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# The role of decentralisation in managing intra-state conflict in South Africa

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# THE ROLE OF DECENTRALISATION IN MANAGING INTRA-STATE CONFLICT IN SOUTH AFRICA

**by**

**Reneva Esther Fourie**

**Original work submitted in fulfilment of the requirements for the degree of Doctor of Philosophy**




**Witwatersrand School of Governance**

**Faculty of Commerce, Law and Management**

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**Johannesburg**

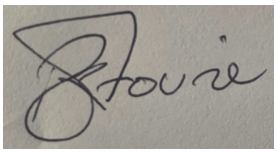
**July 2023**

**Supervisor: Prof Anthoni Van Nieuwkerk**

**DECLARATION**

I declare that this thesis is my own original work. Where other people's works have been used, this has been fully acknowledged. This thesis is submitted in fulfilment of the requirements of the award of the Degree of Doctor of Philosophy in the Faculty of Commerce, Law and Management at the University of the Witwatersrand, South Africa.

Signed



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Student Number: 2069478

July 2023

## DEDICATION

This thesis is dedicated to my first supervisor, Professor Ivor Sarakinsky, who passed on during my PhD research. His appropriateness for the role is captured in this apt and thought-provoking extract from his many works.

> To bring about democracy, parties had to change the way they interacted with each other, realising that no matter how strong or weak they were, they depended on each other. This resulted in a form of political conduct that was multi-dimensional; it was both conflictual and cooperative. Now that the transition is almost over, conflict predominates, and it appears as though the parties now take each other and their mutual achievements for granted. As a result, politics in South Africa now is more about combating opponents and less about accommodating those with different interests and values (Sarakinsky, 2000).

## ACKNOWLEDGEMENTS

I would like to express my sincere and special gratitude to my supervisors, the late Professor Ivor Sarakinsky and Professor Anthoni Van Nieuwkerk. This journey would not have been possible without their mentorship, patience, and knowledgeable guidance.

My further appreciation to all at the Wits School of Governance who took the time to read and comment on the various stages of my work. Their inputs enhanced the quality of the product.

I also thank all the interview participants who willingly and openly shared their experiences and insights.

Lastly, I thank my family. My husband Barry Gilder's efforts made it all possible, including arranging many writing (which popularly became known as 'eating') retreats in scenic parts of the world to provide a conducive environment for us to work on our PhDs. My mother Sybil Fourie and my son Sebastian Fourie constantly motivated me. And my cousins made sure that I got the much-needed articles, that could not be accessed in Damascus, Syria, due to sanctions. And of course, there were those friends who regularly followed up to make sure that I complete the journey.

## ABSTRACT

This research study investigates the imperatives that led to the formation of South Africa's post-apartheid decentralisation model and the conditions that enabled it to relatively appease the key role-players in South Africa's pre-1994 conflict, as well as to critique the contribution of the model to state legitimacy. It is set in the context of decentralisation and intra-state conflict on the African continent in an endeavour to contribute to the African Union's efforts to 'Silencing the Guns' by 2030.

Regardless of its form, decentralisation is profoundly controversial, yet it is crucial to transitional governments and post-conflict reconstruction debates. However, current literature does not sufficiently enable us to understand the conditions under which a country can devise a decentralisation model that responds to the drivers of conflict. South Africa's unique historical experience in the development of its post-apartheid model of decentralisation provides an opportunity to critique and discuss these debates through a fascinating case study.

Qualitative data collection methods, analysed through a specially constructed three-dimensional framework, underpin this interpretive case study. The data collection method for dimension one of the decentralisation framework of analysis is semi-structured interviews with persons who either participated directly in the design of the decentralisation model, or influenced, or observed the process. It responds to the research question, '*What is the role of decentralisation in managing intra-state conflict in South Africa?'* The sub-questions relate to the context, formation process, and design of the decentralisation model and its perceived effectiveness.

Furthermore, document analyses are applied to critique the model's contribution to state legitimacy. In this regard, primary sources are analysed in dimension two to demonstrate how regulatory prescripts support the decentralisation model to facilitate a reciprocal interrelationship between power and authority; to promote compliance, trust, accountability and innovation; to drive the interplay between these former two aspects; and to enable citizen influence and oversight and social reciprocities. Additionally, document analyses of domestic and international quantitative secondary sources are applied in dimension three to critique governance effectiveness concerning economic management, social development, government orientation and citizen participation.

The research study provides new insight into the conditions that preceded and surrounded South Africa's transition and the different challenges and interests to which the negotiations over decentralisation tried to respond. In South Africa, the depth of the conflict had attained such severity that it had reached a point where there was mutual agreement that some accommodation had to be found. The collectively agreed, unitary post-apartheid decentralisation model, which has significant federal features, sustained the peace for almost three decades.

The research study, by applying the three-dimensional framework of analysis, also provides theoretical insights into the relationship between a given decentralisation model and state legitimacy as part of managing intra-state conflict. However, by focusing only on the intrinsic aspects of managing intra-state conflict, the study does not deal with the complexities that arise from adverse external interests and interferences. Furthermore, so many factors shape state legitimacy, which cannot be addressed by a decentralisation model only. Accordingly, the study finds that despite the post-apartheid decentralisation model's effectiveness in relatively appeasing all the negotiation participants, it was an incomplete arrangement in that it could not contribute to stemming poverty and inequality or empowering local communities. The conclusion flowing from this research is that decentralisation is an eminently political process that, at its best, is dynamic and elastic in responding to changing times and that its application in conditions of conflict is relative.

## TABLE OF CONTENTS


| | | |
|---|---|---|
| Declaration | | i |
| Dedication | | ii |
| Acknowledgements | | iii |
| Abstract | | iv |
| Table of contents | | vi |
| List of tables | | xi |
| List of figures | | xiii |
| Acronyms and abbreviations | | xiv |
| **SECTION I: INTRODUCTION AND BACKGROUND** | | |
| **Chapter 1: Introducing the research study** | | **1.** |
| 1.1. | Introductory statement | 1. |
| 1.2. | Balancing international and domestic demands | 2. |
| 1.3. | The challenge of decentralisation | 3. |
| 1.4. | Problem statement | 6. |
| 1.5. | Purpose statement | 17. |
| 1.6. | Literature gaps in the field of decentralisation and conflict | 18. |
| 1.7. | Research question | 19. |
| 1.8. | State legitimacy as a theoretical and analytical framework | 20. |
| 1.9. | Methodological approach | 22. |
| 1.10. | Structural outline of the research report | 25. |
| 1.11 | Limitations of this study | 26. |
| **Chapter 2: Literature review: decentralisation and related concepts** | | **28.** |
| 2.1. | Introductory remarks | 28. |
| 2.2. | Defining conflict | 28. |
| 2.3. | Approaches to the state | 29. |
| 2.3.1. | State formation | 30. |
| 2.3.2. | Concept of the state | 30. |
| 2.3.3. | Structure of the state | 34. |
| 2.4. | State legitimacy | 37. |
| 2.5. | Deconstructing governance | 40. |

| | | |
|---|---|---|
| 2.5.1. | Governance perspectives | 40. |
| 2.5.2. | A human agency approach to governance | 42. |
| 2.6. | Decentralisation | 43. |
| 2.6.1. | Defining decentralisation | 44. |
| 2.6.2. | Arguments for and against decentralisation | 46. |
| 2.7. | Decentralisation design and intra-state conflict management | 48. |
| 2.8. | Governance effectiveness | 51. |
| 2.9. | Conclusion | 52. |
| **Chapter 3: Literature review: decentralisation in Africa** | | **53.** |
| 3.1. | Introductory remarks | 53. |
| 3.2. | The history of decentralisation in Africa | 53. |
| 3.2.1. | Pre-colonial Africa | 53. |
| 3.2.2. | Colonial Africa | 57. |
| 3.2.3. | Post-colonial Africa | 61. |
| 3.2.4. | Decentralisation in Africa in the 21st century | 65. |
| 3.3. | The history of decentralisation and conflict in South Africa | 71. |
| 3.3.1. | Governance in South Africa between 1652 and 1989 | 71. |
| 3.3.2. | Indigenous communities | 73. |
| 3.3.3. | Conflict | 76. |
| 3.3.4. | The socio-economic impact of apartheid | 77. |
| 3.4. | Conclusion | 79. |
| **SECTION II: RESEARCH PROCESS AND OUTCOMES** | | |
| **Chapter 4: Research methodology** | | **80.** |
| 4.1. | Introductory remarks | 81. |
| 4.2. | The research problem, question and objective | 81. |
| 4.3. | Research approach | 83. |
| 4.4. | Research strategy | 87. |
| 4.5. | The research plan | 88. |
| 4.6. | The data collection methods | 89. |
| 4.7. | Collation and analysis | 92. |
| 4.7.1. | Interviews | 93. |
| 4.7.2. | Document analysis – state legitimacy: qualitative | 96. |

| | | |
|---|---|---|
| 4.7.3. | Document analysis – state legitimacy: quantitative | 96. |
| 4.8. | Scope and limitations of the research | 98. |
| 4.9. | Ethical considerations | 99. |
| 4.10 | Significance of the study | 100. |
| 4.11 | Conclusion | 100. |
| **Chapter 5: Research findings: The formation of the decentralisation model** | | **101.** |
| 5.1. | Introductory remarks | 101. |
| 5.2. | Interview outcomes | 102. |
| 5.2.1. | Context of the conflict | 102. |
| 5.2.1.1 | Causes of the conflict in South Africa | 102. |
| 5.2.1.2. | Forms that the conflict took | 110. |
| 5.2.1.3. | Consequences of the conflict | 120. |
| 5.2.1.4. | Synthesis of the context of the conflict | 126. |
| 5.2.2. | The negotiations process | 127. |
| 5.2.2.1. | Why negotiate? | 127. |
| 5.2.2.2. | The negotiations process | 134. |
| 5.2.2.3. | Mandate | 141. |
| 5.2.2.4. | Entities not represented at the negotiations | 143. |
| 5.2.2.5. | Key features of the negotiations | 146. |
| 5.2.2.6. | Synthesis of the negotiations process | 155. |
| 5.2.3. | A unique decentralisation model | 156. |
| 5.2.3.1 | Opposing views | 157. |
| 5.2.3.2. | Factors that influenced the design of the decentralisation model | 163. |
| 5.2.3.3 | Reaching agreement | 166. |
| 5.2.3.4. | Sustaining the agreements | 182. |
| 5.2.3.5. | A space for traditional leaders | 185. |
| 5.2.3.6. | An all-inclusive decentralisation model | 190. |
| 5.2.4. | The decentralisation model reviewed | 191. |
| 5.3. | Conclusion | 205. |
| **Chapter 6: Research findings: State legitimacy** | | **208.** |
| 6.1. | Introductory remarks | 208. |
| 6.2. | The governance realm | 208. |

| | | |
|---|---|---|
| 6.2.1 | The actor dimension | 209. |
| 6.2.1.1. | Spheres of government | 209. |
| 6.2.1.2. | Intergovernmental relations | 215. |
| 6.2.1.3. | The role of traditional leaders | 217. |
| 6.2.1.4. | Synthesis of the actor dimension | 220. |
| 6.2.2. | Structural dimension | 221. |
| 6.2.2.1. | Intergovernmental fiscal relations | 221. |
| 6.2.2.2. | Accountability, monitoring and control | 223. |
| 6.2.3.3. | Synthesis of the structural dimension | 226. |
| 6.2.3. | Empirical dimension | 227. |
| 6.2.3.1. | Legislative and institutional measures for public participation | 227. |
| 6.2.3.2. | Institutions established to enhance the sustainability of democracy | 231. |
| 6.2.3.3. | Synthesis of the empirical dimension | 233. |
| 6.2.4. | Synthesis of the qualitative measures that support South Africa's decentralisation model to enhance state legitimacy | 233. |
| 6.3. | Governance effectiveness | 235. |
| 6.3.1. | Citizen participation | 235. |
| 6.3.2. | Government orientation | 236. |
| 6.3.3. | Social development | 237. |
| 6.3.4. | Economic management | 239. |
| 6.3.5. | The South African reality | 241. |
| 6.4. | Conclusion | 243. |
| **SECTION III: DATA ANALYSIS AND CONCLUSION** | | |
| **Chapter 7: Discussion of research findings** | | **244**. |
| 7.1. | Introductory remarks | 244. |
| 7.2. | The negotiation and constitution-making processes | 246. |
| 7.2.1. | Why negotiate | 247. |
| 7.2.2. | Critical success factors | 250. |
| 7.2.3. | A sustainable design | 253. |
| 7.2.4. | A marked reduction in intra-state violence | 257. |
| 7.3. | Governance effectiveness | 259. |

| | | |
|---|---|---|
| 7.4. | Advancing state legitimacy | 260. |
| 7.5. | Conclusion | 265. |
| **Chapter 8: Conclusion** | | 267. |
| 8.1. | Introductory remarks | 267. |
| 8.2. | Overview of the thesis | 268. |
| 8.3. | Assessment of the research | 270. |
| 8.4. | Implications, contributions and limitations of the study | 273. |
| 8.5. | Recommendations | 275. |
| 8.6. | Does the system work? | 276. |
| **REFERENCES** | | 277. |
| **ANNEXURES** | | |
| *Number* | *Content* | *Page* |
| Annexure 1 | Interview schedule | 291. |
| Annexure 2 | Interview invitation letter | 293. |
| Annexure 3 | Consent form | 295. |
| Annexure 4 | Ethics clearance certificate | 296. |

## LIST OF TABLES


| *Number* | *Content* | *Page* |
|---|---|---|
| Table 1 | Overview of conflict in Africa 2020 | 8. |
| Table 2 | Decentralisation analytical framework: Dimension 1 Decentralisation model formation | 23. |
| Table 3 | Decentralisation analytical framework: Dimension 2 State legitimacy – qualitative | 23. |
| Table 4 | Decentralisation analytical framework: Dimension 3 State legitimacy – quantitative | 24. |
| Table 5 | State formation | 30. |
| Table 6 | Rawl's constitutional and overlapping consensus | 38. |
| Table 7 | Ideal characteristics of sub-national governments | 46. |
| Table 8 | Synthesis of scholarly findings on the role of decentralisation in managing intra-state conflict | 50. |
| Table 9 | Racial Distribution of Select Socio-Economic Development Indicators in South Africa in 1995 | 78. |
| Table 10 | South Africa's demographic statistics | 79. |
| Table 11 | Interviewee sampling frame | 90. |
| Table 12 | Research plan | 92. |
| Table 13 | Context of the conflict | 126. |
| Table 14 | South African formal negotiations process timeline | 135. |
| Table 15 | The negotiations: 1990-1994 | 155. |
| Table 16 | The development of South Africa's current decentralisation model | 190. |
| Table 17 | Perceived effectiveness of the decentralisation model | 204. |
| Table 18 | Overview of the 1996 Constitution | 214. |
| Table 19 | Overview of state legitimacy: Qualitative - actor dimension | 220. |
| Table 20 | Overview of state legitimacy: Qualitative – structural dimension | 226. |
| Table 21 | Overview of state legitimacy: Qualitative – empirical dimension | 233. |

| | | |
|---|---|---|
| Table 22 | Overview of state legitimacy: Quantitative – Participation, rights and inclusion | 236. |
| Table 23 | Overview of state legitimacy: Quantitative – judicial efficiency, bureaucratic efficiency and corruption | 236. |
| Table 24 | Overview of state legitimacy: Quantitative – Human development | 238. |
| Table 25 | South Africa's human development performance | 239. |
| Table 26 | Overview of state legitimacy: Quantitative -Business environment | 239. |
| Table 27 | OECD country performance rankings | 240. |
| Table 28 | Overview of state legitimacy: Qualitative | 241. |
| Table 29 | SA Political violence trend | 258. |

**LIST OF FIGURES**


| *Number* | *Content* | *Page* |
|---|---|---|
| Figure 1 | Global conflict overview 2020 | 7. |
| Figure 2 | State legitimacy | 21. |
| Figure 3 | The integrated decentralisation analytical framework | 24. |
| Figure 4 | Model of vertical power-sharing arrangement | 36. |
| Figure 5 | Map of pre-1994 South Africa | 75. |
| Figure 6 | Codesa structure | 136. |
| Figure 7 | MPNP Structure | 136. |
| Figure 8 | Public participation at municipal level | 230. |
| Figure 9 | SA Political violence trend | 258. |

## ACRONYMS AND ABBREVIATIONS

| | *Abbreviation* | *Full Name* |
|---|---|---|
| 1. | ANC | African National Congress |
| 2. | APP | Annual Performance Plan |
| 3. | AWB | Afrikaner Weerstand Beweging |
| 4. | AU (C) | African Union (Commission) |
| 5. | AZAPO | Azanian People's Organisation |
| 6. | CA | Constitutional Assembly |
| 7. | CLGF | Commonwealth Local Government Forum |
| 8. | Codesa | Congress for a Democratic South Africa |
| 9. | Cogta | (Ministry or Department of) Co-operative Governance and Traditional Affairs |
| 10. | Contralesa | Congress of Traditional Leaders of South Africa |
| 11. | COSAG | Concerned South African Group |
| 12. | Cosatu | Congress of South African Trade Unions |
| 13. | DORA | Division of Revenue Act |
| 14. | DP | Democratic Party |
| 15. | FNLA | Frente Nacional de Libertação de Angola |
| 16. | Frelimo | Frente de Libertação de Mocambique |
| 17. | GDP | Gross Domestic Product |
| 18. | IDP | Integrated Development Plan |
| 19. | IFP | Inkatha Freedom Party |
| 20. | IGRFA | Intergovernmental Relations Framework Act |
| 21. | IIAG | Ibrahim Index for African Governance |
| 22. | IMF | International Monetary Fund |
| 23. | KZN | KwaZulu-Natal |
| 24. | MDM | Mass Democratic Movement |
| 25. | MEC | Member of the Executive Council |
| 26. | MinMec | (Meeting of) Minister and MECs |
| 27. | MK | UmKhonto we Sizwe |
| 28. | MPL | Member of the Provincial Legislature |

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|---|---|---|
| 29. | MPLA | Movimento Popular de Libertação de Angola |
| 30. | MPNF | Multi-Party Negotiating Forum |
| 31. | MPNP | Multi-Party Negotiating Process |
| 32. | MTEF | Medium-Term Expenditure Framework |
| 33. | MTSF | Medium-Term Strategic Framework |
| 34. | NA | National Assembly |
| 35. | NCOP | National Council of Provinces |
| 36. | NEC | National Executive Committee (of the ANC) |
| 37. | TEC | Transitional Executive Council |
| 38. | NEPAD | New Partnership for Africa's Development |
| 39. | NHTL | National House of Traditional Leaders |
| 40. | NP or Nats | National Party |
| 41. | NWC | National Working Committee (of the ANC) |
| 42. | OECD | Organisation of Economic Cooperation and Development |
| 43. | PAC | Pan Africanist Congress |
| 44. | PCC | Presidential Coordinating Committee |
| 45. | PEC | Provincial Executive Committee (of the ANC) |
| 46. | PFMA | Public Finance Management Act |
| 47. | PR | Proportional Representation |
| 48. | PSA | Public Service Act |
| 49. | Renamo | Resistencia Nacional Mocambicana |
| 50. | SACP | South African Communist Party |
| 51. | SALGA | South African Local Government Association |
| 52. | SANCO | South African National Civic Organisation |
| 53. | SSA | State Security Agency |
| 54. | StatsSA | Statistics South Africa |
| 55. | STP | State, Territory and Province |
| 56. | SWAPO | South West African People's Organisation |
| 57. | TBVC | Transkei, Bophuthatswana, Venda and Ciskei |
| 58. | TEC | Transitional Executive Council |
| 59. | TRC | Truth and Reconciliation Commission |
| 60. | UDF | United Democratic Front |

| | | |
|---|---|---|
| 61. | UK | United Kingdom |
| 62. | UN | United Nations |
| 63. | UNITA | União Nacional pela Independência Total de Angola |
| 64. | UNDP | United Nations Development Programme |
| 65. | USA | United States of America |
| 66. | USSR | Union of Soviet Socialist Republics |
| 67. | WB | World Bank |
| 68. | WCDWG | Western Cape Devolution Working Group |

# Chapter 1

# Introducing the research study

# The role of decentralisation in managing intra-state conflict in South Africa

## 1.1.Introductory statement

Many countries, including on the continent of Africa are plagued by intra-state conflict. International organisations make the argument that one of the ways of resolving intra-state conflict in Africa is the use of decentralisation. However, existing literature does not sufficiently enable us to understand the conditions that are required for decentralisation to work fully**.** To contribute to addressing this gap, this research study, therefore, focuses on *'The role of decentralisation in managing intra-state conflict in South Africa'*.

