In Search of Constitutional 'Philosopher-Kings' in 'Post-Apartheid South'? A Review of *Super President: The History and Future of Executive Power in South Africa*

Masilo Lepuru
Institute for Pan-African Thought and Conversation,
University of Johannesburg
Johannesburg, South Africa

Title: Super President: The History and Future of Executive Power in South Africa
Author: Bhaso Ndzendze
Publisher: UJ Press, Johannesburg
ISBN: 9781776490011(paperback), 9781776490028(PDF)
DOI: https://doi.org/10.36615/9781776490028

In *The Guardian of the Constitution: Hans Kelsen and Carl Schmitt on the Limits of Constitutional Law (2015),* the legal philosophers and political theorists Hans Kelsen and Carl Schmitt engaged in the now heralded 'debate' regarding the role of the president and constitutional review. The limits of executive power and constitutionalism were the fundamental point of departure. With the reinforcement of American fascism under the presidency of Donald Trump as evidenced by his avalanche of executive orders, 'the Kelsen and Schmitt debate' has become even more germane. In our current context in South Africa the so-called debate on expropriation with or without compensation under the presidency of Cyril Ramaphosa and the constitution of 1996 serves as a relevant example of the significance of 'how presidential power should be used in South Africa' (Ndzendze 2024:i). What is the nature of presidential power in the context of South Africa as a white settler colony since the conquest of Indigenous people in 1652? How can a black president undo the structure of white settler colonialism within the legal epistemological paradigm of the European conqueror (Ramose 2006) as embodied in the constitution of 1996? Should the fundamental quest be to decolonise the political and legal paradigm that stems from epistemicide (Ramose 2007) due to conquest since 1652, rather advocating for effectiveness in it? These are some of the more structural questions which the framing of presidential power within the contours of the 'politics of efficiency' and the parameters of a liberal white settler constitutional framework makes difficult to entertain and respond to with persuasion. The perennial relationship between structure and agency becomes significant in this regard. Without being grounded in a structural history of South Africa as a white settler colony (Wolfe 2006) one runs the risk of indulging in personality idealism and the fetishization of agency. This is not to deny the power of certain individuals and roles that they endowed with within a given structure. In is within this context that the following question premised on the book *Super President: The History and Future of Executive Power in South Africa (2024)* by Bhaso Ndzendze makes sense: how can presidential power be used in South Africa to effect change and institute transparent and effective leadership?

The above-mentioned book under review grapples with this question but mainly within the discipline of political science. A cursory perusal of the title of the book 'Super president' for someone trained

in the discipline of philosophy evokes analogical connotations of the Platonic philosopher-king. The book is divided into an Introduction and eleven chapters that are arranged in the form of three parts. The overarching theme and main argument of the book throughout these chapters is that to be effective and transparent leaders post-Apartheid South African presidents should have been and should assume ministerial positions within their own cabinets. Ndzendze proudly operating within the contours of white settler constitutionalism rooted in conquest since 1652 (Modiri 2018 and Dladla 2018) posits that this presidential and ministerial duality can take place without changing a single word of the constitution of 1996. This is because for him this constitution which some black constitutional critics (Modiri 2018 and Dladla 2018) argue that it reinforces white supremacy fundamentally in terms of its foreign European epistemological paradigm (Ramose 2018) is a permissive constitution. The permissiveness of this constitution seduces Ndzendze into constitutional triumphalism. This book is for those who are interested in the 'politics of efficiency' in relation to the socio-economic ills which South Africa is facing. It is written in a lucid fashion which makes it easy for a wide range of readers of South African politics and history to comprehend Ndzendze's reformist policy-orientated postulations. The structural coherence of the book is however vitiated by the abrupt ending of several chapters. Several chapters of the book are devoid of solid conclusions. In the place of concise conclusions, we are treated to at times long-winded extended discussion of the chapters.

The book begins with an Introduction titled 'Why are there presidents'? which provides an outline of the argument of the book. It also proffers interesting concepts such as political presidency, personal presidency, and embodied executive philosophy. It also endeavours to postulate an outline of how we can resolve the socio-economic ills besetting South Africa. Ndzendze (2024:6) posits that "the way out of the current crises facing South Africa could reside in doing once more what is tried and true for the majority about the history of the South African state, but which has been overlooked by post-1994 governments: a head of cabinet must be their own leading minister". Here Ndzendze is laying a foundation for this argument in terms of historical precedents (white settler presidents have done this before), global resonance (other countries are doing this already) and constitutional permissiveness (the current constitution allows for this to happen).

