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Marikana: a crisis of legitimacy in the institutions that form the foundations of South Africa's 1994 post-apartheid political settlement

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This essay argues that the violent explosion at Marikana is an indication that ordinary South Africans are rapidly losing faith in the democratic institutions and social contract arrangements that underpin the 1994 post-apartheid South African democratic social contract, whether Parliament, the collective bargaining system, or the National Economic Development and Labour Council (Nedlac). Similarly, "legitimate" institutions, such as political parties, trade unions and civic organisations – the organisations which pre-date 1994 – are also increasingly experienced by their members and supporters as not responsive, relevant or accountable. Marikana shows that if democratic institutions and "legitimate" institutions do not become more responsive, accountable and democratic quickly, ordinary people will increasingly look to new ones, including populists ones, or seek answers in violence. The essay concludes that although there are still many democratic and "legitimate" institutions which generate high levels of trust and enjoy widespread credibility and legitimacy, South Africa may have to renew aspects of its democratic social contract, institutions and rules, and in some cases, even create new, more relevant ones.

Keywords: Marikana; democratic institutions; "legitimate" institutions; trade unions; inequality; social pacts

Introduction

The explosion of violence at Lonmin's Marikana mine outside Rustenburg, which saw 34 people die after police shot striking platinum mine workers, was a watermark for South Africa's democracy. It brought into sharp focus the fact that ordinary South Africans are rapidly losing faith in the democratic institutions and social contract arrangements that underpinned the 1994 post-apartheid South African democratic settlement, whether Parliament, the collective bargaining system, or the National Economic Development and Labour Council (Nedlac).

But Marikana also shows that many citizens are also increasingly disenchanted with the organisations of which they are members and supporters, and their leaders, whom they had trusted before. These "legitimate" institutions, whether the new democratic ones, or the trusted pre-1994 ones, such as political parties, certain civic organisations and trade unions, are increasingly experienced by their members and ordinary citizens as not responsive, accountable, inclusive and sometimes not relevant anymore.

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The public value, legitimacy and credibility of many of the democratic and "legitimate" institutions are now being questioned by increasingly larger numbers of citizens (Moore and Khagram 2004). If democratic and "legitimate" institutions do not become more responsive, accountable and democratic, ordinary people will increasingly (and in many cases are already) look to new ones, including populists ones, or seek answers in violence, as happened in Marikana.

Why do institutions matter?

This essay uses a mix of the theoretical approaches of North (1990), Tuomela (1995), Commons (1934), Veblen (1899, 1909), Wells (1970), Hodgson (2006) and Ostrom (1986) as a basis to define the concept of institution. Institutions are "social structures," "systems of established and prevalent social rules that structure social relations" (Hodgson 2006, 4) and norms. Commons (1934) argues that "an institution seems analogous to a building, a sort of framework of laws and regulations, within which individuals act" (69). North (1990) defines institutions as "rules of the game [...] or humanely devised constraints" (3). Institutions make up structures such as Parliament, and organisations such as political parties and trade unions; as well as the "socially embedded" (3–5) rules that govern social relations.

Rules would include "norms of behaviour and social conventions as well as legal rules" (Hodgson 2006, 4) and policies. Institutions can only become socially embedded, credible and enforce consent, if they are seen to exercise their power and act consistently, transparently and accountably. There are "constraints" – which could be either "formal" or "informal" on institutions (North 1990). For laws and policies to become the rules, they "have to be enforced to the point that the avoidance or performance in question becomes customary" (Hodgson 2006, 6).

Unless there are clear, fair and equitable sanctions when institutions, rules and norms are breached, these institutions lose their legitimacy. Exemplary institutions acquire a "moral legitimacy" (Hodgson 2006, 5) over time, rather than securing their legitimacy *only* from their power to sanction digressions. North (1990) makes the case for "formal" and "informal" rules governing institutions. The "formal" rules would be laws, constitutions, policies, and the "informal" rules would be "conventions," "norms of behaviour," self-imposed ideologies and customs.

South Africa's 1994 democratic social contract and its accompanying institutions

At the end of formal apartheid in 1994, South Africa not only abolished racial segregation in politics, economics and social life, but it also created a whole new set of democratic institutions – including laws, rules and policies. Given South Africa's violent, authoritarian and undemocratic past under apartheid, a new democratic social contract with new democratic rules of the game, habits and culture had to be forged out of the different institutions of apartheid and those of the anti-apartheid opposition.

At the apex of the new democratic institutions was the new democratic constitution. Old undemocratic institutions, such as parliament, from the apartheid era were supposed to be democratically transformed. The intention was that the police, security, intelligence and armed forces would be imbued with a human rights-based culture with democratic oversight, rather than authoritarian, racist and "shoot-to-kill" apartheid-era approach.