Horowitz (1991, p.42) describes apartheid South Africa as characterised by ascriptively determined superior-subordinate relations based on racial, intra-racial, ethnic and ideological polarisations. Hence, South Africa's history is imbued with intense intra-state conflict, making it one of the most deeply divided societies of the twentieth century. By the end of 1980, internal resistance against apartheid and colonialism increasingly rendered the country ungovernable. The apartheid government ruthlessly escalated state repression, characterised by militarisation, successive states of emergency and mass detentions. At the time, peace appeared to be an elusive dream.

The research investigates the conditions under which a country can devise a decentralisation model that responds to the drivers of conflict, using pre-1994 South Africa as a case study. The research also critiques the contribution of the post-apartheid decentralisation model to state legitimacy.

In 1990, when negotiations formally started, South Africans were deeply divided and poles apart, including around a desired decentralisation model for the country. The resistance, as represented, among others, by the African National Congress (ANC), the Pan Africanist Congress (PAC), and the Azanian People's Organisation (Azapo), wanted a highly centralised, unitary state. On the other hand, the then governing National Party (NP) and other political parties like the Democratic Party (DP) wanted a devolved, federal state. While other parties, such as the Conservative Party (CP) and the Freedom Front (FF), as well as the Inkatha Freedom Party (IFP) and some other former Bantustan leaders, wanted independent states.

Friedman (1994, p.xiii) states, ‘As the parties sought to gain a settlement which would avert national disaster on their terms alone, they came to accept many compromises, and principles, which seemed unattainable not long before.’ Hence, the conditions are investigated that enabled South Africa to devise a decentralisation model that could sufficiently accommodate the diversity of interests to enable it to be accepted to end the conflict and sustain the brokered peace.

The introductory chapter contextualises the research problem, the rationale for the research and the study’s significance. It highlights the key contradictions facing states in trying to maintain national unity and social cohesion, the role of decentralisation in this regard, and the consequences of intra-state conflict for the continent of Africa. The reason for selecting South Africa as a case study and the research approach is also introduced. Finally, it concludes with the framework of the research report.

### 1.2.Balancing international and domestic demands

South Africa is part of the global community. Though the case study is unique, there are generic challenges that are fundamental to sustaining peace and stability in every country. In this regard, national unity and social cohesion within a state, hereby referring to countries or nation-states as well as all elements associated with their governance, are essential for managing intra-state conflict. In their efforts to maintain national unity and social cohesion, states must balance the impact of globalisation against the citizens' demands.

Globalisation has heightened the interdependence of states. Communications technology has made borders permeable, and trade liberalisation has resulted in labour portability, the less restrained movement of goods and services, the accelerated expansion of monopoly capitalism and the deepening of inequality. This interconnectivity threatens the sovereignty of states as compliance with the rules set by multilateral organisations becomes necessary for maintaining global order, and multinational corporations and super-powers try to influence domestic policy and practice.

Contrasting solidifying globalisation, is the responsibility of states to address the needs of citizens. The increased demands of organised constituencies exacerbate this responsibility.

Such organised constituencies could include those with separatist tendencies, as people coalesce around commonalities due, among others, to cultural background and historical land ownership patterns. Alternatively, it could also be due to frustrations caused by poor governance and rising poverty or perceived or genuine bias regarding the allocation of socio-economic resources, as well as the infringement of human rights.

Sabanadze (2010, p.169) confirms the contrast by highlighting two opposing global views on nationalism. She states that there is,

> One which sees nations and nationalisms … as a past state in the development of mankind which is about to disappear and give way to other structures more suitable for the increasing global inter-connectedness of the planet; and another, which posits nationalism as the most potent and enduring political force that, far from disappearing, is gaining strength in response to the challenges of globalisation.

The interplay between multilateralism and narrow nationalism within a globally networked, highly unequal, ideologically contested, and patriarchal environment broadly forms the background to many contemporary intra-state conflicts. Consequently, states must govern in a manner that accommodates cultural pluralism and manages these contradictory demands. Addressing the challenge puts significant pressure on the nature of the structure of the state.

While recognising that states are not necessarily fully autonomous and that, in this era of globalisation, public policy choices and domestic stability are not devoid of external influence nor the internal influence of, among others, political parties or business conglomerates; a strong state with an effective public governance system is a pivotal contributor to managing intra-state conflict. In particular, the structure of the state, including the design of its decentralisation model could facilitate a reciprocal relationship between the state and society, and how these interrelations shape political cultures, intra-state conflict and collective action. The form that decentralisation takes is however, not devoid of controversy.

### 1.3.The challenge of decentralisation

Many definitions and perspectives on decentralisation exist. Therefore, in this study, decentralisation refers to the cascading of national or central powers of government to sub-national and local bodies.

This definition includes deconcentration, where a centralised government deploys officials to lower levels of government to execute responsibilities and functions. It also includes devolution; whereby sub-national and local governments are assigned legally defined territories within which they exercise authority and perform public functions. Furthermore, it includes delegation, which is the transfer of decision-making and management authority and occurs in deconcentration and devolution. And lastly, it includes privatisation, which is the transfer of public functions to non-state actors such as the private sector (Kauzya 2007, p.1).

The governance structure that indicates the form of decentralisation could be unitary, federal or a combination. According to Kuye et al. (2002, p.28-29), a federal state broadly comprises of central and sub-national government components, with each being independent within respective, constitutionally defined powers and functions, including the development of legislation. In a unitary state, the central government has the sole discretion to determine whether sub-national bodies are required, and which powers and functions are to be delegated or devolved if deemed necessary. A hybrid between federal and unitary states usually arises from specific conditions within a country.

The decentralisation model of a state, as a governance system reflected in constitutional amendments or even the development of a new constitution, is usually advocated by international organisations as part of a political solution to intra-state conflict. The United Nations (2005) states that, '… decentralised governance provides a structural arrangement and a conducive playing field for stakeholders and players to promote peace, and development'. Crawford and Hartmann (2008, p.12) concur, arguing that,

> The World Bank (1997), the United Nations Development Programme (1997) and the Development Assistance Committee of the Organisation for Economic Cooperation and Development (1997) all identified decentralisation as a key element of good governance …Following violent conflicts, political decentralisation is seen as a compromise strategy to maintain the integration of secessionist groups within the state, while at the same time allowing for a meaningful degree of autonomy over local resources and decision-making.

Thus, multilateral organisations advocate political decentralisation as a critical means of resolving and managing intra-state (including ethnocultural) conflicts. They opine that most violent conflicts occur among groups from the same country and that a decentralised governance system better accommodates and protects diversity and prevents territorial disintegration, thereby contributing to maintaining political stability (Keil and Anderson 2018, p.1).

This is practically demonstrated by the role that multilateral institutions play on the African continent. For example, on 10-12 April 2018, the United Nations Multidimensional Integrated Stabilisation Mission (Minusma) in Mali funded a workshop of the African Union Mission for Mali and the Sahel (MISAHEL) in Bamako. The workshop brought key players associated with the conflict in Mali to discuss implementing the '*2015 Agreement for Peace and Reconciliation in Mali'*. Central to the Agreement was the promotion of 'regionalisation, through the establishment of an institutional architecture based on local authorities endowed with elected bodies and extended powers' (MISAHEL 2018). In this regard, a core objective of the workshop was to,

> Allow the signatories of the Agreement, political actors, traditional authorities, and civil society, to materialise and consolidate a convergent vision of regionalisation taking into account the context of fragility in which Mali finds itself (MISAHEL 2018).

Also, the United Nations Development Programme (UNDP), together with the United Nations Peacebuilding Fund (PBF) and the United Nations Integrated Peacebuilding Office in Guinea-Bissau (UNIOGBIS), managed a project to support political dialogue and reconciliation in Guinea-Bissau from January 2018 to October 2019. The project sought to promote the '*2016 Conakry Agreement'*, which included a six-part 'Stability Pack'. One of the six principles of the 'Stability Pack' is 'Reform of the electoral law for the organisation of legislative and local elections' (UN 2019).

There are several examples, but lastly, the UNDP, in partnership with Local Public Sector Alliance (LPSA) and the Development Partners Network on Decentralisation and Local Governance (DeLog), conducted a webinar titled '*Decentralisation and localisation in Sub-Saharan Africa: Is decentralisation a road to peace in Africa*', in December 2021.

In her opening remarks, the UNDP's Dr Roselyn Akombe stated that local government is key to peacebuilding and state-building (DeLog 2021).

Regardless of its form, decentralisation is profoundly controversial, yet it remains critical to debates on transitional governments. One aspect of the controversy is the nuance of its definition. While there is an agreement that decentralisation entails the distribution of powers and resources to sub-national levels, one perspective views that distribution geographically, and the other views it ethnoculturally, whether religion or ethnicity. There have also been instances where decentralisation has been advanced for secessionist interests. According to the Brenthurst Foundation (2012, p.xx),

> Secessionism has been a recurring theme in Africa's post-colonial history. The Democratic Republic of the Congo had Katanga and South Kasai immediately after independence in 1960; Nigeria had the bloody Biafra War in the late 1960s; Senegal has had problems in Casamance off and on for decades; Ethiopia has had a number of regions seek independence; Somalia has Somaliland.

The literature demonstrates that decentralisation does not automatically lend itself as the only possible solution to intra-state conflict. The model of decentralisation and the separation of powers within the context of managing intra-state conflict is thus crucial as it could reduce or aggravate the conflict. Accordingly, Crawford and Hartmann (2008, p.176) argue that the institutional design of decentralisation determines its effectiveness in a conflict setting. Sisk (2001) supports this position by stating that, 'The specific contexts (both of countries but also of micro-social settings) and the prevailing constellation of actors certainly matter, but it can be assumed that the design of decentralisation itself is also important for conflict dynamics and management'.

Given the significance of a decentralisation model in the management of intra-state conflict and its enormous potential to either diffuse or deepen the conflict, South Africa's unique historical experience in the development of its post-apartheid model of decentralisation provides an opportunity to critique and discuss these debates. The research study outcomes present policy lessons that could be considered in relation to the African Union's commitment to silencing the guns on the continent by the year 2030. Thus, this analytical study brings value to practical contexts and urgent continental challenges. These challenges are unpacked in more detail in the problem statement.

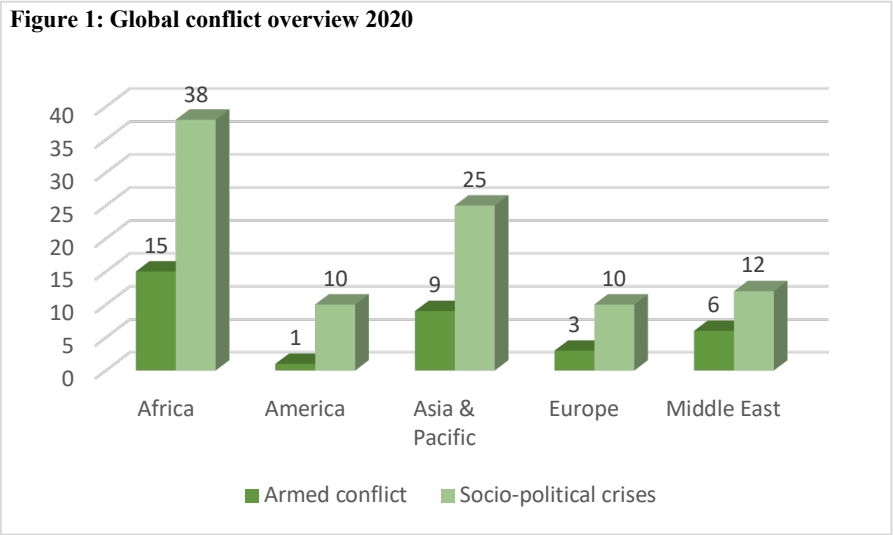
### 1.4.Problem statement

Since their political independence, several African countries have experienced internal conflict at various levels, as detailed in this problem statement. Decentralisation is promoted as a fundamental solution to intra-state conflict. However, the problem statement demonstrates that the role of decentralisation in managing intra-state conflict is disputable and that the context within which it can play a positive role is undefined. In so doing, the problem statement justifies the necessity for this research study.

According to Milian et al. (2021, p.9-10) there were 34 cases of armed conflict worldwide in the year 2020, of which 44 percent were in Africa. Armed conflict refers to continuous, organised violence that causes a minimum of 100 battle-related deaths; significant material damage; and which adversely affects human security (Milian et al. 2021, p.21). In addition, demands related to self-governance or identity constituted 60 percent of African armed conflict cases (Milian et al. 2021, p.29).

Furthermore, there were 95 socio-political crises in 2020, of which 38 occurred in Africa (Milian et al. 2021, p.7). A breakdown of global conflict statistics for 2020 is presented below.

**Figure 1: Global conflict overview 2020**




**Source:** Author's compilation based on data from Milian et al. (2021, p.18)

Socio-political crises make for high levels of political, social or military mobilisation, including clashes, repression, coups and bombing, with a level of violence less than that of armed conflict (Milian et al. 2021, p.79).

An overview of Africa's armed conflict and socio-political conflict for the year 2020 is tabulated below.

**Table 1: Overview of conflict in Africa 2020**

| Continent | Armed conflict | | | Socio-political crises | | | TOTAL |
|---|---|---|---|---|---|---|---|
| | High | Medium | Low | High | Medium | Low | |
| Africa | *Cameroon (Ambazonia/ North West and South West)*<br>*DR Congo (east)*<br>DR Congo (east-ADF)<br>Ethiopia (Tigray)<br>Lake Chad Region (Boko Haram)<br>*Libya*<br>*Mali*<br>Mozambique (north)<br>*Somalia*<br>*South Sudan*<br>West Sahel Region | *CAR*<br>*Sudan (Darfur)* | *Burundi*<br>*Sudan (South Kordofan and Blue Nile)* | Chad<br>Ethiopia<br>Ethiopia (Oromia)<br>Kenya<br>Mali<br>*Morocco–Western Sahara*<br>Nigeria<br>Rwanda–Burundi | Algeria (AQIM)<br>Côte d'Ivoire<br>*DR Congo*<br>Eritrea<br>Ethiopia–Egypt– Sudan<br>Guinea<br>Guinea-Bissau<br>Rwanda<br>Rwanda–Uganda<br>Somalia (Somaliland-Puntland)<br>*Sudan*<br>Tanzania<br>Uganda | Algeria<br>Benin<br>Central Africa (LRA) DR Congo–Rwanda DR Congo–Uganda Equatorial Guinea *Eritrea–Ethiopia*<br>Gambia<br>Madagascar<br>Malawi<br>*Mozambique*<br>Nigeria (Delta Niger)<br>Senegal (Casamance)<br>*Sudan–South Sudan* Togo<br>Tunisia<br>Zimbabwe | |
| SUBTOTAL | 11 | 2 | 2 | 8 | 13 | 17 | 53 |
| *Italics = armed conflicts and socio-political crises with ongoing peace negotiations* | | | | | | | |
| **Source:** Milian et al. (2021, p.18) | | | | | | | |

The enormous consequential destabilisation of human settlement is of grave concern. While this does not relate wholly to intra-state conflict, the UN Report on Refugees (2021) states that more than 84 million people were forcibly displaced across the world between January and November 2021. Most of the displacement occurred on the continent of Africa. Statistics for persons displaced in the first of half of 2021, specifically due to conflict, in the most affected countries in Africa are: the DRC 1.3 million; Ethiopia 1.2 million; Central African Republic 71,800; South Sudan 61,700; and Nigeria 20,300 (UNHCR 2021).

