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South Africa's municipal elections result in opposition Democratic Alliance (DA)-led minority and coalition governments in the three large metropolitan areas of Johannesburg, Tshwane and Nelson Mandela Bay. The ruling African National Congress (ANC) manages to retain 54% of the overall vote with the DA at 27% and the Economic Freedom Fighters (EFF) with 8%. President Jacob Zuma (2009-present) takes control of state-owned enterprises (SOEs) via a new presidential council, and allegedly orchestrates threats to have finance minister Pravin Gordhan arrested. Business leaders call for Zuma's resignation and the rand falls to a two-month low. A parliamentary committee selects little known advocate Busisiwe Mkhwebane as the candidate to replace Thuli Madonsela as public protector.

Municipal election results lead to local coalition politics

The results of **South Africa's** municipal elections on 3 August moved the country further towards political coalition government. The ruling **African National Congress (ANC)** lost significant numbers of votes to the opposition **Democratic Alliance (DA)** and **Economic Freedom Fighters (EFF)**. All three parties have formed part of coalitions to govern provinces, including the three large metropolitan areas of **Johannesburg, Tshwane (Pretoria) and Nelson Mandela Bay (Port Elizabeth)**.¹

The **Independent Electoral Commission (IEC)** announced the final results on 5 August.² Overall the ANC took 53.9%, the DA 26.9% and leftist newcomers EFF 8%.³ The ANC are down from 61% in 2011, which was their worst ever local election result.⁴ The 5% they lost mostly went to the DA who are up 3% from their 24% total in 2011 and the EFF who gained over a million local votes at their first municipal elections.⁵

"I think the ANC did better than people give them credit for – they kept a true national majority and only got shaken in the cities, where most opposition supporters are. The DA and the EFF underperformed. If they want to shake the ANC nationally they need to persuade more people."⁶

The parties tightly contested the three large metropolitan areas: Johannesburg and Tshwane in **Gauteng**, and Nelson Mandela Bay in the **Eastern Cape**. The DA had set out to win majorities and take these areas away from the ANC. However, they were unable to win outright majorities. They won 47.3% in Nelson Mandela Bay with the ANC at 41.2%.⁷ The DA also secured the most votes in Tshwane by a slim margin of 43.1% to the ANC's 41.22%.⁸ However, the ANC took the most votes in Johannesburg with 44.64% to the DA's 38.44%.⁹ This leaves the EFF as kingmaker in coalitions at the

¹ Business Day, 6 Aug 2016.

² IEC website, 5 Aug 2016.

³ IEC website, 5 Aug 2016.

⁴ IEC website, 5 Aug 2016.

⁵ IEC website, 5 Aug 2016.

⁶ Source, political commentator, Cape Town

⁷ ECNA, 6 Aug 2016.

⁸ Business Day, 6 Aug 2016.

⁹ ECNA, 6 Aug 2016.

local level – it holds 11% of the vote in Johannesburg, 10% in Tshwane, and 5% in Nelson Mandela Bay.¹⁰

“This is the shape of things to come. South Africa is now on a trajectory, whether the ANC like it or not, towards true multi-party democracy. But as there is more than one party to choose from it will drift slowly and a national coalition is likely in 2024, if not before.”¹¹

The ANC had the impetus to form a majority government in Johannesburg. However, the EFF, **United Democratic Movement (UDM)** and the **Congress of the People (COPE)**, which represent the three largest non-DA parties in the municipality, released a set of demands to enter into a coalition.¹² These include president **Jacob Zuma** (2009-present) stepping down from power, the end of a deal to fund nuclear power plants, the scrapping of a controversial toll system, and the guarantee of low power prices.¹³ The ANC has rejected the demands as unreasonable, and therefore is unable to form even a minority government in Johannesburg.¹⁴

“You would hope the ANC would wake up and get their act together when they realise that every other party in the country can agree on just one thing: none of us wants to work with the ANC.”¹⁵

In Nelson Mandela Bay the DA have formed a coalition with the **African Christian Democratic Party (ACDP)**, UDM, COPE and **Freedom Front Plus**.¹⁶ The DA will lead minority governments in Tshwane and Johannesburg after it failed to reach agreements on coalition government with the EFF by the 14 August deadline.¹⁷ The two parties failed to come to a coalition agreement due to ideological differences. The major sticking points were the EFF’s desire to expropriate land without compensation and to nationalise the mining industry.¹⁸ The DA believes that these are not within the purview of municipal government. DA federal chairman **James Selfe** told the media that despite the difference:

“We are committed to a longer-term conversation with them and we will have that conversation, but I think there are too many issues to get out of the way between now and the formation of the municipal government.”¹⁹

However, the EFF have committed to support the DA against the ANC, meaning that they will form the government in Johannesburg, Tshwane and Nelson Mandela Bay.²⁰ However they will work on an issue-by-issue basis, leaving them vulnerable to the EFF not supporting policy initiatives. In the 27 councils where no government won a clear majority just five coalitions have formed, making a number of minority governments likely.²¹

*“We have seen minority DA governments in the **Western Cape** go on to perform well enough to win majorities in the next elections. However, none of these were working with the EFF. That could be harder.”²²*

Economy shaky as Zuma seizes control of SOEs and threatens Gordhan with arrest

Finance minister **Pravin Gordhan** and president Zuma are struggling for control of South Africa’s economic policy. Zuma has taken control of all final decision making on state-owned enterprises

¹⁰ Business Day, 6 Aug 2016.

¹¹ Source, political commentator, Cape Town

¹² Mail and Guardian, 8 Aug 2016.

¹³ Business Day, 10 Aug 2016.

¹⁴ Business Day, 10 Aug 2016.

¹⁵ Source, editor of a major newspaper, Johannesburg

¹⁶ Business Day, 15 Aug 2016.

¹⁷ Business Day, 15 Aug 2016.

¹⁸ Business Day, 15 Aug 2016.

¹⁹ Business Day, 15 Aug 2016.

²⁰ Business Day, 15 Aug 2016.

²¹ Business Day, 17 Aug 2016.

²² Source, political commentator, Cape Town.

(SOEs) and is allegedly behind the attempt of anti-corruption investigators, the **Hawks**, to have the finance minister arrested. The markets have reacted badly, with the rand reversing its upwards trend against the dollar. The cabinet announced on 24 August that president Zuma will now directly oversee the strategy of SOEs via a special presidential coordinating committee.²³ SOEs have suffered from poor governance as a result of Zuma's personal and political appointments – none more so than **South African Airways (SAA)** where Zuma's alleged mistress **Dudu Myeni** has, as chair of the board, overseen seven different CEOs in five years.²⁴ Zuma and Gordhan have clashed over board appointments after Myeni removed a number of board members in January.²⁵ **Yakhe Kwinana**, SAA's chief auditor, on 26 August told the media the company was in danger of liquidation.²⁶

"Zuma taking control of the SOEs is an attempt to show that he will not be intimidated by the local election results. He will take whatever he wants and nobody can get in his way."²⁷

The new committee, which Zuma will chair, will have oversight of all strategic decisions including board appointments.²⁸ It removes the final decisions on these from the department of public enterprises, the purpose of which is to manage SOEs, and from public enterprises minister **Lynne Brown**.²⁹ SOEs are responsible for power through **Eskom**, transport infrastructure via **Transnet**, defence via **Denel**, and state broadcasting via the **South African Broadcasting Company (SABC)**. All of these SOEs have had major governance issues linked to Zuma and his close financial backers, the **Gupta** family, within the last year (see *ARC Briefing South Africa August 2015 to July 2016*). Minister in the presidency and key Zuma ally **Jeff Radebe** told the media the intention was to provide Zuma with:

"line of sight on strategic decisions and interventions to create state-owned companies that will play a transformative role in a capable developmental state".³⁰

Zuma and his allies are also allegedly behind further attacks on Gordhan. The anti-corruption arm of the **South African Police Service (SAPS)**, the Hawks, ordered Gordhan to present himself to supply them with "warning statement" on 22 August.³¹ The Hawks are pursuing Gordhan for setting up allegedly illegal units within the **South African Revenue Services (SARS)** to probe the tax affairs of elected officials.³² Gordhan released a statement on 24 August saying that he would not present himself to the Hawks as they requested, due to "both legal [reasons] and other commitments".³³ The demand that Gordhan present himself signifies that Gordhan is under investigation and under imminent threat of arrest.³⁴ However, Gordhan told the press that he received legal advice to the effect that the Hawks' allegations that he had breached the **National Strategic Intelligence Act** and the **Public Financial Management Act** were "wholly unfounded in any version of the facts".³⁵

"I had a look over the letter and it is clear to me that this is an exercise in public relations not in law, I have often told off prosecutors in my courtroom for the poor quality of their work. I have no doubt that I would throw this case out."³⁶

The Hawks' actions prompted widespread public condemnation of Zuma in the local media, from opposition parliamentarians and from non-governmental organisations such as the **Helen Suzman**

²³ Mail and Guardian, 24 Aug 2016.