The post-apartheid judiciary was to be independent, rather than government lapdogs. New democratic institutions were set up, for example, the so-called Chapter 9 watchdog institutions, such as the Human Rights Commission and the Office of the Public Protector. Furthermore, new social dialogue institutions, such as National Economic Development and Labour Council (Nedlac), and new rules, such as the system of collective bargaining, were formally introduced to govern labour market relations in a democratic dispensation.

Importantly, the social contract underpinning the new democratic South Africa was that racially based advantages would be banished, based on the promise that those who were racially disadvantaged during the long colonial and apartheid eras would in the new democratic dispensation earn the democratic and economic dividends. In return, they would embrace the new democracy, its institutions and rules.

South Africa's new democratic foundations were built on deep racial inequality – economic, political, social and individual self-worth – which was deliberately fostered by colonial and apartheid governments. Public and private institutions and rules during apartheid and colonialism deliberately fostered a situation where blacks were generally impoverished and whites well-off.

Underpinning the new democratic social contract was of course the abolishment of racial segregation and advantages in favour of white South Africans – in political, economic and social life. These racially based inequalities – and the sense of historic grievance, resentment and anger it naturally generates among the black majority – unless quickly reversed, will make it difficult for the black majority to buy in to the new democratic social contract and institutions, and remains a ticking time bomb ready to explode.

Undoing the institutional racism (Phillips 2011) – "the systematic distribution of resources, power and opportunity in our society to the benefit of people who are white and the exclusion of people of colour" (Solid Ground 2014, 2) – which is embedded in South Africa's public and private institutions, was also a key democratic obligation.

As part of the 1994 democratic social contract, there was an expectation among the black majority they would be treated with dignity in social life and spaces, workplaces and transactional spaces. New democracies in developing countries with historically entrenched racial, ethnic and regional inequalities have what Fraser (2003, 36) calls the "socio-economic maldistribution" and "cultural misrecognition" injustices. Such new democracies need both socio-economic redistribution and measures to affirm their dignity, recognise their social and cultural rights, and their human worth.

Therefore, such new democracies require social justice which focuses on *redistribution* for those historically disadvantaged as well as what Fraser (2003, 36) calls *recognition*, which rightfully acknowledges, gives the same status, equal respect and *social equality* to previously ignored cultural and social norms, and perspectives and outlooks of previously disadvantaged racial, ethnic and social groups, in relation to dominant cultural and social norms.

During the apartheid era, institutional and structural violence were systemic (Simpson 1993; Coleman 1994; Duvenage 1994; Ackermann 2008). Institutional violence is violence "perpetrated by institutions" such as state apparatuses, companies, churches, schools, universities, police and courts (Galtung 1964; Fraser 1996, 5; Farmer 1999; Fox 1999).

During apartheid, "fairly stable social arrangements and practices" in their "collective actions" and through individual actions, "emotionally or physically dominate[d], diminishe[d], dehumanize[d] or destroy[ed]" those who were not classified as white (Institute for Peace Justice 2014). Barak (2003) argues that institutional and structural violence is directed "against particular victims by individuals and groups or indirectly against entire groups of people by capricious policies and procedures carried out by people 'doing their jobs', differentiated only by a myriad of rationales and justifications" (77).

The US-based Institute for Peace Justice described some aspects of institutional violence as a

> rejection or neglect as well as attack – a denial of needs, a reduction of persons to the status of objects to be broken, manipulated, or ignored. The violence of bombs can cripple bodies; the violence of miseducation can cripple minds. The violence of unemployment can murder self-esteem and hope. The violence of a chronic insecurity can disfigure personalities as well as persons. (Institute for Peace Justice 2014, 2)

Part of the 1994 democratic social contract was to undo the institutional and structural violence within institutions and social life, which was embedded in colonialism and apartheid, and build a human rights-based society.

The great Brazilian theologian of liberation theology, Camara (1971), makes a case for how institutional violence in an authoritarian system finally creates a "spiral of violence." Camara argues that the response to institutional violence could be non-violent resistance, such as civil disobedience, mass action and strikes; but more often than not breeds counter-violence, which could include race riots, violent revolutions and violent crime, whether against symbols of the oppressors or internal violence – whether domestic, community or interpersonal – among the oppressed.