Regarding economic regression, the International Monetary Fund (IMF) (2019, p.30) estimates that, on average, annual economic growth of countries in conflict in sub-Saharan Africa is about 2.5 percent lower compared to a non-conflict scenario. The decline in growth is primarily due to decreased investment, trade and productivity, as well as human and physical capital destruction. They further argue that areas in neighbouring countries that fall within 500 km of conflict areas also suffer fatalities and an estimated loss of two percent in growth (IMF 2019, p.35).

Given the grave repercussions of poorly managed intra-state conflict, the African Union (AU) in 2014 made 'Silencing the Guns' one of the flagship programmes of its Agenda 2063. Accordingly, the AU's theme for 2020 was, 'Silencing the Guns: Creating Conducive Conditions for Africa's Development'. Its main objective was to secure lasting resolutions to conflicts by strengthening reactive and pre-emptive or pro-active measures (Accord 2014, p.14).

The 14th Extraordinary Session of African heads of state in December 2020 focused on the 'Silencing the Guns' initiative. The session resolved that there had been a decline in violent conflict on the continent, but that it had been hampered by the COVID-19 pandemic (AUC 2020). Ironically, this statement was made amid escalating conflict in North Africa, West Africa, Southern Africa and the Great Lakes region, making the excuse seem feeble when compared to the tremendous loss of life. Accordingly, the deadline to silence the guns in Africa had to be deferred by a decade.

The African Union's 'Silencing the Guns' programme cites good governance and a functional democracy as central to preventing and managing conflict. Peters (2002, p.1) defines governance as a state's collective steering and management of society. The 'Silencing the Guns' programme describes good governance within the context of the role of the state as focusing 'on the processes involved in making and implementing decisions and applying the best possible methods for making those decisions', and a functional democracy is defined as '… the rule of the people, for the people and by the people... In other words, democracy has to run according to the wishes, directions and decisions of the people' (Accord 2014: p.35). The notion of inclusivity infers greater decentralisation of power, responsibilities and resources.

Historically, many liberation movements in Africa preferred to have centralised governments to transcend ethnic divisions; overcome the socio-economic challenges, including ethnic-based disparities inherited from colonial exploitation; and to foster national unity, social cohesion and maintain domestic stability (Young 1982, p.71). The Union of Soviet Socialist Republic's (USSR) governance structure, which supported some African countries in their anti-colonial struggles, also influenced this approach. Even at an international level, post-World War 2, 'Normative discourse on rights of national minorities largely evaporated… national unity was universally believed to be indispensable to modernity' (Young 2004, p.2).

While the need for unity among Africans, as expressed in the concept of Pan-Africanism, gained traction and was consolidated through establishing the Organisation of African Unity in 1963, the territorial formation of nationalism was slower. Territorial nationalism co-existed easily with the concept of Pan-Africanism but blending it with ethnicity was far more uneasy (Young 2004, p.11-13).

Since the late 1980s, many countries have been characterised by policy and legislative reform to advance multi-party democracy, primarily as dependence on donor funding increased. The collapse of the USSR also meant that the historical suppression of ethnicity, race and religion in the interest of nation-building and social cohesion eroded. That which individuals regarded as key to their identity, regardless of its fluidity, resurfaced; and became associated with fairness or unfairness in the allocation of power and socio-economic resources.

According to Keil and Anderson (2018, p.1) the nature of civil wars and conflicts changed after the Cold War ended, to become rooted in ethnic, religious and linguistic diversity. Thus, cohesion based on a national and even class consciousness started unravelling, and identity consciousnesses became more elevated. Repression only served to fuel radicalisation and deepen tensions, compelling the exploration of politically based, culturally pluralistic, inclusive solutions to intra-state conflict.

Cordell and Wolff (2016, p.1) noted that,

> not only has ethnocultural conflict become a permanent and enduring feature of the modern world, but 'left unchecked or managed poorly' can result in a myriad of problems: destroying the social fabric of societies, massively devastating economic development, jeopardising the territorial integrity of states, contributing to the spread of terrorism and embroiling neighbouring countries in the conflict.

Furthermore, the post-colonial state saw the emergence of new social stratifications largely consolidated around the political and bureaucratic apparatus of the public sector. New disparities emerged as the governing elite became consolidated. The uneven distribution of opportunities for social mobility inevitability resulted in the rise of ethnic or cultural self-consciousness in the post-colonial era (Young 1982, p.80-82).

A dramatic surge in ethnocultural conflict occurred at the end of the Cold War in 1989-1991, with its consequential shift away from centralised governments, which till then played a substantial role in enforcing national cohesion (Young 2004, p.2). Such conflict often found expression territorially. Recent manifestations of ethnocultural conflict include the terror activities of Boko Haram in northern Nigeria, the independence war between Sudan and the South, the Ambazonian struggle in southern Cameroon and the Tigray uprisings in northern Ethiopia. The containment of intra-state conflict necessitates that governments become adept at managing cultural pluralism, including its spatial manifestations.

Alongside the need to manage cultural pluralism, centre-periphery relations must also be managed. Unequal exchanges between the centre and periphery and unfair distribution of state resources between the regions, whether perceived or real, create conflict. Thus centre-periphery relations need to be accommodated in a country's political, administrative, social or class and economic structures, as they contribute to the management of the competition for state power and access to and control of scarce economic resources by various interest groups.

Herewith are some examples demonstrating competition for state power and access to and control of scarce economic resources by various interest groups. Political instability has besieged Lesotho due to power struggles since its independence in 1966. This instability included two successful coup d'états and two attempted coups (Mesfin et al. 2019). Zimbabwe too has been experiencing recurring incidents of politically based conflict over the past decade. The legitimacy of Zimbabwe's last two elections has become questionable, and state repression is becoming increasingly severe (Deleglise 2020, p.215). Furthermore, there have been successful military coups in Mali, Chad, Guinea, Burkina Faso and Sudan. There were also attempted coups in Madagascar, the Central Republic of Africa, Niger and Guinea-Bissau, with rumblings in Djibouti.

Keil and Anderson (2018, p.5) argue that 'States, as a result, have had to muster more effective, constructive, innovative and democratic solutions to manage issues of diversity'. One of the institutional responses to this democratisation process has been a decentralised approach to governance, with quasi-federal states, as in the cases of Kenya and South Africa, or federal states, as in the case of Nigeria (Okia 2012, p.23-24).

Institutions such as the Commonwealth Local Government Forum (CLGF) advocated that decentralisation assists in managing intra-state conflict in that it allows the state to restructure the centre-periphery or central-local relations and provides a framework in which to accommodate cultural pluralism (Fourie 2013, p.28). The UN, and the AU too, regard decentralisation as essential for managing intra-state conflict. However, the conditions required and the form that decentralisation should take to positively contribute to managing intra-state conflict, have not been outlined.

Jackson (2017, p.70) argues that literature regarding decentralisation and its role in managing intra-state conflict is inconclusive. He states that,

> One school views decentralisation as retaining great pro-poor potential as it increases representation and voice, generates more accountable and effective services, reduces centralised control and improves political participation and local ownership. … Another body of literature argues that decentralisation has been politically subverted by elites who use it to project their own power through political manipulation of political systems or as an extension of political control.

Azfar et al. (1999, p.1-2) indicate that protagonists of decentralisation argue that it improves the quality-of-service provision by bringing government closer to the people. Hyden (2016, p.198) however, argues that, though decentralisation has been a mantra in the global discourse on development regarding enhancing delivery and citizen participation, its effectiveness has proven to be increasingly questionable in Africa.

Understanding the political dynamics and the broader processes that affect the distribution of power and the legitimacy of the state is therefore important. Jackson (2017, p.752-753) asserts that,

> The politics of centre-periphery relations are heightened in post-conflict environments and include a general lack of trust, weak control authorities, financial pressures, political rivalry and creeping centralisation of power. One of the ironies of decentralisation is that it requires a functioning and capable central government to make it work.

Given the AU's 2030 focus on 'Silencing the Guns' and the diversity of perspectives on the successes or failures of decentralisation in managing intra-state conflict, and particularly the devastating impact in the event of the decentralisation model being inadequate, further study on this matter is required. Bächler (2004, p.3) states that 'decentralisation should be looked at individually and in greater detail, as their design can be of utmost importance for the success or failure of any post-conflict arrangement'. The challenge in designing a decentralisation model is to grasp the multiple dimensions of the process and to manage the dynamics of how the dimensions are socially constructed and interconnected.

South Africa is among the countries that are lauded by multilateral institutions such as the CLGF, the UNDP and the AU as an exemplary model of decentralisation for resolving intra-state conflict. Hence Sisk (1995, p.4) states, 'South Africa is a test case of the possibility of negotiated settlements in societies deeply divided by racial, ethnic, religious, or other form of ascriptively-based conflict.' Located at the southern tip of Africa, South Africa, which has an ethnically diverse population of approximately 60 million people, formally exited a protracted intra-state low-intensity war that lasted centuries in 1994. Central to the conflict was an ethnocentric form of decentralisation, which most South Africans rejected.

The apartheid government, upon assuming power in 1948, firstly introduced a model of separate development and later introduced a model of federalism comprised of ethnic-based, spatially delineated, self-governing areas called Bantustans, which restricted movement and prohibited electoral participation of non-white persons in the area known as South Africa. In 1983, the vote was extended to persons of mixed and Indian descent, but this too was confined to the applicable 'race'. This model of decentralisation was rejected by the majority of South Africans who agitated for a united South Africa, with a non-racial and non-sexist electoral system.

In 1990, multi-party negotiations, in a process later known as the Conference for a Democratic South Africa (Codesa), between the apartheid government and its allies and the forces of resistance, formally began (Friedman 1994, p.xi). The negotiations led to South Africa's first democratic elections on 27 April 1994, marked by two years of shared governance through the government of national unity, during which the crafting of a non-racial, non-sexist, democratic constitution was concluded.

Given the failure of apartheid as a form of decentralisation, South Africa's model of decentralisation that emerged from its negotiations process sought to accommodate the historical idealism of national unity and centralised redress, while accommodating cultural pluralism including traditional leadership within the realm of democracy. The Constitution of the Republic of South Africa, Act 108 of 1996, Section 41 (1) promotes a system of co-operative governance. The country has a three-sphere system of governance, comprised of national government; a provincial sphere of government with nine provinces; and a local sphere of government consisting of 278 municipalities. The spheres, though distinct, are interrelated and interdependent with individual powers and functions in some areas and concurrent powers and functions in others (Malan 2014, p. 57).

Young (1994, p.1) describes South Africa's transition in 1994 from anti-apartheid conflict as 'the stunning triumph of policy reason', and suggestive of 'carefully reflected and bargained choice being able to transcend communal cleavage'. Further study of the detail of the 'carefully reflected … bargained choice', is required as part of a critical reflection on decentralisation.

It is prudent to interview participants in, and experts that monitored South Africa's negotiations process as well as to analyse regulatory documents that underpin the final decentralisation model, to understand how the conflicting parties were able to accommodate each other, given the extreme polarities of positions that existed between them at the time. For example, some argued for separate states, others demanded federalism, and others preferred a unitary state. Examining the conditions and processes that allowed for the construction of a decentralisation model that could relatively satisfy these diverse perspectives, provides policy lessons that other countries might wish to consider.

It is noted, however, that despite South Africa's globally acclaimed 'miraculous' achievement, a study found that twelve years after the adoption of the White Paper on Local Government, many municipalities did not understand their developmental roles, and were unable to perform basic functions and had lost credibility (Siddle 2011). Moreover, the unintended consequence of decentralisation in South Africa introduced other sources of intra-state conflict, in that the litany of maladministration at sub-national levels resulted in tension expressed through service delivery protests.

According to the Institute for Security Studies (2020), South Africa experienced an average of 2.26 protests daily from 2013 to 2020. The number peaked during 2013 and 2014 with more than three protests a day but declined to one per day in 2018. However, there has been a steady increase in daily protests, reaching an average of eight protests a day in July 2020. The surge in protests was mainly due to COVID-related frustrations such as lockdown and insufficient protective equipment. Some protests were however related to South Africa's electricity challenges (ISS 2020).

In July 2021, South Africa also experienced politically induced unrest, which led to the loss of more than 300 lives (Winning 2021). While the source of the unrest could largely be attributed to conflict within the governing ANC, the unrest itself was marked by ethnic undertones in some areas. This was particularly prevalent in the town of Phoenix and the surrounding areas of the KwaZulu-Natal (KZN) province (Erasmus and Hlangu 2021).

The July 2021 uprising was the first recording of public-wide political violence during the reign of the democratic government, however political violence had been prevalent before, particularly in the KZN province. In October 2016 the Moerane Commission was established 'out of concern by the Executive Council of the Province of KZN over politically related killings which had become prevalent in KZN since 2011 and had escalated rapidly during 2016 with adverse consequences for governance in the province' (Moerane et al. 2018, p.5). The recorded political killings in the province between 2011 and 2017 totalled 80, though the figure is not regarded as comprehensive and accurate as it excluded the incidents at Glebelands Hostel (Moerane et al. 2018, p.169).The area, now known as KZN, was part of a former semi-autonomous state or homeland, which strongly advocated for the retention of its autonomy during South Africa's negotiations (Ambrosini 2017, p.108-109).

We are also witnessing the Western Cape, which after the first democratic election was governed by the National Party and a province which primarily maintained a governance trajectory associated with historically 'white' parties, now seeking independence (Githahu 2021). On 26 September 2022, the Western Cape Devolution Working Group (WCDWG) was established to seek greater independence for the province. The group is comprised of the Democratic Alliance, Cape Independence Advocacy Group, Agriforum, Action Society CapeForum, Southern African Agri Initiative, Freedom Front Plus, African Christian Democratic Party and legal experts (Modoeu 2022).

The research thus also explores current political challenges and their links to the former negotiations process and the resultant decentralisation model by discussing governance effectiveness in relation to state legitimacy. Cloete (1998, p.110) defines 'effectiveness' as the extent to which a public need, which forms part of a committed programme, has been satisfied. Failure of governance leads to violence, or violent interactions between communities and state representatives. The necessary structures, mechanisms, filters, and checks and balances to equip the decentralisation model with the resilience needed to absorb the tensions, appear to have been put in place. Despite these efforts, governance effectiveness as an aspect of state legitimacy appears strained and should be investigated further.

A further testimony of the strain on state legitimacy is that South Africa's security apparatus, which is also part of its constitutional dispensation, is failing, in some instances, to anticipate, prevent, manage, steer and mitigate the violence. The 'Report of the High-level Review Panel on the State Security Agency' (2018) found that the SSA had been compromised by factionalism, mismanagement and inefficiency. While there was slight progress at the SSA concerning the challenges identified in the report, key management positions had not been filled, and provincial offices were understaffed at the time of the July 2021 unrest (Africa et al. 2021, p.24).

With regards to whether the response of South Africa's security apparatus to the July 2021 uprising was effective, appropriate and timely, Africa et al. (2021, p.40-49) found the following. The National Intelligence Coordinating Committee (NICOC) had warned that 2021 would be a volatile year. Yet, the National Security Council had not met regularly before the unrest, partly due to the involvement of the security structures in the National Coronavirus Command Council. The intelligence services, however, did not anticipate the extent and the form of violence, looting and destruction that occurred. The police were under-resourced and thus were too thinly spread with insufficient capacity to manage the multiple, simultaneous riots, which took generally unfamiliar forms. The police's response was therefore not effective. The South African National Defence Force was overwhelmed by the number of looters. The initial numbers deployed were too low and the cumbersome procurement processes hindered their effectiveness. Overall, the relevant institutions had failed to conduct timely risk assessments, needed to be better resourced, including technical capacity; and needed to be better coordinated and aligned.

The service delivery protests, the July 2021 uprising and the call for independence in the Western Cape are also linked to dissatisfaction around continued high levels of poverty, inequality and unemployment as well as incidents of corruption and maladministration that plague South Africa. By ascertaining the causes of the pre-apartheid conflict as perceived by the conflicting parties, the forms that the conflict took, its impact, and the compromises that were made in reaching an amenable decentralisation model, the study reflects on whether the compromises made during the negotiations might have contributed to the current ripples of intra-state conflict in South Africa.

The right to self-determination is often cited as a justification for decentralisation, yet this approach failed in apartheid South Africa. It was rejected by the vast majority of South Africans and resulted in resistance and low-intensity warfare. The decentralisation model as reflected in the current Constitution of the Republic of South Africa, Act 108 of 1996 becomes significant as it appeared to have appeased all South Africans across race, ethnic and cultural boundaries, allowing for relative political stability.

Thus, the constitution that underpins the current decentralisation model, which is based on the choices made at Codesa, though effective in some ways, appears to have limitations as well. This calls for a deeper investigation of the 1990-1996 negotiations process to analyse whether compromises made at the time might have resulted in fault lines that undermine state legitimacy; and to determine whether it presents policy lessons for future consideration, even for South Africa.

### 1.5.Purpose statement

The purpose of this study is to investigate the imperatives that led to the formation of South Africa's post-apartheid decentralisation model and the conditions that enabled it to relatively appease the key role-players in South Africa's pre-1994 conflict, as well as to critique the contribution of the model to state legitimacy.

The rationale for the research is influenced by the fact that intra-state conflict persists in a number of countries on the African continent; and that many international bodies advocate decentralisation as part of transitional governance or post-conflict reconstruction arrangements, despite the conditions for its workability being unclear.

The extracts of literature presented above demonstrate that international organisations argue that the judicious use of decentralisation is one way of resolving intra-state conflict in Africa. However, decentralisation assumes different forms, which are informed by historical and contextual conditions. Therefore, policy scholars and researchers have not reached consensus on whether decentralisation is an appropriate means of resolving intra-state conflict. Specifically, the conditions under which decentralisation is a positive, effective solution for managing intra-state conflict are not yet understood.

Accordingly, this research study extrapolates, records and synthesises the process and design related to the formation of South Africa's post-apartheid decentralisation model. In so doing the conditions that compelled the construction of South Africa's unique post-apartheid decentralisation model are presented. The study further synthesises the regulatory and institutional measures that South Africa had put in place to enable its decentralisation model to contribute to promoting vertical and horizontal state legitimacy and critiques governance effectiveness in relation to state legitimacy.

