

# Fast Facts

for Local Government

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South African  
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Politics

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Dr Anthea Jeffery argues that there is strong evidence to show that the ANC will continue its push to control the Judiciary during Jacob Zuma's presidency. She shows that such control could be dangerous to liberty and the rule of law. 1

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## THE HAMMER AND THE ANVIL

**I**n 2008 the ruling party accused the Constitutional Court of seeking to 'pounce' on Mr Jacob Zuma, South Africa's new president. Will his government now translate verbal abuse into legislative attack?

Since its Polokwane conference in December 2007, the ruling African National Congress (ANC) and its allies have kept up a barrage of unmerited criticism against the courts, particularly the Constitutional Court (CC).

Intemperate criticism of judges by ANC leaders is not new. It has been evident from 1996, when former defence minister General Magnus Malan was acquitted of murder, to the ANC's annoyance. It has also been evident in other politically charged cases, while accusations of racism against 'apartheid-era' judges have been common.

The CC, however, seemed generally immune. That changed in December 2007 when the Polokwane conference elected Mr Jacob Zuma president of the ANC, and the National Prosecuting Authority thereafter charged him with various crimes. Since then, the pressure on the CC and other courts to rule the 'right' way in cases concerning Mr Zuma has been unrelenting.

Most of the pressure has come from the ANC alliance, but some has come from within the Judiciary itself: from the judge president of the Western Cape, Mr Justice John Hlophe, who allegedly tried to induce the CC to rule in favour of Zuma in the most crucial case of all.

In July 2008 the ANC's secretary general, Mr Gwede Mantashe, said the CC judges, in complaining about Judge Hlophe's alleged interference, were intent on psychologically 'preparing society for their pouncing' on Zuma.

But the long litany of threats and insults to the courts outlined in this issue of *Fast Facts* (pages 2-4) suggests that it is the ruling party which may be preparing the country for a different form of 'pouncing'.

The ANC has long wanted to increase its control over the Judiciary, by far the most crucial lever of power still beyond its reach. With the election over, the party is likely to revive the contentious Judiciary bills it earlier withdrew. These bills would clog the SCA with minor matters and erode its current strength. They would also limit judicial independence by giving the executive administrative control over the courts. The party may also be planning, as Zuma mooted when he said the CC judges were 'not God', to review the court's powers or weaken it in other ways.

The aim behind the persistent pressure, in the revolutionary jargon once second-nature to the ANC, may be to prepare the anvil for the coming hammer. Few developments could be more dangerous to liberty and the rule of law.

— **Anthea Jeffery**

# Unprecedented pressure on the Courts

**S**ince the Polokwane conference, the ruling party and its allies have put great pressure on the justice system. The National Prosecuting Authority has buckled, and two High Courts have issued inexplicably poor rulings. The Constitutional Court and the Supreme Court of Appeal have stood firm. Dr Anthea Jeffery traces the attacks on these institutions.

Since the Polokwane (Limpopo) policy conference of the ruling African National Congress (ANC) in December 2007, the integrity of the Judiciary has repeatedly been impugned. Most of the pressure has arisen in the context of attempts by the National Prosecuting Authority (NPA) to bring the ANC's president, Mr Jacob Zuma, to book on charges of corruption and other crimes.

## Fresh charges

In September 2006 initial charges of fraud and corruption against Mr Zuma were struck off the court roll, mainly because the NPA was not yet ready to proceed. The main obstacle the NPA confronted was that Mr Zuma was contesting the validity of search-and-seizure warrants under which the Directorate of Special Operations (the Scorpions) had in 2005 seized some 93 000 documents from his home and other premises.

The Durban High Court had ruled the warrants invalid but an appeal before the Supreme Court of Appeal (SCA) was pending. In November 2007 the SCA upheld the validity of the warrants, paving the way for Mr Zuma to be charged afresh.

On 28th December 2007 the NPA laid 18 charges of fraud, corruption, racketeering, and money laundering against Mr Zuma. A document accompanying the indictment showed that, from 1995 to 2005, Mr Schabir Shaik and/or his various companies had made more than 780 payments to Mr Zuma, amounting to more than R4m.

The State had previously relied on a portion of these (totalling R1.2m) to secure Mr Shaik's conviction for fraud and corruption. Moreover, the

SCA in November 2006 had upheld Mr Shaik's conviction, while the Constitutional Court (CC) in October 2007 had declined to hear his appeal as it had no prospect of success.

At the beginning of 2008, Mr Zuma was thus again facing trial. The NPA's case against him had been buttressed by the failure of Mr Shaik's appeals against conviction and the SCA ruling allowing it to use the 93 000 documents.

Two matters of importance to Mr Zuma were also pending before the CC. The first was Mr Shaik's appeal against the confiscation of some R34m in assets attained through corrupt payments to Mr Zuma. The second was Mr Zuma's appeal against the SCA judgment on the search-and-seizure warrants.

From early in 2008, criticism of the CC by leaders in the ANC and its allies — mainly the ANC Youth League (ANCYL) and South African Communist Party (SACP) — began to grow.

## Unsubstantiated claims

In January 2008 the *Mail & Guardian* reported that 'unsubstantiated claims were being repeated with great frequency on innumerable talk radio shows that the Judiciary was illegitimate, partial, and incapable of dispensing justice', particularly as regards Mr Zuma.

As criticisms mounted, the former chief justice, Mr Justice Arthur Chaskalson, and Mr George Bizos SC expressed their concern at 'the implication that our Judiciary lacks the independence and integrity to ensure that Mr Zuma receives a fair trial'.

On 29th May 2008, the CC dismissed a challenge by Mr Shaik

and some of his Nkobi companies to the seizure of some R34m of their assets. At issue was a shareholding worth R21m in Thint (Pty) Ltd, one of the companies which had benefited from South Africa's multi-billion rand arms purchase in 1999. Also at stake were dividends on these shares amounting to some R12m.

In a unanimous judgment, the CC ruled that both the shares and the dividends had flowed to Mr Shaik and his companies as a result of Mr Zuma's support for Mr Shaik. It added that corruption was the type of criminal conduct targeted by the Prevention of Organised Crime Act, making its fruits subject to confiscation.

