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CONSTITUTIONALISM AND THE TRANSITION FROM DOMINANT-PARTY TO MULTIPARTY GOVERNANCE: THE SOUTH AFRICAN EXPERIENCE

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Abstract

Constitutionalism is a foundational principle of democratic governance. It requires the exercise of public power to remain subject to constitutional limits, the rule of law, the separation of powers and the protection of fundamental rights. In several African states, the post-independence period was marked by one-party or dominant-party systems in which national unity, liberation credentials or political stability were sometimes invoked to justify the concentration of political authority. The subsequent movement towards multiparty elections represented an important constitutional and political development, but the formal existence of competing political parties does not, by itself, guarantee constitutionalism. This article examines the relationship between constitutionalism and the transition from dominant-party to multiparty governance, using South Africa as its exclusive country-specific case study. It traces the constitutional and political trajectory from the exclusionary constitutional arrangements of the apartheid period, through the democratic transition and adoption of the Constitution of the Republic of South Africa, 1996, to the African National Congress's prolonged electoral dominance and the 2024 national election, which resulted in the formation of a Government of National Unity. The article argues that multiparty competition may create opportunities for accountability and peaceful political change, but its democratic value depends on the effective operation of constitutional limits, political rights, independent institutions and the rule of law. It concludes that constitutionalism is not simply a consequence of multiparty elections; it is the framework that makes political competition meaningful and prevents the rotation or sharing of power from becoming an end.

Keywords – Constitutionalism; multiparty democracy; dominant-party system; South Africa; political rights; accountability; rule of law; Government of National Unity.

I. INTRODUCTION

Constitutionalism is concerned not merely with the existence of a written constitution, but with the limitation and accountability of governmental power. A constitution may establish public institutions, distribute authority and recognise fundamental rights. Constitutionalism requires, in addition, that public officials and institutions comply with those limits and that effective mechanisms

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exist to remedy violations. It therefore encompasses constitutional supremacy, the separation of powers, judicial independence, the protection of fundamental rights and the rule of law.

The relationship between constitutionalism and multiparty democracy is particularly important in the African context. Following independence, several African states adopted one-party systems or developed dominant-party arrangements. Political leaders sometimes justified the concentration of authority by reference to national unity, liberation struggles, ideological continuity or the need for political stability. Yet where the ruling party dominates state institutions and political competition is restricted, the ability of citizens to hold government accountable may be weakened. As Fombad explains, constitutionalism involves both limitations on government and mechanisms through which those limitations can be legally enforced. The existence of a constitution or elections alone does not establish constitutionalism.[1]1

The political reforms that gathered momentum from the late 1980s and early 1990s placed multiparty elections at the centre of democratic governance. South Africa's transition provides an important illustration of the relationship between this political shift and constitutional transformation. The end of apartheid, the first democratic elections in 1994 and the adoption of the Constitution of the Republic of South Africa, 1996, established a constitutional order founded on equality, human dignity, political participation and constitutional supremacy. However, the prolonged electoral dominance of the African National Congress (ANC) after 1994 also raised questions about the practical strength of political accountability and institutional oversight. The 2024 general election, in which the ANC lost its parliamentary majority, marked a significant development and led to the formation of a Government of National Unity (GNU).[2]

This article examines whether the transition from dominant-party to multiparty governance necessarily strengthens constitutionalism. South Africa is the exclusive country-specific case study. References to African constitutional developments are used only to establish the broader conceptual context; no other African state is examined as a comparative case study. The central argument is that multiparty competition is important for democratic accountability, but it does not automatically ensure constitutional governance. Constitutionalism supplies the legal and institutional framework through which political competition can operate fairly and government can be held accountable.

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[1]Charles M Fombad, 'Democracy, Elections, and Constitutionalism in Africa: Setting the Scene' in Charles M Fombad and Nico Steytler (eds), Democracy, Elections, and Constitutionalism in Africa (Oxford University Press 2021).

[2]Charles M Fombad and Nico Steytler (eds), Democracy, Elections, and Constitutionalism in Africa (Oxford University Press 2021). This source is used for the broader African constitutional context; the present article does not undertake a comparative country study.

The article is structured as follows. Section 2 explains the conceptual relationship between constitutionalism and multiparty democracy. Section 3 outlines the research methodology. Section 4 considers the constitutional and political development of South Africa from the apartheid period to the democratic constitutional settlement. Section 5 examines dominant-party governance and the constitutional mechanisms of accountability. Section 6 analyses the 2024 election and the formation of the GNU. Section 7 considers whether the South African experience supports the proposition that the absence or weakness of constitutionalism undermines effective multiparty democracy. The article concludes with recommendations and final observations.