Thus, by investigating the conditions under which South Africa could devise a decentralisation model that responds to the drivers of conflict and critiquing the model's contribution to state legitimacy, the research study proposes policy lessons that could be considered when determining the design of decentralisation models in other countries that are experiencing intra-state conflict.

### 1.6.Literature gaps in the field of decentralisation and conflict

Negotiations around constitutional reform, particularly the decentralisation model, are usually offered to appease conflicting parties in managing intra-state conflict. Research findings on decentralisation and conflict lack consistency and are often contradictory. Accordingly, the application of decentralisation must be approached with caution because the outcomes of decentralisation in conflict situations are complex and often poorly understood. If managed incorrectly, decentralisation could exacerbate intra-state conflict.

The contradictions in literature and the sensitivity related to the potential consequences of a particular decentralisation model demonstrate a need for further study of the interplay between decentralisation and intra-state conflict.

Existing literature does not sufficiently enable us to determine the conditions and related form required for decentralisation to positively contribute to managing intra-state conflict. This gap exists in theory and in practice, at cross-national and at case country levels. This research study aims to complement the existing body of knowledge in those areas.

Negotiations to manage intra-state conflict might benefit from lessons on what worked and what did not from countries, such as South Africa, that had undergone the process. Studying the imperatives that informed the construction of South Africa's unique, post-apartheid decentralisation model; including the processes that informed it and the regulatory and institutional systems that support it, offers new insights into the role of decentralisation in this field.

### 1.7.Research question

The fundamental research question in this study is '*What is the role of decentralisation in managing intra-state conflict in South Africa?'* The question is applied historically as well as ex-post facto and is underpinned by the following five secondary questions:

1.7.1. What process was undertaken to manage the intra-state conflict and how was decentralisation located within that process?

1.7.2. What were the key factors considered when determining the design of decentralisation?

1.7.3. How were these factors accommodated in the design of decentralisation with specific reference to the allocation of powers, responsibilities and resources across the spheres of government, within the country's constitution, policies and legislation?

1.7.4. Which, if any, institutional mechanisms were introduced to sustain the form of decentralisation?

1.7.5. Has decentralisation assisted in managing intra-state conflict?

The research question and secondary questions allow for the extrapolation of crucial data on how the decentralisation model emerged and the mechanisms put in place to enhance the model's resilience regarding sustaining the brokered peace. In particular, moving from the premise that state legitimacy is essential for managing intra-state conflict, and accordingly, that the decentralisation model has to contribute to facilitating state legitimacy, the study synthesises the legislation and institutional mechanisms that were put in place to enable the decentralisation model to contribute to state legitimacy and critically analysis numeric data concerning governance effectiveness.

### 1.8.State legitimacy as a theoretical and analytical framework

The research study critiques the decentralisation model's contribution to state legitimacy because state legitimacy is a key intrinsic factor that assists in managing intra-state conflict. Skocpol (1985, p.3) argues that, increasingly, a range of studies 'have considered states as weighty actors and probed how states affect political and social processes and their patterned relationships and social gaps.'

In acknowledging that states can and should address societal problems, Skocpol (1985, p.22) argues that,

> … various states not only conduct decision-making … but also give rise to various conceptions that influence the behaviour of all groups and classes in national societies. The form of collective action through which groups make political demands or through which political leaders seek to mobilise support are also partially shaped in relation to the structures and activities of the state.

Within this statement, she highlights the fundamental contribution of the structure of the state to enabling state legitimacy.

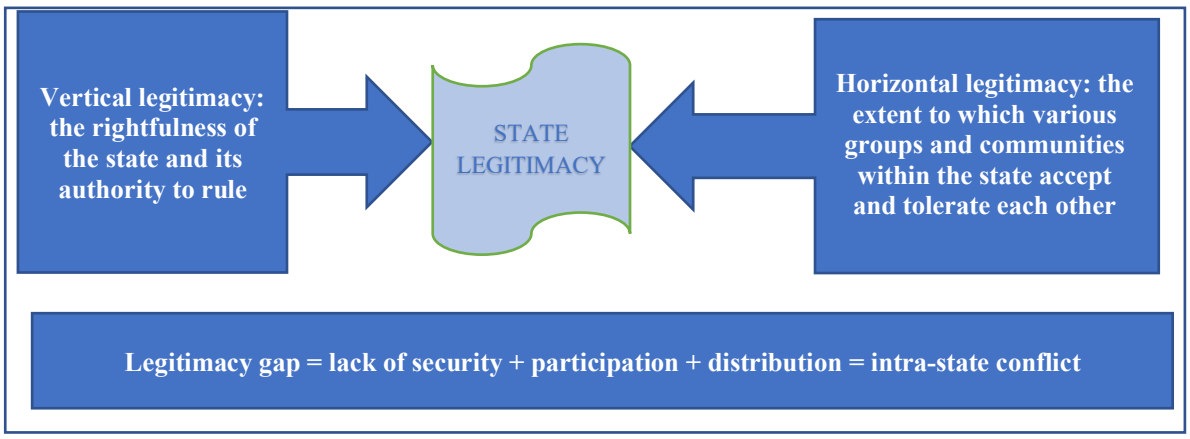
Skocpol (1985, p.27) further proceeds to analyse Sheffer's exposition on the interplay between political parties, elections and the state, thereby concluding that group consciousness about civic responsibility pertaining to public governance develops from within society as well as from the interactions between the state and society. For this reason, she argues that the structure that enables the reciprocal relationship between the various entities that comprise society, including interest groups and classes, is important. Her argument implies a link between state structure and state legitimacy.

According to Ohlson and Söderberg (2002), among the trigger factors for intra-state conflict is the extent to which states enjoy vertical and horizontal legitimacy in the societies that they serve. Vertical legitimacy refers to the rightfulness of the state and its authority to rule. Horizontal legitimacy refers to the extent to which various groups and communities within a country accept and tolerate each other. This includes the level of national unity and social cohesion.

'Thus, vertical legitimacy is about responsible authority and voluntary subordination, horizontal legitimacy is about mutual acceptance and tolerance at elite and mass levels' (Ohlson and Söderberg 2002, p.8). Accordingly, it can be deduced that the higher the degree of state legitimacy, the more effective the ability to manage intra-state conflict.

Condensing the work of Ohlson and Söderberg (2002), the research study premises and graphically depicts below, that state legitimacy (SL), as part of managing intra-state conflict, requires vertical legitimacy (VL) and horizontal legitimacy (HL) and the ability to address the legitimacy gap (aLG).

**Figure 2: State legitimacy**




**Source:** Author's graphic illustration based on Ohlson and Söderberg (2002)

Ohlson and Söderberg's (2002) approach to state legitimacy is applied in this study because it draws on post-Weberian approaches to political legitimacy. Political legitimacy is conceptualised 'as a subjective normative agreement with objective structures of politics and processes' (Netelenbos 2016, p.2).

The purpose of the study is to investigate the imperatives that led to the formation of South Africa's post-apartheid decentralisation model and to critique its contribution to state legitimacy, with state legitimacy being assumed to be a necessary condition for the management of intra-state conflict. To achieve the purpose of this study, a three-dimensional analytical framework is applied as an important aspect of the methodology, which is briefly introduced herewith. The analytical framework synthesises the decentralisation model formation data or subjective normative agreements as alluded to by Netelenbos (2016).

Furthermore, it combines Ohlson and Söderberg's (2002) approach to state legitimacy with Hyden's (1992) human agency approach, which reflects the objective structure of politics and processes and Huther and Shah's (1998) model of governance effectiveness.

### 1.9.Methodological approach

The research study is interpretivist. Decentralisation is a social construct. Hence an interpretivist approach to the study is more appropriate.

Interpretivism recognises that the social sciences are not necessarily the same as the natural sciences and therefore are not as amenable to quantitative data collection methods, nor can they be purely objective. This is because social researchers are members of society and may have difficulty suppressing their subjective interpretations of social phenomena; as human beings possess free will, our behaviour is influenced by factors broader than our environment (May 1993). These factors are considered in this study's research design to maintain scientific relevance, eliminate bias and increase generalisability.

As an interpretive research study, qualitative data collection methods are used. This allows for a more nuanced and contextualised extrapolation of data. Interviews and document analyses form the data collection methods of this study. Document analyses, while being a qualitative tool can use numeric data to critique a phenomenon. Therefore, the documents being analysed contain both qualitative and quantitative data. The data derived from the three data collection methods are extrapolated, synthesised and thematically analysed and presented using a three-dimensional framework that focuses on the formation of the post-apartheid decentralisation model, the qualitative enablers that support its contribution to state legitimacy, and governance effectiveness.

**Dimension one: Formation of the decentralisation model**

The first dimension refers to the formation of the decentralisation model. Investigating how South Africa's decentralisation model emanated requires the extrapolation of primary data related to the context of the conflict, the processes followed to develop the decentralisation model, the actual design of the model, and its effectiveness in managing the intra-state conflict as perceived by persons relevant to the design process. This dimension of the framework of analysis is graphically depicted below.

| Table 2 : Decentralisation model formation | |
|---|---|
| **Theme** | **Categories** |
| Context (conflict) | Cause |
| | Form |
| | Consequences |
| Process (1990-1994) | Mechanism |
| | Inclusivity |
| Design | Party perspectives |
| | Sustainability |
| | Traditional leaders |
| Effectiveness | Effectiveness |
| **Source:** Author's thematic synthesis (2022) | |

The data is obtained from semi-structured interviews with persons who either participated in the negotiations or influenced it, as well as selected experts in the field. The interview questions are based on the secondary research questions.

**Dimension two: Synthesis of qualitative enablers of state legitimacy**

Given that no known theoretical framework currently exists to synthesise the legislative and institutional imperatives that support a decentralisation model to enable it to contribute to state legitimacy, the closest qualitative themes to meet the objectives of this study are derived from Hyden's (1992) human agency approach.

This is graphically expressed below:

| Table 3: State legitimacy – Qualitative | |
|---|---|
| **Theme** | **Categories** |
| Actor dimension | Reciprocal and interrelationship between power and authority |
| Structural dimension | The ability to promote compliance, trust, accountability and innovation |
| Governance realm | Interplay between the actor and structural dimensions to achieve a particular objective |
| Empirical dimension | Citizen influence and oversight<br>Responsive and responsible leadership<br>Social reciprocities or the extent to which citizens or groups respect each other |
| **Source:** Author's depiction based on Hyden (1992) | |

The data is derived from an analysis of primary documents, namely South Africa's relevant public policies and legislation.

**Dimension three: Governance effectiveness**

Giorgi et al. (2003) contend that, while interpretive research relies primarily on qualitative data, quantitative data may be used to enhance an understanding of a particular phenomenon. The study does not infer causality between decentralisation and governance effectiveness. Governance effectiveness is, however, essential for state legitimacy. A critique of decentralisation in relation to state legitimacy therefore has to consider governance effectiveness. Governance effectiveness is best demonstrated quantitatively. In this regard, the themes from Huther and Shah's (1998) governance effectiveness approach are applied.

This is graphically expressed below:

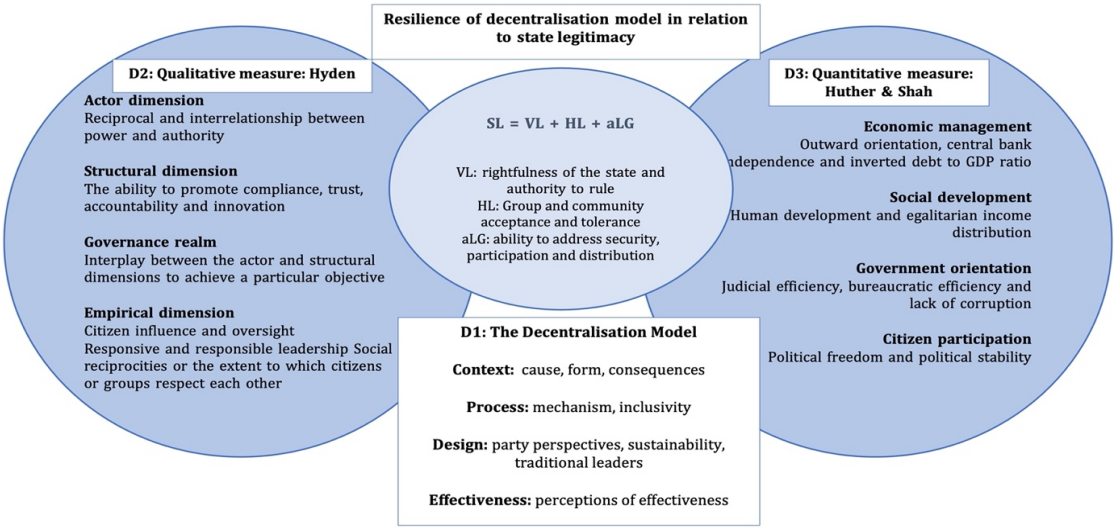
| **Table 4 : State legitimacy – Quantitative** | |
|---|---|
| **Theme** | **Categories** |
| Economic management | Outward orientation, central bank independence, and inverted debt to GDP ratio |
| Social development | Human development and egalitarian income distribution |
| Government orientation | Judicial efficiency, bureaucratic efficiency and lack of corruption |
| Citizen participation | Political freedom and political stability |
| **Source:** Author's depiction based on Huther and Shah (1998) | |

The data is derived from an analysis of secondary, quantitative sources such as the Mo Ibrahim Index, the UN, Afro Barometer and the World Bank.

**The decentralisation analytical framework**

The combination of the three dimensions of the tool of analysis applied in this study is depicted below:

**Figure 3: The Decentralisation analytical framework**




**Source:** Author's thematic synthesis (2022)

Thus, the framework used to analyse South Africa's decentralisation model has three dimensions, as depicted above and alternatively depicted below. The first dimension seeks to investigate the formation of the decentralisation model and is based on the secondary research questions. The source of the data is interviews. The second dimension is qualitative, and the themes draw on Hyden's (1992) human agency approach. The source of the data is relevant public policies and legislation. The third dimension is quantitative, and the themes draw on Huther and Shah's (1998) theory on governance effectiveness. The source of data is international organisations that provide reliable quantitative data.

### 1.10. Structural outline of the research report

The research report has three components. The first component is comprised of three chapters and constitutes the background to the research.

**Chapter one** introduces the research problem, the rationale for the research, the purpose of the research, the approach to the research including the analytical framework and the theories that underpin it.

**Chapter two** presents the conceptual framework of the study. Previous research pertaining to decentralisation and the management of intra-state conflict is also analysed.

**Chapter three** provides an overview of decentralisation on the African continent and details the history of decentralisation in South Africa. The relationship between ethnocentric decentralisation and the pre-apartheid conflict is expounded upon to provide a literature-based background to the research.

The research report's second component comprises three chapters and focuses on the research process and its outcomes.

**Chapter four** expands on the research methodology that was used in this study.

**Chapter five** presents one dimension of the findings in accordance with the three-dimensional framework of analysis. This chapter presents the interviewees' responses regarding the emanation of the decentralisation model. In this regard, findings related to the themes: context, process, design and effectiveness are discussed.

**Chapter six** focuses on the outcomes of the document analyses of current legislation in accordance with Hyden's (1992) actor, structural and empirical dimensions, as constituting the governance realm. It also presents the document analyses of secondary, quantitative data in accordance with Huther and Shah's (1998) economic management, social development, government orientation, and citizens' participation themes. Thus, this chapter presents the findings relating to the latter to dimensions of the framework of analysis.

The last component of this research report addresses the data analysis and conclusion.

**Chapter seven** analyses the research findings in accordance with the three dimensions that comprise the decentralisation analytical model. The data is critiqued using relevant secondary literature.

The final chapter, **Chapter eight,** summarises the report, assesses the research and makes recommendations.

### 1.11. Limitations of this study

Four limitations of the research study are highlighted.

Firstly, the case study methodology requires as much detail as possible on a specific phenomenon. Thus, the study is limited in that it narrowly focuses on the intrinsic aspects of managing intra-state conflict and does not deal with the complexities that arise from adverse external interests and interferences.

Secondly, even within this confined focus, the study inadequately addresses some key factors that influence decentralisation and the management of intra-state conflict, such as capacity building, border demarcation and monitoring and evaluation.

Thirdly, the security sector is instrumental in assessing, detecting and addressing threats to state legitimacy as part of managing intra-state conflict. South Africa's negotiations process also impacted on the restructuring of the post-apartheid security sector, including its expression within the decentralisation model.

While the study fleetingly introduces the contemporary challenges in this sector, it is insufficient, given the magnitude of the risks that are facing South Africa today.

Lastly, so many factors shape state legitimacy, which cannot be addressed by a decentralisation model only. This study makes a small contribution to the body of knowledge on the role of decentralisation in managing intra-state conflict, but within the bigger scale of significance of the topic, it is far from adequate. Further case studies and cross-national studies in this field are required.

# Chapter 2
# Literature review: theoretical conceptualisation

## 2.1. Introductory remarks

Transitions associated with managing intra-state conflict are complex, requiring the accommodation of multiple interests under contingent circumstances. Therefore, this interpretive case study, from a Public Management perspective, focuses on South Africa's transition and the role of decentralisation in managing its pre-1994 intra-state conflict.

The study of the practical evolution of the post-apartheid decentralisation model must, however, be located within theory, as theory and practice are integrally linked. The one dialectically shapes the other. Within this study, decentralisation is viewed as a form of governance. Governance is a function of the state and therefore falls within the theoretical science of Public Administration/ Management.

In demonstrating the interplay between theory and practice, this conceptual framework reviews pertinent comparative and theoretical literature on decentralisation, including its role in managing intra-state conflict by enhancing state legitimacy. In so doing, the case for further research in this field is developed.

## 2.2. Defining conflict

Decentralisation is the main focus of this study; therefore the terms and concepts associated with it are analysed extensively. Hence, the term conflict is briefly discussed for clarity.

Conflict is an inherent, unavoidable feature of social change. It is a consequence of the interplay between emerging diverse interests, values and beliefs derived from social change and established boundaries (Miall, Ramsbotham and Woodhouse 1999). Intra-state conflict is defined as 'sustained political violence that takes place between armed groups representing the state, and one or more non-state groups' (missworldsecurity 2012).