In response to resistance against institutional violence, oppressive regimes, argues Camara, often unleash more violence and repression: "bigger police or military forces, tougher prison sentences, torture, censorship, destruction of unions, and other repressive practices" (Camara 1971, 30). The violence at Marikana can also be seen as a continuation of the pre-1994 culture of using violence to press for political, labour or social demands – a culture which has its genesis in the counter-violence by communities during the apartheid era in response to state and private sector violence, continues under a democratic government (see Chikane 1986; Vogelman and Simpson 1990; Bundy 1992; Cooper 1994; Bruce 2014).

Apartheid did not only break the trust between black communities and public, private and social institutions, but it also broke the trust between South Africa's communities, between black and white, between workers and companies. A key element for South Africa to prosper is to build trust between public, private and social institutions and citizens, between hostile communities.

The setting up of new democratic institutions was supposed to foster new trust between previously disadvantaged and the new democratic institutions, such as parliament. However, a prerequisite for such newly acquired trust between the previously disadvantaged and the new and reformed old democratic institutions were for these institutions to be accountable, inclusive and caring.

Although not stated formally, many black South Africans expected that the country's apartheid-era racialised labour market, profit model and relations between workers and managers, and the treatment of black workers by managers with little dignity would be transformed. South Africa's apartheid-era business profit

model – whether in the mining or other sectors, for example wine farming – has been based on low wages, migrant labour and minimal skills transfer and little provision of basic amenities for ordinary workers, as well as huge remuneration and benefits for executives. Among the black majority, there was an expectation that black workers will be treated decently and with dignity in the democratic era.

Finally, to make the post-1994 democratic social contract and its new institutions and rules work, the old socially embedded institutions, the "legitimate" institutions, which the black majority swear allegiance to – such as political parties, trade unions and civil groups – whose ideologies, habits and customs it has imbibed, also had to be transformed to reflect the new democratic institutions and rules.

During colonialism and apartheid, black South Africans and opposition movements rightly rejected the discriminatory apartheid laws, social rules and institutions as "illegitimate," which should be "defied," including violently if necessary (Gumede 2005). During the long colonial and anti-apartheid era, autocratic regimes iron-fistedly pursued liberation movements, organisations and activists, which meant that these groups often had to organise themselves in "undemocratic ways." For example, the ever-present danger of infiltration by apartheid agents meant that organisational decisions were made in highly secretive ways, by a select few and information shared on a need-to-know basis only, lest it fall into the wrong – apartheid government's hands (see Lodge 1987; Ellis and Sechaba 1991; Gumede 1997).

Following the establishment of a formal democracy, the new democratic laws, social rules and institutions must be imbibed into the habits and customs of citizens who had in the pre-1994 colonial and apartheid-era "defied" "illegitimate" ones. The new democratic rules now also had to replace the "struggle" rules that had governed the internal workings of "struggle" organisations.

A precondition for new democratic rules, laws and institutions to gain "moral legitimacy" among the previously disadvantaged, is for these institutions to be seen act fairly, evenly, and not give preferential treatment, or exemption, to chosen political and business elites (Hodgson 2006, 6). Unless there are clear, fair and equitable sanctions when institutions, rules and norms are breached, these institutions very soon lose their legitimacy. Exemplary institutions acquire a "moral legitimacy" (5) over time, rather than securing their legitimacy *only* from their power to sanction digressions.

Situating Marikana in the wider crisis of legitimacy in democratic and "legitimate" institutions

Economic growth has been jobless and has reinforced racially inherited inequalities

The explosions of violence that happened at Lonmin's Marikana mine in 2012, the continuing labour market strikes and community unrests raging throughout the country are the result of a perfect storm of a number of institutional crises, political, economic and labour market related, coming to a head at the same time (Gordhan 2012). In 2011, South Africa replaced Brazil as the most unequal society – with the gap between the poorest and richest individuals the highest in the world (Statistics South Africa 2012; Institute for Justice and Reconciliation 2013; Oxfam 2014). Worse still, South Africa's inequality remains along the colonial- and apartheid-fostered racial lines, with the majority of blacks likely to be poor and whites better off.

Many black South Africans hoped that the end of apartheid would bring jobs, effective public services and clean government. Economic growth in South Africa has been too sluggish over the past few years to increase new jobs, reduce poverty and create wealth sufficiently and widely enough for the historically disadvantaged black majority. (du Plessis and Smit 2006; Naidoo et al. 2008; Development Bank of Southern Africa 2012; Organisation for Economic Cooperation and Development 2013; South African Reserve Bank 2013b; Gordhan 2014; The Presidency 2014). Whatever economic growth has taken place since 1994 has been of poor quality – mostly jobless, and not inclusive enough; rather it has reinforced racial, class and opportunity inequality.

