

CHAPTER TWO

2. BACKGROUND

2.1 Overview

1. South Africa has waged a protracted and bloody struggle for democracy. Generations of the vast majority of South Africans have suffered severely from deprivation and subjugation as a result of the colonial and apartheid rule that lasted for 342 years. Therefore, it is to be expected that the country will cherish dearly its freedom and, like a good farmer, tender most carefully the democratic plant that was planted eleven years ago following the adoption of the Constitution of the Republic of South Africa in 1996.
2. The South African Constitution has been hailed as one of the most progressive in the world. Its vision for the country is one of a progressive, non-racist, non-sexist and human rights-based society. The Bill of Rights provides for a society based on human dignity, human security, freedom, equality and justice. Given the country's long suffering and bitter experience, the makers of the Constitution avoided the path of low-intensity democracy. Rather, it opted for a cooperative state with three spheres of government and separation of powers between the executive, the legislature and the judiciary. The judiciary is empowered to uphold the Constitution, and both the parliament and the executive are required to uphold the authority of the judiciary.²
3. The country's first democratic elections on 27 April 1994 paved the way for the transition from the race-based system of oligarchic rule – in which the white minority were the primary beneficiaries – to a system of democratic governance with a strong emphasis on the sovereignty of the people. This leap of faith was not achieved without compromise. The peaceful transition, always shadowed by the prospect of civil war, was the beginning of a profound process of transformation of the state. The resurgence of popular participation made it possible for civil society organisations (CSOs), including the media, to play an important role in maintaining the momentum for reform.
4. In 13 short years, South Africans have managed to leap across the deep divide of an oppressive racist state to become a modern constitutional democracy. Since 1994, the country has made undeniable progress in a number of critical areas. On the political front, democratic institutions are well established.
5. The “reinvention” of government that is continuing through the creation of new spheres of government (both provincial and local) has changed the environment for governance and service delivery. On the economic front, the government has pursued policies that have restored and maintained macroeconomic stability in the context of a difficult global environment. Nevertheless, five legacies of the apartheid era have persisted: a dualistic polity, poverty, unemployment, the inequitable distribution of wealth and income, and a high incidence of crime.

² This is aptly demonstrated by the Constitutional Court ruling in August 2006 which struck down pro-abortion legislation by a majority of 8 to 3, upholding the application by Doctors for Life that South Africa's Parliament and the nine provinces had failed to provide “a meaningful opportunity” for the public to participate in the democratic process in passing these Bills. Judge Sandile Ngcobo, in a 117-page ruling indicated that the Court found that the nation's Parliament had not allowed enough public participation before adopting the legislation. The Parliament now has 18 months to obtain public input and re-approve the bills.



6. While post-apartheid South Africa is imbued with a vibrant political democracy, it is nevertheless a democracy under severe socio-economic stress. The repudiation of apartheid has not meant the end of racial divisions and racism, nor has it signalled the end of the economic and social problems that have increasingly bedevilled South Africa's thriving democracy since 1994. Racially discriminatory policies enforced by successive governments throughout the 20th century left the black majority of the population poor and dispossessed, owning only about 13 per cent of the country's land, most of which is of poor quality. Unable to achieve sustainable agricultural development, the poor began to flock to cities with the disbandment of homelands and the dawn of freedom of movement. Urban migration, in turn, has exacerbated the problem of squatters. Consequently, enormous squatter encampments have developed, particularly in and around Johannesburg and Cape Town. Most of these squatters, as well as nearly one half of the adult African population nationwide, cannot find work within the formal sector of the economy.
7. The results are widespread poverty, dichotomisation of the economy, appalling living conditions and an increasing incidence of crime. South Africa's per capita crime rate, overall, has exceeded that of almost any other country in recent years. The government has acknowledged the seriousness of the problem but has not been able to end the wave of crime against persons and property that is fuelled, among other things, by high levels of poverty.
8. This chapter presents a brief historical background and describes the state of contemporary South Africa. It serves as an analytical backdrop for the next four chapters in which the four thematic areas of the APRM are appraised.

2.2 Brief Political History

9. History has a compelling significance in South Africa, as the country's contemporary problems have deep historical roots. The country's political history can be categorised into four major epochs of varying duration.

2.2.1 Colonisation

10. The long history of colonial settlements and conquest of South Africa commenced in 1652 with the landing of a Dutch expedition led by Jan van Riebeeck at the Cape of Good Hope (the area now known as Cape Town) on behalf of the Dutch East India Company. This company required the establishment of a replenishment station that would aide its business forays to Asia, particularly Indonesia. The success of the settlement at the Cape of Good Hope required the subjugation of the local inhabitants and this proceeded apace during the period of Dutch East Indian rule.
11. Subsequent British colonial administrations were no less forceful in their oppression of the people to secure access to the country's wealth of minerals and land. In 1795, a British expedition ousted the Dutch and the Cape fell under British control. By 1870, white people had made their presence felt as far north as the Limpopo River, having defeated many of the farming communities in a series of separate campaigns. They assumed ownership of much of the best land in the territories of the Ciskei, Natal, the Orange Free State and the Transvaal.