This study applies a broader definition of intra-state conflict by Abazi (2016, p.5), namely, 'tensions that exist in the internal realm of the state'. Such tensions include domestic demands by organised constituencies or frustrations expressed around poor governance or socio-economic challenges. The tensions also include consequences of globalisation, such as cyberattacks, trade wars, sanctions, destabilisation, proxy wars and environmental degradation.

This broad definition of conflict is located within Galtung's structural approach, where conflict is viewed as a consequence of contradictions in the society's structure, behaviour and attitudes.

> According to this 'conflict triangle', once conflicts are formed, they undergo various processes of transformation, but all three dimensions (structural contradiction, behaviour, attitudes) remain equally important and have to be taken into account in any attempt to solve or transform a conflict (Crawford and Hartmann 2008, p.11).

Economic contradictions are not explicitly highlighted within this approach, but it is implied as an element of structure and applied in this study. Crawford and Hartmann (2008, p.172) define conflict management as 'the elimination, neutralisation, or control of the means of pursuing either the conflict or the crises'. One of the factors that contribute to the sustained management of intra-state conflict is state legitimacy. Accordingly, the various scholarly conceptualisations of the state are presented.

### 2.3. Approaches to the state

The research study assigns a central role to the state in managing intra-state conflict. Skocpol (1985, p.4) argued that, 'an intellectual sea of change is under way' as state-centred analyses gain increasing prominence in a research environment that was historically dominated by society-centred ways of explaining politics and government.

Young (1982, p.72-73) delineates two levels of the state, namely: *concrete* as expressed through the executive, legislature and judiciary, or more broadly, the organised public sector of society; and *theoretical* as manifested in the realm of ideology and expressed through its constitution and jurisprudence. This study explores both levels by investigating the role of decentralisation as a form of state structure and as a possible influencer of state legitimacy in managing intra-state conflict.

The discourse around access to, and control of, state power through the formation of the state, conceptualisation of the state, and structure of the state is fundamental in this regard.

### 2.3.1. State formation

The concept of the state finds expression in various theories of state formation. Three broad theories are condensed in the table below:

**Table 5: State formation**

| Theories | Essence |
|---|---|
| Evolutionary theories | State formation as a consequence of societal expansion and the organic emergence of a hierarchy to maintain order |
| Voluntary theories | The organic formation of the state arising from shared, rational interests |
| Conflict theories | The emergence of the state due to conflict or the need of one group to dominate another |

**Sources:** Herbst (1990), Wetherly (2005), Haas (1982)

The above theories on state formation do not adequately emphasise state formation that emerges from the imposition of colonial borders, particularly in Africa. Although the impact of post-colonial border demarcation in defining states is not the focus of the study, it must be noted that this aspect is critical to understanding intra-state conflict on the continent and will be expounded upon in Chapter 3. The conflict theory on state formation is also relevant in explaining the consolidation of ethnic-based decentralisation in apartheid South Africa. The theories on state formation influence the various approaches to the concept of the state.

### 2.3.2. Concept of the state

The research study, while being state-centred in that it looks explicitly at how decentralisation was structured by South Africa in an endeavour to manage intra-state conflict, acknowledges that various actors, whether directly or through institutions including political parties, influenced both the formulation of the decentralisation design, the process that led to it, as well as its effectiveness. Hence, the research study draws on society-centred perspectives on the concept of the state, accommodating territorial, structural, functional and pluralist approaches while appreciating that the boundaries of the approaches are not definitive.

#### 2.3.2.1. Territorial approach

A territorial approach to the state emphasises geographic demarcation. ‘People belong to a state by virtue of their residence within borders, and states, it is argued, exercise authority over those within its geographical bounds’ (Kukathas 2008).

Painter and Jeffrey's (2009) five features of a modern state can be condensed as (1) institutionally organised, (2) administrative control over (3) a large territory with a (4) precise boundary characterised by a capital city and symbols that embody state power and (5) a government to control and monitor citizens. Herbst (1990) adds one more feature, namely nationalism, which imbues a sense of belonging by people in the defined area and their willingness to contribute through, among others, paying taxes and/or voting.

International recognition also constitutes an essential feature of the territorial approach. In this regard, Richmond (2002, p.384) states,

> The order of power-politics became a system through the Westphalian imaginary in which sovereignty, territoriality and secularism became corner-stones of the international political structure and hence the international system of reciprocal recognition, enshrined in international law and in every peace treaty since Westphalia.

International recognition allows for the acknowledgement of sovereignty and compliance with international order on territorial integrity. It determines state access to human security at an international level and the ability to participate in multi-lateral and independent economic and security groups. Accordingly, this aspect is highly contested, including ethnic claims for sovereignty, some contests of which are violent (Richmond 2002, p.381).

The contests are primarily informed by an assertion of a historical claim to a given territory. In some regions on the African continent, intra-state conflict driven by ethnic sovereignty aspirations has been resolved through the granting of independence, such as Eritrea and South Sudan. In other areas, such as in Nigeria, a form of devolution has been applied. Then there are cases such as the Sahrawi Arab Democratic Republic where its status as a sovereign state has been partially recognised but rejected by the occupying Morocco. Further cases relate to irredentist or secessionist claims that remain unresolved, like the Ambazonia in Cameroon.

In February 2022, Russia recognised Donetsk and Luhansk as independent states, resulting in intensified aggression against the people in the Donbas region by the government of Ukraine and, ultimately, an invasion of Ukraine by Russia. The territorial approach to the concept of the state is relevant in general, given its significance to intra-state conflict, and, in particular, as this research study is directed explicitedly at a geographically demarcated area called South Africa.

It is also relevant to how latent demands for ethnic sovereignty are accommodated in the allocation of powers and functions and the border demarcation of sub-national governments.

#### 2.3.2.2. Structural approach

A structural view of the state focuses on its form as an organisation or institution through which individuals and groups seek to exercise power (Wetherly 2005, p.2). Haas (1982, p.2) views the state as 'a political system with a centralised government, a military force, a civil service, an arranged society and literacy'.

Max Weber is the most prominent classical contributor to the structural perspective of the state. He introduced the concept of a bureaucratic state, highlighting the significance of its administrative apparatus and the need for this apparatus to be professionalised. Weber's structural perspective also includes territoriality and violence and, accordingly, the role of the state in maintaining order. In this regard, 'the state is a web of agencies and institutions and it claims monopoly of coercion over the other' (Dal 2019, p.10). Weber also linked structure to legitimacy through the law, arguing that, 'The legitimacy of the modern state is predominantly founded on legal authority' (Dal 2019, p.11).

Bratton (1998, p.22) argues that structuralists view political change through the wide-focus lens of political structures. An example is Kuerschner (2013, p.2), who attributes the propensity of countries in West Africa to conflict, post the 1980s, to weak state structures and the abuse thereof by the political elite. In this regard, she cites unstable and feeble political institutions and the consequential weakening of the states in Sierra Leone and Liberia as key to their civil wars. Her research emphasises the importance of the structure of the state for the management of intra-state conflict.

A further example of where the structure of the state exacerbates conflict on the continent is where the Constitution allows for both a President and a Prime Minister, and the approach of the President differs from that of the governing party. In Guinea-Bissau, for example, President Jose Mario Vaz took office in 2014, on the platform of the majority party, the African Party for the Independence of Guinea and Cape Verde (PAIGC). President of the PAIGC, Dr Domingos Pereira, was appointed Prime Minister. A year later, Pereira was dismissed as Prime Minister leading to instability in governance. In February 2022, Pereira was accused of participating in the plotting of a coup and restricted from travelling.

Though the reference to the term state in this study is predominantly territorial, the structural approach to the concept of the state is relevant as it examines how the post-apartheid model of decentralisation, which forms a framework for the administrative apparatus, was structured and the regulatory prescripts that embed it; as well as the contribution thereof to state legitimacy.

#### 2.3.2.3. Functionalist approach

Functionalists focus on the role of the state; for example, it is viewed as the authority that creates and maintains law and order, provides public services and promotes the general welfare of a given population within a given territory (Van Niekerk et al. 2001, p.64). Skopcol (1985, p.4) states that, 'Government was viewed primarily as an area within which economic interest groups or normative social movements contended or allied with one another to shape the making of public policy decisions.'

Accordingly, drawing on the works of Emile Durkheim and Karl Marx, functionalists do not view the state in isolation but regard it as an instrument with a specific role in the broader organism called society. Durkheim's primary interest was the interrelationship between social structure, social order and social stability, and he viewed the state from that perspective (Dal 2019, p.5-6).

From a Marxist perspective, the state could never amount to more than a vehicle for the interests of the ruling class that should ultimately be smashed and replaced with the dictatorship of the working class (Dal 2019, p.2). In emphasising the need for the dictatorship of the proletariat, Marx (1871) does advocate for the institution of communes as an alternative to bourgeoise political forms. Communes are organs within communities that enable them to exercise socio-economic control at various levels within a given state, using democratic centralism.

Neo-Marxists reinforce the notion of the capitalist state and expound on the role of the state as an instrument of class rule; a 'guarantor of production relations or economic accumulation' or 'an arena for class struggles' (Skocpol 1985, p.5). A secondary element of the research study is a critique of governance effectiveness in relation to state legitimacy, which requires a functionalist perspective of the state.

#### 2.3.2.4. Pluralist approach

Pluralism is the quintessential society-centred approach to the state in that it recognises the need for organised non-state bodies within society, including worker, civic and religious formations, and its authority within the sphere of governance (Hirst 2005, p.2). Moreover, pluralists disclaim the hegemonic authority of a centralised state, advocating for the devolution of power and administrative capacity to territorial bodies (Hirst 2005, p.2). Robert Dahl is regarded as a founding thought leader on the pluralist theory of democracy, highlighting the alliances and compromises between various interests and the multiple platforms used to advance such interests (Manley 1983, p.317).

The pluralist approach to the concept of the state speaks to why decentralisation is being studied in this research, as it advocates that many interests need to be accommodated when managing intra-state conflict. How the state is structured contributes to its legitimacy, effectiveness, and the extent to which social actors can influence it. The various ways in which the state could be structured are therefore outlined.

### 2.3.3. Structure of the state

A broad common definition of the term state is that it is a legitimate territory that includes an authoritative structure or government and its citizens (Thornhill et al. 2014, p.29). Within the modern political system, the powers of the government usually are separated into three major categories, namely the executive or Cabinet, the legislature or Parliament and the judiciary or courts and legal system (Thornhill et al. 2014, p.78).

The separation of power in government into the executive, legislative and judicial branches has a rich, detailed history. It originated in Greece, was assimilated by the Romans, and formalised in England by a french philosopher, Montesquieu, in the 18$^{th}$ century (Lawteacher 2019).

Over the years, the formalisation of relations between government and the governed led to the emergence of constitutionalism, particularly in modern democracies. Constitutionalism means that the structures and processes that inform the operations of government and its relationship with society are outlined in a Constitution or similar basic legislation (Thornhill et al. 2014, p.54-55). Political arrangements, as accommodated in how the state is structured, can be federal or unitary or a combination of the two and are expressed in the Constitution, where a constitutional system exists.

Manikkalingami (2003, p.5) defines a federal structure as,

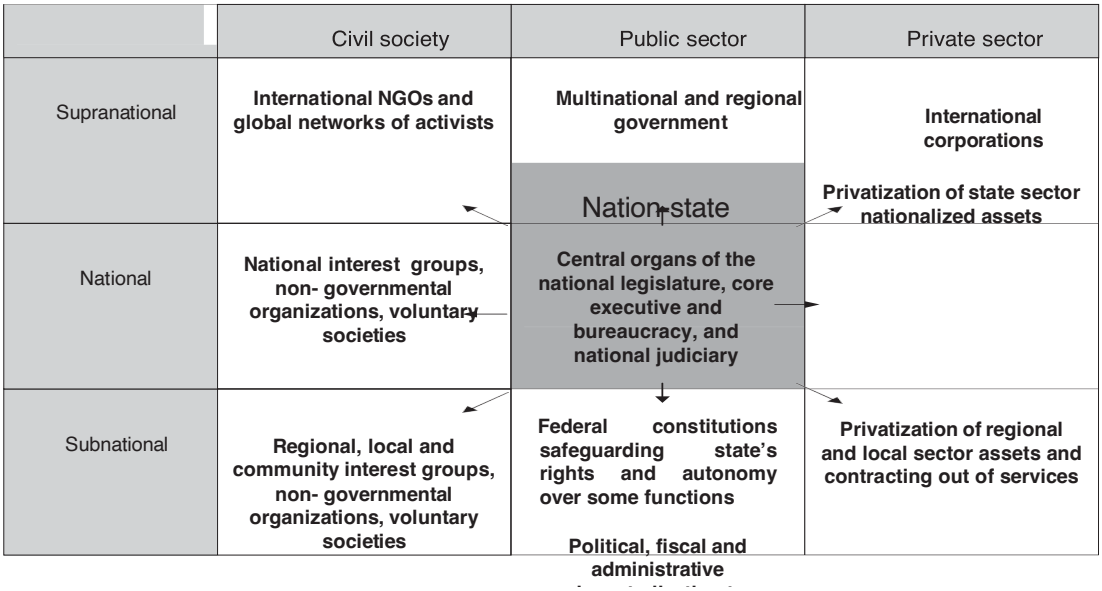
> The broad class of political arrangements within a single political unit between a unitary system, where all powers are concentrated at the centre, and secession, where there are a minimum of two independent political units. A federal state is one in which a number of provinces (or states in the United States of America, or cantons in Switzerland), which are legally independent, unite for a common purpose.

Six principles inform this unity. Each province or state's government is sovereign and equal to the other; and each has direct control over the communities within its boundaries. The federal government has limited, identifiable powers and functions that cover the entire area. The distribution of power between the federal body and its associated governments is contained in an inflexible constitution. Such a constitution is upheld by a judicial authority. Lastly, with due regard to its parameters, the federal government has authority over managing the relations between provinces (Van Niekerk et al. 2001, p.53-54).

Within the context of decentralisation, reference is also made to consociationalism. This state structure is usually associated with power-sharing arrangements and speaks to the ethnocultural definition of decentralisation. It infers the division of a state along ethnic, religious or linguistic lines (Horowitz 2002, p.20).

Consociationalism, according to Bogaards et al. (2019, p.342), is associated with power-sharing between political elites. In emphasising the value of consociationalism theory in managing intra-state conflict, Norris (2008, p.157) argues that 'the adoption of decentralised forms of governance – notably federal constitutions – facilitates social stability and democratic consolidation in multinational states'. In the figure below he presents a model demonstrating the relationship between power-sharing and decentralisation.

**Figure 4: Model of vertical power-sharing arrangement**




**Source:** Norris (2008, p.158)

A unitary state is when all powers of administration are vested at the central level. Manikkalingami (2003, p.5) defines a unitary state as 'the set of political arrangements where all powers – executive, legislative and judicial – are concentrated at the centre'. The government may delegate authority to other tiers, but such authority is revokable. The constitution of a unitary state allows the legislature to establish as many executive bodies of whatever nature as it may deem necessary to perform its function, define the content and scope of the functions of such bodies, and allocate appropriate resources to them. In addition, the legislative authority may further determine the relations between the governmental bodies, including possible hierarchical levels (Van Niekerk et al. 2001, p.45). Examples of unitary states are Cuba and Zimbabwe. This distinction between federal and unitary states impacts directly on the form of decentralisation that a state takes.

The state is managed by a government. Functionalists vary in how they define government. Marxists state that, 'The executive of the modern state is nothing but a committee for managing the common affairs of the whole bourgeoisie' (Communist Manifesto 1848). Within a bourgeoise democracy however, the government is defined as a body of persons and institutions that make and apply all enforceable decisions for a society (Van Niekerk et al. 2001, p.64). This definition emphasises that government's performance is directed towards dominant class interests. It is particularly for this reason that the form of governance and the system of governance that enables it is essential for this study.

The ability of the system of governance to manage ethnocultural and class conflict is fundamental to its contribution to state legitimacy and the ultimate management of intra-state conflict.

### 2.4. State legitimacy

State legitimacy is strongly associated with intra-state conflict, the state structure and the form of decentralisation. Separatist movements often argue that their historical cultural and linguistic ties are not aligned with the governing authority, and therefore self-determination is justifiable. Examples include Somaliland and Western Sahara. Accordingly, while the study's primary purpose is to investigate the formation of South Africa's post-apartheid decentralisation model, the contribution of the model to state legitimacy within the context of managing intra-state conflict is also explored.

State legitimacy is one aspect of political legitimacy, a concept propagated by Max Weber. Weber (1964, p.382) argued that 'the basis for every system of authority, and correspondingly of every kind of willingness to obey, is a belief, a belief by virtue of which persons exercising authority are lent prestige'. Accordingly, political legitimacy or the acceptance of authority and the willingness to obey stems from tradition, charisma or rationality of the rule of law. Netelenbos (2016, p.3) states that by conceptualising political legitimacy as a subjective normative agreement with objective structures of politics and processes, Weber combines the subjective meaning of politics with the understanding of politics in terms of structure and organisation.

Roberts (2014, p.4), when applying the concept of legitimacy to post-conflict state building, distinguishes between 'democratic legitimacy' of states and 'performance legitimacy'. Democratic legitimacy is viewed as state compliance with attaining the approval of international or external bodies. This includes elections and, where applicable, facilitating disarmament, demobilisation, reintegration and demining. The conditions are based on an approach known as 'transitology' or the belief in the transferability of western democracy.

Performance legitimacy refers to the social consent experienced by a given state (Roberts 2018, p.4). Dagher (2018) defines performance legitimacy as the extent to which citizens perceive that their needs have been met.

This conceptualisation corresponds with Buchanan's (2004, p.432) normative view of legitimacy, which suggests that the state's legitimacy resides in its ability to approximate full or perfect justice, including the provision of basic human rights.

