# Amnesty, Reintegration, and Reconciliation

# SOUTH AFRICA

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**T**HE GRANTING OF AMNESTY and the process of reconciliation and reintegration (collectively referred to as "AR2" in this series of articles) are typically post-conflict processes. However, potential belligerents may resort to using aspects of AR2 before armed conflict to avert more widespread bloodshed. Scholars often cite South Africa as a rare example of a nonviolent transition to conciliation between sharply divided elements within a country.[1] Since its transition to majority rule, South Africa has held three elections, including the peaceful transfer of power between Presidents Nelson Mandela and Thabo Mbeki. South Africa thus stands as an example of the efficacy of employing the principles of AR2.

During the transition from apartheid to majority rule in the 1990s, South Africa avoided civil war due to a combination of political compromises between the National Party and the African National Congress, the acquiescence of the military, and the need to relieve the war-related pressure on the South African economy. Economic pressures forced the ruling National Party to the negotiating table with its chief rivals in the African National Congress (ANC). The two parties negotiated a compromise through which South Africa became a majority-ruled state and individuals accused of committing politically motivated crimes prior to the transition were granted a full pardon. This compromise could not have been executed without the acquiescence of South Africa's security forces. Unlike in other cases of AR2, the South African military did not serve the "forcing function" of an armed reconciler but instead merely allowed the process to occur.

South Africa is thus a distinctly instructive case because South Africans used the process of AR2 to prevent a war rather than mitigate the effects of one after the fact. Amnesty in South Africa fell under a well-established legal process in which individuals were absolved of criminal or civil prosecution in return for a complete accounting of politically motivated crimes. The agency charged with adjudicating claims of amnesty, the Truth and Reconciliation Commission (TRC), was designed to be the catalyst for South African reconciliation. The TRC completed its deliberations and delivered its final report in 2003.

The legal process of granting amnesty is now complete in South Africa. While certainly not all South Africans have reconciled with their former opponents, a majority feels some measure of reconciliation a decade after the transition

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PHOTO: African National Congress (ANC) soldiers keep the crowd away during a mass election campaign rally addressed by ANC president Nelson Mandela in Atameleng in Boputhatswana, 9 April 1994. (AFP, Philip Littleton)

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to majority rule. South African reintegration, the process by which all elements of the South African population achieved representation, has occurred in the government and military but has yet to fully occur in the economic realm.

## Background to the Conflict

Although not the sole cleavage in South African society, the state-sanctioned system of racial discrimination known as apartheid was the most divisive aspect of South Africa's polity. Laws that divided South Africa into separate spheres for blacks and whites date back as early as 1911. In 1912, educated black South Africans founded the South African Native National Congress, an organization dedicated to the peaceful opposition to segregationist laws. In 1923, its members renamed the organization the ANC. The ANC continued peaceful opposition to white minority rule until the early 1960s. In March 1960, South African security forces in the town of Sharpeville opened fire on an anti-apartheid demonstration and killed 69 protesters.[2] The following month the South African government banned the ANC and a similar organization, the Pan-African Congress, and declared a state of emergency.

In 1961, in reaction to both the Sharpeville massacre and the South African government's departure from the British Commonwealth, the ANC formed its armed wing, the *Umkhonto*

*we Sizwe* ("Spear of the Nation").[3] Black African resistance was relatively ineffective against South African security forces. The *Umkhonto* and similar organizations conducted numerous acts of sabotage in South Africa, but they spent more time fighting rival factions within the black resistance than attacking white South African targets. In addition to limited acts of sabotage, the black resistance in South Africa organized massive protests and strikes by urban workers and students. In 1976, police in the Soweto Township killed several protesters, igniting a series of riots that left dozens of buildings destroyed and hundreds of black South Africans dead (most at the hands of South African security forces).

Resistance by the ANC continued along similar lines through the 1980s. By the end of the 1980s, the South African government began to buckle under the economic pressure of strikes and international divestment from South African companies. Economic and demographic pressure led the South African government to begin negotiations with the ANC in 1989. At these negotiations, the ANC and the ruling National Party ironed out the Interim Constitution of November 1993. While some saw the Interim Constitution as a "disguised surrender," most scholars viewed the document as an agreement



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**Wounded people lie in the street, 21 March 1960, in Sharpeville, near Vereeniging, where 69 were killed when South African police opened fire on black protesters. The Sharpeville massacre led to the start of armed resistance in South Africa.**

between the elites of two opposing groups that averted a bloody civil war.[4] In April 1994, South Africa held elections observed by security forces from the ANC and the South African Defence Force (SADF), the previous government's military forces. The election, South Africa's first in which all citizens were afforded an equal vote, resulted in a victory for the ANC by an overwhelming margin.