12. British politicians then sought to amalgamate all territories occupied by the British and Afrikaners (the Dutch) in South Africa into a self-governing, white-controlled country under the Crown. In 1910, the Union of South Africa, with dominion status within the British Commonwealth, was established under the South Africa Act passed by the British parliament in 1909. This included the Cape of Good Hope, Natal, the Orange Free State and the Transvaal as provinces. The Act served as the Constitution of the Union of South Africa until 1961. Although the country was formally ruled by a Governor-General representing the Crown, its government was granted almost total independence in internal affairs.

2.2.2 Apartheid Rule (1948-1989)

13. While segregation and inequality between races had existed as a matter of custom and practice in South Africa, they were enshrined in law with the assumption of office by the Afrikaner National Party (NP) in 1948. At the heart of the NP's legislative agenda was apartheid, an Afrikaans word for "separateness" – a doctrine of white supremacy promoted as a programme of separate development. Once in power, the NP extended and legalised white economic exploitation, political domination and social privilege. These tenets were reinforced with a harsh and intrusive security system, separate and unequal education, job discrimination and residential segregation.
14. Beginning in the 1950s, the government divided the black population into ethnic groups and assigned each group to a so-called homeland, also referred to as a Bantustan. Ten of these territories were eventually established: Bophuthatswana, Ciskei, Gazankulu, KaNgwane, KwaNdebele, KwaZulu, Lebowa, Qwaqwa, Transkei and Venda. The Development Land and Trust Act of 1936 had augmented the amount of land black people could own from 7 to 13 per cent, and these areas became the basis for the Bantustans.
15. South Africa became a Republic following a national referendum among the country's white voters on 5 October 1960. It left the Commonwealth of Nations on 31 May 1961. The 1961 Constitution maintained white political domination through an electoral system that denied Africans, coloureds and Asians the right to vote for national officeholders. The apartheid system was thus consolidated. Indeed, beginning from 1951, the Bantu Authorities Act had restricted black political participation to the homelands.
16. Apartheid policies did not go unchallenged. There was measured resistance, which intensified over time. In 1912, the South African Native National Congress was founded by a group of urban black people and traditional leaders who opposed the policies of the government of the Union of South Africa, especially laws that appropriated African land. In 1923, the organisation was renamed the African National Congress (ANC). At first, its main agenda was to secure voting rights for black people in the Cape Province. For nearly 50 years, it pursued a policy of peaceful protests and petitions. Although the membership of the ANC was largely black, it was a multiracial organisation with white and Asian members, some of whom assumed leadership positions.
17. Over time, the organisation became increasingly militant, though its aims were still reformist rather than revolutionary, seeking to change the existing system. In 1955, the ANC brought together nearly 3000 delegates of all races in a conference in Kliptown in the then Transvaal to adopt the Freedom Charter. This remarkable document, which affirms





that South Africa belongs to its entire people, remains to this day the clearest statement of the guiding principles of the ANC.

18. In 1961, the ANC organised Umkhonto we Sizwe (Zulu for “Spear of the Nation”) to conduct an armed struggle against the regime. The then South African government, concerned with the potential of Umkhonto to cause increased unrest, enacted new legislation that gave the police broad powers of arrest without warrant. In July 1963, police raided Umkhonto’s secret headquarters in the Johannesburg suburb of Rivonia and arrested most of its leadership. Nelson Mandela, who was already in prison at the time, was put on trial with the other Umkhonto leaders, all of whom were sentenced to life imprisonment. With the imprisonment of the nationalist leadership and the earlier banning of the ANC and the Pan-Africanist Congress of Azania (PAC), South Africa entered a decade of enforced calm until the Soweto Riots of 16 June 1976. Thousands of black high school students demonstrated against a government ruling that required certain high school subjects to be taught in Afrikaans, which was seen then as the language of oppression. At least 575 people were killed, and rioting and confrontation between police and students spread throughout the country. This led to a new phase in the liberation process in which black youth became deeply involved. Many left the country to join the liberation movements abroad while others continued to work within the country with the underground resistance movement.
19. In the course of the long and arduous struggle for majority rule, South African liberation movements received assistance from the United Nations (UN) and from governments and peoples in all regions of the world. On 6 November 1962, the UN General Assembly passed Resolution 1761, condemning South African apartheid policies. In August 1963, the UN Security Council imposed a voluntary arms embargo against South Africa. Following the Soweto uprising in 1976 and its brutal suppression by the apartheid regime, the arms embargo was made mandatory by the UN Security Council on 4 November 1977 and South Africa became increasingly isolated internationally. Numerous international conferences were held, including the World Conference Against Racism in 1978 and 1983, in which South Africa’s policies were condemned.
20. The continent of Africa was united against apartheid and stood firmly with the oppressed. A number of African countries contributed materially and morally to the resistance movement in South Africa, including serving as sanctuary to members of the liberation movements.

2.2.3 The Transition: War and Peace (1989-1994)

21. In 1989, F.W. de Klerk succeeded P.W. Botha as head of the NP and later that year as President of South Africa. Soon after assuming office, De Klerk permitted large multiracial crowds in Cape Town and Johannesburg to march against apartheid. He subsequently met with prominent black leaders, including Archbishop Desmond Tutu, and ordered the release of many black political prisoners. The ban on anti-apartheid organisations, including the ANC, was also lifted.
22. With the release of Nelson Mandela from prison in February 1990, serious negotiations began over the transition to a post-apartheid South Africa. Amid claims and counterclaims of sabotage and brutality, delegations from 19 governmental and political organisations

took part in the Convention for a Democratic South Africa (Codesa), which launched formal constitutional negotiations on 20 December 1991.