Yet a small black elite, from the ranks of senior African National Congress (ANC) leaders, public servants and trade unions, have become fabulously rich since 1994, mostly through the phenomenon of "political capital": seniority or closeness to it, in the ANC hierarchy could be traded for senior positions in the public service, government contracts, and shareholding in established white companies (called Black Economic Empowerment [BEE]).

South Africa's decision when it re-entered the global economy to raise trade tariffs higher than demanded under the then General Agreement on Tariffs and Trade (Gumede 2005) damaged the local manufacturing sector. In addition, the impact of several global crises since 1994, first the Asian financial crisis of 1997/1998, then several global commodity crises (Gumede 2005), and most recently the global financial and Eurozone crises have hit SA's economy like a tsunami (du Plessis and Smit 2006; Naidoo et al. 2008; Development Bank of Southern Africa 2012; Organisation for Economic Cooperation and Development 2013; South African Reserve Bank 2013b; Gordhan 2014; The Presidency 2014) The majority of poor black South Africans have been hit disproportionally harder by these economic crises. Those who lost their jobs were mainly black, low-skilled workers. Since 1990, the mining sector has declined from 800,000 to around 300,000 jobs (Statistics South Africa 2012).

Since the start of the global and Eurozone financial crises alone, almost 1 million jobs have been lost – most of these by black people with low or few technical skills, and little possibility of securing another job (South African Reserve Bank 2013a). In poor black communities, nine people may depend on the income of one employed person (Wale 2013, 22). The global financial and Eurozone crises have also affected the black middle class, particularly those working in the private sector (South African Reserve Bank 2013a).

Poorer black South Africans generally experience a sense of despair. Those with jobs cling onto them – losing a job may mean never being able to get one again. Many are prepared to die for retaining a job – that is one reason why strikes are increasingly becoming very violent and will continue to be so in the short-to-medium term (see Alexander 2010; von Holdt et al. 2011; von Holdt 2013a, 2013b).

Failure of the South African state and institutions to deliver public services evenly and effectively – the shrinking "social wage"

There has been a failure by the South African state to deliver effective public services, such as quality public healthcare, education, transport, basic amenities and housing, widely, evenly and equitably to the black majority. One can call such public services a "social wage." This means that during hard times, the South African state and institutions have not been capable of providing a cushion through such a

"social wage" (Brand 2014). This means that workers are likely to secure compensation of the declining "social wage" from companies through demands for higher wage increases. In many cases, struggling workers have secured additional funding to cover the rising cost of living from the mushrooming informal lending industry or the so-called "loan sharks."

Wealthier black and white South Africans can escape poor public services by subscribing to private ones: security, healthcare and education, "safe" gated communities. As that state failure increases and the "social wage" shrinks, workers have been and will try to secure higher wages from their employers, to compensate for a decreasing "social wage" (and therefore the cost of living) – to pay for rising public transport, education, housing and so on. Rakner, Menocal and Fritz (2007, 13) write how weak state capacity and accountability and popular democratic and public service delivery expectations collide in Latin America's new democracies, to lead to growing disillusionment with democracy, the erosion of the credibility and legitimacy of the state, and the rise of populist regimes and revolutions (see also Holston 2007; Brinks 2008, 5; Houtzager and Arnab 2011, 7).

Generalised feeling among the black majority that new democratic institutions and rules have failed them

Ordinary people appear to have lost faith in the democratic institutions and social contract arrangements that underpin the post-1994 South Africa social contract, such as parliament, the public service, the collective bargaining system, and the National Economic Development and Labour Council (Nedlac). They experience these as not responsive, accountable or even relevant anymore.

Ordinary citizens with problems increasingly do not petition parliament, but take to the streets, through public protests, such as the so-called service delivery protests (Ben-Zeev 2012; van der Westhuizen 2014). Parliament has been increasingly labelled "lame-duck," "ineffective" and "toothless" (Govender et al. 2006). Nedlac is supposed to be the chamber to mediate socio-economic conflicts. It has been marginal in resolving many of the key labour market conflicts in the past few years.

The violent community protests sweeping across the country is a sure sign that ordinary people are losing faith in the new democratic institutions and social contract arrangements that underpinned South Africa's 1994 miracle transition from apartheid to democracy. There are at least five protests, either against poor or lack of public services, official corruption and lack of public accountability, a day in South Africa, according to the Institute of Security Studies (Alexander 2012; Lancaster and Mtshali 2014).

In 2007, Kader Asmal released a report, conducted by a parliamentary review committee, on South Africa's chapter 9 institutions, which slammed the ineffectiveness and organisational lack of understanding of their oversight of some of these institutions (Parliament of South Africa 2007). The report bemoaned their "lack of political clout" to fight on behalf of citizens of the chapter 9 institutions.

