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By George F. Ward

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South African President Jacob Zuma shakes hands with Chinese President Xi Jinping at the Great Hall of the People in Beijing Friday, September 4, 2015. (Source: Lintao Zhang/Poo Photo via AP.)

Ambassador (ret.) George F. Ward is editor of Africa Watch and a Research Staff Member at the Institute for Defense Analyses.

CONSTITUTIONAL REFORM AND CONFLICT IN AFRICA

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In the lead-up to Tanzania's national elections on October 25, 2015, the question of [constitutional reform](#) has taken center stage. After a contentious period of constitutional [review](#) in the country, which included fierce debates over a proposed three-tiered federal system favored by the opposition, a planned constitutional referendum was [scrapped](#) in April 2015. The upcoming elections have therefore become a de-facto referendum on the future direction of the constitution, and rising tensions have led to [warnings](#) about possible election-related violence. As the events in Tanzania unfold, it is useful to reflect on whether some forms of constitutional design are better at managing conflict in Africa than others. [more...](#)



In this photo taken late Saturday, July 11, 2015, Tanzania's public works minister John Pombe Magufuli speaks at an internal party poll to decide the ruling party's presidential candidate, in Dodoma, Tanzania. Tanzania's ruling party, which has been in power for five decades, has chosen public works minister John Pombe Magufuli as its presidential candidate, making him the favorite to replace current president Jakaya Kikwete in the upcoming October election. (Source: AP Photo/Khalif Said.)

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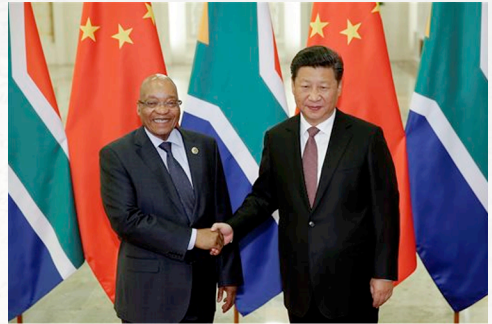
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President Zuma's Do-Nothing Record

As Africa Watch pointed out in [June 2014](#), President Zuma's first priority after his victory in the May 2014 national elections was to shore up his own political position. Challenges such as economic stagnation and urgent national defense needs were given short shrift. Economic growth in 2014, which in June of that year was projected to come in at 2 percent, ended up at just [1.5 percent](#). In 2015, economic growth has fallen still further, and GDP actually [decreased](#) in the second calendar quarter.

Instead of focusing on the nation's economic needs, President Zuma and the African National Congress (ANC) have been busy dealing with allegations of mismanagement and corruption. Faced with a government report that criticized the lavish spending (\$21.7 million) on "security" upgrades to Zuma's private homestead at Nkandla that included a swimming pool, amphitheater, and a visitors' center, the government produced its own report that justified the spending in what has been described as "[comic detail](#)." The swimming pool, for example, was characterized as an essential source of water for fighting fires.

The Nkandla episode joins a long list of [other scandals](#) that have dogged Zuma and the ANC for years. One [commentator](#) sees the problem as rooted in more than President Zuma's evident personal flaws. In a system that has been dominated for over 20 years by one party, it is inevitable that unqualified political appointees would find their way into executive positions in essential organizations such as South African Airways and the South African Broadcasting Corporation. The ANC's tendency to flout rules is also evident in the conduct of its representatives in parliament. Instances of [ridicule and attempted intimidation](#) of the opposition are allegedly not uncommon.

Economic Challenges

The South African economy faces multiple challenges. In [2014](#), the key mining sector contracted, and the important manufacturing sector flatlined. Both sectors have suffered from the power cuts that have been a consequence of the government's past failure to act expeditiously to increase electrical generation capacity. The once-vibrant [gold mining](#) sector is beset by falling profits and, in some cases, actual losses. South Africa's gold mines are old, and production costs are increasing. Falling gold prices coupled with higher costs for wages and electricity are taking their toll. A similar situation exists in the [platinum sector](#), where the leading producers are cutting employment and seeking to raise additional capital to improve efficiency.