23. Negotiations were suspended several times following escalating violence. Despite this, a draft Constitution emerged and was published on 26 July 1993. Inevitably, it made concessions on all sides – a federal system of regional legislatures, equal voting rights regardless of race, and a bicameral legislature. Undeterred by the storm of protests that followed, and with a new sense of urgency, negotiators tried to accelerate the process and set the date for nationwide elections no later than 27 April 1994. The country appeared poised for violence-wracked balloting when De Klerk imposed a state of emergency in Natal and KwaZulu on 31 March 1994, deploying 3000 South African Defence Force troops to allow residents of the area to defy the Inkatha Freedom Party (IFP) election boycott and go to the polls. IFP leader Mangosuthu Buthelezi, under intense pressure from trusted local and international figures, only agreed to allow the IFP to be placed on the ballot a few days to the elections.
24. The elections finally took place on schedule, beginning on 26 April 1994 when a few “exceptional” votes were cast by voters who were disabled or living outside South Africa. During the next two days, more than 22 million voters stood in line for hours at some 9000 polling places to exercise their newly won right to vote. Balloting was extended through 29 April. For days after the elections, tensions remained palpably high and some accusations of election fraud surfaced, especially in Natal. This prompted the Independent Electoral Commission (IEC) to bring together party leaders to negotiate agreements over disputed results.

2.2.4 Democratic Transition (1994 to date)

25. South Africa’s first truly non-racial democratic election launched the process of democratic governance. The official results, released on 6 May 1994, gave the ANC 62.6 per cent of the vote, just short of the two-thirds majority that would have given it the power to write the new Constitution on its own without negotiating with other parties. The NP won a surprising 20.4 per cent of the votes because of substantial support from coloured and Asian voters who feared ANC domination, whereas the IFP garnered 10.5 per cent of total vote cast. In all, seven political parties won seats in the National Assembly, while three parties won the 5 per cent of votes necessary to participate in the Cabinet of the coalition government.
26. The National Assembly in Cape Town unanimously elected Nelson Mandela as President on 9 May 1994. His two Deputy Presidents, former ANC Chairperson Thabo Mbeki and former President De Klerk³, stood with Mandela when he was inaugurated on 10 May 1994 at an epoch-making event in Pretoria witnessed by representatives of 140 countries. Mandela’s inaugural address stressed the need for reconciliation, both within South Africa and with other countries, and he reaffirmed his determination to forge a peaceful non-racial society.
27. Nelson Mandela was succeeded by Thabo Mbeki in 1999. President Thabo Mbeki has already served his first term in office and will complete his second term in 2009. During his tenure as President, Nelson Mandela focused enormous attention upon reconciliation

³ The Government of National Unity subsequently experienced political strains resulting in the withdrawal of the then Deputy President, F.W. de Klerk.



and national unity, espousing what the veteran cleric and Nobel Peace Prize winner, the Rev. Desmond Tutu, termed “the Rainbow Nation”.

28. While still continuing Mandela’s agenda of reconciliation and national unity, Thabo Mbeki has been preoccupied mainly with service delivery and consolidating the gains of democracy. Under the current administration, South Africa has become not just a peacekeeper and peacemaker in Africa but, more importantly, also a promoter of democratic values, principles and norms globally. The country has become active in the African Union (AU) – the successor to the Organisation of African Unity (OAU) – and the Non-Aligned Movement, and has helped broker peace agreements in strife-torn Burundi, Côte d’Ivoire and the Democratic Republic of Congo, amongst others. Thus, while the country has been painstakingly consolidating its own democracy at home, it has also actively engaged in promoting democracy and peace in the rest of Africa and also on the global stage.
29. Some old political wounds still fester. After the second Mbeki electoral victory, two members of the IFP who were picked for Cabinet positions did not turn up to be sworn in. The Alliance partners, the Congress of South African Trade Unions (Cosatu) and the South African Communist Party (SACP), are increasingly becoming very vocal in criticising public policies.

2.3 MILESTONES IN DEMOCRATIC SOUTH AFRICA

30. South Africa’s democratic transition is considered one of the miracles of the 20th century. The seemingly intractable conflict between the apartheid state and the liberation movements ended in a political settlement that refuted the claims of history. No nation has moved from pariah to an admired status quite so dramatically, from economic isolation to economic integration so quickly, and from global polecat to global favourite so emotionally.
31. Upon assuming power in 1994, the challenges facing the newly elected democratic regime were immense. At the core was the debilitating crisis that underpinned the economy following two decades of steady decline and became more potent and manifest after the 1973 oil shocks. The crisis was evident in very low gross domestic product (GDP) growth rates that plummeted from a 5.5 per cent average during the 1960s to 1.8 per cent in the 1980s, before eventually plunging to -1.1 per cent in the early 1990s. The cumulative results were low rates of investment, spiralling inflation and chronic problems with balance of payments. Although the external shocks of the 1970s exacerbated South Africa’s economic stagnation, the most devastating effect was its institutionalised inhuman apartheid system of governance, which was roundly rejected by the civilised world.
32. Apartheid policies created several distortions in the economy, including exclusions from the formal, “first” economy, the education and skills deficit of the majority of the population, the racially biased distribution of wealth, services and infrastructure, and worsening poverty among the vast majority of the South African population. The logic of apartheid policy was that black people were destined only for menial jobs and cheap labour, a practice that resulted in the deliberate denial of opportunities for decent education and skills development. The infamous system of Bantu education stripped black people of their dignity and also crippled any efforts at self-development. It created a society in which the