Soon afterwards it emerged that the judge president of the Western Cape, Mr Justice John Hlophe, had allegedly tried to influence the CC's pending judgment on the search-and-seizure warrants.

An initial statement by the CC judges gave few details of Judge Hlophe's intervention and said the matter had been referred to the Judicial Service Commission (JSC), the body mandated to deal with judicial misconduct. The statement stressed that any attempt to influence the CC violated the Constitution, threatened the administration of justice, and eroded public confidence in the integrity of the bench.

In a subsequent detailed statement, the CC judges said that Judge Hlophe had sought to influence two of their number. In a meeting with Mr Acting Justice Chris Jafta, Judge Hlophe had said that Judge Jafta was 'our last hope' and that 'the case against Mr Zuma should be looked at properly'. In a further encounter with Ms Justice Bess Nkabinde, Judge Hlophe had

said he 'had a mandate to act as he was doing' and that the privilege issue in Mr Zuma case 'had to be decided properly'. (Privilege was one of the issues on which Mr Zuma was relying to invalidate the seizure of documents from his attorney.)

Judge Hlophe seemed to know that Judge Nkabinde was drafting a note on the law regarding privilege. Asked how he was aware of this, Judge Hlophe said he was 'connected to members of national intelligence'. Both Judges Jafta and Nkabinde said they felt that Hlophe wanted 'a certain result' and that his approaches were 'improper'.

However, the lodging of the complaint soon seemed to boomerang against the CC. Judge Hlophe dismissed the allegations as 'ludicrous' and a ploy to damage his reputation. His lawyer said the CC judges had acted 'with the most unseemly haste' to 'crucify' him in public. Their conduct had been unfair to Judge Hlophe 'in the most vile manner' and 'inimical to basic norms of judicial integrity'.

Judge Hlophe lodged a counter-complaint against the CC judges. He said his conversations with Judges Jafta and Nkabinde had been 'casual' encounters and that judges must be encouraged to 'debate the law' among themselves. He accused the chief justice, Mr Justice Pius Langa, and his deputy, Mr Justice Dikgang Moseneke, of lying, and urged the JSC to investigate them for gross misconduct, for both men might have been 'politically motivated to back a trumped-up complaint'.

### 'Die for Zuma'

Intemperate criticism of the CC (and other) judges followed. On 16th June 2008 the president of the ANCYL, Mr Julius Malema, told a Youth Day rally: 'We are prepared to die for Zuma. We are prepared to take up arms and kill for Zuma.' Less than a month later, he added: 'We must intensify the struggle to eliminate the remnants of counter-revolution, which include...[all] those who want to use state power to block [Zuma's] ascendancy.'

The ANC's secretary general, Mr

Gwede Mantashe, accused the CC judges of being part of the 'counter-revolutionary forces' trying to destroy Mr Zuma. 'The issue there is not Hlophe, it's Zuma. The CC is sitting in judgment on Zuma. They create a hullabaloo in public. That is preparing society for their pouncing... They must not use Hlophe as a scapegoat to hit at Zuma.'

In July, Judge Hlophe asked the Johannesburg High Court to rule that the CC had violated his rights. He argued that the judges' public complaint had infringed his constitutional rights to dignity, equality, a fair trial and the presumption of innocence. Pending the court's decision, he sought an interim interdict preventing the JSC from inquiring into either the CC complaint or his counter-complaint.

On 31st July the CC ruled against Mr Zuma in the search-and-seizure cases. By a majority of ten to one, the CC found that the warrants were not so broadly phrased as to be invalid, and that the documents seized from Zuma's attorney were not protected by attorney-client privilege. (The majority judgment, handed down by Judge Langa, also stressed that 'all courts should discourage litigation preliminary to criminal trials that appeared to have no purpose other than to...delay the commencement of such trials'.)

This ruling was deeply damaging to Mr Zuma for it confirmed the state's right to use the 93 000 documents against him. Between this CC ruling and the earlier one upholding the confiscation of Mr Shaik's assets, the prognosis for Mr Zuma avoiding conviction and the confiscation of tainted assets seemed poor.

Criticism of the CC continued, both the Congress of South African Trade Unions (Cosatu) and the SACP expressing disdain for the court and reviving their criticisms of the way the CC judges had handled their complaint against Judge Hlophe. Judge Chakalson again felt obliged to intervene, saying it was central to judicial independence that 'no outsider' should attempt to interfere in decision-making by the courts.

'Yet judges of the Constitutional Court have been pilloried for reporting to the JSC a judge said to have attempted to interfere with their decision...[regarding Mr Zuma]. Somehow that has been wrenched from its content and context to be made the basis of an allegation that the judges of the Constitutional Court are prejudiced against the ANC and its president.'

By now, Mr Zuma's legal team had succeeded in changing the focus of the court dates (4/5 August) which the NPA had intended to mark the start of Mr Zuma's trial. Instead, these dates were to be used for a hearing before Mr Justice Chris Nicholson of the Pietermaritzburg High Court on whether the charges should be ruled invalid because the NPA had failed to allow Mr Zuma to make representations before charging him in December 2007. As this court hearing approached, further threats were issued by various supporters of Mr Zuma.

### 'Kill for Zuma'

Escalating pressure was evident in speeches outside the High Court in Pietermaritzburg on 4/5 August. The general secretary of the SACP, Mr Blade Nzimande, said 'cowards were using the law to fight a political battle... Political battles should be fought politically, not legally. Let us meet in the streets.' Warnings abounded that the prosecution of Mr Zuma was 'taking SA to the brink'. Young men with T-shirts emblazoned with Zuma's image — and sometimes also the words 'Kill for Zuma' — used imitation machine guns to act out attacks on Mr Zuma's enemies.

Judge Nicholson reserved judgment on Mr Zuma's application, saying he would hand down his ruling on 12th September 2008. As this date came closer, the ANCYL and Cosatu said Mr Zuma was being 'persecuted' rather than 'prosecuted' by the criminal justice system. Mr Mantashe agreed, saying 'the charges had been around for eight years', kept changing shape, and amounted to 'persecution, not prosecution'.