²⁴ Mail and Guardian, 24 Aug 2016.

²⁵ Mail and Guardian, 24 Aug 2016.

²⁶ Business Day, 26 Aug 2016.

²⁷ Source, editor of a major newspaper, Johannesburg

²⁸ Mail and Guardian, 24 Aug 2016.

²⁹ Mail and Guardian, 24 Aug 2016.

³⁰ Radebe in Business Day, 22 Aug 2016.

³¹ Mail and Guardian, 23 Aug 2016.

³² Mail and Guardian, 23 Aug 2016.

³³ Business Day, 24 Aug 2016.

³⁴ Business Day, 24 Aug 2016.

³⁵ Gordhan in Business Day, 24 Aug 2016.

³⁶ Source, senior judge, Johannesburg

Foundation, for orchestrating the accusations.³⁷ Zuma's office released a statement saying the president had full confidence in Gordhan, but could not intervene with a legal investigation.³⁸

The markets have responded poorly to the president's moves. The markets view Gordhan as a safe pair of hands, and analysts fear that any move by Zuma to remove him will result in a further devaluation.³⁹ The rand fell 0.8% against the dollar to 14.17/\$ from 13.39/\$ within hours of the announcement.⁴⁰ The rand has remained weak while Gordhan's status remains unknown, dropping further after the cabinet announced that Zuma would be taking over SOEs. It was trading at 14.12/\$ at time of writing.⁴¹ The current events have reversed a month-long strengthening of the rand to the dollar from late July.

Senior figures in the business community have also come out to attack Zuma. **Sipho Pityana**, managing director of **Laetoli Investments** and former director general of the department of foreign affairs, called on Zuma to resign on 25 August.⁴² Business association **Business Leadership SA (BLSA)** president **Saki Macozoma** wrote an open letter to the president to stop the investigation describing the Hawks' allegations as "*lacking any credibility or legitimacy*".⁴³ The **Banking Association of SA** managing director **Cas Coovadia** said that the attacks represented a "*clear and present danger*".⁴⁴

Political figures have added their voices to the chorus of support for Gordhan. **Solly Mapaila**, the deputy secretary general of the ANC's governing partner the **South African Communist Party (SACP)**, called on Gordhan to resist the pressure to resign.⁴⁵ The consensus among business sources is that Gordhan's removal will provoke another run on the economy:

*"I have no doubt that if Zuma replaces Gordhan with another one of his cronies then people will move a lot of capital out of the country very quickly, and funds will be offloading the rand as fast as they can."*⁴⁶

*"The impact will not just hit the rand but the [Johannesburg Stock Exchange] JSE, Zuma has the potential to drag us back down to the very bottom again and I am now convinced he does not care."*⁴⁷

Committee chooses little known advocate as candidate for new Public Protector

The *ad hoc* parliamentary committee of appointment nominated little known senior security analyst **Busisiwe Mkhwebane** as their nominee to replace **Thuli Madonsela** as Public Protector on 24 August.⁴⁸ The Public Protector has a mandate to investigate corruption in the public sector, including in elected officials. The decision carries considerable weight, as Madonsela has uncompromisingly held political figures to account, unlike many of her predecessors.⁴⁹ Some DA opposition figures on the committee voted against Mkhwebane as they reportedly received information that she was Jacob Zuma's preferred candidate from the shortlist.⁵⁰ However, she achieved support from the ANC and the

³⁷ Daily Maverick, 25 Aug 2016.

³⁸ Business Day, 25 Aug 2016.

³⁹ Business Day, 24 Aug 2016.

⁴⁰ XE.com

⁴¹ XE.com

⁴² Business Day, 25 Aug 2016.

⁴³ Business Day, 24 Aug 2016.

⁴⁴ Business Day, 24 Aug 2016.

⁴⁵ Business Day, 25 Aug 2016.

⁴⁶ Source, investment manager, Johannesburg

⁴⁷ Source, MD of a listed company, Cape Town

⁴⁸ Business Day, 24 Aug 2016.

⁴⁹ Business Day, 24 Aug 2016.