vast majority of citizens simply did not have the skills to advance beyond a subsistence economic level. To compound the economic disempowerment of the country's majority, successive apartheid governments directed practically all available public resources towards meeting the needs of white people, who constituted less than 10 per cent of the country's population. For decades, the social infrastructure of black communities was neglected, resulting in miserable living conditions for millions. Without even the most basic social services such as adequate transport, healthcare, shelter, energy and water, black South Africans were severely disempowered.

33. The vast discrepancies in wealth creation and distribution, as well as the inequality in race and class terms, compelled the post-apartheid government to seek ways to find common ground to reconcile its domestic commitments while returning South Africa to the global economy and ethical values. It is only in so doing that everyone, regardless of race, colour, creed or gender, would enjoy the benefits of the democratic dividend. Fortunately the country did not shy away from these daunting challenges.
34. In navigating the transition from apartheid to democracy, the government of South Africa has made impressive gains in stabilising the economy and laying a firm and robust foundation for higher economic growth and a broad-based improvement in living standards. The economy continues to perform well, relative to other emerging markets, and has demonstrated considerable resilience during the last 13 years.
35. The rates of economic growth, albeit modest, have more than doubled since the end of apartheid, and inflation has been brought down to low and predictable levels. The favourable developments are the results of disciplined macroeconomic policies, diversification of the economy's productive base and an opening up of the economy to foreign trade. In the process, the delivery of basic social services has been greatly improved and important gains in welfare have been achieved.
36. On the political front, South Africa has made impressive strides since 1994 towards building and strengthening a democratic society and improving the quality of life of its entire people based on the principles of equity, non-racialism and non-sexism. A significant milestone in the democratisation of South Africa was the exemplary Constitution-making process, which in 1996 produced a document that has evoked worldwide admiration. So too have been the elections subsequent to 1994 – all conducted peacefully with high levels of participation, compared with the norm in most democracies, and accepted by all as free and fair in their conduct and results.
37. The country has also set up a robust constitutional and legislative framework. This has meant the adoption of new laws and policies to the extent that since 1994, over 800 Acts or amendments to existing legislation aimed at transforming South African society have been adopted.
38. Against this background, not only has South Africa undergone a profound political transition since 1994 but, equally important, the country has made progress in the domain of the economy. The democratisation that began in the early 1990s has been accompanied by an admixture of political and economic stability due largely to the popular legitimacy of the new government and prudent macroeconomic management.





39. From the onset, the government placed emphasis on meeting basic needs through programmes for socio-economic development, such as the provision of housing, piped water, electricity, education and healthcare, as well as social grants for those in need. The impact of these programmes is seen in the increased proportion of South Africans who now have access to basic services. This has been achieved despite a substantial increase in the number of households, which is growing almost three times faster than the population.
40. As the country currently presents a dynamic fusion of cultures and opportunities, due recognition must be accorded to the several remarkable feats performed by South Africans from different races and all walks of life who have continued to make their mark globally (see Box 2.1).
41. In overcoming a divided past, the country has learnt new ways of managing diversity. It has relentlessly pursued the strategy of seeking enduring, consensus-driven solutions to ease the accumulated pain and fury of generations. To help set the country free from pain, uncertainty and division, South Africa established a Truth and Reconciliation Commission (TRC) in 1996, headed by Archbishop Desmond Tutu, as a crucial component of the transition to democracy.
42. The hearings made international news and many sessions were broadcasted on national television. While the public acknowledgement of past violations was perhaps the TRC's greatest success, it inculcated a commitment to accountability and transparency in South Africa's public life, at the same time helping to heal wounds inflicted by the inhumanity of the apartheid era.
43. The TRC was not without problems, especially in the implementation of its findings. The Institute for Justice and Reconciliation (IJR) organised a Conference on "The TRC: Ten Years on" in April 2006. Participants included victims, perpetrators, civil society, government representatives and members of the TRC. According to the conference proceedings, a common refrain was anger that high-profile alleged perpetrators continued to live with impunity and material prosperity, while victims of the apartheid era continued to suffer the traumas of poverty and exclusion from a society they helped construct.⁴
44. A great deal of attention was also given to the matter of inadequate monetary compensation for victims of gross human rights abuses. Regarding financial reparations, out of 22 000 individuals or surviving families who appeared before the Commission, 19 000 were identified as needing urgent reparation assistance. As a final reparation, the government is providing a one-off grant of R30 000 to individuals or survivors, instead of the TRC's recommendation of R136 000 per individual in annual instalments over a six-year period.

⁴ A succinct account of the proceedings of the Conference can be found in Villa-Vicencio, C. 2006. "The TRC's Agenda of Incomplete Business", Focus, 43: 16-18.