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What Will the Future Hold?

South Africa, which still boasts sub-Saharan Africa's most advanced economy, [if no longer the largest](#), should by no means be counted out. According to two recent studies, recovery and a return to a stronger economic growth path is possible, but only if South Africa makes the right political and economic choices.

In August 2015, Jakkie Cilliers, the executive director of the Pretoria-based Institute for Strategic Studies, revised previous work in his paper [South African Futures 2035](#). Cilliers takes the point of view that South Africa is "generally a divided, unhappy, and increasingly corrupt country with its growth potential hampered by contradictory and ever-changing government policy." He opines that the government's failure to act on key infrastructure and economic issues, chief among them energy supply, has reduced growth prospects for the next several years. The sort of muddle-through scenario that Cilliers earlier dubbed "Bafana Bafana" (after the national soccer team) has been replaced by "Bafana Bafana Redux," which foresees reduced growth through 2035 because of the impact of the electricity crisis, poor policy planning, and the challenges of implementing economic policies. To reach even the reduced targets that Cilliers deems possible, the South African government and private sector will need to work together to generate growth and, above all, jobs.

In a [detailed study](#) released in September 2015, the McKinsey Global Institute (MGI) proposed in more specific terms what will be needed to reignite economic growth and reduce South Africa's stubbornly high 25-percent unemployment rate. MGI advanced five "bold priorities" for inclusive growth. These steps, if implemented, would represent a decisive move away from an economy fueled by coal and dependent on the mining of gold and platinum:

1. **Advanced manufacturing**, focused on adding value in sectors such as automotive, industrial machinery, and chemicals;
2. **Infrastructure productivity**, aimed at closing gaps in electricity, water, and sanitation by making spending 40 percent more effective;
3. **Natural gas**, to diversify the power supply in relatively rapid fashion and exploit local shale gas resources (if the latter are proven);
4. **Service exports**, with a focus on the African region; and
5. **Raw and processed agricultural exports**, to meet increasing demand throughout sub-Saharan Africa and Asia.

The MGI study asserts that these steps, if implemented, could raise annual GDP growth by 1.1 percent and create 3.4 million jobs by 2030.

Conclusion

As the two studies cited above indicate, South Africa continues to offer great potential both politically and economically. To realize that potential, however, the country will need both wise public policies and more effective implementation. President Zuma and his ANC government have provided little evidence that they have either the capacity or the inclination to provide either. Instead, Zuma seems to be doubling down on his past behavior. Having flouted international norms by failing to detain Sudanese President al-Bashir in June, Zuma [met with the Sudanese leader](#) on September 3 in Beijing to discuss further strengthening relations through increased cooperation. He accepted al-Bashir's invitation to visit Sudan. So much, Zuma seems to be saying, for the views of both international institutions and his domestic political critics.

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Constitutional Design and Conflict in Africa

The relationship between constitutional design and conflict in divided societies has long been a question of interest to scholars and practitioners. Two camps have emerged in the broader political science literature – those supporting strategies of “accommodation,” such as decentralized federalism or power-sharing, and those in favor of “integration” approaches, which are more centralized and aimed at forming a unifying nationality across ethnic groups. In an [edited volume](#) published in June 2015 titled *Constitutions and Conflict Management in Africa: Preventing Civil War through Institutional Design*, political scientist Alan J. Kuperman argues that constitutions in Africa are overwhelmingly integrative and highly centralized in design. He asserts that nearly 80 percent of all constitutions on the continent are either integrative or hyper-integrative, as measured in 2011, but that they are “imperfectly institutionalized from the standpoint of good governance and resilience to shocks.”

Kuperman and his contributor Eli Poupko attribute this trend toward integrationist design in Africa to the centralizing tendency of states as well as a legacy of highly centralized colonial systems and authoritarian regimes after independence. Poupko [notes](#), “States are by nature integrative; they only implement accommodative design elements reluctantly and under pressure from a mobilized opposition.”