Because the book is divided into three parts on the basis of historical presentism in the sense of studying the past to fix current problems, Ndzendze begins part 1 with chapter one about the legacy of Nelson Mandela as a president. This first chapter is titled "President Mandela: Learning by (un)doing". The lack of ministerial and presidential experience in relation to Mandela is the main point of departure. Mandela had the duty to undo the problems of Apartheid and to do something to solve the socio-economic ills plaguing the post-1994 dispensation he played a seminal role in. Mandela is also framed as having attempted to focus on social development during his presidency. The actual work of the presidency was performed by his deputy president Thabo Mbeki. In chapter two titled "From Executive Deputy to Executive Head" Mbeki is regarded as having undergone a seamless transition from being the actual president during Mandela's presidency to being a formal one during his own presidency. But unfortunately, Mbeki did not lay a foundation for his successor. Mbeki also centralized power to try to be an effective president. But Ndzendze argues that mere knowledge of policy under Mbeki was not enough without the assumption of a ministerial position (Ndzendze 2024:65).

In chapter three Ndzendze discusses the concept of political presidency he proffered in the Introduction. "The rise of the political presidency: From Motlanthe to Zuma" discusses among other things Mbeki's Polokwane debacle, the brief presidency of Motlanthe and the rise of Zuma as a president. The most important thing about this chapter is the idea of the politicization of the presidency which Ndzendze does not fully elaborate on. The chapter just like other chapters has an abrupt denouement without further solid analysis of the notion of political presidency which is

central to his argument of the book. "Ramaphosa, Cabinet Government and the Personal Presidency" is the fourth chapter which attempts to discuss although briefly the idea of personal presidency under Ramaphosa. The focus on state security by Ramaphosa is regarded as a good thing as far as the argument of the book is concerned. The last chapter of part 1 is chapter five titled "Why are there ministers and deputy presidents"? It provides an overview of the constitutional framework which enables the function of executive authority. This chapter also argues that the ministerial performance agreements are vague and unrealistic. Because of this Ndzendze (2024:94) posits that "The remedy, as this book has argued, is for the principal themself to walk in the minister's proverbial shoes. Our presidents must become ministers in their own cabinets, so that they can better hold their own cabinets accountable, while at the same time taking direct control, as ministers, of those areas that they deem most crucial and on which they wish to be judged."

Part 2 commences with an Intermission in which Ndzendze discusses controversial issues such as Apartheid nostalgia and the importance of learning from a racist past. He underscores the significance of history and the need to distinguish it from heritage. Chapter six is the first historicist foundation of part 2 and the epistemological fundament of the argument of the book. In this chapter titled "First ministers: Louis Botha and Jan Smuts" Ndzendze dares to learn something from the notorious white supremacist "successors-in-title-to-conquest" in unjust wars of colonisation since 1652 (Ramose 2018) such as Louis Botha and Jan Smuts. Except that instead of arguing that African leaders must be innovative in terms of their own Indigenous cultural and political tradition, Ndzendze seems to exhort them to imitate what these white settlers innovated to be effective leaders in their conquest and domination of Indigenous people. In addition to rehashing the old history of their racist project of the 'native question' through law and violence, Ndzendze argues that they epitomised the dual role of being prime ministers and holding ministerial portfolios. The chapter ends with a long-winded 'conclusion' and his routine enactment of constitutional triumphalism.

From the white supremacist 'founding fathers' of the Union of white South Africans in line with the racist fantasy of the white man's land and exclusive white "South Africanism" (Dubow 1997) the book transitions to the unapologetic architects of 'racism's last word' (Derrida 1985). According to chapter seven titled "Apartheid's leading Men" the likes of Henrick Verwoerd, P W Botha and FW De Klerk operationalized 'racism's last word' by holding several ministerial portfolios in addition to being prime ministers. From the historicist foundation in the form of the historical precedent of the 'first ministers and leading men' Ndzendze provides an analysis of the global resonance of his main argument. In chapter eight titled "A Global Benchmark of Dual executive power" Ndzendze utilises three case studies of Nigeria, India, and Canada to bolster his main argument of the book. This chapter was to a certain extent a nuanced exercise in comparative politics. Perhaps by far the most interesting chapter of the book is chapter nine which is titled "The American way: Lessons from the first president". This chapter is substantively and structurally much better than other chapters above. Ndzendze proffers a relevant historical analysis of the American constitution and how different U.S presidents understood the essence of executive power. It ends by providing a discussion of lessons that can be gleaned from his American analysis and with a much better conclusion.