Huntington (1991, p.16) links legitimacy to democratisation. He states that favourable domestic social and economic conditions are imperative to sustain democratisation. Accordingly, he attributes the then reversal of 'third-wave' democracies, citing Sudan and Nigeria as examples, to: inadequate embeddedness of democratic values among the elite and the general populace, deteriorating economic conditions, social and political polarisation, increased terrorism or insurgency, foreign interference, and military coups (Huntington 1991, p.17-18). Thus, he argues that, 'Systemic failures of democratic regimes to operate effectively could undermine their legitimacy' (Huntington 1991, p.19).

Abakare (2021, p.31) highlights Rawl's concept of 'overlapping consensus' and the importance of citizens wholeheartedly accepting a specific basic structure of political organisation or constitution regardless of their group gaining or losing political power as a fundamental link between legitimacy and stability.

Rawl's work on constitutional and overlapping consensus is condensed as follows:

**Table 6: 'Constitutional Consensus' and 'Overlapping Consensus' compared with the democratisation literature**

| RAWLS' CONCEPTIONS | THEIR IMPLICATIONS | WHAT THEY CORRESPOND TO IN THE DEMOCRATIZATION LITERATURE |
|---|---|---|
| Initial Stage of Constitutional Consensus → | Democratic procedures and institutions incorporated into the political system as a 'modus vivendi' = | *Democratic Transition* |
| Finalized Constitutional Consensus → | Popular consensus on democratic procedures and institutions, which is secured by civic political culture = | *Minimalist / Negative Democratic Consolidation* |
| Overlapping Consensus → | Popular consensus on a political conception of justice, and thus prevalence of deep political legitimacy and long-run stability within the polity = | *Maximalist / Positive Democratic Consolidation* |

**Source:** Yildiz (2016, p.29)

The table above compares Rawl's works with the general literature on democratisation. It succinctly expresses the links between transitions, legitimacy, stability and the constitution (which contains the political organisation of the state or its decentralisation model).
It affirms the significance of citizens acknowledging the state's legitimacy, thereby transcending Lijpart's work on consociationalism.

The perspective of state legitimacy applied in this study is similar to that of performance legitimacy but includes socio-economic access and social cohesion. Accordingly, this study conceptualises state legitimacy as the ability of a state to achieve vertical and horizontal legitimacy and address the legitimacy gap. Vertical legitimacy refers to the ability of the state to facilitate relations and acceptance between itself and its citizens. Horizontal legitimacy refers to the ability of the state to facilitate relations and acceptance between the various interest, class and cultural groups in society. Finally, addressing the legitimacy gap refers to the state's ability to address citizen expectations concerning security, participation and distribution (Olhson and Söderberg 2002, p.7-8).

The propensity of intra-state conflict is exacerbated when the state, in exercising its responsibilities, advances or is perceived to advance horizontal inequalities regarding a differentiated enabling of political and economic participation and the general well-being of citizens (Stewart 2008, p.xv). Young (1982, p.72) broadens the aspect of horizontal inequities by arguing that social conflict coheres around two principles, namely class and ethnicity, which are defined and shaped by the state. The importance of managing horizontal inequities is accommodated in the perspective of state legitimacy applied in this study.

Mainwairing (1989, p.10) insists on the importance of legitimacy in managing intra-state conflict, stating that if a regime enjoys legitimacy, it is less likely to experience unresolvable conflicts. He, however, appreciates that the concept is not class neutral and accordingly cautions against idealising it, given that the political and economic elite can undermine it. He uses examples within Latin America to demonstrate how the capitalist class can sabotage democracy (Mainwairing 1989, p.13).

For states to attain the expectations associated with legitimacy, their systems of governance must manage public affairs in a manner that balances international and domestic demands. Accordingly, an appreciation of the conceptualisations of governance is required.

## 2.5. Deconstructing governance

Governance occurs in various entities: in the state, the private sector, and other organised structures of society. It refers to all processes of governing, including how policies and programmes are developed, regulated, implemented and accounted for – a 'form of collective steering and management' (Peters 2002, p.1). The term can be associated with a level, such as corporate governance; or a field, such as sports governance; or a model, such as collaborative governance; or it could be normative, as in good governance. It also incorporates aspects of power and accountability and how both are exercised. Therefore, 'governance is not constant. It tends to change as needs and values change' (Peters 2002, p.1).

### 2.5.1. Governance perspectives

Of relevance to this research study is the relationship between governance, decentralisation and the contribution to state legitimacy as part of managing intra-state conflict. An important aspect of 'governance' is the ability of the people/citizens/nation to hold government to account for its decisions or behaviour. Thus, accountability and legitimacy run together. Hence the necessity to engage with the various scholarly perspectives on governance.

Kuye (2011, p.600) views governance as a mechanism or process that enables the attainment of consensus, or majority decision, on social priorities and objectives. For the process to be effective, the institutions that are engaged have to be perceived as legitimate; the goals that are being aspired towards have to be clearly articulated, consistent and coordinated; and they must possess the capacity to steer and hold those engaged in the process accountable. The quality of the process is also significant. Incoherent and uncoordinated processes across polity sectors may be economically and politically costly. Kuye's position is augmented by Jreisat (2012, p.8), who argues that good governance demonstrates a capacity to aggregate and coordinate various interests to bring about agreements on policy action while managing political and administrative institutions with accountability and transparency.

According to Kuye (2011, p.601), governance imperatives are characterised by the following traits: responsibility, adequacy, effectiveness, efficiency, accountability, high ethical professional standards and public participation. Ahrens et al. (2011, p.8) associate governance with accountability, predictability, transparency and participation. Credibility is listed as an overarching principle. Moreover, they emphasise that the policies underpinning governance should incorporate four characteristics. Firstly, they must be clearly defined, and key

stakeholders must be confident that they are adequately enforced. Secondly, they must be comprehendible and well communicated to enable monitoring and accountability. Thirdly, they must be able to adapt to changing institutional preferences, technological conditions, or societal needs. Lastly, institutional safeguards must be in place to prevent them from being undermined or circumvented (Ahrens et al. 2011, p.8-9).

Within the context of government, Stoke (1998, p.17) defines governance as a process of governing that 'is ultimately concerned with creating the conditions for ordered rule and collective action'. Katsamunska (2016, p.134) defines governance as 'the institutional capacity of public organisations to provide public and other goods demanded by a country's citizenry or representatives thereof in an effective, transparent, impartial, and accountable manner, subject to resource constraints'. In expanding on these definitions, Ahrens et al. (2011, p.7) state that a country's governance structure is constituted of the internal and external institutional arrangements and processes that enable the formulation and implementation of policy goals for the benefit of the collective.

Historically, governance was associated with the steering of government from the centre. Stoke's (1998, p.18-24) view of governance challenges the notion of one centre of power within a unitary state by compelling the recognition of the role of a broader range of social actors, including self-governing networks other than government, in the determination and execution of government functions; and highlighting the complexity of government systems and its related power dependencies. In addition, she evokes a challenge, which this research study intends to address, by questioning 'whether or how governance can obtain enhanced legitimacy' (Stokes 1998, p.21).

Peters (2002, p.1) argues that 'the notion of a single locus of sovereignty and of hierarchical ordering within the system of governance simply can no longer be accepted as reasonable descriptions of the reality of governing' and that this requires shifts in governance styles both in terms of instruments and content. Citizens are more conscious of and responsive to government actions, requiring the form of governance to be less authoritarian and intrusive to instil confidence and enhance legitimacy. Accordingly, decentralisation, which includes authority sharing, is advocated to enhance governance effectiveness. In this regard, the state remains active and even dominant, but it accommodates the contributions of social actors (Peters 2002, p.2-5).

Collaborative governance is a form of governance in which public and private actors work collectively but in distinctive ways, using various processes to develop policies and programmes to provide public goods. This form of governance is viewed as an innovative means of managing participation fluidity while addressing the decline in political participation through conventional means and the weakening of the traditional means of political mobilisation (Ansell and Gash 2007, p.544).

Collaborative governance attempts to respond to the implementation weaknesses stemming from decentralisation and the high costs of regulation by promoting cooperation among public and private stakeholders around common objectives, instead of managing adversarial positions. It is argued that a governing arrangement in which public agencies have deliberate, structured engagements with non-state stakeholders to attain collective decision-making would strengthen the implementation of public policy, management of public programmes and protection of assets due to greater buy-in (Ansell and Gash 2007, p.547).

### 2.5.2. A human agency approach to governance

The human agency approach is used as one of the dimensions of the framework for analysing the research findings. This governance approach was preferred as it expands on the collaborative governance approach by emphasising human agency within the context of state coordination of public governance. People are viewed as the core drivers of history while acknowledging the objective and subjective factors that influence political decision-making, including the role of the state (Hyden 1992).

In this regard, the human agency approach to public governance integrates state-centric and society-centric approaches to power relations within the state and how such power relations are accommodated structurally. It draws on elements of Marxism in that it recognises the need for formal sustainable platforms at the grassroots level that enable citizens to engage in the public governance process, including the socio-economic development of their countries. However, it differs from Marxism in that it includes the participation of all classes and all grassroots organised formations beyond that of communes in managing the legitimacy gap.

Bratton (1998, p.25) locates the work of Hyden within the contingent perspective on democratic transitions, which views political outcomes as a product of interaction and bargaining.

The human agency approach is therefore relevant to South Africa as it attributes 'the ability of participants to arrive at arbitrated agreements that grant everyone at least part of what each wants' as the key to successful democratic transitions.

Hyden (1992) lists four governance dimensions as aiding state legitimacy. The actor dimension relates to the reciprocal interrelationship between power and authority. The structural dimension encompasses issues of compliance, trust, accountability and innovation. The governance realm refers to the interplay between the actor and structural dimensions to achieve a particular objective. The empirical dimension refers to those elements that sustain a regime, namely citizen influence and oversight, responsive and responsible leadership and social reciprocities or the extent to which citizens or groups respect each other.

While governance literature primarily distinguishes between market-based and state-based regimes, it does not adequately address the unique conditions prevalent in Africa and elsewhere, where community loyalties are still prominent. Hyden (1992) coins the term communitarian regime to describe governments that involve the simultaneous participation of several civic-based stakeholders and promote a more egalitarian distribution of resources. Moreover, the human agency approach acknowledges societal organisation at the community level and the need to accommodate its resultant leadership and governance structures, both of which are necessary for managing intra-state conflict from a structural level.

The governance approach used to analyse the research findings seeks to indigenise relations of political authority by providing a redefinition different from those along Western lines. The four-dimensional construct of governance, as described by Hyden, namely the actor, structural, governance realm, and empirical dimensions, recognises the critical interplay between the state and society in the success of the communitarian regimes that are more typical within Africa. Accordingly, it provides a framework for extracting regulatory measures that support South Africa's decentralisation model's contribution to state legitimacy.

### 2.6. Decentralisation

The term 'decentralisation' can be interpreted in many ways. For this reason, the various definitions of decentralisation are discussed.

### 2.6.1. Defining decentralisation

Jreisat (2012, p.10) defines decentralisation as 'sharing authority and responsibility with local governments or authorities to improve access to public services, increase public participation and enhance government responsiveness'. Okidi (2006, p.1) defines decentralisation as the transfer of planning, decision-making and administrative authority from the central to sub-national levels of government.

Keil and Anderson (2018, p.3) offer an ethnocultural definition of decentralisation, namely 'arrangements which involve the transfer of political power (administrative, fiscal and/or legislative competences) to a minority group (or multiple groups) residing within a particularly defined geographical area'. This implies an 'understanding of territorial autonomy, focusing on the allocation of limited self-rule (i.e. autonomy) to geographically clustered minority groups.'

The definition applied in this study draws on the general definition presented by Crawford and Hartmann (2008, p7), who state that 'Decentralisation entails the transfer of power, responsibilities and finance from central government to sub-national levels of government at provincial and/or local level.' Therefore, it can be viewed as ethnic-based as in pre-1994 South Africa or territorially based as in post-apartheid South Africa.

Okidi (2006, p.1) identifies two forms of decentralisation. One is deconcentration, and the other is devolution. Deconcentration occurs when the central government assigns representatives or employees to execute responsibilities and functions at lower levels, as within a unitary state. Thus the administration remains part of the national government, but there is a shift of workload from the national office to field offices. Devolution occurs when the central government confers responsibilities of planning, budgeting, resource mobilisation and implementation of essential development programmes to other tiers of government, as within a federal state. Sub-national and local governments are assigned legally defined geographical territories within which they exercise authority and perform public functions. Both forms of decentralisation entail delegation.

Kauzya (2007, p.1) sees delegation as a third form of decentralisation and also introduces the term delocalisation. Delegation is the transfer of decision-making and management authority for specific functions to authorities that are legally accountable to the national government.Schelnberger (2005, p.3) affirms the three elements of decentralisation listed by Kauzya, namely deconcentration, devolution and delegation, and adds a fourth form, namely privatisation. Privatisation is defined as the transfer of public functions to voluntary, private or non-government institutions (Schelnberger 2005, p.4). Regardless of the nature of decentralisation as described above, it however does not necessarily affect the quality of democracy (Raffel et al. 2009, p.49).

Kauzya (2007, p.5) also refers to types of decentralisation, such as political decentralisation, which not only includes providing the people with the power and authority to elect leaders or representatives at the local government level but includes the complete transfer of decision-making from central government to local governments, authorities and communities. The structural arrangement entails vertical and horizontal decentralisation. Vertical decentralisation refers to the transfer of power and authority from central government to local government, and horizontal decentralisation implies the cascading of such decision-making powers to local communities presenting them with opportunities to participate in problem analysis, priority setting, planning and holding the government accountable.

Similarly, Ndegwa (2002, p.2-3) refers to political decentralisation when outlining three types of decentralisation: political, administrative and fiscal. Political decentralisation entails the creation of mechanisms for the free and fair election of political representatives at sub-national and local levels. The second area of decentralisation is administrative decentralisation. Administrative decentralisation exists where the roles and responsibilities of central, sub-national and local governments are clearly defined in a legal framework and institutionalised under the principle of subsidiarity. Finally, fiscal decentralisation refers to arrangements for fiscal transfers from central to sub-national and local governments, as well as the proportion of public expenditure controlled by the various spheres of government. In each of these areas, the form of decentralisation can vary from the mere delegation, as within a unitary state, to total devolution as within a federal state.

Schelnberger's (2005, p.5) concept of decentralisation most closely illustrates the western conceptualisation of decentralisation. Her five fundamental characteristics of effective decentralisation from central to sub-national governments are tabulated below.

| **Table 7: Ideal characteristics of sub-national governments** | |
|---|---|
| i. Independence | ▪ Autonomous and independent<br>▪ Clearly perceived as separate levels of government<br>▪ Little or no direct control by central/national authorities |
| ii. Territory | ▪ Clear legally recognised geographical boundaries |
| iii. Corporate status | ▪ Corporate status<br>▪ Power to secure resources to perform functions |
| iv. Perceptions of local citizens | ▪ Perceived by local citizens as organisations providing services that satisfy their needs as governmental units over which they have some influence |
| v. Relationship with national government | ▪ Reciprocal, mutually beneficial and coordinated relationships between national, sub-national and local governments |
| **Source:** Schelnberger (2005, p.5) | |

Understanding the different definitions and forms of decentralisation is integral to this study due to its significance in South Africa's negotiation process that led to the final decentralisation model. Every political party at the negotiating table had its preferred decentralisation model, and the above theoretical presentation aids in clarifying the party positions that are presented in the research findings.

### 2.6.2. Arguments for and against decentralisation

Each political party that participated in South Africa's 1990 to 1994 negotiations, and the 1994 to 1996 Constitutional Assembly (CA) process, felt strongly about its preferred decentralisation model. Accordingly, a review of literature in favour of and against decentralisation is presented to contextualise some of the fears and interests that informed their preferences.

It is argued that decentralisation, particularly the devolution of powers, responsibilities and resources from central government to sub-national levels of government, enhances administrative responsiveness to citizen needs, promotes popular participation in governance and allows communities to take ownership of difficulties encountered in the implementation of projects and programmes (De Vries et al. 2008, p.3-4).

Proponents of decentralisation claim that it assists to improve the allocation of resources and accountability; reduces corruption; enhances civic education, political stability, public trust, and institutional responsiveness; and provides individuals with greater choice.

They further state that it could serve to manage ethnic, regional and religion-based resistance to national government decisions by allowing local decision-making and, in so doing, facilitate collective action and cooperation (Rodden 2004, p.493).

However, having structures for decentralised governance in place does not necessarily imply citizen participation, nor does it guarantee the improved provision of services. Crook (2003, p.6) argues that decentralisation has failed in Africa because local government representation of disadvantaged groups is not fully embraced in the current models of decentralisation in most countries on the continent, and also because the effectiveness of decentralisation is dependent on the resources and systems for allocating funding, primarily by central governments, and this has been inadequate. Decentralisation also changes intergovernmental relations, thereby increasing the complexity of coordination (De Vries et al. 2008, p.2). Rodden (2004, p.494) states that decentralisation could, due to the multiple layers of government and expanding areas of shared responsibility, result in blame-shifting, competitive rent-seeking and increased corruption.

It should also be noted that the social and economic heterogeneity of a country's social structure strongly influences the effectiveness of decentralisation. Ethnic heterogeneity can potentially reduce the functionality of resource allocation and service delivery because it could result in an ethnic bias, with the group in power limiting the spending on public goods to prevent outside groups from benefitting and getting stronger. Azfar et al. (1991, p.19-21) conducted a range of studies in this regard and found that ethnic diversity in American cities reduced the performance of a city government in delivering a range of beneficial public services in one of the case studies. Further studies found that infant mortality and illiteracy rates were likely to be higher in linguistically diverse countries. Studies further indicated that communication and collective action were sometimes more difficult among people with different ethnic and social backgrounds.

Accordingly, the cohesiveness of a given society; and its social and economic heterogeneity, including the levels of trust, cultural norms and traditions, poverty and inequality, thus must be considered when designing the jurisdictions of the various tiers of government in order to ensure the legitimacy of the state. A balance must be obtained to counter the phenomenon of elite capture, i.e. ensuring that wealthier classes do not use their money or influence to set public policy and resource allocation in a specific direction.

Deliberate efforts must be made to build trust among the local population, and citizens and government, as trust strengthens cooperation and collective action. Citizen participation is also more easily secured if the government encourages a culture and tradition of civic involvement in public policy and introduces norms of clean, good governance (Azfar et al. 1991, p.19-24).