Successes and Failures of Constitutional Design

Based on findings from seven case studies in Africa (Burundi, Ghana, Kenya, Nigeria, Senegal, Sudan, and Zimbabwe), Kuperman argues that either model of constitutional design, if properly implemented and institutionalized, can help insulate countries against internal and external shocks and manage conflict effectively. Indeed, he [maintains](#), “the two most successful constitutional designs in our case studies—Ghana and Burundi-2005 [after Burundi implemented a new constitution in 2005]—lie on opposite ends of the integration-accommodation spectrum.” According to Kuperman, Ghana represents a successful centralized integrative design that is complemented by relatively strong liberal institutions. On the other hand, Burundi, [despite](#) current violence, exemplifies a successful accommodative approach featuring a variety of power-sharing mechanisms that ensure the Tutsi minority of guaranteed representation in governing institutions no matter the outcome of elections.

Given Burundi's [current violence](#) surrounding the president's unconstitutional third term, some might find it counterintuitive that Kuperman considers Burundi a success. But considering the country's history of mass ethnic violence,

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Burundi has achieved a lot of progress in mostly overcoming ethnic politics. As [argued](#) by Filip Reyntjens in the volume, “Burundi’s main divide is now between parties rather than ethnic groups, and when violence occurs it is political rather than ethnic.” Despite how fractured and contentious the political landscape is, the country, thus far at least, has managed to avoid escalation to war.

Kuperman also holds up Kenya’s decentralized post-2010 constitutional framework as an example illustrating the potential of accommodation-based approaches. He cites the cases of civil war and genocide in Burundi in 1993 and renewed conflict in Sudan after the 2005 peace agreement between the North and the South, however, to [argue](#) that the accommodation strategy also “entails risks of backfiring gravely if not institutionalized appropriately.” To further illustrate such dangers, he cites the cases of Angola (1992), Rwanda (1994), and Liberia (1997), where, he [says](#), “failed attempts at partial accommodation contributed to more than a million deaths.”

Given these risks, the preponderance of highly centralized and integrative constitutions in Africa, and the limits of external influence, Kuperman urges international actors to scale back current preferences for fundamental reform and instead follow the incremental model of Ghana. He [argues](#) that international actors should seriously consider promoting “liberal reforms of Africa’s existing, integrative constitutional designs—rather than their radical replacement with accommodative designs. . . attempting the latter would likely result in incomplete or inequitable accommodation, which our case studies demonstrate can have disastrous consequences.”

Conclusion

The volume’s findings are mainly based on seven case studies in Africa. Further research is therefore needed on other cases in Africa and beyond to test the study’s proposed causal relationships and explore the offered policy recommendations. Moreover, the database presented in the volume also reveals other relationships that allow for alternative interpretations and, by extension, policy implications. For instance, while only a handful of countries in Africa are listed as having “accommodative” or “hyper-accommodative” systems, a closer look reveals that such cases are some of the most democratic and peaceful in Africa, including Botswana, South Africa, Cape Verde, and Mauritius.

This finding suggests that African, regional, and international actors may be wise to adopt a more flexible, tailored approach to promoting constitutional reform in Africa, as opposed to simply writing off accommodative strategies (while remaining acutely aware of the dire consequences of improper implementation). Political scientist Nic Cheeseman advocates a similar approach in his recent [book](#) on democratization in Africa. On the tradeoff between political inclusion and competition, he [writes](#), “there is no ideal constitutional template that can be deployed across the continent. . . because different countries may require different degrees of inclusion in order to achieve political stability.” He goes on to [say](#): “Judging whether a given political system can bear the strains associated with higher levels of competition requires an intimate knowledge of a country’s demography, geography, and political history of a given polity.” Any upcoming efforts at constitutional reform in Tanzania will need to strike a careful balance between inclusion and competition while remaining attuned to the realities of what design can be realistically institutionalized.

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