

SA Reconciliation Barometer

SPECIAL BRIEFING PAPER • DECEMBER 2016



**20 YEARS OF THE
SA CONSTITUTION
PEOPLE, INSTITUTIONS
AND RIGHTS**

'Sometimes Hope gets quite tired.'
**20 YEARS OF THE SA CONSTITUTION
PEOPLE, INSTITUTIONS AND RIGHTS**

South African Reconciliation Barometer, Special Briefing Paper
December 2016

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About the IJR

The Institute for Justice and Reconciliation (IJR) was launched in 2000, in the aftermath of South Africa's Truth and Reconciliation Commission. The aim was to ensure that lessons learnt from South Africa's transition from apartheid to democracy were taken into account as the nation moved ahead. Today, the Institute's vision is to build fair, democratic and inclusive societies in Africa through carefully selected engagements and interventions. The IJR's mission is to shape national approaches to transitional justice and reconciliation in African countries by drawing on community intelligence as well as on macro-trend research and comparative analysis.

About the 2015 South African Reconciliation Barometer Survey

The South African Reconciliation Barometer (SARB) is a public opinion survey conducted by the IJR. Since its launch in 2003, the SARB has provided a nationally representative measure of citizens' attitudes to national reconciliation, social cohesion, transformation, and democratic governance. The SARB is the only survey dedicated to critical measurement of reconciliation and the broader processes of social cohesion and is the largest longitudinal-data source of its kind globally. The SARB survey was conducted annually between 2003 and 2013 through face-to-face interviews and by using a structured questionnaire. In 2013 and 2014, the SARB survey instrument underwent extensive review in order to improve the survey questionnaire in both its conceptualisation and measurement. This process was concluded in 2015 and the new survey was fielded during August and September 2015 by the international market research company, TNS. The survey employed a multistage cluster design whereby enumerator areas (EAs) were randomly selected, and, within each of these, households were randomly selected with a view to visiting such households. At each household, a systematic grid system was employed in order to select the specific respondent for an interview. The final sample of 2 219 respondents was then weighted so as to adequately represent the adult population of South Africa.

About the 2016 SARB Mobile Survey

In addition to the 2015 South African Barometer Survey, IJR launched a mobile survey at the beginning of November 2016 comprising 13 close-ended questions and one open-ended question. The sample consists of 911 respondents, and is representative of the South African adult population in metro and non-metro areas, and of race groups. The data were weighted for gender and provinces. Respondents had the option to respond in English, Afrikaans, isiXhosa, seSotho or isiZulu. Mobile surveys are slightly skewed in favour of respondents from Living Standard Measure (LSM) groups 4 to 10. 79 percent of the South African population fall within LSM groups 4–10.¹ Additionally, the mobile survey, which is self-completed, is biased in favour of respondents who are literate.

About the front cover and title

The front cover is a photograph taken of an art piece by Monique Pelser. Pelser is passionate about getting art ‘out of the gallery and into public spaces’. She walked the Sea Point promenade to find inspiration for her piece, and then used chalk in setting up pictures of clouds and poems along the concrete seawall of the promenade. The intention was that the piece would be ‘open to interpretation’, as well as to elicit responses. Pelser applied for a public art permit prior to setting-up her work, which was approved. Unfortunately, officers of the city mistook her artwork for graffiti, and it was removed within a day. Officers did not check the particulars of the artist’s piece before removing it (as they usually do). The city subsequently apologised to the artist.² One of her writings read: ‘Hope is 22 years old. Sometimes hope gets quite tired.’ This story and phrase captures many of the sentiments presented as part of this Special Briefing Paper.

1 RSA Department: *Government Communications and Information System*. 2016. ‘Government Segmentation Model: Beyond LSM’. Prepared by GCIS Directorate: Research & Knowledge Management, March 2016.

2 Etheridge, J. 2016. ‘Officials mistake artist’s Sea Point installation for “graffiti”’. *News24*, 18 November 2016. Online: <http://www.news24.com/SouthAfrica/News/officials-mistake-artists-sea-point-installation-for-graffiti-20161118>

Summary

The Constitution, as a living document, remains relevant and important to South Africans. However, levels of distrust among South Africans in the institutions that should defend the Constitution are variable, and in some instances quite concerning. Although South Africans agree on what is threatening their Constitutional rights, and what the country needs in order to move forward, citizens are polarised regarding how to go about ensuring that leaders are held accountable, with violent protest action seen as a viable option for a notable proportion of people.

Key findings

- 7 out of 10 respondents (69.7%) feel that the Constitution is important, and more than half believe that the Constitution is very important, for our country and nation.
- Of the institutions that are mandated and may be relied upon to defend the Constitution, respondents have the greatest trust in the Public Protector (62.9%), followed by the Constitutional Court (57.2%), and Parliament (44.8%). Only 29% of South Africans trust the President to defend the Constitution.
- 6 out of 10 (63.1%) respondents identified corruption as the biggest threat from political leaders to their Constitutional rights.
- 4 out of 10 (42%) of respondents identified service delivery as most important for the country's future, and 3 out of 10 respondents (31.5%) identified service delivery as most important for their own future.

Background

Against the backdrop of the current political environment, and the 20th anniversary of the adoption of the new Constitution of South Africa, the SARB Project identified this period as an opportune time to gauge the South African public's opinion of the Constitution, the institutions charged with the mandate to uphold, protect and defend it, and some of the rights detailed in the document.

2015–2016: A series of significant political events

Over the past year, several events have had significant implications for the way in which South Africans view democratic public institutions and the foundational document that underpins the existence of these institutions, the Constitution. In a perplexing series of events in December 2015, then Minister of Finance Nhlanhla Nene was relieved of his

duties and replaced by David van Rooyen, who held office for a full four days before being moved to Cooperative Governance and Traditional Affairs (Cogta) and replaced by former Finance Minister Pravin Gordhan.³ Claims were then made by Deputy Finance Minister Mcebisi Jonas that the Gupta family – a naturalised Indian family who have endeared themselves to President Zuma, and who are allegedly trying to advance their business interests through ‘capturing the South African state’⁴ – offered him the position of finance minister prior to Nene’s discharge.⁵ The Gupta family denied these allegations. This was, however, not the first accusation to fuel the perception that the family wields enormous political influence in South Africa. Vytjie Mentor – a former ANC MP – alleged that she had been offered the Public Enterprise Minister position by the Guptas in 2010 – a claim the Guptas also denied.⁶ This alleged level of influence held by a private family over the affairs of a sovereign state raises various concerns about President Zuma, the ANC, and South Africa’s state institution – and, ultimately, about our constitutional democracy.