With a new constitution and elections, South Africa took major political steps to avoid civil war. However, to keep the peace, the new government had to accomplish three tasks:

● Integrate the South African security forces with the armed wings of the ANC and other resistance movements.

● Reconcile a divided society for the abuses committed during apartheid.

● Integrate blacks into the South African economy.

The last of the three tasks listed above has yet to occur.

## AR2 in the Economic Sphere

The South African government appears to have chosen the benefits of a strong capitalist society over the benefits of redressing past economic wrongs. Although internal and external economic pressure brought the South African government to the negotiating table with the ANC, the economic aspects of reconciliation and reintegration have yet to fully play out. The ANC and other opposition organizations destabilized South Africa's labor force with organized strikes and boycotts, pressuring the South African government to search for resolutions. The strikes and boycotts imposed direct costs on South African companies through lowered productivity and decreased revenue.[5]

Foreign pressure on South Africa's economy was perhaps equally effective at bringing South African officials to the bargaining table. Labor unrest shook the confidence of international investors. These investors were less inclined to finance companies with uncertain labor pools. Starting in the 1970s, companies in the United States and elsewhere began decreasing economic interaction with South African companies. From 1970 to 1993, private investment in South African companies fell every year (except 1979, 1980, and 1981, when gold prices increased dramatically).[6] Companies in the United States rid themselves of South African affiliates, decreased their number of South African employees, reduced their investment in South Africa, and curtailed loans to South African companies.[7] U.S. consumers cut their purchases of products (particularly diamonds) associated with the apartheid regime. In 1977, the international community took concerted economic action against South Africa with the passage of United Nations Security Council Resolution 418, which banned all member nations from supplying the South African government with "arms and related material of all types."[8]

By the 1980s, South African business executives worried deeply over both current interference in trade and the future of their labor pool. In September 1985, after urging the South African government to begin



A South African soldier keeps watch over Soweto during a campaign meeting of African National Congress leader Nelson Madela, 23 April 1994, three days before the country's first all-race elections.

AFP, Mike Persson

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negotiations with the ANC to no avail, a group of these executives from some of South Africa's biggest corporations met with ANC officials in Zambia to discuss the future of the South African government and economy after apartheid.[9] The following year, executives met with representatives of the ANC South Africa, despite the government's ban on the organization.[10] Only several years later did the South African government finally meet with ANC officials.

Of all the other tasks involved in reintegrating South African society since the transition from apartheid, economic integration received the least attention. While blacks and whites are fully integrated in the South African government and military, black South Africans remain under-represented in the higher ranks of private enterprises and in the middle class overall.[11] The South African government plan to address economic disparity was to institute an affirmative action program through land reform and "black economic empowerment." The government has done little to address land reform but recently attempted to boost black economic empowerment by passing the Broad-Based Black Economic Empowerment Act of 2004. The act requires companies that want to do business with the government to meet a range of affirmative action benchmarks.[12] Aside from this act, the South African government has taken few actions to affect economic affirmative action. Arguably, the South African government has chosen continued capitalism and growth over redress.

Some would argue that the continuing economic inequality between black and white South Africans indicates that the process of reconciliation and reintegration of the polity still has significant distance to cover. However, observers should not forget that it was economic pressure that initiated the process of ending South Africa's conflict. By the 1990s, the pressures that led South African businessmen to hold talks with the ANC increased the South

African government's receptiveness to negotiate a transition.

## South African Politicians Avert a Civil War

Ultimately, South African politicians inside and outside the government prevented South Africa from sliding into civil war in the latter half of the last century. From 1989 to 1993, the South African government and the ANC conducted a series of negotiations that culminated in the Interim Constitution of 1993 and the general election held the following year. As a condition for transition, the South African government, led by F. W. de Klerk's National Party, insisted upon establishing a process of granting amnesty to members of the government for actions taken during the fight against the ANC. The ANC, under Nelson Mandela, understood that procedures for granting amnesty would be essential for both members of the outgoing government and members of the resistance movement. Mandela, more than any other figure, understood that a failure to institute a process of reconciliation between members of the government (particularly the security forces) and the ANC would doom the country to continued racial violence even after the ANC took power. Mandela's pursuit of reconciling black and white South Africans is another distinct aspect of the South African case. Arguably, without Mandela's charismatic leadership, AR2 might have had to wait until after a greater conflict in South Africa.