Box 2.1: Some Remarkable Feats by South Africans

A. Nobel Peace Prize Winners

- Chief Albert Luthuli, 1960
- Archbishop Desmond Tutu, 1984
- Nelson Mandela and F.W. de Klerk, 1993

B. Prize for Literature

- Nadine Gordimer, 1991
- J.M. Coetzee, 1993

C. Nobel Prize for Physiology and Medicine

- Max Theiler, 1951 for his ground-breaking work on yellow fever

D. Special Recognition

- At the age of 28, Mark Shuttleworth, entrepreneur in information and communication technology (ICT), became Africa's first astronaut in 2002.
- Test pilot Mike Melvill flew the first privately financed space mission in 2004.

E. Medicine

- Dr Christiaan Barnard was the first person to perform a human heart transplant on 3 December 1967 in Cape Town.
- Dr Percy Amoils, an ophthalmologist, invented the Amoils Cryo Pencil in 1965 used worldwide for cataract extraction and renal detachment. He also pioneered cryosurgery for gynaecology and lung, heart, mouth, liver and prostate surgery.

F. Music – Grammy Awards

- Miriam Makeba, 1967 and 2002
- Ladysmith Black Mambazo, 1987 and 2005

G. Film – Oscar Awards

- Charlize Theron won the 2004 Oscar for Best Actress as well as the Golden Globe Award for her performance in “Monster”.
- “Tsotsi” won an Oscar for the best foreign language film in 2006.

H. Sport

- The Springboks won the Rugby World Cup in 1995.
- The national soccer team, Bafana Bafana, won the African Cup of Nations in 1996.
- Roland Mark Schoeman won a gold medal at the 2004 Summer Olympics in Athens in the 4 x 100 m freestyle, a silver medal in the 100 m freestyle event and a bronze in the 50 m freestyle. In December 2005, he turned down a R40 million (US\$5.9 million) contract to swim for Qatar and stated reasons of national pride.
- Oscar Pistorius, a double amputee, at 20 years of age is the world record holder in the 100 m, 200 m and 400 m events.
- Gary Player, the world's golfing ambassador, has had 163 international tournament wins. He is 63 wins ahead of Jack Nicklaus, whom many consider to be the greatest golfer of all time.
- Ernie Els is the best-known South African golfer on the circuit of the Professional Golfers' Association of America (PGA), number two golfer in the world and one of four South Africans to have won a major championship. Ernie won the US Open twice, in 1994 and 1997.

Source: Compiled by the APRM CRM from existing records, July 2006.





Table 2.1: Truth and Reconciliation Commissions Instituted in Africa

Country	Date of Commission	Mandate	Composition and Whether the Report was Publicly Issued
Zimbabwe	1985	In the face of widespread demands from civil society, the ZANU-PF government set up the Chihambakwe Commission of Inquiry to investigate the killing of an estimated 1500 political dissidents and other civilians in Matabeleland in 1983.	The Commission was presided over by a Zimbabwean lawyer, Simplicius Chihambakwe. The report was issued promptly by the Commission, but it has not been made public to date by the government.
Uganda	1986	The Commission was set up in May 1986 by President Yoweri Museveni to investigate human rights violations committed under the governments of Milton Obote and Idi Amin between 9 October 1962 and 25 January 1986.	Supreme Court Justice Arthur Oder presided over the six-member Commission. It published its findings in 1994.
Chad	1991-1992	The Commission was established on 29 December 1990 to investigate crimes committed during the eight-year rule of Hisssein Habre.	The Commission, chaired by Chad's Chief Prosecutor Mahamat Hassan Abakar, published its findings in May 1992.
South Africa	1995-2000	The TRC was set up by the South African parliament to investigate human rights violations during the apartheid era between 1960 and 1994.	Anglican Archbishop Desmond Tutu chaired the 17-member body. The Commission's report was presented to President Mandela in October 1998 and is available online through links on the Commission's website.
Nigeria	1999-2001	On 4 June 1999, President Olusegun Obasanjo appointed a Commission to investigate human rights abuses committed from 1 January 1994 until his taking office on 29 May 1999. In formally inaugurating the Commission on 14 June, he extended the inquiry further into the past, to 31 December 1983, when the then President Shehu Shagari was deposed in a military coup.	The eight-member Commission was chaired by retired Supreme Court Judge, Justice Chukwudifu Oputa. The report has not been made public.

Sierra Leone	2000	The Commission was mandated to produce a report on human rights violations since the beginning of the conflict in 1991, and to issue recommendations to facilitate reconciliation and prevent a repetition of past violations.	The final report of the Commission was transmitted to the President of Sierra Leone on 5 October 2004 and presented to the UN Security Council on 27 October 2004.
Ghana	2002	The Commission was to establish an accurate and complete historical record of human rights violations and abuses related to the killing, abduction, disappearance, detention, torture, ill treatment, and seizure of properties within the period of 6 March 1957 to 6 January 1993	A nine-member Commission was chaired by retired Supreme Court Justice K.E. Amua-Sekyi.
Liberia	2006	Liberia's Truth and Reconciliation Commission (TRC) was launched by President Ellen Johnson-Sirleaf on 22 June 2006. The TRC's two-year mandate is to investigate human rights abuses that occurred between 1979 and 2003.	Commission ongoing
Source: APRM CRM compilation from existing records, July 2006.			