Early in September, an ANCYL

spokesman said the league would stop at nothing to see Mr Zuma elected as the country's next president. 'We will remove all the obstacles, even if it means removing resistant people who are agents of political persecution. This is a political case... and it must be permanently struck from the roll. That will bring stability to the country.'

The ANC said it would bus in thousands of supporters and bring Pietermaritzburg to a standstill ahead of the court ruling. Cosatu warned of strikes and sustained mass action if the court found against Mr Zuma, as did the Young Communist League.

The ANCYL said all judges appointed by President Thabo Mbeki had 'an agenda' and could not rule in Mr Zuma's favour. Added Mr Malema: 'We will eliminate any forces that come our way. We will crush you and it doesn't matter who you are.... Zuma is going to Pretoria... We will not hand Zuma over without a fight.'

The Congress of South African Students (Cosas) said the country would face the youth's anger if Judge Nicholson ruled against Mr Zuma: 'Zuma is one of our own. If the judges think they can take Zuma away from us, we don't promise them peace.'

### Flawed rulings

In September, in the intimidatory climate thus created, two High Court rulings were handed down. In the first, Judge Nicholson agreed that Mr Zuma should have been allowed to make representations before being prosecuted and ruled that the charges were invalid. He also strongly criticised President Mbeki and his cabinet for interfering in Zuma's prosecution.

In January 2009 the SCA struck down the judgment. It said that Judge Nicholson, for 'reasons impossible to fathom', had failed to adhere to basic tenets of law. He had ruled on extraneous issues and misinterpreted a key provision of the Constitution. In

making findings about 'political meddling' in Mr Zuma's prosecution, he had 'changed the rules of the game, taken his eyes off the ball, and red-carded not only players but also spectators'.

The second decision went in favour of Judge Hlophe. By a majority of three to two, the Johannesburg High Court ruled that the CC judges had infringed Judge Hlophe's rights to dignity, equality, and a hearing prior to the publication of their media release. The CC judges had been entitled to lodge their complaint, but 'the speed and haste' with which they had acted had overlooked Judge Hlophe's rights.

This judgment was also set aside by the SCA. On 31st March 2009 the SCA ruled that the CC judges had not been obliged to give Judge Hlophe a prior hearing. Nor had they acted unlawfully in issuing a media statement regarding their complaint. 'If the imputation against Hlophe were true, it was clearly to the public benefit that it should be known and its publication would not be unlawful'.

Though both rulings were overturned, both proved useful to Mr Zuma's supporters. The Nicholson judgment gave the Zuma camp a basis for demanding Mbeki's early resignation from the Presidency. The Johannesburg High Court ruling further undermined the integrity of the CC, allowing Judge Hlophe to question why the CC judges remained at their posts when they had been found to have breached the Constitution. Judge Hlophe has also appealed to the CC against the SCA decision in what some commentators describe as 'a deliberate attempt at forcing a constitutional crisis and embarrassing the judges of the CC'.

### Zuma's comments

In April 2009 the NPA withdrew the charges against Mr Zuma. Though the case against Mr Zuma remained strong, the acting National Director of Public Prosecutions, Advocate Mokedi Mpshe, said he was obliged to withdraw the prosecution because of political meddling in the timing of

the NPA's decision to charge Mr Zuma. Yet the evidence of this was patchy and probably inadmissible, and the trial court should rather have been asked to rule on its significance.

Less than a week after the withdrawal of the charges, Mr Zuma said he wanted the status of the Constitutional Court to be re-examined. Said Mr Zuma: 'If I... look at a chief justice of the Constitutional Court,...that is the ultimate authority, which I think we need to look at because I don't think we should have people who are almost like God in a democracy.' He said the JSC should 'review the status of the Constitutional Court', and suggested that the court needed to be brought within 'a democratic setting'.

However, the CC cannot be stripped of its powers without turning the current constitutional order on its head. Any such amendment to the Constitution would also need a 75% majority. There are, however, more indirect ways in which the executive's power over the CC and the Judiciary could be increased.

As national president, Mr Zuma will have the opportunity to fill four CC vacancies this year and might be able to choose pliant judges sympathetic to the ruling party. Since CC judgments require a majority of six, these new appointments could have substantial impact.

The ANC, as it pledged to do at Polokwane, could also bring back the controversial Judiciary bills it withdrew in 2006. These would clog the SCA with a host of minor appeals and erode its current strength, while giving the executive control over the administration of all courts (see *Fast Facts* 6/2005, 4/2006, 6/2006).

In 1998 the ANC made plain its intention to seize control over all the levers of state power, including the Judiciary. The Judiciary, as yet, has remained beyond its reach. But that may change if the ruling party succeeds in weakening the CC and the SCA and in bringing court administration under ministerial control. ❏

# WINNERS, LOSERS, AND WIPEOUTS

## Parliament: Year-by-year party representation in the National Assembly

Party	1994		1999		2004		2009	
	Number of seats won	Proportion of total vote	Number of seats won	Proportion of total vote	Number of seats won	Proportion of total vote	Number of seats won	Proportion of total vote
ANC <sup>b</sup>	252	62.7%	266	66.4%	279	69.7%	264	65.9%
DA/DP <sup>c</sup>	7	1.7%	38	9.6%	50	12.4%	67	16.7%
Cope <sup>d</sup>	n/a	n/a	n/a	n/a	n/a	n/a	30	7.4%
IFP <sup>e</sup>	43	10.5%	34	8.6%	28	7.0%	18	4.6%
UDM <sup>f</sup>	n/a	n/a	14	3.4%	9	2.3%	4	0.9%
NNP <sup>g</sup>	82	20.4%	28	6.9%	7	1.7%	n/a	n/a
ID <sup>h</sup>	n/a	n/a	n/a	n/a	7	1.7%	4	0.9%
ACDP <sup>i</sup>	2	0.5%	6	1.4%	7	1.6%	3	0.8%
FF <sup>+</sup> <sup>j</sup>	9	2.2%	3	0.8%	4	0.9%	4	0.8%
UCDP <sup>k</sup>	n/a	n/a	3	0.8%	3	0.8%	2	0.4%
APC <sup>l</sup>	n/a	n/a	n/a	n/a	n/a	n/a	1	0.2%
PAC <sup>m</sup>	5	1.3%	3	0.8%	3	0.7%	1	0.3%
FA <sup>n</sup>	n/a	n/a	2	0.5%	n/a	n/a	n/a	n/a
Azapo <sup>o</sup>	n/a	n/a	1	0.2%	1	0.3%	1	0.2%
AEB <sup>p</sup>	n/a	n/a	1	0.3%	n/a	n/a	n/a	n/a
MF <sup>q</sup>	n/a	0.1%	1	0.3%	2	0.4%	1	0.3%
<b>Total<sup>a</sup></b>	<b>400</b>	<b>100.0%</b>	<b>400</b>	<b>100.0%</b>	<b>400</b>	<b>100.0%</b>	<b>400</b>	<b>100.0%</b>