Prior to the 1994 elections, the two sides failed to iron out the exact procedures for reconciling and granting amnesty to past combatants. However, Mandela made reconciliation the focus of his first term as president of South Africa. The institution that the new government eventually created for investigating abuses and granting amnesty was the Truth and Reconciliation Commission (TRC). The TRC consisted of 18 commissioners and an investigative staff of 60, charged with cataloging the human rights abuses of the past, compensating victims for their suffering, and granting amnesty to the perpetrators of the same abuses.[13] While the TRC relied primarily on the voluntary admissions of South Africans, it also had the power to issue subpoenas and order searches and seizures of relevant evidence.[14] Held across South Africa, TRC hearings consisted of public airing of human rights

abuses by the victims or victims' families. In cases where the perpetrator was present and willing to testify, the perpetrator's testimony followed that of the victims'. If the perpetrator made a full and public confession of his actions, and if the TRC found his actions "politically motivated," the TRC granted the accused party amnesty.[15] While the TRC denied amnesty for crimes motivated by personal or monetary gain, it pardoned any politically motivated action, including torture and murder. The confessor granted amnesty by the TRC was immune from further criminal or civil prosecution, and those who held positions in the state security forces were allowed to return to their jobs.[16]

The TRC completed its hearings and submitted its final report in 1999. Of the 22,000 registered victims, 2,500 received the opportunity to testify. Over 8,000 South Africans (including members of the South African government and resistance groups) applied for amnesty. The TRC pardoned several hundred of these applicants.

Beyond the statistics of applicants and pardons, the benefit of the TRC's work remains controversial. While some have stated that granting amnesty has "re-victimized" those who suffered under apartheid, most participants and observers argue that the proceedings of the TRC contributed substantially to the reconciliation of South Africa's divided parties.[17] After interviewing nearly 4,000 South Africans from across the country, South African researcher James Gibson found that almost half expressed some form of reconciliation because of the TRC's work.[18]

Supporters of the TRC argue that numerous benefits resulted from its actions. The publicized hearings, which were broadcast on radio and summarized on television, provided a catharsis for black South Africans (and for whites not directly involved in apartheid) and built trust between the two races.[19] The highly public manner in which the TRC presided also provided South Africa with a common history for all South Africans, black and white.

Some argued that the TRC denied victims true justice by circumventing trials and allowing the perpetrators to walk out of the hearings as free men.[20] To this accusation, Archbishop Desmond Tutu, the TRC's chairman, responded that South Africa needed an option "between Nuremburg and national amnesia." Archbishop Tutu explained that

not only were Nuremburg-like trials impractical for South Africa due to the cost and time such trials would consume, but many trials would falter under lack of evidence. More important, resorting to trials would break the agreement between the ANC and the National Party (and presumably lead to more violence).[21] This agreement was the *sine qua non* for the National Party to accept a transition to majority rule. Thus, while the compromise of the TRC may have resulted in less than perfect justice, without the agreement that led to the TRC there would have been no reconciliation between the two sides.

South Africa would have undertaken the "national amnesia" option that Tutu mentioned if it had chosen to issue blanket pardons after holding hearings in private (as Chilean authorities chose to do when Augusto Pinochet's regime stepped down from power). This was an equally unworkable option, as it would have left wounds unhealed that would continue to harm society. In Tutu's words, "the past, far from disappearing or lying down and being quiet, has an embarrassing and persistent way of returning and haunting us unless it has in fact been dealt with adequately."[22] A blanket pardon of crimes committed during the apartheid era would have absolved all South Africans of accountability for actions taken during the previous two decades, leaving past grievances unanswered.