Regarding the research study, it is also important to note the argument by Alvergne and Latouche (2010 p.469) that reducing intra-state conflict requires both political commitment and a decentralisation model that enhances state legitimacy. They state that,

> successful decentralisation does not happen in political voids peopled only with initial consensus, pacts, constitutional agreements and referenda. … Unless the bargaining process is 'captured' by politicians anxious to get an institutional design in line with their own interests or with what they consider to be the interests of the nation, there is little hope for this process going forward.

It is particularly within the realm of transitions emanating from intense intra-state conflict that the debate on decentralisation gains most prominence.

### 2.7. Review of literature on decentralisation design and intra-state conflict management

In demonstrating the complexity of transitions, O'Donnell and Schmitter (2013, p.ix) outline the central characteristics thereof. These include the high levels of uncertainty about the general political climate, possible escalation of violence and repression, and unpredictability of the outcomes. Furthermore, Horowitz (1991, p.xii) argues that racially and ethnically divided societies, in particular, require an unusual measure of democratic ingenuity. He emphasises the need for significant bargaining 'to produce a joint commitment by all contenders to the view that the conflict cannot be won by either party on its own terms but instead, that a mutually profitable, and therefore mutually acceptable, settlement should be sought' (Horowitz 1991, p.34).

Horowitz (1991, p.204) further establishes the link between the management of intra-state conflict, public institutional design and state legitimacy by arguing that, 'To be well designed, institutions will indeed need to moderate racial and ethnic tensions at the same time as they provide sufficient governmental capacity to effect social change'.

In recognition of existing works in the field, Sisk (1995, p.18-19) groups the prevailing prescriptions for building democracy in societies divided by deep communal conflict into two categories. The first is power-sharing, particularly consociationalism, and the other is coalitions. He introduces an alternative, namely institutional choice. He argues that the institutional choice approach best 'explains why and how political actors, within their own milieu, seek to construct a democracy to escape a situation of violent conflict' (Sisk 1995, p.6).

Bratton's (1998, p.20) politico-institutional approach enhances the work of Sisk by acknowledging the roles of domestic structural and contingent factors in transitions. The politico-institutional approach provides the closest insight into the role of decentralisation in managing intra-state conflict. However, it is not concise enough as it focuses on political transitions broadly. Furthermore, a review of existing literature indicates that there are diverse views on the effectiveness of decentralisation in managing intra-state conflict.

Based on literature reviews and qualitative comparative country studies, Schou and Haug (2005, p.37), as advisers to the Norwegian government, caution against the indiscriminate application of decentralisation, as a coherent picture of the relationship between decentralisation and conflict has not been established. In this regard, they recommend that donors be mindful of the advocacy of decentralisation in conflict situations, given that the outcomes of its application are complex and not fully understood. In addition, they indicate that literature on the appropriateness of decentralisation models is not definitive, as contextual factors determine the success or failure of a chosen model.

On the other hand, Keil and Anderson (2018, p.1) argue that 'Decentralisation has not only become a tool of conflict resolution, but is also strongly linked to elements of peacebuilding, state-(re)building and democratisation.' They cite Belgium, Canada, France, Italy, Spain and the United Kingdom as examples where decentralisation was used to appease the post-Cold War demands of national minorities (Keil and Anderson 2018, p.4). They however acknowledge the paradox of decentralisation, stating that, 'Much scholarly ink has been spilled in assessing the Janus-faced character of decentralisation, with scholars on both sides of the debate able to produce ample empirical evidence to substantiate their claims' (Keil and Anderson 2018, p.9).

With regard to Africa, the most comprehensive collection of studies focusing on devolution or democratic decentralisation and its impact on conflict management on the continent have been collated by Crawford and Hartmann (2008). In linking conflict to decentralisation, Crawford and Hartmann (2008, p.21) state that the role of decentralisation in managing conflict is generally viewed in accordance with its capacity to enable successful socio-economic development.

However, they conducted studies beyond this perspective. They found that federalism did not necessarily assist in sustainably managing conflict, citing Nigeria and Ethiopia as examples, noting that states needed to voluntarily aggregate as a federation for internal conflict to be managed well (Crawford and Hartmann 2008, p.22). Furthermore, while some studies demonstrated that decentralisation could serve to reduce conflict as it allowed for the inclusion of new groups as represented by opposition political parties, citing Mozambique and Mali as examples; decentralisation intensified conflicts in other countries by giving spaces to forces that are not loyal to a national agenda, with Angola cited as an example (Crawford and Hartmann 2008, p.23). They also noted that, where devolution was applied, ethnic conflict was shifted to local levels, where it was less threatening to state integrity, as in the case of Uganda (Crawford and Hartmann 2008, p.24).

Furthermore, regarding generalisability, they highlight constraints pertaining to decentralisation and conflict, such as the degree of political commitment, the clarity of function definition and allocation between central and sub-national governments, and appropriate resourcing of sub-national governments (Crawford and Hartmann 2008, p.131-134). A synthesis of the conflict mitigating and conflict intensifying effects of decentralisation as expressed in literature is tabulated below:

| **Table 8: Synthesis of scholarly findings on the role of decentralisation in managing intra-state conflict** | |
|---|---|
| **Conflict mitigating** | **Conflict intensifying** |
| Facilitates political inclusion | Empowers oppositional actors |
| Creates vehicles for checks and balances | Enables local elite capture |
| Strengthens national integration and state legitimacy | Intensifies regional differences |
| Harmonises policies and strengthens the rule of law | |
| Improves service delivery | |
| **Source:** Crawford and Hartmann (2008, p. 173-176) | |
| Facilitates social and economic inclusion | Provides a platform for pro-secessionists to garner support |
| Prevents ethnocultural conflict | Enables pro-secessionists to pursue further territorial independence |
| Prevents secession due to devolution of powers | Allows for the crystalisation of regional identities |
| **Source:** Keil and Anderson (2018, p.10-15) | |

The literature demonstrates that there is no agreement on the role of decentralisation in managing intra-state conflict. If the discourse is to contribute meaningfully, there needs to be a demonstrable record of how a decentralisation model can be designed to bridge societal cleavages, foster conciliation and thwart an array of undemocratic impulses. The study hopes to make a contribution in this regard.

### 2.8. Governance effectiveness

Dangor (2021) states, 'Poverty, inequality, and poor governance are at the root of most conflicts, even those that, at face value, are portrayed as ethnic clashes'. Crawford and Hartmann (2008, p13) also emphasise the importance of equitable socio-economic development in managing intra-state conflict.

DeRouen and Goldfinch (2012, p.3) argue that a stable state is a precondition for effective public administration and governance. Accordingly, they identify capacity, legitimacy, rationality based on law, democracy and human rights, and socio-economic development and integration as characteristics of a stable state. They further emphasise that 'good governance measures are important even in the absence of democracy and lower incomes'.

Therefore, the research study explores national socio-economic data, using outcomes associated with good governance as determined by Huther and Shah (1998) as the third dimension of the framework to analyse the research findings.

Huther and Shah (1998, p.2-3) mention four key observable factors which should be the outcomes of governance regardless of the wealth of a particular country. These are citizen participation, referring to political freedom and political stability; government orientation, which covers judicial efficiency, bureaucratic efficiency and lack of corruption; social development, which entails human development and egalitarian income distribution; and economic management, which refers to outward orientation, central bank independence and inverted debt to GDP ratio. The application of this dimension is expounded upon in the research methodology and the research findings chapters.

## 2.9. Conclusion

The problem statement contained in Chapter 1 highlights that decentralisation is controversial, that its role in intra-state conflict is undefined, and moreover, that the conditions required to enable decentralisation to effectively address the drivers of conflict are unknown. Accordingly, this chapter analysis theoretical and practical literary works that apply to the research study.

Furthermore, this chapter expatiates the broad conceptual debates distilled in the introduction and curates them into a more extensive set of scholarship relevant to this study. Thus, it engages with the scholarly discourse on the various forms of decentralisation and the relationship between decentralisation and conflict. Given that decentralisation assumes different forms, pending historical and contextual conditions, it is apparent that policy scholars and researchers have not reached consensus on whether decentralisation is an appropriate means of resolving intra-state conflict. The analysis in this chapter demonstrates the contradictions in scholarship, thereby emphasising the significance of further study regarding the role of decentralisation in intra-state conflict.

# Chapter 3

# Literature review: Decentralisation in Africa in general, and South Africa in particular

## 3.1.Introductory remarks

The literature review spans two chapters. The previous chapter provides the theoretical contextualisation of this study. This chapter comprises a broader African comparative setting. Pursuing the most relevant approach to decentralisation when managing intra-state conflict cannot be confined to an analysis of the present. It must also be informed by the past. The perusal of history is not to lament the impact of colonialism on the shape of governance in Africa today but to extract and integrate lessons from rich historical governance practices. Likewise, the appreciation of South Africa's post-apartheid decentralisation model is informed by understanding the historical conditions that shaped it. For this reason, an overview of the history of decentralisation in South Africa prior to 1994 is also presented.

## 3.2.The history of decentralisation in Africa

Africa, like every other continent in the world, is not homogenous. However, tracing the history of decentralisation in Africa provides the context for the challenges associated with its manifestation on the continent today. The broad reflection on the nature of decentralisation during the pre-colonial, colonial and post-colonial periods allows for an appreciation of indigenous governance practices. It also acknowledges western influence on the continent's governance trajectory and its implications for intra-state conflict. The chapter, therefore, provides background to discourse on post-colonial efforts to manage intra-state conflict on the continent.

### 3.2.1. Pre-colonial Africa

Kauzya (2007, p.1) contends that political and administrative reforms in the 1990s resulted in the break from past centralised practices through decentralisation. It could, however, be that the participatory governance practices of pre-colonial Africa were not recorded because western historians were blinded by their paradigms. Njoh (2006, p.88) maintains that 'when Westerners, including anthropologists, embarked on the mission to understand their so-called 'colonial subjects', the tendency was for them to project themselves, including their culture, on those 'subjects'.'

Though the term ‘decentralisation’ may be a recent coinage, a plethora of literature demonstrates that well-structured administrative and governance systems, which had varying degrees of participatory elements, were prevalent in pre-colonial Africa and played a role in managing internal conflict. Moreover, ancient Africa's massive empires needed functional revenue generation structures and sophisticated financial and administrative management systems to remain sustainable and stable (Njoh 2006, p.26).

If the definition of decentralisation includes a form of governance whereby a central governing authority enables lower governing authorities and communities to participate in making and implementing socio-politico-economic decisions, then decentralised governance systems were not only prevalent but were also in the majority in pre-colonial times. Though pre-colonial Africans had not experienced a formal republic in its traditional forms, many governance practices were participatory (Diop 1987, p.72). This was due to a recognition within traditional African societies that the order and magnitude of the good of the collective could not be attained by one individual (Njoh 2006, p.123).

The Tonga of Zimbabwe and the Alur of East Africa are two examples of decentralised governance practices. A further example is the Tiv ethnic group in North-eastern Nigeria, where matters affecting the community were discussed in large gatherings in a very orderly manner (Njoh 2006, p.110-112). This manifestation of participatory governance was also prevalent in the stateless, traditional societies of the Metas of Cameroon, the Igbo and Yoruba of Nigeria, the Ewe in Ghana and Togo, the Sukukama of Tanzania, and the Nuer of southern Sudan. Social control and decision-making occurred through the direct participation of the people as members of one of several societal groups such as the extended family, clan, village, or enclave, which is representative of a form of governance (Wunsch 2000, p.503).

Practices of public management were integral to indigenous governance systems. Traditional authorities, among others, oversaw sustainable development and facilitated the equitable distribution of economic resources and activities. Pre-colonial Africa displays evidence of sophisticated tax collection as well as custom duty systems, with the primary currency of exchange being gold. The Tunkara of Ghana, for example, took a fee of one gold dinar for every salt-laden mule entering their country and two gold dinars for every load of salt exported. A tale narrated about Herodus states that gold was so abundant in Nubia that the prisoners’ chains were made of gold.

Traditional authorities also had to maintain peace and stability and law and order, with the powers to adjudicate on and punish transgression of communally defined rules or laws based on objectively determined processes (Diop 1987, p.104-124).

Indeed, centralised systems of governance existed. Some well-known centralised kingdoms were the Songhai Empire, the Ashanti Kingdom, the Bamum Kingdom, the Bakongo Kingdom and the Buganda Kingdom (Njoh 2006, p.110). Diop (1987, p.73) confirms that the entire continent was covered by monarchies and empires in the pre-colonial period but cautions that the cultural practices were not necessarily the same. However, even in centralised pre-colonial kingdoms, African kings and traditional leaders in general were not necessarily despotic rulers. The office of chieftainship provided the necessary checks and balances over the chief's power. Decision-making was not always autocratic, as chiefs had to consult their council of elders, all of whom generally were male, on important decisions. If it was found that the specific leader was not ruling in the best interest of the people, systems for impeachment and even the removal of the king or chief were in place. Furthermore, in many cases, power was relegated to regional chiefs (Falola and Odhiambo 2002, p.356).

The basic structure of centralised, traditional African states allowed for the people to agree as a collective, but to accord the king, queen or other similar leaders, the power to make decisions for the greater good of society. However, the king remained accountable, and in many cases the political structures were complemented by a hierarchy of courts presided over by the king, the head chief, or the village chief. In the case of the Mossi nation, for example, the king governed with a Prime Minister and three regional Ministers, namely the rassam naba, the balum naba, and the kidiranga naba and once appointed, the king could not remove the Prime Minister. Thus, the citizenry in traditional Africa, like in many Western-style states, could agree to have a different entity act in their general interest, if so desired (Diop 1987, p.44-45).

Pre-colonial African polities were generally comprised of three major bodies, namely Council of Elders, Chief Priests, and Moral Elders. Each of these bodies had clear, dedicated responsibilities. The Council of Elders for instance, was charged with the responsibility of conceiving, planning, implementing and maintaining public infrastructure, including the quarters of the designated leader. The Chief Priests comprised of people who were gifted with spiritual powers and/or skills. They primarily served as spiritual interceptors, health practitioners and as educators of environmental management.

Finally, the Moral Elders were responsible for teaching moral conduct and upholding moral standards throughout the community. Moral Elders also served as community historians, recording all major community events. Together these bodies formed a competent governance system (Njoh 2006, p.113).

Literature on pre-colonial governance practices indicates that even in structures where the voice of traditional leaders was supreme, mechanisms were in place to bring governance closer to the people, whether such village or local leaders were appointed or elected. Mechanisms were also in place to limit the authority of traditional leaders (Keulder 1998, p.216).

Pre-colonial practices on the African continent also appear to have been gender inclusive. According to Sudarksa (1986, p.91-92), other than in highly Islamised societies in Sub-Saharan Africa, women in general participated in governance, the military and in the economy. She states that, 'Africa is noted for the presence of women in very high positions of formal governance structures'. This includes chieftaincies. Furthermore, she indicates that women were farmers, traders and craft producers (Sudarksa 1986, p.99). Surdarksa (1986, p.95) also indicates that sex-based hierarchy did not exist everywhere. While gender-assigned economic and social roles might also have been prevalent in some non-Muslim, African societies, seniority in general, was based on age, rather than sex.

Moagi and Mtombeni (2019, p.2) confirm that, generally, women in pre-colonial Africa were active in the public domain and that the gender division of labour was not rigidly enforced. Where women participated in the sphere of production, this allowed for the attainment of status, recognition and authority, which extended their independence and social influence. They do cite one example of a patriarchal pre-colonial society, namely the Khoikhoi community. They contend however, that women, in most instances, were as powerful and influential as their male counterparts in the spheres of politics and religion (Moagi and Mtombeni 2019, p.12).

Another generally positive feature of governance in pre-colonial Africa was how conflict arising from social interaction was managed. Ajayi and Buhari (2014, p.138) state that traditional conflict management mechanisms focused on consensus-building, reconciliation, and preserving order in society. The success of traditional tribunals was premised on honesty, confidence in the system, and a willingness to submit to its findings (Ajayi and Buhari 2014, p.142).

The review of pre-colonial governance practices demonstrates that public management and participatory governance were not foreign to Africa. Even centralised kingdoms had mechanisms of accountability for traditional authorities, which were rooted in their people. The colonisation of Africa however, led to the suppression of centuries of indigenous practices of governance, including the management of internal conflicts.

### 3.2.2. Colonial Africa

Colonialism's impact on traditional governance and conflict management systems cannot be negated. Colonialism was inherently violent. The colonial state was not only conceived in violence, but it was also maintained by it. Indigenous communities were displaced through the forceful occupation of their territories. The ruthless atrocities in response to the Maji Maji and Herero uprisings in Namibia, the brutal suppression of Nigeria's Satiru revolt, and the bloody massacre of the Tirailleurs Senegalais are but a few examples of colonial aggression. Colonial powers had little interest in allowing indigenous communities to be the locus of power. Colonial governance practices in Africa were primarily autocratic, centralised and paternalistic (Crowder 1986, p.12).

Colonial governance is also associated with relative development and acculturation on the African continent. The provision of economic and social infrastructure was, however, largely skewed towards advancing colonial and, where applicable, settler interests. In addition, colonisers often imposed their language and religious practices on indigenous communities. According to Shillington (1995, p.66-67), Christianity was easily adopted among first century Roman Egypt and the religion gradually spread westwards during the second and third centuries towards the Berber-speaking people of north Africa.

The advent of Islam within the Arab community became an influential unifying factor for various historically rivalling clans of Arabia. The unity enabled territorial expansion beyond the desert. By 642 AD, the Arab army had annexed Egypt, replacing the Byzantine administration. By then, gold had become an established trade currency, and ivory, ostrich feathers and furs had become desirable commodities. Due to trade and the need for land, Arab colonialism expanded to include north and west Africa and territories such as the kingdom of ancient Ghana, the state of Takrur in the Senegal valley, Sudan, Morocco, Mali, Ethiopia and Somalia by the year 1500 AD (Shillington 1995, p.73-111).