Source: Independent Electoral Commission (IEC) and 2007/2008 South Africa Survey

Peak

- a Percentages do not add up vertically due to rounding.  
 b African National Congress.  
 c Democratic Alliance/Democratic Party.  
 d Congress of the People.  
 e Inkatha Freedom Party.  
 f United Democratic Movement.  
 g New National Party.  
 h Independent Democrats.  
 i African Christian Democratic Party.  
 j Freedom Front Plus.

- k United Christian Democratic Party.  
 l African People's Convention.  
 m Pan Africanist Congress of Azania.  
 n Federal Alliance.  
 o Azanian People's Organisation.  
 p Afrikaner Eenheids Beweging.  
 q Minority Front.  
 n/a — Party did not win seat in Parliament or did not run in election.  
 Voting proportions in italics are the best performing election year for each party.

## Voting trends

Voting age population (older than 18)	Total registered voters <sup>a</sup>	Total valid votes		1994			1999		
				ANC	DA/DP	Other	ANC	DA/DP	Other
1994	22 709 152	22 709 152	19 533 498	12 237 655	338 426	6 957 417	10 601 330	1 527 337	3 848 475
1999	22 798 845	18 356 851	15 977 142	53.89%	1.49%	30.64%	46.50%	6.70%	16.88%
2004	27 436 926	20 674 926	15 612 671	53.89%	1.49%	30.64%	57.75%	8.32%	20.96%
2009	30 096 466	23 174 279	17 680 729	62.65%	1.73%	35.62%	66.35%	9.56%	24.09%
<i>Percentage poll<sup>c</sup></i>				2004			2009		
1994	86.02%			ANC	DA/DP	Other	ANC	DA/DP	Other <sup>b</sup>
1999	87.04%			10 880 915	1 931 201	2 800 555	11 650 748	2 945 829	3 084 152
2004	75.52%			39.66%	7.04%	10.21%	38.71%	9.79%	10.25%
2009	76.29%			52.63%	9.34%	13.55%	50.27%	12.71%	13.31%
				69.69%	12.37%	17.94%	65.90%	16.66%	17.44%

Source: Electoral Institute of Southern Africa, Independent Electoral Commission, *Business Day*

- a This is the number of people who are registered to vote. In 1994 there was no registration, and permanent residents who were not South African citizens were allowed to vote. This was not the case in subsequent elections.  
 b This includes Cope.  
 c Number of valid votes as proportion of registered voting population.

## Changes in party representation in the provincial legislatures, 1994-2009

EASTERN CAPE				
Party	1994	1999	2004	2009
ANC	48	47	51	44
Cope	n/a	n/a	n/a	9
DA/DP	1	4	5	6
NNP	6	2	n/a	n/a
PAC	1	1	1	n/a
UDM	n/a	9	6	3
AIC <sup>a</sup>	n/a	n/a	n/a	1
<b>Total</b>	<b>56</b>	<b>63</b>	<b>63</b>	<b>63</b>
FREE STATE				
Party	1994	1999	2004	2009
ACDP	n/a	n/a	1	n/a
ANC	24	25	25	22
Cope	n/a	n/a	n/a	4
DA/DP	n/a	2	3	3
FF+	2	1	1	1
NNP	4	2	n/a	n/a
<b>Total</b>	<b>30</b>	<b>30</b>	<b>30</b>	<b>30</b>
GAUTENG				
Party	1994	1999	2004	2009
ACDP	1	1	1	1
ANC	50	50	51	47
Cope	n/a	n/a	n/a	6
DA/DP	5	13	15	16
FA	n/a	1	n/a	n/a
FF+	5	1	1	1
ID	n/a	n/a	1	1
IFP	3	3	2	1
NNP	21	3	n/a	n/a
PAC	1	n/a	1	n/a
UDM	n/a	1	1	n/a
<b>Total</b>	<b>86</b>	<b>73</b>	<b>73</b>	<b>73</b>
KWAZULU-NATAL				
Party	1994	1999	2004	2009
ACDP	1	1	2	1
ANC	26	32	38	51
Cope	n/a	n/a	n/a	1
DA/DP	2	7	7	7
IFP	41	34	30	18
MF	1	2	2	2
NNP	9	3	n/a	n/a
PAC	1	n/a	n/a	n/a
UDM	n/a	1	1	n/a
<b>Total</b>	<b>81</b>	<b>80</b>	<b>80</b>	<b>80</b>

- ANC down from peak of 51 seats in 2004 to 44 seats (68.8% of the provincial vote).
- Cope second with nine seats, displacing the UDM, which won three (down from nine in 1999).
- The DA in third place with six seats, its best showing to date.
- The AIC with one seat is the only party to win a seat in a province and not in the National Assembly.

- ANC down from peak of 25 seats in 1999 and 2004 to 22 seats (71.1%).
- Cope in second place with four seats.
- DA in third place with three seats, equal to its peak in 2004.
- FF+ in fourth place with one seat.

*The ANC top in eight out of nine provinces, and the DA in one.*

- ANC down from peak of 51 seats in 2004 to 47 seats (64.04%).
- DA second with 16 seats, its best performance yet.
- Cope in third place with six seats.
- Four parties with one seat each: the ACDP, the ID, the IFP, and the FF+.

