platinum strikes, the NUM was marked by intense and sometimes violent internal struggles over shop steward elections because of the improved salaries, conditions and patronage available to shop stewards, and the intensity of violence between NUM and its new rival, AMCU is driven at least in part by the high rewards that attend union and shop steward recognition. The struggles within COSATU alluded to above are also related to access to rents, with allegations and counter allegations about corruption, condoning corruption, or inviting anti-corruption NGOs to investigate specific affiliates. The leadership of the transport affiliate are in court on charges of fraud, and it was reported that the general secretary of the chemical affiliate is involved in a deal worth R300 million with a company organised by his union (*Sunday Times*, 23 July 2013).

Populism is another form that clientelist politics may take, combining popular grievances with elite aspirations in a set of demands for a more dramatic redistribution of

wealth and assets. Julius Malema was the most consistent proponent of a populist project mobilised around such demands in the ANC prior to his expulsion; given the deep tensions in South African society others will arise. The toxic combination of populism and clientelism is also evident in some of the xenophobic attacks that wracked society in 2008 and continue in more sporadic form, where local business and on occasion political elites mobilised unemployed youths to attack rival foreign-owned businesses.

The prevailing forms of politics may shift quite easily between authoritarianism, clientelism and populism, and indeed exhibit elements of all three at the same time. All are shaped by the formation of elite factions to control or distribute rents of various sorts, and intra-elite conflict is integral to such processes. Violent practices accompany each of these political forms, as violence remains a critical resource in a struggle for ascendancy which democratic institutions are unable to regulate.

## Conclusion

The outcome of the transition to democracy was a sharp rupture at the political level and a great deal of continuity at the socio-economic level. The settlement set significant constraints on socio-economic restructuring, which were reinforced rather than tested by the policy choices of the new democratic government. The result has been a considerable degree of insulation of the economic sphere from large-scale political intervention.

In post-apartheid South Africa those institutions which, for North, Wallis, and Weingast (2009), create the basis for an open access democracy in the West, have the opposite effect, entrenching a limited access order which excludes large sectors of both elite classes and subalterns among the black population. The result is a tension between the democratic promise inherent in the political rupture – to empower the newly enfranchised citizenry which had previously been excluded – and the continuing reality of socio-economic exclusion. Far from stabilising a new dominant coalition between white capital and new black elite classes, the democratic breakthrough has stimulated intense and violent conflict between different black factions over access to rents. While this conflict has so far been largely confined to intra-black contestation, there are signs that white elites may be increasingly targeted by both ‘insider’ and ‘outsider’ factions, whether by practices that include subverting the rule of law or populist campaigns for nationalisation.

The forms of violence discussed in this article cannot be regarded as external to the democratic institutions established in South Africa’s transition. Rather, they are integral to these institutions and their interaction with the prevailing power structures of the post-apartheid order. Where democratic institutions are insulated from the economic sphere with its gross inequality derived from colonial and apartheid history – and indeed actively structure this insulation – subversion of the law and selective application of the state’s coercive apparatus, together with more direct forms of violence, provide alternative ways of redistributing assets and revenues and securing access to rents. Hence it may be argued that South Africa is making the transition to *violent democracy* in which democratic institutions and forms, elite instability and violence sustain each other.

These forms of violence are only likely to subside with the formation of a stable elite coalition based on a distribution of rents that reflects the balance of political power and violence capability in society. This will not be the case as long as South Africa is marked by such high levels of racial inequality. It would also require the emergence of a faction sufficiently powerful to command the coercive capabilities of the state and dominate such a coalition, enforcing compliance with its codes. The instability at the heart of the ANC and across the institutions of the state suggests this prospect lies some way off.



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## Notes on contributor

Karl von Holdt is the Director of the Society Work and Development Institute (SWOP), University of the Witwatersrand, Johannesburg. He has published *Transition From Below: Forging Trade Unionism and Workplace Change in South Africa* (2003), *Beyond the Apartheid Workplace: Studies in Transition* (2005) co-edited with Eddie Webster, and has co-authored with Michael Burawoy *Conversations with Bourdieu: The Johannesburg Moment* (2012).

## Notes

1. An elite prosecution-driven investigating unit located within the NPA.
2. See Olivier de Sardan (1999) on a 'moral economy' of corruption in Africa, Mamdani (1996) on 'corruption' as a form of postcolonial redistribution, and North et al. (2012) for a recasting of the idea of 'corruption' as a form of rent which may or may not have positive developmental outcomes, such as stabilising a dominant coalition or facilitating long-term investment.

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