A recent Institute of Justice and Reconciliation's (IJR) SA Reconciliation Barometer Survey (Wale 2013) showed that there had been a 13% increase in the proportion of citizens who believed the government did not care about "people like them." The IJR survey found that ordinary citizens showed the highest confidence in religious institutions (67%) and the public protector (64.4%), and the lowest confidence in political parties (45.2%) and the police (47.9%).

The apparent erosion of credibility of some democratic and “legitimate” institutions is essentially twofold. One, these institutions appear not to be run effectively – often undermined by poor governance, corruption and mismanagement scandals. And two, the fact that these institutions appear not be able to fulfil their democratic and constitutional mandates – either because they are perceived to be toothless or lack the will or the operational capacity, to help those who seek their help. The perceived operational failure of these organisations and their inability to help those seeking their help, have eroded their public value (Moore and Khagram 2004). There are still institutions that generate trust: the Constitutional Court, the Commission for Conciliation Mediation and Arbitration (CCMA) and the Public Protector.

There appears to be a feeling that protective institutions such as the police and judiciary remain as hostile as they were for blacks under apartheid. The police’s shooting of Marikana protesting miners is a case in point. The same scenes that were associated with apartheid are now replayed under a black, democratic government. It is not only the fact that the police in a democratic state use the same heavy-handed “shoot-to-kill” tactics as the apartheid police.

The apartheid-style police brutality at the 2012 Marikana labour unrest and the continuing “shoot-to-kill” police action during community protests against poor public services, corruption and unaccountable leaders, have shown that some institutions have not entirely transformed to a human rights-based ethos under a democratic government. In the case of Marikana, it appears that rank-and-file trade union members believe these institutions to be unresponsive, unaccountable and uncaring. Clearly, if these democratic institutions do not become more responsive, accountable and democratic, supporters will look to new ones, including populist organisations and leaders, or seek answers in violence. Social and labour market strikes have been regularly accompanied by extreme violence.

South Africa’s new democratic laws, social rules and norms have clearly not socially bedded down, 20 years after democracy. One reason for this is because of the perception among the poor that these new democratic laws, social rules and norms have not been consistently, transparently and accountably implemented. It is often the case that senior ANC leaders and government officials could avoid these rules, yet it is expected that ordinary citizens obey them.

“Legitimate” institutions, such as the ANC and trade unions are suffering from a crisis of credibility

If there is one crucial lesson from Marikana, it is what Phosa (2012), then ANC treasurer-general, says: that Marikana shows that many workers have lost faith in “legitimate” institutions. These “legitimate” institutions include political parties such as the ANC, South African Communist Party and trade unions such as Cosatu and the NUM. The traditional “legitimate” institutions, such as political parties, certain civic organisations and trade unions and their leaders, are also found to be increasingly irrelevant in a complex, fast-changing society and increasingly confusing times, with *new* needs, *new* kinds of problems which need *new* ideas and *new* tools in order to be dealt with.

The posh world of trade union leaders is often light years away from the grim reality of ordinary members. This is one reason why NUM and Cosatu leaders did not see the Marikana crisis coming. Some trade union leaders have become part of

the small black elite (Buhlungu 2010), highly connected in the ANC who have become fabulously rich since 1994, mostly through political capital: trading seniority or closeness to it, in the ANC hierarchy, for senior positions in the public service, government contracts and shareholding in established white companies through BEE.

Speaking during the three-month-long strike in the platinum sector in 2014, labour analyst Brand (2014) said "the average worker feels that they have been deserted by government, unions, and employers […] and that nobody cares." A survey released by the Human Sciences Research (HSRC) in April 2013, which analysed data from 2011 and 2012, found that among the black and working-class South Africans, there was a rise in distrust of trade unions. Among people surveyed by the HSRC who said they are part of the black working class and who distrusted in the trade union movement rose from 21% in 2011 to 37% in 2013. A 2012 survey by the National Labour and Economic Development Institute (Naledi/CASE 2012) found that one in three workers believed there was corruption in trade unions, and that their representatives colluded with company management.

If these "legitimate" institutions do not become more responsive, accountable and democratic quickly, people will increasingly look to new ones, including populists ones, or seek answers in violence, as happened in Marikana or on the Western Cape wine farms. Such frustrations spill into violent protests. Marikana may present the tipping point where black anger spills over. For example, Marikana has put into question the very reason for the existence of the traditional trade union. At Marikana, workers in the mining sector rejected established trade union representation, namely the National of Union of Mineworkers, and put together worker committees to negotiate their demands on their behalf, circumventing the official bargaining processes – which suggest that both the NUM and official bargaining process risks irrelevancy.