**Provincial turnouts 2009 \***

Eastern Cape: 73.8%  
Free State: 74.4%  
Gauteng: 74.8%  
KwaZulu-Natal: 77.8%  
Limpopo: 66.1%  
Mpumalanga: 76.5%  
North West: 68.7%  
Northern Cape: 72.9%  
Western Cape: 74.7%

\* Number of valid votes as proportion of registered provincial voting population.

- ANC up from 26 seats in 1994 to 51 seats (62.95%).
- IFP in second place with 18 seats, its worst performance, down from 41 seats in 1994.
- DA in third place with seven seats, the same as in 1999 and 2004.
- Cope in joint fifth place with the ACDP, each winning one seat, with the MF winning two.

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## Changes in party representation in the provincial legislatures, 1994-2009 (continued)

<b>LIMPOPO</b>					
<i>Party</i>	<i>1994</i>	<i>1999</i>	<i>2004</i>	<i>2009</i>	
ACDP	n/a	1	1	n/a	• ANC down from peak of 45 seats in 2004 to 43 seats (84.88%).
ANC	38	44	45	43	• Cope in second place with four seats.
Cope	n/a	n/a	n/a	4	• DA in third place with two seats, the same number as in 2004.
DA/DP	n/a	1	2	2	
FF+	1	n/a	n/a	n/a	
NNP	1	1	n/a	n/a	
PAC	n/a	1	n/a	n/a	
UDM	n/a	1	1	n/a	
<b>Total</b>	<b>40</b>	<b>49</b>	<b>49</b>	<b>49</b>	
<b>MPUMALANGA</b>					
<i>Party</i>	<i>1994</i>	<i>1999</i>	<i>2004</i>	<i>2009</i>	
ANC	25	26	27	27	• ANC with 27 seats, the same as in 2004 (85.55%).
Cope	n/a	n/a	n/a	1	• DA in second place with two seats, the same as in 2004.
DA/DP	n/a	1	2	2	• Cope in third place with one seat.
FF+	2	1	1	n/a	
NNP	3	1	n/a	n/a	
UDM	n/a	1	n/a	n/a	
<b>Total</b>	<b>30</b>	<b>30</b>	<b>30</b>	<b>30</b>	
<b>NORTH WEST</b>					
<i>Party</i>	<i>1994</i>	<i>1999</i>	<i>2004</i>	<i>2009</i>	
ANC	26	27	27	25	• ANC down from peak of 27 seats in 1999 and 2004, to 25 seats (72.89%).
Cope	n/a	n/a	n/a	3	• Cope and DA in joint second place with three seats each, the DA's best performance in the province yet.
DA/DP	n/a	1	2	3	• UCDP displaced from second place with two seats, having won three seats in 1999 and 2004.
FF+	1	1	1	n/a	
NNP	3	1	n/a	n/a	
UCDP	n/a	3	3	2	
<b>Total</b>	<b>30</b>	<b>33</b>	<b>33</b>	<b>33</b>	
<b>NORTHERN CAPE</b>					
<i>Party</i>	<i>1994</i>	<i>1999</i>	<i>2004</i>	<i>2009</i>	
ACDP	n/a	n/a	1	n/a	• ANC down from peak of 21 seats in 2004 to 19 seats (60.75%).
ANC	15	20	21	19	• Cope second with five.
Cope	n/a	n/a	n/a	5	• DA in third place with four seats, its best performance yet.
DA/DP	1	1	3	4	• The ID fourth with two.
FF+	2	1	1	n/a	
ID	n/a	n/a	2	2	
NNP	12	8	2	n/a	
<b>Total</b>	<b>30</b>	<b>30</b>	<b>30</b>	<b>30</b>	
<b>WESTERN CAPE</b>					
<i>Party</i>	<i>1994</i>	<i>1999</i>	<i>2004</i>	<i>2009</i>	
ACDP	1	1	2	1	• DA top with 22 seats, its best showing in the province (51.46%).
ANC	14	18	19	14	• ANC down from its peak of 19 seats in 2004, to 14 seats (31.55%).
Cope	n/a	n/a	n/a	3	• Cope in third place with three seats.
DA/DP	3	5	12	22	• ID two seats and the ACDP one.
FF+	1	n/a	n/a	n/a	• First time a political party has won the province outright since the National Party won 23 seats in 1994.
ID	n/a	n/a	3	2	
NNP	23	17	5	n/a	
UDM	n/a	1	1	n/a	
<b>Total</b>	<b>42</b>	<b>42</b>	<b>42</b>	<b>42</b>	

The DA was formed in 2000, when the Democratic Party, the New National Party, and the Federal Alliance united. The NNP left the alliance in 2001, and fought the 2004 election alone, but was subsequently swallowed by the ANC.

Cope second biggest party in four provinces (Eastern Cape, Free State, Limpopo, and Northern Cape), and joint second with the DA in North West.

DA ruling party in one province, second biggest party in two (Gauteng and Mpumalanga), and joint second biggest with Cope in North West.

IFP second biggest party in KwaZulu-Natal. The only other province where it has seats is Gauteng (one seat).

Source: Independent Electoral Commission (IEC) and 2007/2008 South Africa Survey  
a African Independent Congress.