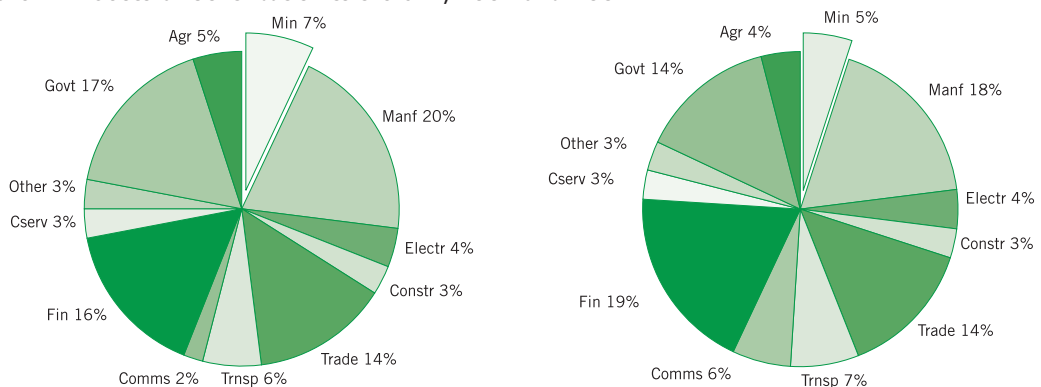
45. The state was also criticised for failing to address community reparations as recommended by the TRC. The Commission had recommended that businesses and other apartheid beneficiaries should pay a one-off wealth tax and that the country's inherited apartheid debt, which constituted about 20 per cent of the government's annual budget, should be restructured in order to free up resources for development and redistribution. Again, the government chose to ignore these recommendations. The need for public access to the TRC archive was highlighted as a priority concern on the TRC's unfinished agenda.
46. In all, the TRC is generally regarded as having been very successful. Due to the perceived success of this approach in dealing with human rights violations after a fundamental political change, other countries have instituted similar commissions, though not always with the same scope and intensity. Table 2.1 presents some of the truth commissions that have been instituted in Africa. The APR Panel recommends that the government revisit the findings with a view to engendering full reconciliation.
47. Over the past 13 years, South Africa has made quantitative and qualitative advances towards a truly democratic, non-sexist and non-racist society. The Constitution guarantees gender equality and is supported by laws whose objective is to empower women. Several advances have been made by the government in this respect. Gender policy is coordinated at the highest level (the Presidency) and several institutions have been established to promote women's rights.
48. South Africa has not only established itself as a respected partner and force to be reckoned with in the community of nations, but has also become a leading voice in the developing world for a more progressive, people-centred and multilateral rules-based global system. The country is a member of the Cairns Group, an informal association of 17 agricultural exporting members of the World Trade Organisation (WTO).⁵ It is also a member of the Group of 20, formed by developing countries after the failed WTO Cancún talks in 2003. Other members include Argentina, Brazil, Chile, China, India, Indonesia, Mexico and Nigeria. In addition, a trilateral trade pact between Brazil, India and South Africa has been signed with the intention of strengthening the position of developing countries at the WTO.
49. In its contribution to the development of the African continent, South Africa played a leading role in reconstituting the former OAU into the AU and in making it a more effective pan-African continental body. It played a significant role in crafting and promoting the New Partnership for Africa's Development (NEPAD), which was launched as the socio-economic programme of the AU Summit held in Durban, South Africa in July 2002. South Africa is currently host to the Pan-African Parliament, as well as the NEPAD and APR Secretariats.
50. The country has also hosted a number of important multilateral conferences, such as the UN Conference on Trade and Development IX (1996), the Non-Aligned Movement (1998) and the Commonwealth (1999). It hosted the World Conference Against Racism (2001), the African Union Summit (2002) and the World Summit on Sustainable Development (2002). South Africa has been designated to host the FIFA Soccer World Cup in 2010, the first time the competition will be held in Africa since its inception.

⁵ This includes, amongst others, Argentina, Australia, Brazil, Canada, Chile, Indonesia and Malaysia. The WTO supports free and fair trade in agricultural markets and the lowering of agricultural tariffs by developed countries.

2.4 Overview of the Economy

51. With a GDP of US\$239.510 billion in 2005, South Africa accounts for about 35 per cent of the total GDP of sub-Saharan Africa. It is indeed one of the few African countries to have joined the group of upper middle-income countries. Its economy is by far the most sophisticated free-market economy on the African continent, exerting a major influence on the total output, trade and investment flows in Africa. The country represents only 3 per cent of the continent's surface area, yet accounts for approximately 40 per cent of all industrial output, 25 per cent of GDP, over half of generated electricity and 45 per cent of mineral production in Africa. Most of South Africa's economic activity occurs in the four main metropolitan areas: the Witwatersrand area surrounding Johannesburg in Gauteng, the Durban/Pinetown area in KwaZulu-Natal, and the Cape Peninsula and Port Elizabeth/Uitenhage areas, both in the Eastern Cape.
52. South Africa also dominates the southern African region, particularly in terms of GDP, trade and investment flows. It plays a vital role in regional economic institutions, such as the Southern African Customs Union (SACU) and the Southern African Development Community (SADC).
53. Figure 2.1 shows the sectoral composition of GDP in 1994 and 2004. As indicated, the mining sector accounted for about 5 per cent of GDP in 2004, down from 7 per cent a decade ago. The mining sector's performance overall has been below that of the total economy, a divergence that has widened in recent years. Whilst the sector is inherently volatile, its sub-sectors have performed very differently. The strong performance of platinum and coal has been substantially outweighed by the poor performance of gold, which has been in decline for a number of years.
54. South Africa has a broad and well-developed agricultural sector and is a net food exporter. Agricultural production, reflecting the sector's increased mechanisation and commercialisation, grew throughout the 20th century. As mining and manufacturing industries expanded at a faster rate, however, agriculture's share of GDP declined from about 20 per cent in the 1930s to approximately 12 per cent in the 1960s. It went from about 5 per cent in 1994 to 4 per cent a decade later in 2004.