The Marikana protests and the 2012 violent farmworker protests that raged across the Western Cape wine belt were spearheaded from outside established trade unions and political parties. Even the ANC, although it is the dominant party, appears to be in danger of becoming increasingly irrelevant. The Marikana eruption shows that the social gap between the ANC and its leaders and its supporters are so wide now, that the local ANC did not even know, let alone understand (and still do not, it appears) what was happening there.

Marikana is a failure of South Africa's mainstream business model as well as BEE

The business model of many South African businesses – whether in the mining, construction or wine farming – has been based on low wages, migrant labour, minimal skills transfer and little provision of basic amenities for ordinary workers, and huge remuneration and benefits for executives. Twenty years after democracy, this business model is now under stress. In many labour disputes, workers are increasingly demanding "dignity" as part of their wage demands. "Dignity" often means better treatment, more respect as human beings rather than being faceless "workers." It also refers collectively to the indignity of being on the receiving of lack of decent wages, job and financial insecurity, and erratic public services.

A Benchmarks Foundation survey (van Wyk, Cronje, and van Wyk 2012) into corporate social responsibility in the platinum industry, which questioned large

platinum companies including Anglo Platinum, Impala Platinum, Lonmin, Xstrata, Aquarius and Royal Bafokeng Platinum Limited, concluded that although they all had CSR programmes, "the mining companies have yet to assume their responsibility" (van Wyk, Cronje, and van Wyk 2012, 14).

Marikana is also a direct result of the failure of BEE as a policy to broadly empower black South Africans. BEE is simply the wrong policy because it empowers a small elite, mostly because of their political capital – their closeness to the ANC – rather than their proven ability to set up and manage bricks-and-mortar businesses.

Many established (white) companies often hand over minority shares to politically connected blacks and appoint black ANC politicians-turned-businessmen to their boards. This approach is seen as a shield against pressure by black employees and surrounding communities for more meaningful BEE in the form of mass skills transfers of employees and the development of communities surrounding these mines.

The Marikana mine is a perfect symbol of ill-conceived BEE. Black politicians are on the board, there is a minority black (through BEE) shareholding. Cyril Ramaphosa, the former general secretary of NUM, is a BEE shareholder of Lonmin mine. The current BEE strategy, in which mining and other companies partner with senior ANC leaders and trade unionists as insurance against calls for more genuine transformation, is discredited. Lonmin's Marikana mine has become the symbol of the failure of such cynical transformation.

If workers at the Marikana mine had been given a direct shareholding in Lonmin's Marikana mine, instead of politically connected individuals, and the drillers had been trained in new skills long ago, the chances of the Marikana uprising happening may have been less. Giving BEE stakes to employees, genuine transfer of skills and wealth through providing housing, as well as other alternatives, such as empowering surrounding communities are more sustainable options.

Money would have been better spent at Marikana if mining executives had given the employees and surrounding communities' stakes in the company and in so doing, bringing them directly into the ownership structure of the company, rather than through "representatives," on their behalf: for example the well-connected ANC or trade union leaders. Employees and communities as "co-owners" would then share in the yearly dividends when profits are made and share in the losses during downturns. In any event, such BEE activities will offer better protection against popular outrage.

Pervasive sense of systematic unfairness

There is a pervasive sense of systemic unfairness among the majority of black South Africans (Gumede 2013, 2014a, 2014b). There is a feeling that some lucky black South Africans appear to be doing very little, yet trading on their struggle credentials to get the most lucrative jobs, government tenders and BEE shares in private companies. Moreover, some lucky white South Africans, who can trade on their social capital, wealth and education obtained during the apartheid years, are prospering.

On the other hand, CEOs of large companies are getting extraordinarily huge bonuses, also for doing very little, often while the lowest-paid employees get very little and are often retrenched to increase profits. During the mining booms, very little of the sensational profits have been transferred to ordinary mining employees or surrounding communities. Yet, in downturns, ordinary miners are the first to be retrenched.

A Lonmin board member and former general secretary of NUM, Cyril Ramaphosa, bought a bull worth R18 million a few months ago. Lonmin's CEO earned R15.8 million in 2011 (excluding share options). Rock drill operators, one of the most physically demanding jobs in the mines, earn around R10,000 a month, and after deductions their take-home wage is around R4500 a month.