⁵⁰ Business Day, 24 Aug 2016.

opposition EFF to win the nomination.⁵¹ The committee will now submit her name to the **National Assembly** for approval, where it needs to pass with a 66% majority.⁵²

Mkhwebane is an advocate from **Cape Town** who has currently been serving as a senior analyst within the **State Security Agency (SSA)**.⁵³ She previously worked as a senior investigator in the **Office of the Public Protector** under Madonsela, and as a director in the **Department of Home Affairs**.⁵⁴ The ANC and EFF argued that her experience in the office would be invaluable. However, the DA expressed concern that the SSA is a highly politicised office under Zuma, and that she may be politically compromised.⁵⁵ Legal sources in South Africa had little knowledge of Mkhwebane but agreed that if she is exposed, the office of Public Protector is compromised:

*"I don't know Mkhwebane, she could be very competent and Madonsela was not as well known as she is now when she came to the position...but if she is exposed to Zuma then the office has no teeth."*⁵⁶

*"Zuma has got a number of appointments wrong in the past – Madonsela [chief justice] Mogeong Mogeong – he thought they would do what he wanted and they didn't. Let's hope that Mkhwebane is as resilient to pressure."*⁵⁷

Mkhwebane ran alongside judges **Sharise Weiner** and **Siraj Desai**, state pension fund administrator **Muvhango Lukhaimane** and law professor **Bongani Majola**.⁵⁸ Siraj Desai enjoyed the most ANC support, but none from other parties. Weiner enjoyed DA support but opposition from the ANC and EFF.⁵⁹ Lukhaimane was in close contest with Mkhwebane but the ANC decided to back Mkhwebane due to her previous experience under Madonsela.⁶⁰

*"It could be that the ANC were very clever and used Desai to draw support from the EFF to get Mkhwebane into the job. Only time will tell."*⁶¹

Implications

The municipal elections show that the ANC's electoral machine is still effective. The DA aimed for majority wins in Johannesburg, Tshwane and Nelson Mandela Bay and failed in all three. The DA is now left in the precarious position of running two minority governments in Johannesburg and Tshwane with no true promise of support from the EFF. Apart from a mutual hatred of the ANC, the two parties differ widely on a number of policy points. However, they show a trend in voting towards the opposition in urban areas, which is likely to increase between now and the next general election in 2019. The ANC is fast becoming a rural party and will struggle to regain control of South Africa's economic centres. This puts South Africa on a trend towards coalition government at the national level by 2024. Observers should look carefully at how the minority governments work out at the municipal level to glean something of what lies ahead.

It is perhaps the realisation that the ANC does not need the cities to govern which has emboldened Zuma to take on Gordhan so directly just weeks after a poor electoral performance. Business leaders can criticise him all they want, but if rural populations still vote ANC, then Zuma is in no danger. South Africa's economy is in danger as the markets will continue to respond badly to attacks on the treasury. Gordhan stepping down or Zuma firing him would exacerbate this. This would further sap resources,

⁵¹ Business Day, 24 Aug 2016.

⁵² Business Day, 24 Aug 2016.

⁵³ Business Day, 24 Aug 2016.

⁵⁴ Eyewitness News, 24 Aug 2016.

⁵⁵ Business Day, 24 Aug 2016.

⁵⁶ Source, senior lawyer, Johannesburg.

⁵⁷ Source, senior judge, Johannesburg.

⁵⁸ Eyewitness News, 24 Aug 2016.

⁵⁹ Eyewitness News, 24 Aug 2016.

⁶⁰ Eyewitness News, 24 Aug 2016.

⁶¹ Source, senior judge, Johannesburg.

increase the cost of borrowing and ultimately extend the depression that is halting the prospect of a major economic turnaround. The question many are asking in South Africa, however, is why Gordhan's allies within the ANC have not defended him. Deputy president **Cyril Ramaphosa**, who had responsibility for SOE turnaround, is completely silent. Zuma has deftly sidelined ANC chair **Gwede Mantashe** and none of the progressive voices on the **National Executive Committee (NEC)**, such as **Jessie Duarte**, have spoken out. One possible theory is that they are hoping Zuma is overreaching and that taking on the poisoned chalice of SOEs is a way to oust him. However, the events of the past week show that he is still a political force to be reckoned with.

Mkhwebane has the credentials to be a highly effective public protector including – crucially – time spent in the office. However, in the current climate there is only one credential that actually matters: the extent of Mkhwebane's exposure to Zuma. If she is outside of his reach, and is fearless in taking on the corruption that has flourished during his tenure, then she can carry on Madonsela's legacy. However, the president will exploit any exposure – no matter how small – to avoid another humiliating turnaround at the hands of the Public Protector.

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