II. CONSTITUTIONALISM AND MULTIPARTY DEMOCRACY

a. The meaning and function of constitutionalism

Constitutionalism is a commitment to limited government under enforceable legal rules. It requires that the authority of the state be exercised within the limits established by the Constitution and that public power remain subject to legal and institutional scrutiny. Its purpose is to prevent arbitrary government and to protect individuals against the misuse of state authority. A constitutional document may contain provisions on rights, institutional structures and governmental powers, but those provisions will have limited value if they cannot be enforced in practice.

The principal elements of constitutionalism include constitutional supremacy, the separation of powers, judicial independence, the protection of fundamental rights and effective mechanisms for reviewing governmental action. These elements operate together. Constitutional supremacy establishes the authority of the Constitution; the separation of powers distributes public functions; judicial independence enables courts to adjudicate disputes without improper interference; and fundamental rights protect the conditions necessary for individual freedom and political participation.

b. Multipartyism and electoral democracy

Multipartyism is a political arrangement in which more than one political party is permitted to organise, campaign and contest elections for public office. It enables citizens to choose between competing political programmes and provides opposition parties with an institutional role in scrutinising government. Competitive elections may also create the possibility of peaceful changes in political leadership and encourage governing parties to respond to public concerns.

Nevertheless, the existence of several political parties does not necessarily establish genuine electoral competition. Political pluralism may be weakened where opposition parties face unjustified restrictions, where citizens cannot exercise political rights freely, where public resources are used to entrench incumbency, or where electoral and oversight institutions lack independence. Elections may therefore exist in formal terms while failing to provide voters with a meaningful and fair choice.

c. The relationship between constitutionalism and multiparty governance

Constitutionalism and multiparty democracy are related but distinct. Multipartyism concerns the availability of political alternatives and the possibility of competition for public office. Constitutionalism concerns the limits within which political power is exercised and the mechanisms through which those limits are enforced. Multiparty elections can contribute to accountability, but constitutionalism ensures that electoral victory does not confer unlimited authority on the successful party.

A dominant party is not necessarily unconstitutional merely because it wins successive elections. The relevant questions are whether elections remain free and fair, whether opposition parties can organise and campaign, whether citizens can make political choices without coercion, and whether courts and other institutions can scrutinise government independently. Equally, a multiparty coalition does not automatically demonstrate constitutionalism. The conduct of all parties in government must remain subject to the Constitution and the law.

III. RESEARCH METHODOLOGY

This article adopts a qualitative, doctrinal and historical research methodology. The doctrinal component examines the constitutional framework of South Africa, with particular attention to the founding provisions, constitutional supremacy, political rights, judicial authority and institutions supporting constitutional democracy. The historical component considers the development of South Africa's constitutional arrangements from the apartheid period to the democratic constitutional settlement. The article also considers publicly available official material concerning the 2024 national election and the formation of the Government of National Unity.

The research is desk-based and relies on constitutional texts, legislation, official institutional material and relevant academic literature. It does not claim to be based on interviews, surveys or original empirical fieldwork. South Africa is the sole country-specific case study. The article does not purport to provide an exhaustive comparative assessment of African states.

IV. SOUTH AFRICA: FROM EXCLUSIONARY CONSTITUTIONAL ARRANGEMENTS TO DEMOCRATIC TRANSFORMATION

a. Constitutional arrangements before 1994

It is historically inaccurate to state that South Africa had no constitution before 1996. The Union of South Africa was established in 1910 under the South Africa Act 1909. The country subsequently adopted the Republic of South Africa Constitution Act 32 of 1961 and the Constitution Act 110 of 1983. These constitutional instruments, however, did not establish an inclusive democratic order. The constitutional arrangements of the period entrenched political power in the white minority and excluded the black majority from equal participation in national political institutions.[2]

The National Party came to power in 1948 and consolidated the apartheid system. Apartheid was not simply a period of one-party government; it was an exclusionary political and constitutional order based on racial classification, segregation and the denial of fundamental rights to the majority of the population. The 1983 Constitution introduced a tricameral Parliament with separate houses for white, coloured and Indian communities, while black South Africans remained excluded from that parliamentary arrangement. The central constitutional defect of apartheid was therefore not merely the dominance of a political party, but the denial of equal citizenship, political participation and legal protection.[3][3]