During October 2016, South Africa’s National Prosecuting Authority (NPA) laid criminal charges against Minister Gordhan for alleged irregularities committed during his tenure as SA Revenue Services Commissioner. The charges related to then Commissioner Gordhan’s approval of the early retirement of former senior SARS staffer Ivan Pillay, and Pillay’s rehiring as Deputy Commissioner on a fixed-term contract.⁷ Civil society met these charges with civic and legal objection in a show of support for the Finance Minister. Some senior ANC members – including government ministers – also pledged their support for the Finance Minister, suggesting that the charges were lacking in substance and part of a bigger internal battle within the ANC, between President Zuma and those who argue that he is abusing his office for personal gain. Several legal experts concurred on the weak merits of the case, echoing others’ suggestions of a potentially politically-motivated prosecution.⁸ Unsurprisingly, the charges were later withdrawn, but not without first having dealt a serious blow to the integrity of the NPA (and arguably also to that of the Hawks).

In March 2016, the Constitutional Court found – in rulings on applications by two opposition political parties, the Economic Freedom Fighters (EFF) and the Democratic Alliance (DA) – that President Zuma and the National Legislature had failed to uphold the Constitution. This ruling pertains to the President’s treatment of the remedial action proposed by the Public Protector in her report ‘Secure in Comfort’ (also referred to as the ‘Nkandla report’), specifically the President’s failure to accord the report and its remedial action proposals their proper legal standing and to act accordingly (unless instructed otherwise on the basis of a legal review of the report).⁹

In mid-October 2016, just prior to ending her term in office, then Public Protector Thuli Madonsela released a much-anticipated report concerning allegations of state capture

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- 3 Jika, T. & Skiti, S. 2016. How Des van Rooyen’s Gupta cronies leaked classified Treasury documents. *Sunday Times*, 20 November 2016. Online: <http://www.timeslive.co.za/sundaytimes/stnews/2016/11/20/How-Des-van-Rooyens-Gupta-cronies-leaked-classified-Treasury-documents>
 - 4 BBC. 2016. ‘The Guptas and their links to South Africa’s Jacob Zuma.’ 2 November 2016. Online: <http://www.bbc.com/news/world-africa-22513410>
 - 5 Wa Africa, M. 2016. ‘Ajay Gupta ‘offered millions’ to Jonas to ‘work with us’;’ *Sunday Times*, 23 November 2016. Online: <http://www.timeslive.co.za/sundaytimes/stnews/2016/10/23/Ajay-Gupta-offered-millions-to-Jonas-to-work-with-us>
 - 6 BBC. 2016. ‘The Guptas and their links to South Africa’s Jacob Zuma.’ 2 November 2016. Online: <http://www.bbc.com/news/world-africa-22513410>
 - 7 Powell, C. 2016. ‘How the charges against Pravin Gordhan demonstrate a misuse of SA law’. *Mail & Guardian*, 19 October 2016. Online: <http://mg.co.za/article/2016-10-19-how-the-charges-against-pravin-gordhan-demonstrate-a-misuse-of-sa-law>
 - 8 *Eyewitness News*. 2016. ‘NPA Head Shaun Abrahams Withdraws Charges Against Pravin Gordhan’. Online: <http://ewn.co.za/2016/10/31/npa-head-shaun-abrahams-withdraws-charges-against-pravin-gordhan>
 - 9 *African News Agency*. 2016. ‘Constitutional Court confirms Zuma must pay back R7.8 million for Nkandla’. *Mail & Guardian*, 27 July 2016. Online: <http://mg.co.za/article/2016-07-27-constitutional-court-confirms-zuma-must-pay-back-r78-million-for-nkandla>

levelled at the Gupta family. Madonsela uncovered alleged corrupt activities that implicate, among others, President Zuma, Minister van Rooyen and businessman Ajay Gupta. The report contained strong suggestions of an undue influence enjoyed by the Gupta family over the business of government as far as the awarding of key government contracts is concerned. The report went so far as to suggest that the family had had a strong hand in the appointment of ministers in strategic portfolios that affect the family's business. The report recommends by way of remedial action that President Zuma appoint within 30 days a commission of inquiry headed by a judge selected by the Chief Justice.¹⁰

The legal and political contestations being waged in the country were also reflected in the proceedings of Parliament, where parliamentary sessions were frequently interrupted during 2015 and 2016 on account of issues and debates related to the Nkandla report and broad Nkandla issue. This period of interruptions reached a climax when Parliamentary Speaker Baleka Mbete called upon police to remove members of the EFF after it became apparent that the speaker was unable to control a sitting. Opposition parties challenged this summoning of police, following which the high court ruled that members of parliament (MPs) have special protection and cannot be arrested for statements made in Parliament.¹¹

The challenges seen in courts and the legislature were echoed by civil society, and citizens acted throughout the year in various ways to keep leadership accountable. The 2016 South African local government elections 'ushered in a new era of "substantive uncertainty"'¹², in which political parties (in particular the incumbent party) could no longer take voter loyalty for granted. This statement follows outcomes that saw the ANC lose its majority in three key metropolitan municipalities (Tshwane, Johannesburg and the Nelson Mandela Metropole). In the lead-up to Election Day, protests, political assassinations and the burning of buildings made media headlines. Reports in particular focused on the level of competitiveness observed in the nomination processes of mayors and councillors, although the extent to which political violence is 'interwoven in local histories of political action'¹³ was also highlighted by analysts.

The 'interwovenness' of political violence in political action also came under scrutiny during the 2016 nationwide student protests for free higher education under the banner of #FeesMustFall (FMF). The multiple layers of inclusion and exclusion, access and non-access, and advantage and disadvantage found an outlet in protests and a movement campaigning for much more than free tertiary education.¹⁴ Although much of the political action was nonviolent, some protests under the umbrella of the FMF campaign were markedly violent. The tension was tangible between various stakeholders and actors – including university management, student leadership bodies, activist groups, the police, and private security companies on campuses. Police brutality and the presence of private security companies on campuses nationwide were met with dissatisfaction and anger from civil society and students.

10 *Eyewitness News*. 2016. 'Public Protector Releases State Capture Report'. Online: <http://ewn.co.za/2016/11/02/state-capture-report-findings>

11 Lund, T. 2016. 'Parliament: Chamber of Horrors'. *Financial Times*, 17 December 2015. Online: <http://www.financialmail.co.za/features/2015/12/17/parliament-chamber-of-horrors>

12 Fakir, E. & Potgieter, E. 2016. Elections 2016 – 'Consolidation, Continuity and Change. What next?' *Electoral Institute for Sustainable Democracy in Africa* (EISA) South Africa Election Update 2016, 2 September 2016. Online: <https://www.eisa.org.za/eu/eu2016change.htm>

13 Pearson, J., Lesaffre, T., Phadi, M. 2016. 'The History that Fuels Local Government Violence'. *Electoral Institute for Sustainable Democracy in Africa* (EISA) South Africa Election Update 2016, 18 July 2016. Online: <https://www.eisa.org.za/eu/eu2016violence.htm>

14 Potgieter, E. 2016. 'Social Mobility in an Unequal Society: Exploring Access and Advantage in South Africa'. *SA Reconciliation Barometer*, 2015 Briefing Paper 4, November 2016

The Constitution

Now, after and amidst the series of political events recorded in the past year (of which the list provided here is by no means comprehensive), we celebrate the Constitution – a document that underpins the democratic values of our society, lays the foundation for the mandates of our public institutions, and establishes the measures necessary to keep these institutions (and those officials heading them) accountable.