# Fast stats

## PROPERTY PAGE

<i>House Price Index (nominal) Mar</i>	down 0.4%	compared to Mar 2008	Absa
<i>House Price Index (real) Feb</i>	down 8.2%	compared to Feb 2008	Absa
<i>Mortgage advances Mar</i>	up 11.3%	compared to Mar 2008	SARB
<b>House price trends (nominal) (average) 4Q 2008</b>			
<i>Affordable houses (40–79m<sup>2</sup> priced at under R400 000)</i>	up 6.0%	compared to 4Q 2007	Absa
<i>Small houses (80–140m<sup>2</sup>/R675 724) (average price)</i>	up 0.3%		Absa
<i>Medium houses (141–220m<sup>2</sup>/R958 568)</i>	up 1.4%		Absa
<i>Large houses (221–400m<sup>2</sup>/R1 384 663)</i>	up 0.4%		Absa
<i>All houses (80–400m<sup>2</sup>/R969 497)</i>	up 1.0%		Absa
<i>Luxury housing (costing more than R2.9m)</i>	up 7.0%		Absa
<i>Greater Johannesburg (80–400m<sup>2</sup>/R1 027 583)</i>	down 1.8%		Absa
<i>Cape Town metro (80–400m<sup>2</sup>/R1 077 944)</i>	down 2.6%		Absa
<i>Durban metro (80–400m<sup>2</sup>/R1 026 711)</i>	up 2.9%		Absa
<i>PE/Uitenhage metro (80–400m<sup>2</sup>/R905 139)</i>	up 1.4%		Absa
<i>Cost of building a new house (average)</i>	up 8.7%		Absa
<b>CBD office vacancy rate 1Q 2009</b>			
<i>Johannesburg</i>	8.3%	nine months before: 9.9%	SAPOA <sup>a</sup>
<i>Sandton</i>	6.6%	4.6%	SAPOA
<i>Cape Town</i>	5.4%	5.0%	SAPOA
<i>Durban</i>	14.7%	15.1%	SAPOA
<i>Pretoria</i>	3.7%	2.5%	SAPOA
<b>CBD office rental rate (A-grade) R/m<sup>2</sup> 1Q 2009</b>			
<i>Johannesburg</i>	up 24.0%	compared to 1Q 2008	R&A <sup>b</sup>
<i>Sandton</i>	down 1.0%		R&A
<i>Cape Town</i>	down 14.0%		R&A
<i>Durban</i>	up 20.0%		R&A
<i>Pretoria</i>	up 4.4%		R&A
<b>Industrial rental rates R/m<sup>2</sup> for 1 000m<sup>2</sup> 1Q 2009</b>			
<i>Central Wits</i>	up 8.6%	compared to 1Q 2008	R&A
<i>Durban</i>	up 7.1%		R&A
<i>Cape Peninsula</i>	up 7.5%		R&A
<i>Port Elizabeth</i>	up 6.4%		R&A
<b>Shopping centre rental index 2008</b>			
<i>Regional</i>	up 8.0%	compared to 2007	R&A

a South African Property Owners' Association

b Rode and Associates

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# Fast stats

## BUSINESS INDICATORS

<i>Use of manufacturing production capacity 2008</i>	84.5%	2007: 86.2%	Stats SA
<i>Manufacturing production (volume) (this year to Feb)</i>	down 14.1%	on same period last year	Stats SA
<i>Total vehicles sold (this year to Apr): 128 164</i>	down 36.4%	on same period last year	NAAMSA
<i>Vehicles exported (this year to Apr): 54 971</i>	down 29.2%	on same period last year	NAAMSA
<i>Tractors sold (this year to Mar): 1 757</i>	down 5.5%	on same period last year	SAAMA
<i>Electricity consumed (this year to Feb)</i>	down 8.6%	on same period last year	Stats SA
<i>Total building plans passed (value) (this year to Feb)</i>	down 48.9%	on same period last year	Stats SA
<i>Total buildings completed (value) (this year to Feb)</i>	up 10.2%	on same period last year	Stats SA
<i>All building costs (average) 1Q 2009</i>	down 0.7%	on same period last year	BER
<i>Mining production (volume) (this year to Feb)</i>	down 11.9%	on same period last year	Stats SA
<i>Cement sales (tonnes) (this year to Mar)</i>	down 6.9%	on same period last year	CCI
<i>Retail sales (value) (this year to Feb)</i>	down 1.7%	on same period last year	Stats SA
<i>Current adspend (this year to Feb): R3.1bn</i>	down 2.4%	on same period last year	A C Nielsen
<i>Number of liquidations (this year to Mar): 1 008</i>	up 46.7%	on same period last year	Stats SA
<i>Judgements for debt (this year to Feb): 106 034</i>	down 5.1%	on same period last year	Stats SA
<i>Tourism accommodation occupancy rate (Feb)</i>	51.6%	Feb 2008: 56.4%	Stats SA
<i>Arrival foreign travellers 2008: 9 728 860</i>	up 5.7%	compared to 2007	Stats SA

## SOCIO-ECONOMIC AND LABOUR INDICATORS

<i>Total population (mid 2008 estimates) (average)</i>	48.69m	2007: 47.85m	Stats SA
<i>GDP per head 2008</i>	R46 507	current prices	SARB
<i>Real growth in GDP per head 2008</i>	1.9%	2007: 3.8%	SARB
<i>Household saving to disposable income 2008</i>	-0.4%	2007: -0.6%	SARB
<i>Household debt to disposable income 2008</i>	76.7%	2007: 76.9%	SARB
<i>Average wage settlements (this year to Mar)<sup>a</sup></i>	10.2%	Jan-Mar 2008: 7.8%	Andrew Levy
<i>Number of strike mandays lost (this year to Mar)</i>	52 612	Jan-Mar 2008: 20 100	Andrew Levy
<i>Unemployment rate 1Q 2009 (strict definition)<sup>b</sup></i>	23.5%	1Q 2008: 23.5%	Number: 4.2 million
<i>Unemployment rate 1Q 2009 (wide definition)<sup>b</sup></i>	28.4%	1Q 2008: 28.3%	Number: 5.4 million
<i>Increase in total employment<sup>b</sup></i>	13 000	1Q 2008–1Q 2009	Stats SA/QLFS
<i>Employees in enterprises registered for income tax<sup>c</sup></i>	up 1.2%	Dec 2007–Dec 2008	Stats SA/QES
<i>Number of such employees<sup>c</sup></i>	up 103 000	to 8 513 000	Stats SA/QES
<i>Nominal wages per worker 3Q 2008<sup>c</sup></i>	up 13.5%	compared to 3Q 2007	SARB
<i>Real wages per worker 3Q 2008<sup>c</sup></i>	down 0.2%	compared to 3Q 2007	SARB
<i>Labour productivity 3Q 2008<sup>c</sup></i>	up 0.8%	compared to 3Q 2007	SARB
<i>Nominal unit labour costs 3Q 2008<sup>c</sup></i>	up 12.5%	compared to 3Q 2007	SARB
<i>Average monthly earnings Nov 2008<sup>c</sup></i>	R9 509	Nov 2007: R8 752	Stats SA/QES
<i>Houses built smaller than 81m<sup>2</sup> (this year to Feb)</i>	up 24.4%	on same period last year	Stats SA
<i>Houses built/being built (government subsidy)<sup>d</sup></i>	2 568 062	Apr 1994–Mar 2008	up 10.7% from Apr 2007
<i>Government housing delivery (Apr 2007–Mar 2008)<sup>d</sup></i>	248 850	down 8.2%	on same period previous year

a Excluding farms and homes b Stats SA. All sectors. *Quarterly Labour Force Survey* c Non Agricultural formal sector. *Quarterly Employment Statistics* d Housing Dept.