Worst of all, both the black (including political elite) and white elites in South Africa show off their wealth conspicuously – mansions, expensive cars and "bling." In fact, it often appears that in the new South Africa, the amount of bling a person has "proves" a person's worth. President Jacob Zuma has been criticised for being symbolic of the inequality between the rich white and small black elite on the one hand, and the overwhelming poor black majority, on the other. Zuma has been accused of spending more than R280 million on renovating his rural Nkandla homestead, while neighbours live in deep poverty unchanged from the days of apartheid.

It appears that many poor black South Africans are increasingly, in what has been described as "relative deprivation" (Crosby 1976; Guimond and Tougas 1994; Smith et al. 2012), comparing the economic disparity in their own well-being to that of pre-1994 former black comrades who are now doing well and white South Africans who are better off. In these desperate times for workers, they see in contrast to their own vulnerability many of their former trade union and ANC comrades either in cushy executive positions, as BEE shareholders or in senior government positions.

Marikana shows the ANC has its moral legitimacy

In the aftermath of the Marikana massacre, efforts by President Jacob Zuma, the ANC and government leadership were rejected by mineworkers. The ANC and government leadership, given the enormity of the crisis, did not rush to the scene to resolve, apparently fearing backlash by the miners. Marikana clearly symbolised the loss of the moral legitimacy of the ANC. Marikana is the point where the ANC cannot use the moral persuasion of its "struggle" credentials anymore to convince constituencies of one or the other thing.

Usually, ANC leaders can use the party's struggle history to persuade angry constituencies to return to the negotiating table, or to abandon strike or protest action. Marikana is the point where this ability of the ANC has run out. President Jacob Zuma himself appeared to be reluctant to go to the Marikana site fearing for his own safety and public rejection by the miners. In fact, Marikana shows starkly – even more so to the miners – the moral backsliding of the ANC. President Zuma spends more than R280 million of taxpayers' money on his private residence.

The ANC, in spite of its electoral power, having won the May 2014 national elections with 62% appear to have lost its persuasive power, which is largely due to a decline in the party moral credibility, based on its uneven public service delivery record, and the uneven distribution of the economic dividends of democracy since 1994. The Marikana labour crisis symbolises the point where it appears the ANC government's "struggle" credentials and past exemplary struggle record, may no longer be enough to persuade constituencies to follow one or the other action.

This is quite important, because it means that key government leaders may no longer be able – like former President Nelson Mandela did – to persuade strikers during protracted strikes to return to work for the good of the country or the

economy. Of course, the ANC government has the hard, coercive power of the state – the police, army, tax authorities, and so on – and uses this to bring strikers to heel. However, the ANC has lost the "soft" or persuasive power of the state, which consists mostly of the state's moral authority. The latter depends on citizens' perceptions of the state as an organ that governs fairly, and in their interests – which many ANC supporters and members expected of the party when it came to power with a democratic mandate in 1994.

But going forward, South African business and leaders may not be able to always persuade workers to abandon strike actions on the basis of the good of the factory, mine or the broader economy. This is because workers may increasingly argue that their (workers') sacrifices for the "good" of the company, mine or factory are being "unfairly" distributed to *only* the executives and shareholder. This while, they (workers) continue to get low wages, experience unsafe working conditions and will be the first to be off-loaded during the "bad" times.

It *may* well be that the SA state *may* increasingly only be able to persuade many citizens to follow certain actions, based either on whether the state can give them patronage in return, or whether the state can coerce them by its might. Appeals by ANC government leaders may also in the future not always be heeded, because workers may argue that former comrades now in government are also unfair economic beneficiaries of the post-1994 democratic dispensation.

Marikana shows that trust has broken down between South Africa's major stakeholders

South Africa is a low-trust society. High levels of trust between citizens and governments, and between citizens and communities within a society are one of those crucial ingredients that make societies prosper, wealthy and stable. In low-trust societies, disagreements are often resolved through violence and people often withdraw into tribal laagers. South Africa has been unable to overcome the lack of trust between white communities and black communities coming from the apartheid era. Poor delivery of public services, lack of accountability and high levels of official corruption in government is also eroding trust between government and citizens, whether black or white.

South Africans, whether black or white, deeply mistrust government, and democratic institutions such as Parliament and public watchdogs, such as the Commission for Gender Equality. Poor performance of these institutions, and manipulation of them by unscrupulous politicians, and the appointment of lackeys to head them, is undermining the trust ordinary people have in them. South Africa appears to have increasingly turned into a patronage society where who you know, your colour, ethnicity or political faction, more often than not secures one a job in government and even increasingly in the private sector, rather than merit. Such an environment undermines trust.