South Africa's Constitution was promulgated by former President Nelson Mandela during December 1996 as the supreme law of the country. Regarded at the time as the most progressive constitution in the world, the document is the result of a detailed and inclusive negotiation process, conducted with sensitivity to the country's history and due consideration for the future of the fledgling democracy. Human rights are particularly emphasised: the preamble to the Constitution indicates the document's intention to aid in establishing a 'society based on democratic values, social justice and fundamental human rights'. Equality, political and property rights, housing, healthcare, education, access to information, access to courts, freedom of expression, and freedom of association all are captured in Chapter 2, the Bill of Rights. The country's system of democratic governance is furthermore captured in the Constitution. In this regard, the interactions between different tiers of government through a mechanism of cooperative governance are stipulated, as well as the manner in which representatives are elected, the limitations on terms of office, and the majorities required to pass legislation. The document also stipulates the role of various institutions and the powers these have – such as the courts, the administration of justice, state institutions supporting constitutional democracy, security services (such as the police), and traditional leaders.¹⁵

In light of this, the SARB Project has investigated how the public feels about the Constitution, the rights contained in it, and the institutions created to defend it.

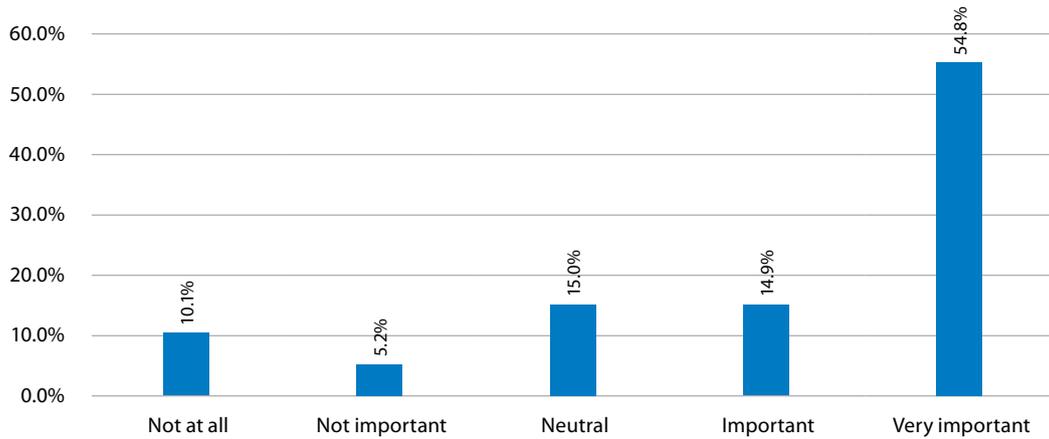
Our Constitution: Sentiments twenty years after its promulgation

The importance of the Constitution

Although the South African Constitution is ever-present in the lives of South Africans, few have a clear sense of its content, let alone any ability to cite from it. For many, however, the mere awareness of its existence provides a source of positive assurance. Some value it for the predictability and order that it offers in terms of social relationships; others cherish it as guarantor of basic rights, and yet others treasure it as an affirmation of the country's aspirations towards being a just and inclusive society. Arguably, though, the events listed in the introduction to this document could have tarnished the esteem with which the Constitution is viewed in society. Citing persistently high levels of poverty and widening inequality with a distinct racial character, many today seem to be questioning the terms of the negotiated political settlement of the early 1990s. The Constitution, as the most explicit articulation of that settlement's terms and agreed-upon values, has come under particular scrutiny. Political liberty, the argument goes, has not translated into economic freedom. Because its longevity will be determined by the legitimacy that it enjoys amongst ordinary South Africans, it is important to gauge the esteem in which the Constitution is still held in society.

¹⁵ The Constitution of South Africa. 2016. Online: <http://www.southafrica.info/about/democracy/constitution.htm#.WDVg69V97cs>

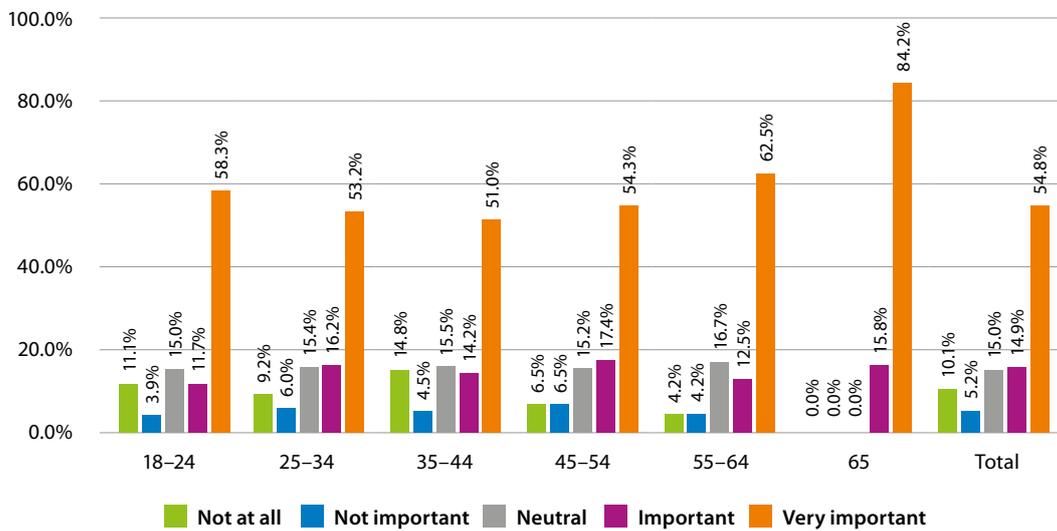
Figure 1: Perceived importance of the Constitution for our country and nation



Source: 2016 SARB Mobile Survey

Figure 1 provides a breakdown of responses to the question ‘How important is the Constitution for our country and nation?’ that was put to respondents in this mobile survey. The results show that a significant majority of respondents feel that the Constitution is important for our country and nation. Seven out of ten (69.7%) respondents believe that the Constitution is important, and more than half (54.8%) of respondents believe that the Constitution is very important for our country and nation.