Figure 2.1: Sectoral Contribution to the GDP, 1994 and 2004



Source: South African Treasury Department.





55. Although agriculture, and later mining, historically dominated the South African economy, manufacturing eventually became the most productive sector. It accounted for 20 per cent of GDP in 1994 and 18 per cent in 2004. The manufacturing sector is relatively diversified and dominated by heavy industries concentrated in urban areas, especially in the industrial region around Johannesburg. This region accounted for more than 50 per cent of industrial output in the early and mid-1990s. Other major industrial centres are Cape Town, Port Elizabeth, East London and Durban. Smaller, yet nonetheless important industrial concentrations are at Kimberley, Bloemfontein, Queenstown and Mossel Bay. Over time, the sector became increasingly capital intensive despite the availability of a large labour pool in South Africa. Massive extensions at Eskom, the government's power utility, as well as the establishment of Sasol's synthetic fuel plants and the Koeberg nuclear power station, represented significant capital intensification with only a minimum labour requirement. Furthermore, most private manufacturers began using machinery and technology to cut labour costs; to keep up with foreign producers; and to avoid confronting an increasingly militant, organised labour force.
56. On aggregate, South Africa is currently dominated by the services sector. Its banking regulations rank with the best in the world. This sector has long been rated among the top ten globally. There are 55 locally controlled banks, 12 foreign-controlled banks and five mutual banks. Some of the world's leading institutions have announced their intention to enter the local banking sector through mergers and acquisitions.
57. The JSE Securities Exchange (JSE) is the 16th largest exchange in the world by market capitalisation (R3.3 trillion as of September 2005) and the bond market offers First World size and liquidity. Its rules and their enforcement, automated trading, settlement, transfer and registration systems are based on global best practice and are equivalent to what is obtainable in the developed world.
58. With infrastructure at par with that of Europe, Japan and the United States of America (USA), South Africa has unrivalled opportunities in a region poised for integration into the global economy. With approximately 4.92 million installed telephones and 4.3 million installed exchange lines, representing 39 per cent of the total lines installed in Africa, South Africa ranked 23rd in telecommunications development in the world in 2005.
59. Impressive as the economic record sounds, concerns over slow growth and employment trends are widespread and growing. Although real GDP growth was 3.0 per cent in 2003, 4.5 per cent in 2004 and 4.9 per cent in 2005, this has been inadequate to make a dent in poverty. Unemployment climbed to 28.2 per cent of the country's economically active population by September 2005.

2.5 Overview of Corporate Governance

60. The corporate structure has changed irrevocably in South Africa in tandem with the profound transformation of the country's political landscape. Prior to the advent of democracy in 1994, six mining finance houses dominated the economy but currently, the mining finance house no longer exists. In addition, two of its widely imitated characteristics – diversified holdings and the entrenchment of control through pyramid structures – have fallen from favour. Conglomerates have been unbundled and elaborate control structures dismantled.

At the same time, legislation, regulations, listing rules and accounting standards are converging to international norms to the extent that South Africa currently rates among the best performers in corporate governance in emerging markets.

61. Private and state-owned corporations produce the bulk of South Africa's output and exports. Over the last ten years, they have mobilised more than three-quarters of South Africa's domestic savings, allocated and planned 85 per cent of all investment, and currently own and manage three-quarters of the country's capital stock.
62. The corporate governance framework has undergone rapid transformation. An important milestone in the effort to establish robust corporate governance was the release of the Code of Corporate Practices and Conduct (the King I Report) in 1994 by the King Committee on Corporate Governance under the auspices of the Institute of Directors (IoD) in Southern Africa. Due to its broad coverage of the key elements of corporate governance, the King I Report was highly successful, despite its non-compulsory nature, in raising public awareness of the need for having an effective framework for corporate governance. To support the implementation of the King I Report, the JSE requested all listed companies to state in their annual reports their degree of compliance with the code.
63. Since the mid-1990s, a string of legislative steps have been taken to enact some of the vital recommendations contained in the King I Report. These legislative changes were prompted in part by the reintegration of the South African economy into the global market through admission to the WTO in 1996. Against this backdrop, the King Committee revised the original code to enhance its relevance in the changing socio-economic environment. The King II Report was published in March 2002. It is applicable to all companies listed on the JSE, banks and financial institutions, as well as public sector entities. They are responsible for around one-third of South Africa's GDP. The code in the King II Report retains the basic format of the King I Report, but places greater emphasis on issues such as the responsibilities of the board of directors, the role of independent outside directors, separation of the roles of the chief executive officer (CEO) and board chairperson functions, the importance of ethical and environmental issues, corporate disclosure to stakeholders, and risk management.
64. Given that the code in the King II Report is non-compulsory, its effectiveness is complemented and bolstered by the listing requirements of the JSE and the Companies Act of 1973. This triad has earned South Africa the reputation as one of the leading emerging market economies in setting forth good corporate governance standards.
65. While a great deal of progress has been made in corporate governance generally, the areas of director independence, director disclosure and the market for corporate control have not moved as fast as others. A major factor has been opposition from among control blocs and family owners of mid-sized companies on the stock exchange. However, in all three areas progress is imminent.