# Fast stats

## INVESTMENT INDEX

<i>Real gross fixed capital formation (GFCF) 2008</i>	R284.80bn	up 10.2% compared to 2007	
<i>GFCF ÷ GDP 2008 (annualised, adjusted)</i>	23.2%	2007: 21.1%	(Target: 25%)
<i>Gross domestic saving ÷ GDP 2008</i>	15.4%	2007: 14.6%	
<i>Real GFCF by public authorities</i>	up 9.7%	2008 vs 2007	
<i>by public corporations</i>	up 30.5%		
<i>by private business</i>	up 6.5%		
<i>Real GFCF in mining and quarrying</i>	up 3.8%		
<i>in manufacturing</i>	up 9.9%		
<i>in electricity, gas and water</i>	up 42.6%		
<i>in transport and communication</i>	up 17.4%		
<i>in finance etc</i>	down 3.2%		
<i>in community, social and personal services</i>	up 7.9%		
<i>Real GFCF in residential buildings</i>	down 5.7%		
<i>in non-residential buildings</i>	up 12.4%		
<i>in construction works</i>	up 24.2%		
<i>in transport equipment</i>	down 1.6%		
<i>in machinery and equipment</i>	up 13.3%		
<i>Foreign investment into SA 2008</i>			
<i>direct (FDI)</i>	R74.34bn	2007: R40.12bn	
<i>portfolio</i>	-R68.19bn	R97.49bn	
<i>other</i>	R53.89bn	R58.71bn	
<i>SA investment abroad 2008</i>			
<i>direct</i>	R29.16bn	-R20.90bn	
<i>portfolio</i>	-R63.33bn	-R24.03bn	
<i>other</i>	R77.83bn	R2.12bn	
<i>Balance on financial account 2008</i>	R103.70bn	R153.51bn	

## CONFIDENCE COUNT

<i>RMB/BER business confidence index 1Q 2009</i>	down 6 points	to 27 since 4Q 2008	(scale 0–100)
<i>BER/DTI manufacturing confidence index 1Q 2009</i>	down 15 points	to 16 since 4Q 2008	(scale 0–100)
<i>BER building contractors confidence index 1Q 2009</i>	down 9 points	to 33 since 4Q 2008	(scale 0–100)
<i>FNB/BER consumer confidence index 1Q 2008</i>	up 5 points	to 1 since 4Q 2008	(scale minus 100–100)
— <i>black consumer confidence index 1Q 2008</i>	up 9 points	to 9 since 4Q 2008	(scale minus 100–100)
— <i>white consumer confidence index 1Q 2008</i>	down 6 points	to -15 since 4Q 2008	(scale minus 100–100)
— <i>high-income household confidence index 1Q 2008</i>	up 6 points	to 3 since 4Q 2008	(scale minus 100–100)
— <i>low-income household confidence index 1Q 2008</i>	up 8 points	to -1 since 4Q 2008	(scale minus 100–100)
<i>Investec purchasing managers index (PMI) (Apr)</i>	down 0.4 points	to 35.6 since Mar 2008	(2000 = 100) BER
<i>Sacci business confidence index (Mar)</i>	down 5.6 points	to 78.9 since Feb 2008	(2005 = 100) Sacci
<i>Vehicle sales confidence indicator 1Q 2009</i>	down 0.3 points	to 4.4 since 3Q 2008	(scale 1–10) WesBank
<i>Agricultural business confidence index 1Q 2009</i>	down 34.01 points	to 78.06 from 1Q 2008	(2001=100) ABC/IDC

# Fast stats

## ECONOMIC BAROMETER

<b>GDP 2008 (basic prices)</b>		R2 053.49bn	
<b>GDP growth at market prices 2008</b>		3.1%	2007: 5.1%
<i>Agriculture (3.3% of GDP)</i>	18.8%	<i>Trade etc (12.7%)</i>	0.5%
<i>Mining (9.5%)</i>	-6.5%	<i>Transport and communication (8.1%)</i>	4.0%
<i>Manufacturing (18.8%)</i>	1.2%	<i>Finance etc (21.7%)</i>	5.0%
<i>Electricity and water (2.3%)</i>	-1.2%	<i>Community services (5.7%)</i>	4.1%
<i>Construction (3.1%)</i>	13.9%	<i>Government (14.8%)</i>	3.9%
<i>Non-farm growth</i>	2.8%	2007: 5.2%	
<i>Exports (this year to Mar)</i>	R131.80bn	down 3.8% on same period in 2008	
<i>Imports (this year to Mar)</i>	R150.84bn	down 4.9% on same period in 2008	
<i>Trade balance (this year to Mar)</i>	-R19.04bn	Jan-Mar 2008: -R21.62bn	
<i>Gold and forex reserves (Mar)</i>	R323.55bn	Mar 2008: R278.29bn	
<i>Reserves/imports (Mar)</i>	6.2 to 1	Mar 2008: 5.0 to 1	
<i>Current account deficit 2008</i>	R169.15bn	2007: R147.08bn	
<i>— as proportion of GDP</i>	7.4%	2007: 7.3%	
<i>Capital account surplus 2008</i>	R195.22bn	2007: R193.89bn	
<i>Gold price per ounce (average)(Apr)</i>	\$891.27	Apr 2008: \$909.36	
<i>Crude oil price (dated Brent/barrel) 4/5/09</i>	\$52.14	year ago: \$110.61	(Decrease: 52.9%)
<i>Petrol (premium pump price per litre Gauteng) 4/5/09</i>	R 7.35	year ago: R9.46	(Decrease: 22.3%)
<i>Prime overdraft rate (average) 5/5/09</i>	12.0%	year ago: 15.0%	
<i>Real prime overdraft rate (average) (Mar)</i>	4.13%	(based on headline inflation)	
<i>Repo rate (average) 5/5/09</i>	8.5%	year ago: 11.5%	
<i>€/R 0.0892</i>	<i>£/R 0.0797</i>	<i>\$/R 0.1183</i>	<i>¥/R 11.67</i>
<i>€/R 11.216</i>	<i>R/£ 12.547</i>	<i>R/\$ 8.450</i>	<i>R/¥ 0.0857</i>
<i>€/\$ 0.7534</i>	<i>¥/\$ 98.60</i>	at 4/5/09	
<i>\$/€ 1.3273</i>	<i>\$/¥ 0.0101</i>	at 4/5/09	
<i>Appreciation of rand against euro last 12 months</i>	5.41%	(Lowest: R/€ 14.65	Highest: R/€ 1.80)
<i>Depreciation of rand against dollar last 12 months</i>	10.39%	(Lowest: R/\$ 13.00	Highest: R/\$ 0.67)
<i>Appreciation of rand against basket last 12 months</i>	1.65%		