Figure 2: Perceived importance of the Constitution for our country and nation (by age groups)



Source: 2016 SARB Mobile Survey

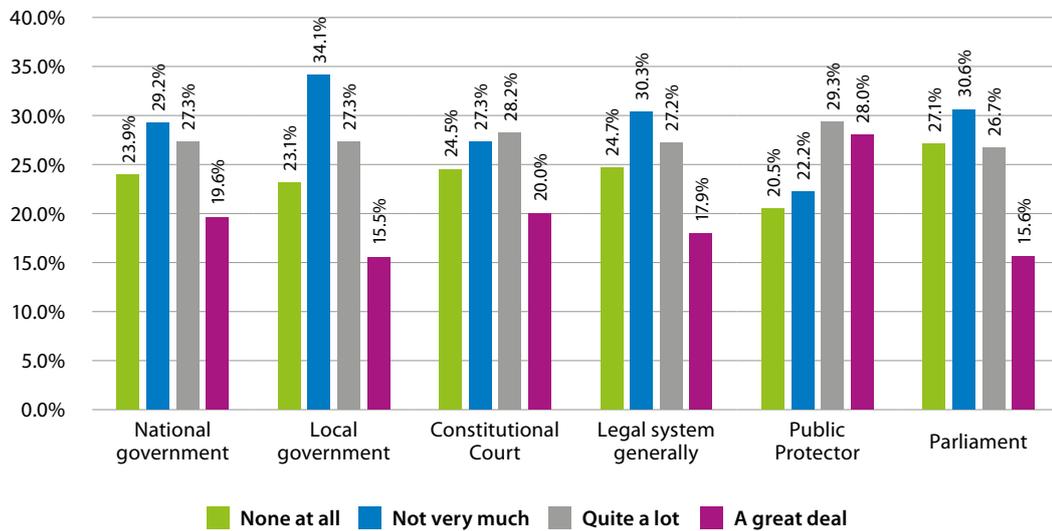
When disaggregating responses to the question across age groups, the results show that the Constitution is valued in particular by respondents older than 55 years of age. 62.5% of respondents between the ages of 55 and 64, and 84.2% of respondents above 65 years, indicated that the Constitution is very important to our country and nation, with just over 50% of respondents younger than 55 years indicating the same. These higher support levels among older respondents can possibly be attributed to the fact that a majority of them have first-hand lived experience of life under an oppressive regime, without the

protection of a constitution. When responses to the same question are disaggregated according to income levels¹⁶ and race, our results show that strong support for the Constitution cuts across response groups.

Trust in institutions

As pointed out above, the Constitution circumscribes the mandates and powers of state institutions that protect constitutional democracy, the public administration and the judiciary. In light of this, it would only be fair of citizens to use the efficacy and degree of impartiality of these bodies as core indicators of the health of the constitutional state. Weak governance and perceptions around favouritism towards segmented interests are therefore likely to undermine the legitimacy of these entities, and, by extension, their ability to wield influence in society. The 2015 round of the SARB Survey set out to measure public trust in six of these institutions, while the 2016 SARB Mobile Survey asked more specifically about the level of confidence respondents had in the ability of four of these institutions to protect the Constitution.

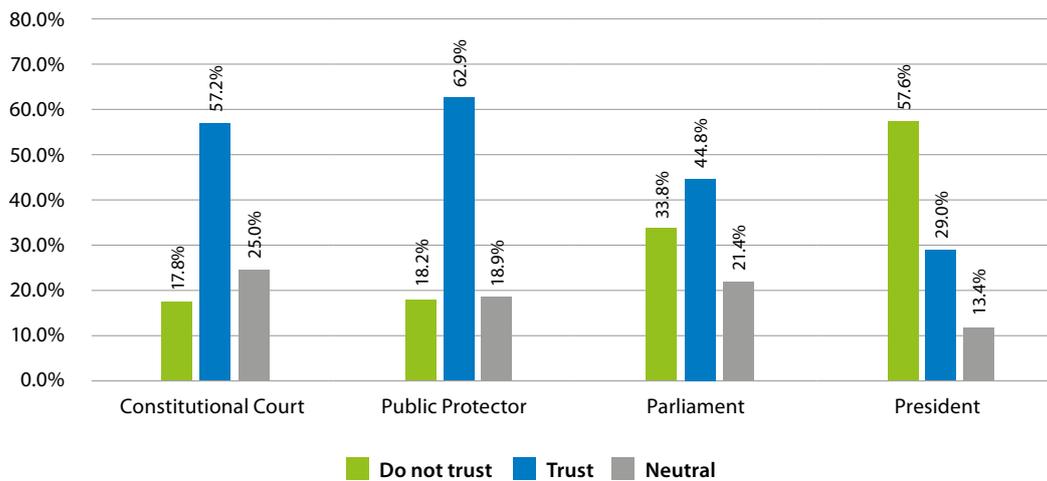
Figure 3: Confidence in institutions



Source: 2015 SARB Survey

Although 2015 confidence levels in the listed public institutions do appear to be evenly spread, some findings are noteworthy. The Office of the Public Protector emerged as the most trusted of the six institutions by a substantial margin. Of the total sample, 28% indicated that that they have ‘a great deal’ of confidence in this institution, while a further 29.3% said that they have ‘quite a lot’ of confidence. In total, 57% of respondents gave the Public Protector a positive rating. This figure can be contrasted with the evaluations for parliament and local government, where 57% and 58% of South Africans respectively gave these institutions negative ratings (values ‘none at all’ and ‘not very much’ combined). When evaluating these results against the backdrop of the Constitutional Court’s judgement in March this year, which vindicated the Office of the Public Protector and condemned Parliament and the President for not upholding the values of the Constitution, it does appear as if public sentiment in this regard is not far off the mark.

16 Income level categories were determined on the basis of the poverty line, national minimum wage campaign, and SARS tax brackets

Figure 4: Trust in institutions to defend the Constitution

Source: 2016 SARB Mobile Survey

As pointed out above, the 2016 SARB Mobile Survey goes a step further than the 2015 SARB Survey by asking respondents about the extent to which they trust a number of institutions to defend the Constitution. Again, the Office of the Public Protector emerges as the institution in which respondents have the most trust (62.9%). This finding is significant because levels of trust in the Public Protector even exceed the positive ratings for the Constitutional Court, which has a confidence level of 57.2%. The comparative figure for Parliament stood at 44.8%, while the Office of the President could only muster 29%. Once again, therefore, in the context of a public domain where media coverage has pitted the Offices of the President and Public Protector against each other, the latter has clearly elicited far more sympathetic ratings than the former.