Part three of 'super possibilities' begins with chapter ten titled "Permissive constitution". The most important substantive contribution of this chapter is the clarification of what his book is about and what it is not about. Ndzendze spends a justifiable amount of time defending his argument against confusion and misunderstanding from different real and imaginary critics. This of course is a reasonable exercise in decent scholarship. His training as a political scientist as opposed to a legal philosopher becomes clear in this chapter. The book's paucity of jurisprudential critical analysis is on display in this chapter. Ndzendze treats us to a heavy dose of uncritical transformative constitutionalism and constitutional triumphalism. He does not even attempt to provide a critical

historical analysis of constitutions and constitutionalism in South Africa. This is despite the inextricable connection between South African constitutionalism, parliamentary supremacy and the role of the president that are central to his argument. There is no attempt to briefly outline current objections to the legitimacy of the constitution of 1996 (Ramose 2018) from different schools of thought such as 'constitutional abolitionism' forged by Joel Modiri (2018) and Ndumiso Dladla (2018). Ndzendze exudes constitutional deification by proclaiming that his argument won't touch the constitution. However, to his credit he is quite consistent as a liberal reformist writer in this book.

For a political scientist the last chapter on diplomacy and foreign policy provides a solid analysis of these concepts. However, the focal analysis of the difference between diplomacy and foreign policy is so long-winded that one loses track of the main argument of the book. The reader is inundated with a verbose exposition of the paucity of South African foreign policy that one forgets for a moment about 'the super president argument'. This chapter is needlessly long and has a sloppy conclusion for the final chapter of the book. While the focus on the president and international relations is important, one can still grasp the main argument of the book without this chapter. This chapter could have been distributed across other chapters which discuss the different presidencies of 'post-Apartheid South Africa'. It should not have been a stand-alone chapter. In its place Ndzendze could have provided a final chapter which refines the main argument of the book in a synoptic but persuasive fashion.

Despite this structural and substantive flaw of the last chapter and the book in general, the entire book is framed within the liberal paradigm of reformist South African politics. There is nothing radical about the book and its main argument. To be fair Ndzendze does not pretend to be radical at all in this book. The book is firmly rooted in the democratisation paradigm (Ramose 2005) which among other things seeks to 'make South Africa better for all its citizens' as opposed to the decolonisation paradigm (Ramose 2005) whose fundamental quest is the undoing of South Africa as a white settler colony to restore historic justice and sovereignty for the Indigenous people. It premised on the reformist policy orientation of political science as opposed to the critical theoretical analysis in the area of political theory or political philosophy. This is an indictment against its paucity of a solid interdisciplinarity. In the end the 'super president' is a democratising constitutional reformist who will only reinforce South Africa as a white settler colony in contrast with a better alternative such as a decolonising philosopher-king who in rejecting the constitution of 1996 can usher in *Uhuru* with the Indigenous people by aiding in the undoing of South Africa through among other things a *Chimurenga*.

References

Dladla, N. (2018). The liberation of history and the end of South Africa: some notes towards an Azanian historiography in Africa, South. *South African Journal on Human Rights*, *34*(3), 415–440. https://doi.org/10.1080/02587203.2018.1550940

Derrida, J. Racism's Last Word. Critical Inquiry , Autumn, 1985, Vol. 12, No. 1, "Race," Writing, and Difference (Autumn, 1985), pp. 290-299. https://doi.org/10.1086/448331

Dubow, S., 1997. Colonial Nationalism, the Milner Kindergarten and the Rise of 'South Africanism', 1902-1910. *Hist Workshop* J. 43 (1), pp. 53-85. https://doi.org/10.1093/hwj/1997.43.53

Modiri Joel M. (2018): Conquest and constitutionalism: first thoughts on an alternative jurisprudence, South African Journal on Human Rights, Volume 34 Number 3, 2018, pp. 300 – 325. https://doi.org/10.1080/02587203.2018.1550939

Ndzendze, B. 2024. Super President: The History and Future of Executive Power in South Africa. Auckland Park: UJ Press. https://doi.org/10.36615/9781776490028

Ramose, M. B 2005. 'Towards Black Theology without God'. Theologia Viatorum, Journal of Theology and Religion in Africa, Vol 29 no 1. pp. 103-130.

Ramose, M. B. 2007. 'In Memoriam: Sovereignty and the "new" South Africa.' Griffith Law Review Vol 16. pp. 310-329. https://doi.org/10.1080/10383441.2007.10854593

Ramose, M. B 2006. 'The king as memory and symbol of African Customary Law' in The Shade of New leaves, Governance in Traditional Authority (ed Heinz) A South African perspective. pp. 351-374.

Ramose, M. B. 2018. 'Towards a Post-conquest South Africa: beyond the constitution of 1996'. South African Journal on Human Rights. Vol, 34. pp. 326-341. https://doi.org/10.1080/02587203.2018.1550937

Wolfe, P., 2006. Settler colonialism and the elimination of the native, Journal of Genocide Research (2006), 8(4), December, pp. 387–409. https://doi.org/10.1080/14623520601056240