A recent IJR's SA Reconciliation Barometer Survey (Wale 2013) found that in 2013, citizens felt less trusting of national leaders than at the start of the democracy in 1994. The IJR survey found that ordinary citizens showed the highest confidence in religious institutions (67%) and the public protector (64.4%), and the lowest confidence in political parties (45.2%) and the police (47.9%). Political leaders are often not trusted by large constituencies outside their own. South Africa needs political leaders that can generate trust outside their own constituencies.

Social partners or stakeholders in society – business, labour and civil society – mistrust each other and government. The Marikana uprising and the violent unrest in the Western Cape wine belt is an indication of a lack of trust between workers and employers. Ordinary employees and trade unions do not trust their companies and vice versa.

South Africa may have to renew aspects of its democratic social contract, institutions and rules

Of course, there are many democratic institutions that still generate high levels of trust, such as the Constitutional Court, the Public Protector and the CCMA. However, the circles of trust needed to be enlarged. Civil society groups and citizens must support well-functioning exemplary institutions and their leaders – and pile on the pressure on failing ones.

Clearly, leaders of non-government institutions, such as churches, universities, businesses and trade unions, must set examples of alternative ethical, moral and value-based leadership, in order to engender new trust. Opposition parties and leaders must do the same. The ANC government must genuinely govern in the interests of all South Africans: it must govern better, be more accountable and cut waste and corruption.

In order to establish trust in South Africa's troubled labour market, industries must build coalitions between all stakeholders in their sectors – for example the mining and agriculture industries, where government, business, trade unions, civil society and citizens sit down to cobble together enforceable compromises that will boost growth and generate trust between stakeholders.

The best solution for South Africa's problems is the formation of a coalition for growth between all stakeholders – government, business, trade unions, civil society and citizens – that pursues pragmatic policies and agrees to mutual compromises to make South Africa prosperous. In such growth coalitions, each side must compromise for the greater good of creating jobs, lifting growth and boosting economic development (Amsden 1989; Wade 1990; Evans 1995; Ross Schneider and Maxfield 1997; Weiss 1998, 5; Chang 2002).

An economic "Codesa" (the political processes between the ANC, National Party and other stakeholders that negotiated South Africa's political transition) is urgently needed between all stakeholders. But the ANC government must genuinely govern in the interest of all South Africans – and be seen to do so.

However, all SA's economic stakeholders appear to be locked in their fixed positions, with no single partner appearing to want to reach out to an opposing side – a prerequisite for constructing a social pact between different groups. Trust between the partners is at unprecedentedly low levels – between business and government, business and trade unionists, trade unionists and business and even between government and trade unionists.

In many cases, the cultural divide between the leaders of business, labour and ANC is too wide. Nor is there regular interaction – whether formal, informal or social – between the social partners. A major problem in SA is that these people do not share the same outlook, are not familiar with each other and never had the same socialisation. There is also the deep legacy of racial suspicion. South Africa's government, business and civil society elite do not share the same schooling,

culturalisation and socialisation, as would be the case in many other countries. This makes it difficult for them to share a common "SA Inc." outlook.

Since attempts to foster such social pacts at national levels between government, business and labour has not been successful since 1994, perhaps another option would be for stakeholders to focus their energy on securing job-creation strategies in specific sectors – such as the mining sector, industries or even at individual factories and workplaces.

Sectoral economic Codesas should also be looked at as a possible solution. For example, all trade unions in the mining sector, whether AMCU or NUM, agree that a mining indaba with all the stakeholders is needed to resolve the mining labour market crisis in the long term. The fact that Cosatu and NUM have realised that their existence is also under threat – and AMCU is also appearing to realise so – the instability in the mining sector offers an opportunity for the mining companies and trade unions to attempt to construct a long-term partnership solution to protect the viability and sustainability of South Africa's mining sector and therefore broader economy.

Such Codesas would deal with issues including minimum wages, housing, skills development, a new kind of BEE and a mining victims' fund for the sector. In such pacts, companies will have to lift wages, while at the same time negotiating pacts with workers to strike formal agreements to raise productivity, and to link future wage increases to inflation and company profitability.

Conclusion

South Africa is in desperate need of renewing aspects of its democratic social contract and rules. Flagging democratic and "legitimate" institutions must be made more accountable, relevant and credible. New, more relevant democratic institutions may have to be fostered.

One of these is the creation of democratic social pacts between government, business, labour, civil society and communities – to foster new levels of trust between South Africa's disparate social stakeholders. A new, relevant democratic social pact for our troubled times is desperately needed, together with a reinvigoration of South Africa's democratic social contract and democratic institutions – to prevent another Marikana.

Disclosure statement

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Notes on contributor

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