This history is important to the article's argument. The existence of constitutional instruments did not mean that South Africa was governed according to the principles of constitutionalism. Constitutionalism requires more than formal legal structures: it requires that the constitutional order recognise the equal status of citizens, limit public power and protect rights through effective institutions.

b. The democratic transition and the 1996 Constitution

The negotiated transition produced the Interim Constitution of 1993, which came into operation on 27 April 1994. South Africa's first democratic national elections were held in April 1994, enabling citizens across racial groups to participate in the election of a national legislature. The elected Constitutional Assembly subsequently prepared the final Constitution, which was adopted in 1996 and came into effect on 4 February 1997.[2][4]

[3]South African History Online, 'A History of Apartheid in South Africa' (historical overview). The source supports the account of the National Party's 1948 electoral victory and the development of apartheid.

[4]Constitution of the Republic of South Africa Act 200 of 1993 (Interim Constitution); Constitution of the Republic of South Africa, 1996. The 1996 Constitution took effect on 4 February 1997.

The Constitution of the Republic of South Africa, 1996, established a constitutional order based on constitutional supremacy and an enforceable Bill of Rights. Section 1 identifies South Africa as a sovereign, democratic state founded on human dignity, equality, the advancement of human rights and freedoms, non-racialism, non-sexism, the supremacy of the Constitution and the rule of law. It also identifies universal adult suffrage, a national common voters' roll, regular elections and a multiparty system of democratic government as foundational values intended to ensure accountability, responsiveness and openness.[45]

Section 2 declares the Constitution to be the supreme law of the Republic and provides that law or conduct inconsistent with it is invalid. This provision is central to constitutionalism because it subjects all public authority to the Constitution. The Constitution is therefore not merely a framework for establishing government; it is also a legal limitation on the exercise of governmental power.[6]

c. Political rights and the constitutional protection of pluralism

Section 19 of the Constitution protects political rights. Every citizen is free to make political choices, including the right to form a political party, participate in the activities of a political party, recruit members and campaign for a political party or cause. Every citizen is also entitled to free, fair and regular elections for legislative bodies established under the Constitution. Every adult citizen has the right to vote by secret ballot and to stand for public office and, if elected, to hold office.[57]

These rights provide the constitutional foundation for multiparty democracy in South Africa. They are supported by other rights, including freedom of expression, assembly and association. Political participation cannot be meaningful if citizens are unable to communicate political views, organise collectively or assemble peacefully. The protection of political pluralism therefore depends on the wider rights framework and on the availability of effective remedies when those rights are infringed.

The constitutional recognition of multiparty democracy is significant because it prevents political competition from being treated merely as a matter of political convenience. Political parties and citizens operate within a constitutional framework that protects participation and requires public institutions to respect the rights necessary for democratic governance.

[5]Constitution of the Republic of South Africa, 1996, s 1.
[6]Constitution of the Republic of South Africa, 1996, s 2.
[7]Constitution of the Republic of South Africa, 1996, s 19.

V. DOMINANT-PARTY GOVERNANCE AND CONSTITUTIONAL ACCOUNTABILITY

From the first democratic elections in 1994 until the 2024 general election, the ANC secured a majority in the National Assembly at national level. Its prolonged electoral dominance should not be equated with the apartheid-era constitutional order. Under the post-1994 Constitution, opposition parties continued to exist, contest elections and hold seats in representative institutions. The constitutional framework also protected political rights and established institutions intended to hold public power accountable.

Nevertheless, prolonged dominance by one party may raise questions about the practical effectiveness of political oversight. Where a governing party commands a stable legislative majority, the ability of Parliament to scrutinise the executive may depend significantly on the independence and effectiveness of parliamentary committees, the willingness of legislators to exercise oversight and the strength of institutions outside the governing party. These concerns do not establish that dominant-party government is inherently unconstitutional. They demonstrate why constitutional accountability cannot depend exclusively on electoral competition.