Trust in the Public Protector to defend the Constitution

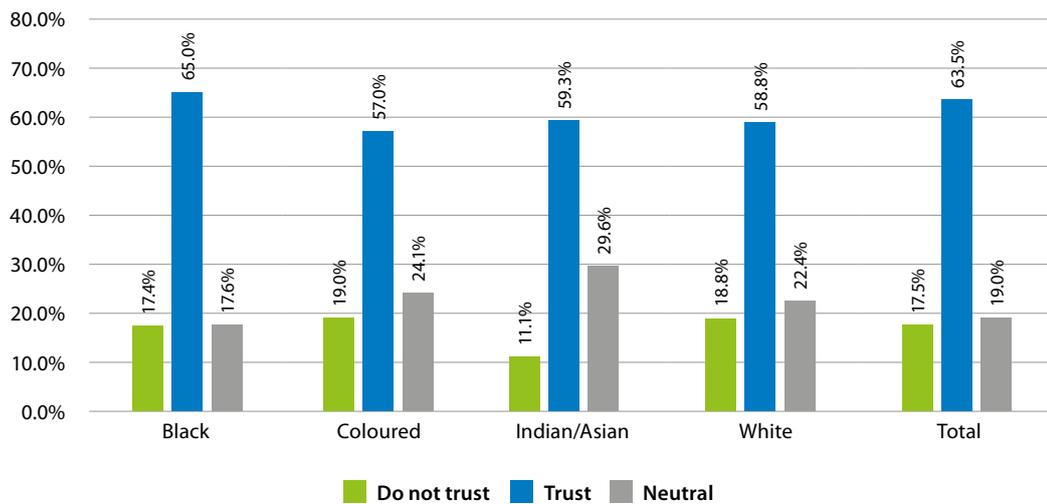
It should be mentioned that Public Protector Madonsela recently stepped down, and was replaced by Busisiwe Mkhwebane just before this Survey was conducted. The Survey question did not ask specifically whether respondents trust a certain person in the position, but rather 'the Public Protector'. Whether respondents thus answered according to their levels of trust in the office, the position, or the current or previous Public Protector, is not clear. However, given the behaviour and performance of Adv. Thuli Madonsela as compared to those of her predecessors, it is likely that many respondents were evaluating the individual rather than her office. Clearer iterations of the survey question regarding the Public Protector would help clarify the validity of this assertion in future.

Given the polarised nature of South African society, we may well have to ask how widely dispersed confidence in the Public Protector is across the country's historically-defined racial categories. Figure 5 shows that ratings in terms of trust in the Public Protector are high among all race groups, but highest among black respondents, despite the presence of detractors who suggest that she represents a 'white imperialist' agenda.

Trust in the Constitutional Court to defend the Constitution

Although the percentage of respondents who trust the Constitutional Court to defend the Constitution was higher than the percentages indicating trust in Parliament and the President, it is noteworthy that only about 4 out of 10 respondents registered 'a great deal' of trust in the Constitutional Court. A possible reason for this finding is that South Africans may harbour greater expectations in terms of the extent to which the Constitutional Court

Figure 5: Trust in Public Protector to defend the Constitution (by race group)



Source: 2016 SARB Mobile Survey

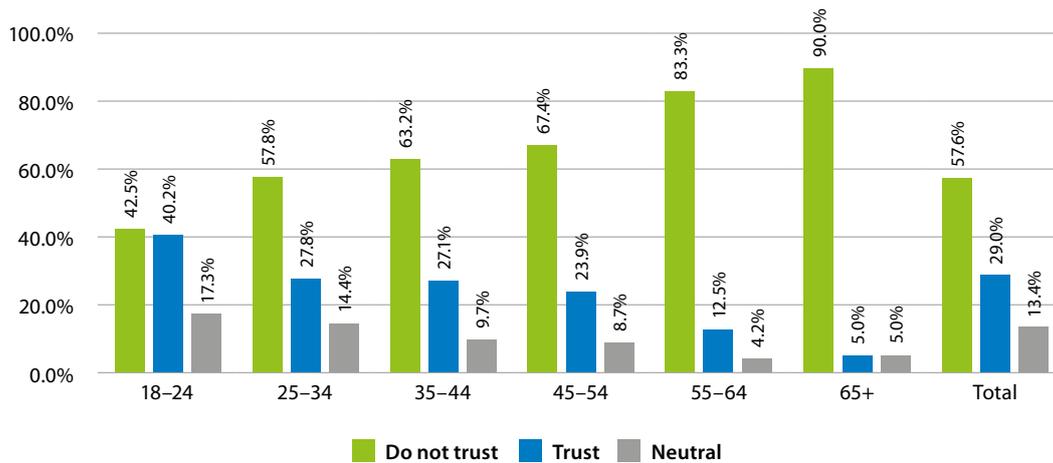
can and/or must deliver on, and implement, the Constitution’s values. However, the Court’s mandate is purely legal, meaning that it has to respect the principal of separation of powers, and therefore, while it can rule against the state and/or political rulers, it cannot necessarily prescribe what remedial action the state/political leaders must undertake. This fact was especially evident in the Constitutional Court ruling on the report concerning the Nkandla matter, wherein the court ruled that while the President had failed to uphold the Constitution as he is mandated to do, but it did not, as many might have anticipated or desired, rule that he was unfit to occupy his office. Consequently, the Court’s decision may not always reflect populist sentiment, and this may be considered by some sections of the public as the court’s not operating in defence of ‘the people’.

Trust in Parliament to defend the Constitution

As mentioned earlier, Parliament did not perform well in the SARB 2015 Survey in terms of South Africans’ confidence in the national assembly in general. In addition, fewer than 3 out of 10 respondents trust Parliament ‘a great deal’, and only about 4 out of 10 trust Parliament to defend the Constitution. This finding is not surprising, considering the ‘high drama’ that played out in the national assembly during 2015 and 2016.

Trust in the President to defend the Constitution

Finally, the finding that fewer than 3 out of 10 people do, and almost 6 out of 10 people do not, trust the President to defend the Constitution, does not come as a surprise. Responses disaggregated according to age groups, as captured with Figure 6, show that younger respondents have more trust in the President than is the case in older age group categories – although trust in the President is low across all age groups. This is most clearly reflected by the fact that 40.2% of 18 to 24 year-old respondents indicate that they do trust the President to defend the Constitution, while only 5% of respondents 65 years and older indicate that same. Older respondents, who lived through the apartheid regime, may be more cynical and wary of abuses of power perpetrated by the President. It may also be that older respondents compare the role that the current President plays in defending the Constitution to that of other post-apartheid presidents (including Mandela) and how they fulfilled their duties in this regard. Alternatively, respondents indicating trust in the President might have done so normatively – i.e. they have confidence in the position, and do not conflate the position with the person in office.