## Acquiescence of the Military

The political bargain the National Party and the ANC struck would never have come to fruition were it not for the acquiescence of the South African military (and the military wings of the ANC and other opposition movements). For the military organizations of both sides, the process of AR2 required two acts. First, they had to consent to the political agreement. Following the political agreement, the different military organizations had to integrate their forces. While either the South African Defence

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Force (SADF) or the *Umkhonto* could have delayed the political agreement, it was the agreement of the stronger military force, the SADF, which allowed the political process to move forward. This illuminates another distinction in the case of South African AR2; instead of an outside military force acting as an honest broker and pushing the political process forward, in South Africa the political process preceded the military role in AR2.

That the SADF would permit South Africa to proceed toward majority rule seems incredible at first, especially as some observers have argued that the SADF was deeply embedded in the decision-making apparatus of the government in the 1980s. The military was represented in the State Security Council, a government body that established government policy on all security related matters. Some have argued that the State Security Council became so powerful in the 1980s that it "effectively replaced the Cabinet."[23] Others have asserted that South Africa was a militarized state, essentially run by the security forces.[24]

These observers ignored several factors that kept the SADF loyal to the civilian government's decisions. First, except during the world wars, the SADF was a small organization whose size limited its political power. Next, the SADF was a military built on the model of professional Western militaries, including the Western tradition of military subordination to civilian government. This professionalism was built into South African law in the SADF Order of 1970, which forbade members of the military from political activity. The military largely abided by this law. Further, the South African military had already demonstrated its subservience to civilian government when President de Klerk cut the size of the SADF in half after South Africa ended its involvement in Angola and Namibia. Finally and most importantly, a move toward praetorian opposition to a government decision would have provoked opposition from the ANC, white-owned businesses,

and likely from within the SADF itself. (The SADF Air Force was thought to be the least likely to support any sort of praetorian move).[25]

Once the senior leadership of the SADF decided to go along with the government's decision to move towards majority rule, the tougher problem of integrating the armed forces with the *Umkhonto* and other armed groups remained. The process began in a series of informal talks between the SADF and the *Umkhonto* in 1991, described as "talks about talks." Formal negotiations aimed at integrating the various armed forces began in 1993.[26] These talks led to the creation of a Joint Military Coordinating Council, which stood until the 1994 election and was charged with planning for new, integrated armed forces and with monitoring the armed forces during the pre-election period. After the election, applicants to the Truth and Reconciliation Commission included not only members of the South African security forces under the old government, but members of the *Umkhonto* as well.

Negotiations between the two sides did not result in a new organization, but rather the integration of the *Umkhonto* and other armed groups into the SADF. The integrated organization would be renamed the South African National Defence Force (SANDF) on the eve of the country's election. Integration of the various armed groups started during the pre-election period and continued slowly for



AFP, Anna Zieminski

**Govan Mbeki, deputy president of the Senate and father of Deputy President Thabo Mbeki, gives evidence before the Truth and Reconciliation Commission on the fourth and final day of the Cape Town hearings, 25 April 1996.**

seven years until complete in 2001.[27] Negotiations, which were limited to just the SADF and the ANC, seemed largely to favor the SADF. The SADF, after all, had greater technical knowledge and a bureaucratic staff arm with sufficient manpower for negotiations. As a result, the SADF ensured that the SANDF was built to mirror the structure, doctrine, and military standards of the old regime's military. The *Umkhonto* acquiesced to the majority of the SADF's demands, knowing that demographics and the process of integration would eventually make any concessions irrelevant as black South Africans filled positions in the new security forces.

This is not to say that the SADF uniformly accepted integration of former opposition militaries into the ranks. Hundreds of members of South African special operations units "voted with their feet" and left the military rather than continuing service in the SANDF. Many of them went into mercenary service with private military corporations.[28] The South African territorial reserves presumably experienced a similar exodus, although this has not been documented to the same extent as the mass departure of special forces soldiers.

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## Conclusion

To suggest that South Africa's transition from apartheid to majority rule was a bloodless conflict would insult the memory of several thousand South Africans who died in the years leading up to the compromises of 1993. Such a suggestion would also require ignoring the fighting that continued through the 1990s between the ANC-led government and its enemies in other political parties in South Africa.[29]

However, the number of lives lost in South Africa's conflict over apartheid pale in comparison with the potential for bloodshed had the former regime attempted to hold on to power indefinitely. While the credit for averting a protracted war lies primarily with South African politicians who were willing to make compromises for the benefit of their country, those compromises would never have occurred if not for the pressure exerted by the economic and military spheres. **MR**

### NOTES

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