South Africa's constitutional framework provides several mechanisms through which public power may be scrutinised. Section 165 vests judicial authority in the courts and provides that courts are independent and subject only to the Constitution and the law. It also prohibits interference with the functioning of courts and requires organs of state to assist and protect the courts to ensure their independence, impartiality, dignity, accessibility and effectiveness. Chapter 9 establishes institutions supporting constitutional democracy, including the Public Protector, the South African Human Rights Commission, the Commission for Gender Equality, the Auditor-General and the Electoral Commission.[68]

The existence of these institutions is important, but their effectiveness depends on their practical independence, adequate resources and the ability to discharge their constitutional mandates without improper interference. Allegations of corruption and state capture, and the establishment of the Judicial Commission of Inquiry into Allegations of State Capture (commonly known as the Zondo Commission), demonstrate the importance of independent investigation and public accountability. Such inquiries should not be treated simply as proof that constitutionalism has failed. Their ability to investigate alleged misconduct and make findings may also demonstrate the operation of

[8]Constitution of the Republic of South Africa, 1996, s 165.

constitutional accountability mechanisms. The decisive issue is whether institutions can act independently and whether unlawful conduct is addressed through lawful processes.[9]

The South African experience therefore illustrates that constitutionalism must operate continuously, including during periods in which one political party enjoys a substantial electoral majority. Elections provide an important mechanism of accountability, but they cannot replace judicial independence, parliamentary oversight, independent constitutional institutions and the protection of fundamental rights.

VI. THE 2024 ELECTION AND THE FORMATION OF THE GOVERNMENT OF NATIONAL UNITY

a. The end of the ANC's parliamentary majority

The 2024 national and provincial elections marked a significant development in South Africa's democratic trajectory. The ANC received 159 seats in the 400-member National Assembly and, for the first time since the end of apartheid, did not secure a parliamentary majority. The Democratic Alliance won 87 seats, while uMkhonto weSizwe and the Economic Freedom Fighters won 58 and 39 seats respectively. The result required political parties to negotiate arrangements for the formation of government and demonstrated that electoral competition could materially alter the distribution of parliamentary power.[s10]

The election is relevant to the relationship between dominant-party and multiparty governance because it demonstrated that a party which had governed with a national parliamentary majority for three decades could lose that majority through the electoral process. This is an important feature of constitutional democracy: the governing party's authority depends on the electoral mandate and remains subject to constitutional rules.

b. Formation and character of the Government of National Unity

Following the election, President Cyril Ramaphosa announced the formation of a Government of National Unity. In his statement of 30 June 2024, the President reported that eleven parties had elected to work together in government and Parliament. Subsequent official government communication in October 2024 identified ten parties as signatories to the GNU arrangement. These

[9]Judicial Commission of Inquiry into Allegations of State Capture, Report (2022). The particular volume and page should be specified if the article relies on a particular finding; this footnote presently identifies the Commission's report generally.

[10]Electoral Commission of South Africa, 2024 National and Provincial Elections: Results and Seat Allocation (National Assembly results). The ANC obtained 159 of the 400 National Assembly seats.

official statements refer to different stages of the process and should not be conflated when describing the composition of the arrangement.[9][11]

The GNU was formed in circumstances in which no single party held a majority in the National Assembly. Its Statement of Intent records the participating parties' commitment to the Constitution, the Bill of Rights, the rule of law, accountability, transparency, community participation and good governance. The arrangement also provides for cooperation in both the Executive and the Legislature. It therefore represents a political response to the electoral outcome and an attempt to establish a governing arrangement based on inter-party cooperation.[10][12]

The GNU may create opportunities for broader participation in executive decision-making, negotiation and compromise. It may also increase the importance of coalition agreements, inter-party consultation and parliamentary scrutiny. However, the existence of a multiparty executive should not be treated as proof that constitutionalism has automatically strengthened. The GNU and each participating party remain bound by the Constitution. The effectiveness of the arrangement must be assessed by reference to its actual conduct, including respect for constitutional rights, transparency in decision-making, accountability for executive action and the independence of oversight institutions.

c. The constitutional significance and limitations of the GNU

The 2024 political transition demonstrates that multiparty competition can create a route to changes in the composition of government without abandoning constitutional procedures. The ANC's loss of its parliamentary majority did not itself produce a constitutional crisis; instead, political parties negotiated a governing arrangement within the constitutional framework. This illustrates the capacity of constitutional rules to manage political change and facilitate cooperation where no party can govern alone.

At the same time, coalition or unity government does not necessarily guarantee better accountability. Multiparty participation in the Executive may broaden representation, but it may also create challenges concerning policy coherence, responsibility for decisions and the resolution of disagreements between governing parties. Constitutionalism requires that these political arrangements remain transparent and subject to parliamentary, judicial and public scrutiny. The GNU

[11] Cyril Ramaphosa, 'Statement on the Appointment of Members of the National Executive' (The Presidency, 30 June 2024). The statement identified eleven parties that had elected to work together in government and Parliament.