2.6 Key Challenges in the Second Decade of Freedom

66. A great deal had been achieved during the past 12 years, as alluded to in various sections of the report. However, much remains to be done as the nation continues to face a number





of challenges⁶ as it forges ahead in the second decade of freedom.⁷ Some of these have already been noted by the government. In fact, some of these challenges are shared with the rest of the world, especially developing countries, for instance high levels of poverty and unemployment, crime, HIV and AIDS, and land reform.

67. In parallel with the extraordinary political achievement represented by the relatively peaceful transition to democracy in 1994, a human catastrophe has been unfolding. In a particularly vicious twist of fate, just as South Africa's first multiracial government was starting to redress the evils of apartheid after many years of struggle, the HIV pandemic was reaching critical mass. The severity of the HIV and AIDS epidemic continues to pose a horrendous challenge.
68. On the issue of land, South Africa has made little headway in redistributing ownership, even with the glaring evidence of what can happen if the status quo continues for too long. Other challenges that the country must tackle are the following:
- Race relations remain brittle and sensitive. South Africans from different racial groups hold widely divergent views on key policy questions and on the nature of the problems confronting the country. Many whites, coloureds and Indians feel alienated and marginalised. Some black people, on the other hand, feel that too little has changed, as many white people still have the best jobs and lifestyles, which does not reflect the grand vision of a new South Africa.
 - Some provisions of South Africa's excellent Constitution are not given adequate attention. Realising constitutional ideals remains a challenge. Minorities fear that the government is not doing enough to assure the cultural, education and language rights guaranteed by the Constitution.
 - Current trends in black economic empowerment (BEE) are a cause for concern. While South Africa also needed its black billionaires, BEE has to be broadened and deepened beyond the enrichment of a few individuals. Moreover, the speed with which politicians are becoming businesspeople seems odd.
 - While expenditure on education has risen significantly (currently standing at about 6 per cent of GDP), this is not mirrored in the results. The education system is failing to provide school-leavers with the skills and competencies they need to contribute more productively to the economy.
 - Converting democratic ideals into practice still constitutes a problem. Ordinary South Africans remain alienated from their political representatives, which points to the shortcomings of the adoption of unbridled proportional representation at the national and provincial levels.
 - Transforming the economy and integrating it into a globalising world has proved to be a complex process. It is a delicate balancing act between the imperatives of the core values of liberty, on the one hand, and those of social justice and equality on the other hand. The tension between these two values – the former inspiring liberal democratic views and the latter social democratic views – runs deeply through the society.

⁶ These are elaborately discussed in Chapter 7 on cross-cutting issues.

⁷ In the government report on the ten-year review, for example, there was no sense of complacency on the part of the Presidency; rather, there was recognition that the government was faced with huge and difficult tasks, and that a major effort was needed to improve performance.

- The legacy and distortions of the apartheid era are still pervasive and costly. The spatial dimension of apartheid meant that millions of South Africans were deliberately located miles away from the urban centres where the jobs were. This fostered the emergence of complex migrant worker systems and transport patterns that remain in place today. Discrimination in the provision of education and training opportunities meant that generations of black South Africans were prevented from acquiring skills that would make them eligible to pursue productive employment opportunities. The relatively small subsistence agricultural sector, along with a stagnant informal sector, imply that South Africa is missing two standard labour “shock absorbers” that operate in other economies (especially in Africa) during periods of adjustment.
- The South African economy still confronts structural problems linked to its bifurcation, which President Mbeki refers to as a paradox of “Two Nations with Two Economies”; one nation being predominantly white and prosperous (the first economy) and the other being predominantly black and impoverished (the second economy). It is this structural bifurcation that presents an enormous challenge for South Africa’s development trajectory. Whereas the political vision of a Rainbow Nation has evolved relatively smoothly and with considerable success since 1994, the economy tends to reinforce the racial “apartness” of society “acquired during the segregationist and apartheid eras”.⁸

69. If South Africa is to make continued and sustained progress towards a united, non-racial, non-sexist and democratic society in its second decade of freedom, it needs a major intervention to reinforce the consolidation of democracy with measures aimed at integrating all of society into a growing economy from which all can benefit. This will require, among other things: identifying a grand vision uniting all and defining a shared approach by all segments of the Rainbow society, such that the individual and collective human potential of the nation can come to full fruition; managing diversity; reconstructing and democratising the economy in order to cope with the challenge of structural unemployment and pervasive poverty; and initiating a radical overhaul of the machinery of government, especially at local government level, to unlock current delivery logjams.

⁸ Butler, A. 2004. *Contemporary South Africa*. New York: Palgrave Macmillan, p.30