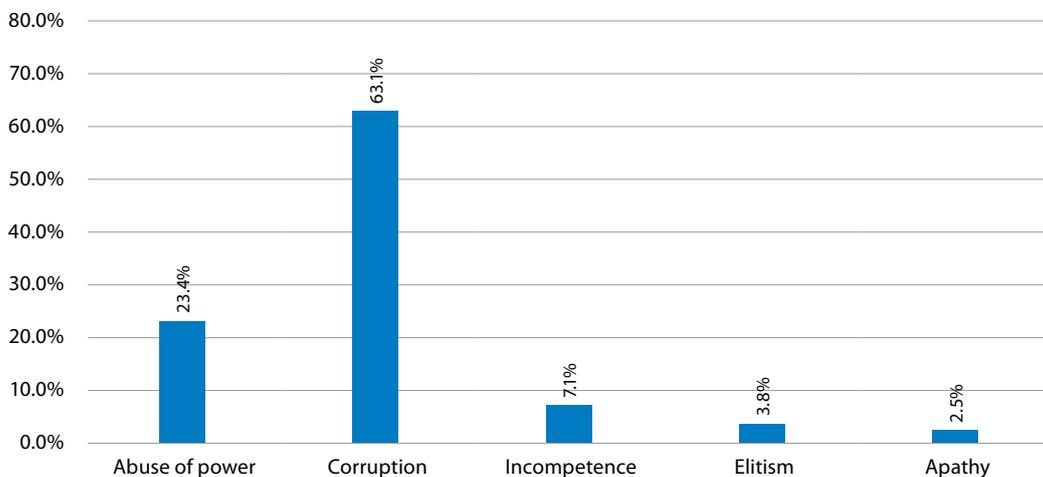
Figure 6: Trust in the President to defend the Constitution (by age group)

Source: 2016 SARB Mobile Survey

Threat from political leaders to our constitutional rights

Within a constitutional democracy, institutions play a pivotal role in upholding the founding principles of the country in question. Ultimately, the integrity of the institutions should receive greater priority than the interests and popularity of individual leaders who become their temporary custodians. As such, we should demand principled behaviour from our leaders, which is in line with the values of the Constitution, and would enhance the legitimacy of the entire system of governance. Often, however, leaders fall foul of these expectations and jeopardise the pursuit of a constitutional democracy. In Figure 7, we report on the 2016 SARB Mobile Survey results related to particular threats the South African political leadership may pose to citizens' exercising their constitutional rights.

In light of a series of embarrassments to the legislative and executive arms of government – with regard to the use of public funds for the private enjoyment of the President, and the broader problem of poor administration of public funds – it is not surprising that, when faced with the options in the survey, about 6 out of 10 respondents (63.1%) identified corruption as the biggest threat from political leaders to our constitutional rights. Almost nine out of ten respondents (86.5%) identified 'corruption' and 'abuse of power' (which may

Figure 7: Perceived threat from political leaders to constitutional rights

Source: 2016 SARB Mobile Survey

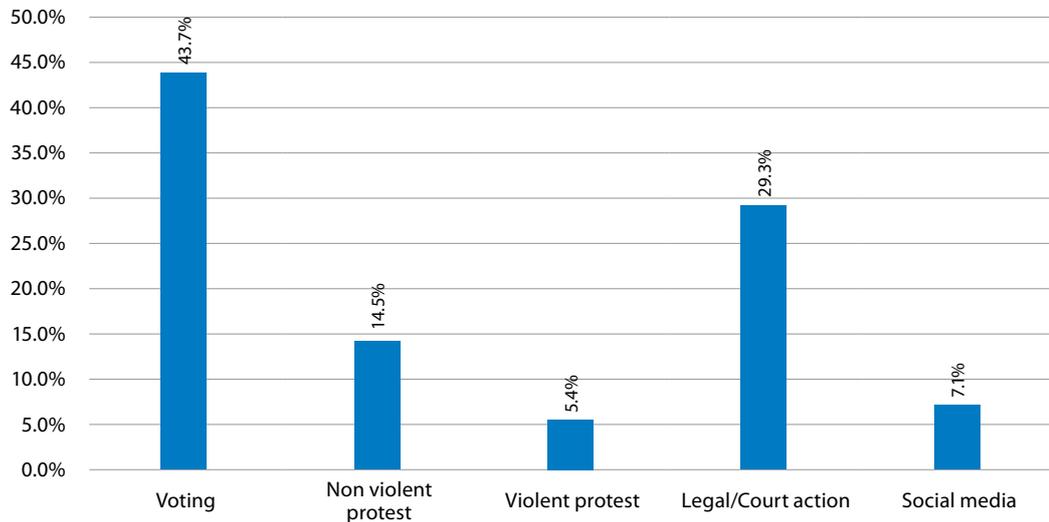
overlap in some instances) as the biggest threats from political leaders. There seems to be a broad consensus across society in this regard, irrespective of race, gender or age group.

Accountability and political participation

It has, however, not only been South Africa’s political leaders who have made headlines this year. This has also been a year of political participation, where many made their voices heard through voting as a non-confrontational means to express their political preferences, while others pursued more confrontational means, such as public protest, to achieve their objectives. The proliferation in recent years of the latter means of public engagement has made it necessary for us to ask about the perceived efficacy of different forms of political participation in the South African context. In the 2016 SARB Mobile Survey, we asked respondents to indicate what they regard as the most effective way to keep political leaders accountable. The response to this question is presented in Figure 8, below.

Forms of political participation

Figure 8: Perceived best way to keep political leaders accountable



Source: 2016 SARB Mobile Survey

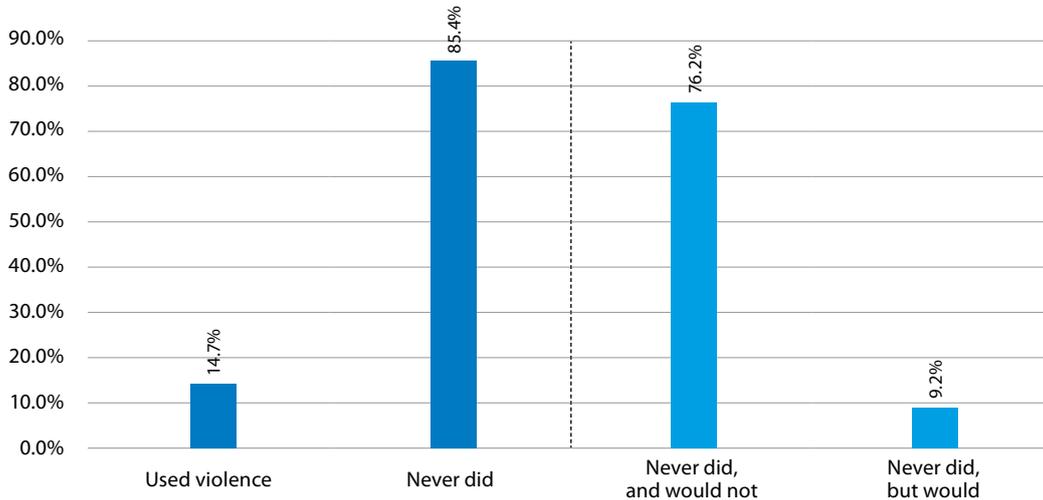
Our results show that about 4 out of 10 respondents (43.7%) feel that voting is the most efficient way to keep leaders accountable, while almost 3 out of 10 respondents (29.3%) feel that legal/court action is the best option. Non-violent protest and social media each have some support among respondents as the best option (14.5% and 7.1% respectively). These findings show that the majority of our sample felt that the constitutional dispensation offers them sufficient avenues, within the ambits of the law, to pursue their interests and to keep political leaders accountable.