## INFLATION INDEX

<i>Headline inflation rate (Mar 2009 vs Mar2008)</i>	8.5%	Feb 2009 vs Feb 2008	8.6%
<i>— Housing and utilities (22.56%)*</i>	8.1%		9.1%
<i>— Transport (18.80%)*</i>	0.9%		1.5%
<i>— Food and non-alcoholic beverages (15.68%)*</i>	14.7%		15.8%
<i>— Insurance and other services (13.56%)*</i>	11.9%		11.7%
<i>— Household contents and services (5.86%)*</i>	7.3%		7.0%
<i>— Alcohol and tobacco (5.58%)*</i>	10.7%		10.1%
<i>— Recreation and culture (4.19%)*</i>	15.0%		9.7%
<i>— Clothing and footwear (4.11%)*</i>	4.9%		4.6%
<i>— Communication (3.22%)*</i>	0.7%		0.7%
<i>— Restaurants and hotels (2.78%)*</i>	13.5%		13.4%
<i>— Education (2.19%)*</i>	10.5%		7.0%
<i>— Health (1.47%)*</i>	11.5%		9.2%
<i>Rise in administered (non-market) prices</i>	2.8%		2.8%
<i>Producer price rise (PPI)</i>	5.3%	2008	11.8%
<i>Imported producer inflation</i>	-10.1%		15.9%

\* Weight

# Fast stats

## LATEST FORECASTS

<b>GDP growth 2009</b>	0.0% Barnard Jacobs Mellet: revised downwards from 0.5%
	-0.1% Nedcor: revised downwards from 0.2%
	-0.8% BER: revised downwards from 1.3%
<b>Headline inflation rate (CPI) 2009 (average)</b>	6.9% Nedcor: revised upwards from 6.3%; Standard Bank
	6.8% Barnard Jacobs Mellet: revised upwards from 6.7%
	6.7% Absa: revised upwards from 6.3%
<b>Expected CPI (business) 2009 (average)</b>	9.2% BER: revised downwards from 9.4%
	<b>(trade unions)</b> 9.7% BER: revised upwards from 9.4%
<b>Producer price inflation 2009 (average)</b>	4.7% Absa: revised downwards from 5.9%
	3.5% BER: revised downwards from 5.4%
<b>Imported producer inflation 2009 (average)</b>	-9.7% Absa: revised downwards from 2.3%
<b>Gross fixed capital formation 2009</b>	up 3.4% Barnard Jacobs Mellet: revised downwards from 3.5%
	down 2.3% BER: revised downwards from 2%
<b>Final consumption expenditure by households 2009</b>	up 0.6% Barnard Jacobs Mellet: revised downwards from 0.9%
	down 0.6% Absa: revised downwards from 0.6%; Nedcor
<b>Government consumption expenditure 2009</b>	up 4.9% Absa: revised downwards from 5.1%
	up 4.0% Barnard Jacobs Mellet: no change; BER
<b>Gross domestic expenditure 2009</b>	up 1.1% Absa: revised downwards from 1.2%
	down 0.3% BER: revised downwards from 1.4%
<b>Exports 2009</b>	down 6.7% Nedcor: revised downwards from -0.4%
	down 9.1% BER: revised downwards from -2.7%
<b>Imports 2009</b>	up 0.1% Absa: revised downwards from 3.3%
	down 5.7% BER: revised downwards from -2.9%
<b>Current account deficit 2009</b>	R144.6bn Nedcor: revised downwards from R159.7bn
	R129.7bn Absa: revised upwards from R125.3bn
<b>— as proportion of GDP 2009</b>	6.1% Barnard Jacobs Mellet: no change
	5.4% Absa: revised upwards from 5.2%
<b>Capital account surplus 2009</b>	R180.0bn Nedcor: revised downwards from R190bn
<b>Prime overdraft rate 2009 (year end)</b>	11.0% Nedcor: revised upwards from 10.0%
	10.5% Absa; Barnard Jacobs Mellet; BER; Standard Bank
<b>R/€ exchange rate 2009 (average)</b>	13.37 Absa: revised from 13.39
	12.76 Barnard Jacobs Mellet: revised from 13.00
<b>R/\$ exchange rate 2009 (average)</b>	10.01 BER: revised from 10.04
	9.59 Nedcor: revised from 9.89
<b>Gold price per ounce 2009 (average)</b>	\$917 Nedcor: revised upwards from \$905
	\$874 BER: revised upwards from \$835
<b>Nominal wage rise 2009</b>	8.3% BER: revised upwards from 8.2%

**These forecasts contain the highest and lowest estimates available to us.**

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