[12] 'Statement of Intent of the 2024 Government of National Unity' (14 June 2024), preamble and clauses on cooperation, foundational principles and modalities.

should therefore be evaluated not simply by the number of parties involved, but by whether it strengthens accountable government and respects constitutional limits.

The 2024 election is consequently best understood as an important test of South Africa's constitutional democracy rather than conclusive evidence that the country has moved from dominant-party politics to fully effective multiparty accountability. The election opened a new political phase. Whether that phase strengthens constitutionalism depends on the practical performance of institutions and political actors.

VII. DOES WEAK CONSTITUTIONALISM UNDERMINE EFFECTIVE MULTIPARTY DEMOCRACY?

The South African experience supports the argument that multiparty elections and constitutionalism must operate together. Political pluralism gives citizens the opportunity to support different political programmes and provides opposition parties with a role in public scrutiny. Yet political competition may be weakened if constitutional rights are not protected, electoral institutions are not independent or public authorities are able to act without effective legal review. In such circumstances, the formal existence of several political parties may not translate into meaningful democratic accountability.

The relationship also operates in the opposite direction. Multiparty competition can strengthen constitutionalism by increasing legislative scrutiny, encouraging public debate, exposing misconduct and creating the possibility of peaceful changes in government. The 2024 South African election illustrates this potential. However, constitutionalism cannot be reduced to the possibility that one party may lose an election. It also requires the governing party, opposition parties and all public institutions to comply with constitutional limits throughout the electoral cycle.

It would therefore be too broad to claim that the absence of constitutionalism is the only explanation for every weakness in multiparty elections. Political participation is also affected by social and economic inequalities, public confidence, access to information, party organisation and the practical conditions in which elections take place. In South Africa, the constitutional framework provides formal protections, but the continuing task is to ensure that those protections are effective in practice.

The central issue is not simply whether power changes hands or is shared between parties, but whether all holders of public power remain accountable under the Constitution.

VIII. RECOMMENDATIONS

First, constitutional political rights should be protected in practice and not merely recognised in the text of the Constitution. Citizens and political parties must be able to organise, campaign, express political views and participate in public affairs without unlawful interference.

Secondly, the independence and effectiveness of institutions supporting constitutional democracy must be protected. The Electoral Commission, the judiciary, the Public Protector, the Auditor-General and other Chapter 9 institutions must be able to discharge their mandates without improper political influence and with adequate resources.

Thirdly, Parliament must exercise effective oversight over the Executive. A governing majority or coalition arrangement should not weaken the legislature's constitutional responsibility to scrutinise public administration, expenditure and executive decision-making.

Fourthly, political parties participating in government must ensure transparency and accountability in coalition and GNU arrangements. Agreements concerning the allocation of responsibilities and the resolution of policy disagreements should not displace constitutional requirements or reduce public accountability.

Finally, all political parties, whether in government or opposition, should respect constitutional democracy. Electoral victory does not authorise the governing party to exercise unlimited power, while opposition parties must pursue political change through lawful and democratic means.

IX. CONCLUSION

The transition from the apartheid constitutional order to democratic multiparty governance represents a fundamental transformation in South Africa's political and constitutional history. The Constitution of the Republic of South Africa, 1996, entrenched constitutional supremacy, political rights, the rule of law and a multiparty system of democratic government. These principles provide the legal foundation for political competition and the accountability of public power.

The ANC's prolonged electoral dominance after 1994 did not mean that South Africa had returned to the exclusionary one-party arrangements of the apartheid period. Nevertheless, it raised important questions about the practical strength of parliamentary oversight and the independence of accountability institutions. The 2024 election, in which the ANC lost its parliamentary majority, demonstrated that electoral competition can alter the composition of government through constitutional procedures. The subsequent formation of the GNU created a new arrangement for

inter-party cooperation, but it does not by itself establish that constitutionalism has been strengthened.

The central conclusion is that multiparty democracy is necessary for political pluralism but is not sufficient to guarantee constitutionalism. Constitutionalism provides the framework that makes multiparty competition meaningful: it protects political rights, limits governmental authority, secures independent institutions and ensures that all public power remains subject to law. South Africa's experience demonstrates that the quality of democracy must be measured not only by the number of parties in government or the possibility of electoral change, but also by the extent to which constitutional limits are respected and enforced. Multiparty governance can support accountability, but constitutionalism is what prevents political power whether exercised by one party or shared among several from becoming arbitrary.