However, 5.4% of respondents regarded violent protest as the best option – a concerning finding in a country with an estimated 54 million citizens. The findings of the 2015 SARB Survey show a similarly concerning finding, where respondents were asked how often they have used force or violence for a political cause in the past year, and if they have not, whether they would consider doing so in future.

More than 1 out of 10 respondents (14.7%) in the 2015 SARB Survey indicated that they had used violence over the past year to pursue political objectives. A further 9.2% noted that although they had not used violence during this period, they would do so in future, if

they deemed it necessary. Combined, therefore, almost a quarter of respondents signalled an acceptance of violence as a legitimate means of engagement, where they feel that legal means fail them. Conversely, just more than three quarters (76.2%) noted that they had not used violence over the period, and that they did not consider it an option.

Figure 9: How often did you use force or violence for a political cause in the past year? Would you use it if you had the chance?



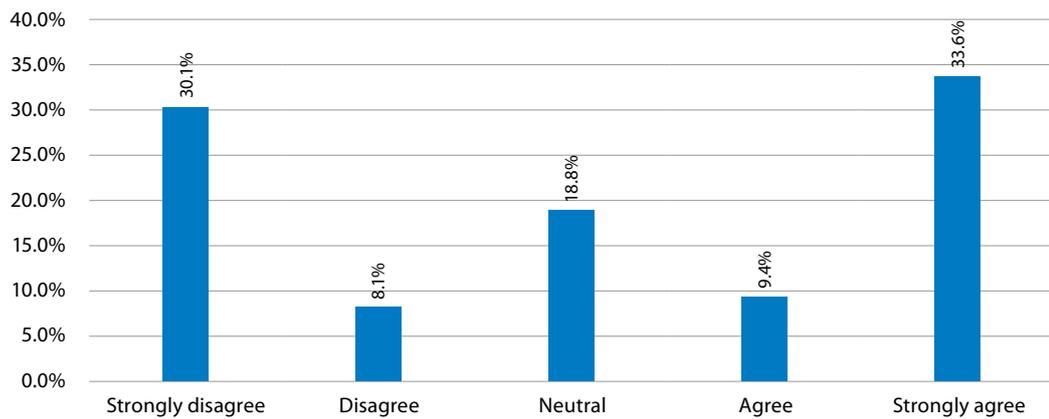
Source: SARB 2015 Survey

Political participation

The political tactics of the Fees Must Fall (FMF) movement provide a recent example of where protest has been used as means of political persuasion. Starting out as a campaign for free tertiary education, the movement swiftly gained momentum nationwide – not only because of its call for free higher education, but also because it provided a space to voice frustrations related to issues surrounding access to resources, to highlight socio-economic inequalities, and to assert the need for the decolonisation of university curricula. Most of these protests occurred within the confines of the law, but several spiralled into violent confrontation and, in some instances, the looting of public and private property. Media coverage of FMF protest action suggested that some within society generally supported the protesters' cause and means of protest action, while others were more sceptical. To get a better sense of where public sympathy lies on this issue, the 2016 SARB Mobile Survey probed public sentiment in this regard.

South Africans' views (as manifested during 2016) on whether the FMF protests (as they manifested during 2016) are justified, are polarised. A third of respondents (33.6%) 'strongly agreed' that the protests were justified, while almost a third (30.1%) 'strongly disagreed'. When the 'strongly agree' and 'agree' categories, and the 'strongly disagree' and 'disagree' categories are combined, support tilts slightly in favour of those who feel that the movement's protest strategies were justified. This finding seems to mirror the polarisation that has been so evident in traditional media and on social media platforms. We must, however, add here that while opinion may be polarised on the movement, we did not probe respondents' grounds for support or rejection. In other words, we do not have a measure to establish whether sentiment has been informed by FMF's stance on free tertiary education, decolonisation, or any other key rallying point of the movement.

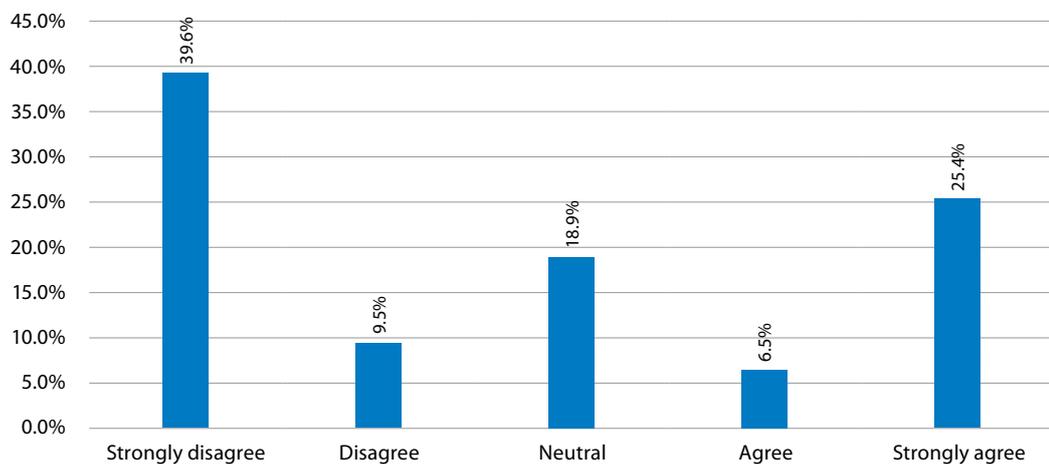
Figure 10: Are the current #FeesMustFall protests justified?



Source: 2016 SARB Mobile Survey

There was more than one side to this apparent conflict. In the course of the FMF protests, the South African Police Service (SAPS) was repeatedly accused of using unwarranted force to suppress protest action. In some instances, it was even suggested that their actions provoked violent responses by students. Claims of this nature had already started to emerge before the FMF era. Four years ago, the Marikana massacre raised serious questions about the militarisation of public policing.¹⁷ To gain a better understanding of public sentiment on reasonable boundaries for the use of force in public policing, the 2016 SARB Mobile Survey asked respondents whether they believe that police are sometimes justified in using deadly force.

Figure 11: Do you believe police are sometimes justified using deadly force?



Source: 2016 SARB Mobile Survey

Sentiments regarding whether police are sometimes justified in using deadly force, as reported in Figure 11, also show some polarisation with 4 out of 10 respondents (39.6%) strongly disagreeing with the statement, and 1 out of 4 respondents (25.4%) strongly agreeing with the statement. However, when the ‘strongly agree’ and ‘agree’, and the

17 Duncan. J. 2015. ‘Police militarisation and brutality in South Africa’. *Rand Daily Mail* (RDM), <http://www.rdm.co.za/politics/2015/07/03/police-militarisation-and-brutality-in-south-africa>

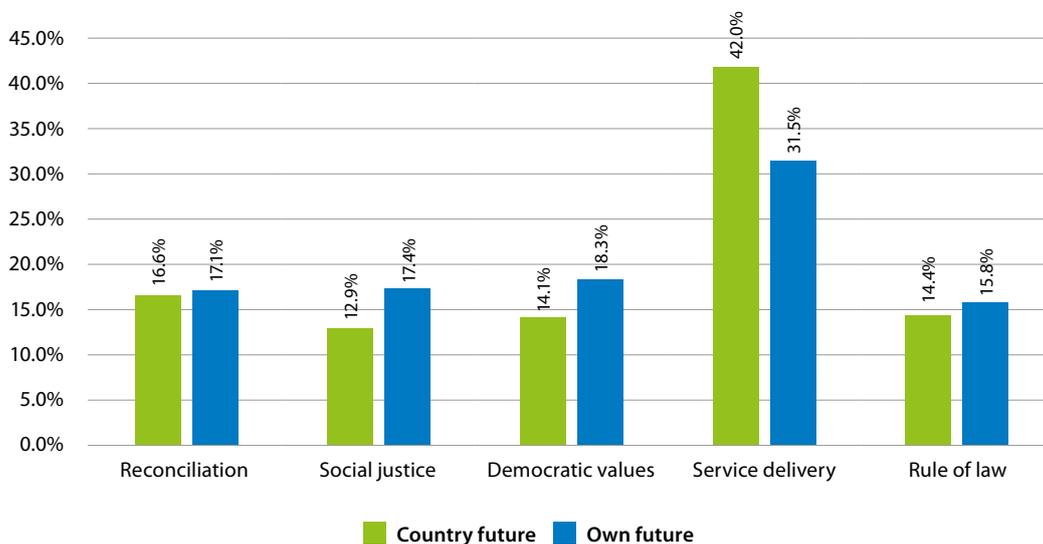
‘strongly disagree’ and ‘disagree’ categories are combined, it becomes clear that the balance shifts towards those who feel that the use of deadly force should be limited to an absolute minimum.

Moving forward: Divisions and solutions

The findings of the 2015 SARB Survey confirmed that South Africa remains a deeply polarised society with high levels of distrust evident between members of the country’s historically-defined racial categories. According to this survey, almost two-thirds of all respondents had little or no trust in citizens from racial groups other than their own. It also showed that these racial schisms are being reinforced by stark levels of economic inequality. It is, furthermore, abundantly clear that there is no quick or easy way to deal with the legacy of centuries of marginalisation and discrimination. Where, then, do we begin to address these manifold challenges?

In the 2016 SARB Mobile Survey, respondents were presented with a list of key issues that may have to be pursued to achieve a better future for the country and for respondents themselves, and were asked to rank these in terms of priority. The results are presented here in Figure 12. Four in ten respondents (42%) identified ‘service delivery’ as most important for the country’s future, while 3 in 10 (31.5%) identified the same item as the most important to their own lives. The fact that there is some variance between what respondents feel is needed for the country and what is needed for their own future indicates that (at least some) respondents are able to distinguish between what is needed for their own lives, and what realities the country faces at the same time.

Figure 12: What do you think is most important for our country, and your own, future?



Source: 2016 SARB Mobile Survey

Service delivery, however, was identified as *the* key issue relevant to the country and to respondents’ own lives. It is thus not surprising that the 2016 local elections – which represented an opportunity for citizens to vote for those people they believe will best look after their (the citizens’) service delivery interests – were highly competitive, with outcomes that saw the ANC take a battering in particular key metros (as has been mentioned before). It can thus be argued that South Africans are keeping leadership accountable not only through vocal and well-reported protest action, but also through the formal voting process. Perhaps it is only when service delivery and other basic needs are met,

that the importance and relevance of the other, less tangible, values our society aspires to – such as reconciliation, social justice, democratic values, and rule of law – can fully be engaged with.

Conclusion

As we celebrate 20 years since the signing of the South African Constitution, it is fitting to reflect on the document's role in establishing this country, and to review the manner in which it is held in high regard (or not) by the public in the present era. In this matter, 2016 is perhaps the closest we may have come to something of a 'constitutional crisis', at least in the sense that those with the greatest mandate to defend the Constitution were found wanting in many respects.

Reassuringly, the Constitution remains relevant and important to South Africans. However, the levels of distrust among South Africans in the institutions that should defend the Constitution vary, and are in some instances quite concerning. Furthermore, although citizens agree on what is threatening their constitutional rights and what the country needs in order to move forward, they are polarised on how to go about ensuring that leaders are held accountable. In particular, the high proportion of citizens who regard violent protest action as the best way to engage with leadership, is reason for concern.

Indeed, it seems that 'hope is 22 years old' – and finds its springboard in the Constitution. But hope can get quite tired. To ensure that hope is not trumped by sources of social division and abuses of power, we should not lose sight of the country that the Constitution envisioned, but rather work towards an inclusive 'how' to get there. The responsibility to work towards a society underpinned by the values of the Constitution does not lie solely at the door of political leaders and state institutions, but also with those who keep leadership accountable.

The Institute for Justice and Reconciliation (IJR) is an independent, non-governmental organisation, which was established in 2000 in the wake of the Truth and Reconciliation Commission (TRC) with the aim of ensuring that the lessons of South Africa's successful transition to democracy remain fundamental principles central to government and society as the country moves forward. Today, the IJR works to build fair, democratic and inclusive societies across Africa after conflict.

Since 2003, the IJR's Policy and Analysis programme has conducted the South African Reconciliation Barometer survey: an annual national public opinion poll that measures citizen attitudes towards reconciliation, transformation and national unity in post-apartheid South Africa. As one of the few dedicated social surveys on reconciliation in Africa and worldwide, the Barometer has become an important resource for encouraging national debate, informing decision-makers, developing policy and provoking new analysis and theory on reconciliation in post-conflict societies.

For more information, visit the IJR website at www.ijr.org.za, the Reconciliation Barometer blog at www.reconciliationbarometer.org, or follow us on Twitter at [@SABarometer](https://twitter.com/SABarometer).