Islamic domination of the north contributed to the Portuguese exploring trade routes via the southern tip of Africa in the late 1400s AD and their stationing. This led to the annexation of land in East Africa by 1599 AD and further expansion to central and southern Africa in the 1600s AD (Shillington 1995, p.131-138). This period was also characterised by major contestations between the Christian kingdom of Spain and the Muslim Ottaman empire for north Africa. During this time, colonial control of Tripoli, Tunis and Algiers changed many times. The English and Dutch too began making regular voyages around the southern tip of Africa, annexing African land. This period is also noted for slavery (Shillington 1995, p.170-225). French colonial expansion was marked by its conquest over the Ottoman empire, starting with Algeria in 1830 (Shillington 1995, p.275).

According to Warner (2001, p.71), 'Islam had a substantial impact on the shape and destiny of many African polities'. She argues that the expansion was primarily premised on the spread of Islam and that territoriality was secondary. Accordingly, self-governance within occupied territories was permitted on the condition that they recognised the authority of the Islamic empire and paid their taxes. She also highlights the integrated relationship between the notion of the state and the religion of Islam (Warner 2001, p.72).There was seldom a distinction between religious functions and functions of public administration. The supreme Prophet, for example, was a religious leader, a military leader and an administrator. Citizenry was linked to Islamic fellowship. In general, Shari'ah law based on the Holy Koran was applied in territories occupied by Arab colonialists (Warner 2001, p74).

At the Berlin Conference in the mid-1880s, Africa was partitioned, and boundaries were imposed, informed by the interests of the Western world. Africa was characterised by colonial states that either ruled directly or indirectly (Mamdani 1997, p.367). The Westphalian style of the sovereign state was consolidated, eclipsing a myriad of pre-colonial African governance structures (Warner 2001, p.78-79).

In general, resistance to colonial occupation increased due to the conduct of the colonisers.Colonial governors enjoyed extensive powers. Their lifestyles embodied conspicuousconsumption, living in imposing mansions, driving large, expensive vehicles decorated with flags, and dressing lavishly for official functions. Colonial rulers also failed to be exemplary in managing the resources of their occupied territories.

Profits were expatriated instead of being invested in local industries. Their administration of the law also had massive problems and defects, leaving local inhabitants with little recourse to justice, resulting in increasing resentment (Crowder 1986, p.14-16).

Under the auspices of its king, Leopold II, Belgian annexation of the Congo area was associated with excessive brutality. More than half of the population was extinguished due to the stifling of rebellion, torture, malnutrition or disease. Others were punished by having a hand or foot amputated (Crook 2022).

The colonialists ruled by decree or proclamation. However, elements of deconcentration were prevalent during colonial rule, and the existence of traditional kingdoms was not totally ignored. Colonial authorities advanced two different approaches to local administration. The one approach promoted individual land ownership to produce cash crops. The other delineated administrative boundaries along tribal lines, restricting communal land ownership to a particular ethnic grouping. As the benefits of land ownership increased, the importance of retaining and affirming membership of ethnic groups increased, deepening ethnic cohesiveness and the desire for exclusion of access by those outside of the ethnic grouping (Bates 1974, p.466).

The local administrations were generally managed by the community chiefs; where communities did not have chiefs, such positions were either created, or local hench-men were appointed. By applying a system of indirect rule, colonial authorities undermined local power structures and generally reduced compliant indigenous traditional leaders to tax collectors and preservers of colonial order (Prud'homme 2003, p.18). Notwithstanding Africa's rich history of resistance against colonialism, some local administrators advanced the interests of the colonial regimes thereby legitimising separate, ethnic-based, territorially defined development. This laid the basis for colonially controlled, decentralised despotism, with entrenched rural-urban divides and considerable disparities in development across different territories in one country (Mamdani 1997, p.21).

Citizen participation in local governance and the extent of delegation of administrative functions to lower tiers differed among the colonisers. The British allowed for greater degrees of administrative decentralisation, introducing the concept of town clerks. The French and Portuguese colonies had less administrative decentralisation.

The French preferred a prefectural administrative system and regarded local government as instruments of the centre, with local authorities serving primarily as collectors of taxes (Prud'homme 2003, p.18). Elements of democracy were introduced, such as in Senegal where the French introduced urban communes in 1848, conferred French citizenship upon the Senegalese and allowed political activity and electoral competition from 1871. Likewise, the concept of ethnic-based municipal elections, particularly by the British, was introduced in other colonial states during the latter periods of colonial rule in the 1940s. This nature of governance consolidated the notion of the tribe and introduced the politicisation of the tribal territory and the rule (Bates 1974, p.66).

With regards to the territories in central Africa, the Belgian state took control from Leopolt, in 1908. Its system of governance was highly centralised, supported by a high military presence. The General Government based in Leopoldville was bestowed a small degree of executive power. Provincial and local administrative units existed but were linked to the strong central administration and largely served as bastions of Catholicism (Todt 2021, p.41-44).

The role played by some traditional authorities in suppressing their people generated resentment among those who were fighting for the emancipation of their countries and its people. The role of traditional leaders within independent African states also became an issue of theoretical discourse. One school contended that traditional leaders had rendered themselves untrustworthy by legitimising and supporting colonial oppression. They argued that no place for the traditional elite existed within a liberal democracy. An opposing school argued that traditional authorities have deep historical and cultural roots; they had earned the allegiance of their subjects and were not necessarily the products of coercive power. They therefore argued that such authority had to be restored, honoured and integrated into the modern democratic system. The pragmatic perspective sought to balance the reality of the existence of traditional leaders who still commanded authority in some rural communities with the reality of national democratic revolutions and the governance challenges that they present (Beall and Ngonyama 2009, p.3-4).

It is also necessary to understand how colonisation impacted upon gender relations in Africa. Bertolt (2018, p.3) argues that the racialisation and sexualisation of bodies are consequences of slavery and colonialism.

Coloniality, it is stated, resulted in the transformation of gender identities and the sub-alterisation of women in Africa, underpinned by the creation of social hierarchies characterised by white, male supremacy and the placement of women at the bottom of the social scale, compared to black men. This included the consolidation of a binary conception of sexuality and the introduction of a nuclear family. The concept of a nuclear family essentially locks women into an ideology of motherhood, thereby limiting the role of women to child-rearing, gratifying men's sexual needs and preparing food. The restructuring of social hierarchies reinforced domination and destroyed indigenous systems of solidarity and complementarity (Bertolt 2018, p.10-11).

Differing views on the impact of colonialism exists. According to Warner (2001, p.80), one extreme argues that colonialism had an enormous deleterious effect on Africa, which infantilised and undermined its political capacity. Others argue that Africa's challenges are primarily self-inflicted (Warner 2001, p.71). Nonetheless, border imposition and colonial governance systems based on spatially orchestrated divisiveness, ethnic entrenchment, socio-economic disparities and the culture of individualism formed the backdrop to Africa's post-colonial era.

### 3.2.3. Post-colonial Africa

The complexity of applying decentralisation, as generally promulgated by the Brettonwood and multi-lateral institutions, to the current conditions of intra-state conflict in Africa must be located within an acknowledgement that her historical participatory governance practices had broadly been obliterated by colonialism and the imposition of Westphalian notions of sovereign states. When African countries began gaining independence in the 1960s, starting with Ghana in the late 1950s, liberation movements had to start from scratch or build on the governance systems inherited from colonialism.

Bratton (1998, p.62) refers to governance in the early stages of post-independence as neo-patrimonial, arguing that stability was secured through patronage and that 'authority is entirely personalized, shaped by the rule's preferences rather than any codified system of laws.' There are scholars that differ with this assertion. Olowu and Wunsch (2004) argue that first generation African leaders were new to governing.

In addition to deciphering the colonial governance systems, they also had the responsibilities of facilitating social and economic reconstruction and development in their countries. To a large degree, they retained colonial governance systems, including those related to local government.

Having emerged from a brutal era of colonialism, characterised by racial domination, oppression and discrimination, African leaders had to transform socio-political power relations and expedite economic development. Many leaders, including Leopold Senghor, Julius Nyerere, Robert Mugabe, and Kenneth Kaunda were strong proponents of centralised, one-party states. They argued that liberal democracies, based on multi-party systems, were not appropriate for African conditions. Furthermore, given the colonial history of ethnic divide-and-rule, multi-party democracy would have maintained, in their view, the ethnic stratifications. Therefore, they regarded one-party states as essential for nation-building (Sandbrook 1988, p.248).

To a large degree, this view assisted the first generation of African leaders to maintain political and economic stability in their countries. Determined to effect change, these leaders paid attention to ethical governance practices and focused on improving the quality of life of the constituents that they served. As a result, the first two post-colonial decades were labelled as Africa's golden age. The first generation of independent African governments played direct roles in successfully providing critical socio-economic infrastructure resulting in a significant improvement across a range of social development indicators. Public resources and activities were directed towards increasing access to water, electricity, and health and education facilities. Literacy levels increased, and African health practitioners and academics were produced. Transport and communication networks were built, and manufacturing of domestic consumer products were introduced. The average economic growth rate for sub-Saharan Africa was 4.3 percent from 1967 to 1980 (Mohiddin 1998, p.8).

Unfortunately, the limited access to quality education and inadequate development during the period of colonialism meant that most newly independent African states had to rely on foreign technical expertise, as well as foreign investment, loans, and market access to drive domestic economic growth. This saddled the new administrations with onerous levels of debt. Moreover, the debts increased following rising interest rates and oil prices and falling commodity prices.

Therefore, the ability of many countries to repay their debts was impeded (Okeke 2001, p.1494).

Furthermore, the governance style did not deviate significantly from the former colonisers and municipal boundaries generally reflected the colonially entrenched, ethnic spatial enclaves. While, in some instances, the nostalgia for pre-colonial African communal practices, informed by strong pan-Africanist thinking and past successes of Chinese and Soviet Union socialism, influenced the developmental paths that were selected, much of the colonial approaches to local governance were retained. French-speaking Africa retained fundamental principles of French administrative law and organisation, which emphasised the dominance of central government with branches of the state assigned the responsibility of providing local services. The pre-independence communal structures, which comprised of a mayor and municipal council, were retained in urban areas, though the size and character of the towns and cities were changed. Municipal officials in many countries such as Senegal, Guinea and Cote d'Ivoire, ceased to be elected and were appointed by the central government (Tordoff 1994, p.556 – 558).

In Anglophone African states, the English model of local government took precedence, with slight modifications, such as the reduction of powers of chiefs and traditional authorities. Kenya, which gained its independence in 1963, appointed civil service provincial commissioners and district commissioners below them who were responsible for implementing and upholding government policies. These officials worked closely with directly elected councillors, who were accountable to a Ministry of Local Government. Some countries followed the Soviet model as an attempt to restore power to the people. For example, in Tanzania, former district councils were replaced with district development councils (DDCs), which were chaired by area chairpersons of the local ruling party, Tanganyika African National Union (TANU). The DDCs were comprised of equal proportions of technical officials and elected political representatives (Tordoff 1994, p.561-562).

In Africa, the Portuguese empire assumed diverse governance configurations. Despite the application of differing political, military and religious systems in Angola, Guinea-Bissau, Mozambique, Cape Verde and Sao Tome and Principe, authoritarianism and economic exploitation were consistent governance pillars in all the occupied territories (Miguel 2018).

However, towards the end of Portuguese colonial rule, around 1965 to 1974, the colonialists introduced an 'Islamic policy' in countries such as Mozambique and Guinea-Bissau, which by then had significant Muslim communities. At the time, Muslims were perceived as threatening and unmanageable due to their general association with Arab pan-Islamism, anti-colonialism and communism. By framing Islam as a transnational political system, they hoped to bridge the gap between the Portuguese Catholic Church and the Muslim communities as a mechanism to contain resistance by exploiting possible discomfort with the more secular societies promoted by the agnostic liberation movements. This strategy of co-opting Islamic brotherhoods emulated the practice by France in places like Mauritania, Senegal, Upper Volta, the Ivory Coast and Guinea around the start of the twentieth century (Machaqueiro 2012, p.1097-1100).

A distorted form of Sha'ria law was imposed. Machaqueiro (2012, p.1104) states that,

> The Islamic brotherhoods imposed a rigid hierarchic discipline based on the spiritual and temporal power of a xehe, a ruler whose precepts and orders must be obeyed even against the established authority of the country where they lived.

Accordingly, independence in Portuguese colonies was not just marked by a sparsity of governance capability but also by remnants of radical Islamism.

The noble intents of first-generation African leaders to sustain national cohesion were soon undermined, as many countries on the continent fell prey to civil wars and military coups.

Social movements started to resurface on the continent in the late 1980s, alongside the collapse of the Soviet Union and the ending of the Cold War. These movements were sustained by frustrations arising from the challenges experienced by many governments in meeting the promises made during nationalist struggles (Legum 1985, p.22-44). Countries on the continent were facing rapid economic decline. While some reasons for the decline could be attributed to mismanagement, the primary reasons were the quadrupling of oil prices in the 1970s and the substantial decline in Africa's share of global commodity trade. The resultant recessionary impact was exacerbated by crippling debt, rapid urbanisation and drought (Okeke 2001, p.1495).

Furthermore, the combination of administrative centralisation with a non-political framework resulted in the neglect of rural areas and in inadequate resourcing of local authorities in urban areas. A growing rejection of all types of military regimes and one-party states emerged (Brosio 2000, p.3).

Governments, under pressure from international development financial institutions, started introducing new forms of public management that included various forms of decentralisation (Olowu and Wunsch 2004, p.37). Since the mid-1980s, many African countries started to transfer power, resources and responsibilities to their lower tier governments. This re-introduction of decentralised government was accompanied by elections for local councils, mostly on a multi-party basis (Brosio 2000, p.1). Despite the election of local councillors, central control of local administration remained. Examples include Zambia, which introduced the Local Administration Act of 1980, thereby merging party and governmental organs at district level into an integrated administrative structure in each of its 55 districts. And in Tanzania, in 1982, the predominantly elected urban and rural councils were re-established, the ward development committees were revived, existing village governments were incorporated into the district network, the DDCs were replaced with advisory committees, and regional development committees were tasked with coordination (Tordoff 1994, p.571).

### 3.2.4. Decentralisation in Africa in the twenty-first century

Today, due to the pressure of the global governance framing, decentralisation is favoured by many African countries as the most suitable mode of governance through which poverty reduction interventions can be conceived, planned, implemented, monitored and evaluated (Brosio 2000, p.2). A wide array of structural manifestations of decentralisation exists. Ethiopia and Kenya have quasi-federal systems. Both these systems are due to efforts to manage intra-state conflict.

For example, Kenya's initial post-independence constitution was aligned to the outcomes of the Lancaster Conference of 1962 resulting in a bicameral parliament and a federal system of governance, Majimbo. Eight autonomous regions, including Nairobi were established based on the pre-independence provinces and provincial leaders were elected. The Finance and Establishments Committees had executive powers as well as oversight over local government. Functions such as education, agriculture were concurrent.

A desire to move away from tribal politics and build national cohesion saw Kenya becoming increasingly centralised and by 1970 it was a unitary state (Anderson 2005, p. 547).

Sadly, the benefits of national liberation did not reach all Kenyans. Local services deteriorated and poverty levels rose. Development was unequal and perceptions of ethnic economic and political marginalisation increased as public resources were disproportionally allocated to consolidate political support. Successive presidents gave precedence to persons from their ethnic communities when appointing senior government officials. Debates over exclusion of groups/communities in national development started to manifest. This pattern resulted in a belief that development, jobs and quality services were the privilege of those who controlled the Presidency (Stewart 2008, p.8).

The 27 December 2007 general election became highly contested with huge ethnic interests. Despite pre-electoral commitments to establish a government inclusive of all ethnic interests, President Kibaki, who represented the National Rainbow Coalition, undermined the memorandum of understanding that formed the basis of his coalition party and populated his cabinet with persons exclusively from his own ethnic group upon ascending to the Presidency (De Vries et al. 2008, p.285). Sectors of the populace felt frustrated, and violence erupted. This resulted in 1,500 deaths, 3,000 women raped, and 300,000 people internally displaced within a period of 59 days (Roberts 2009, p.2). Roberts (2009, p.3) attributes the violence to a weak constitution which allowed for excessive presidential powers.

On 28 February 2008 a power-sharing deal was brokered by Kofi Annan, with President Kibaki retaining the presidency and Raila Odinga becoming the prime minister and the commencement of a process of constitutional reform, as per Agenda Four of the Serena Talks. The Constitution of Kenya (2010) introduced a two-tier system of devolution that resulted in the establishment of 47 county governments and the description of the Kenyan governance structure as ‘48 Governments One Nation’.

Nigeria’s federal system as expressed in the Constitution of the Federal Republic of Nigeria (1999) also arose from efforts to manage intra-state conflict. The impact, however, does not appear to be sustainable. Given the ongoing simmering of intra-state conflict, constitutional reviews are ongoing.

On 1 March 2022, Nigeria's Senate and House of Representatives voted on 68 Bills to amend the 1999 Constitution to empower its subnational governments further (Odusote 2022).

In conducting a stock survey of decentralisation on thirty countries of the continent, Ndegwa (2002, p. 2-4) however found that:

i. With regards to political decentralisation and in particular the existence of direct elections for local government, eight scored high, seven were moderate and fifteen had very low levels of political decentralisation;

ii. With regards to administrative decentralisation which required the existence of a clear legal framework demarcating the respective roles of the spheres of government, only two countries had a high degree of administrative decentralisation, ten had moderate degrees of administrative decentralisation and sixteen countries showed very low degrees of administrative decentralisation. Six of the sixteen had almost no decentralised administrative systems; and

iii. The assessment of fiscal decentralisation revealed that of the thirty countries analysed, nineteen controlled less that five percent of the national public expenditure, with South Africa being the only country with a high degree of fiscal decentralisation.

The United Nations Capital Development (UNCDF) Symposium on Decentralisation and Local Governance in Africa hosted in 2001 also identified three dilemmas to effective decentralisation. The first being political due to some national leaders being unwilling to share political power and enabling potential local elite capture. The second was economic as often significant resources are required for capacity building of sub-national entities and its officials. The third dilemma identified was management, due to difficulties in designing appropriate institutional mechanisms across levels of government for inter-governmental relations and coordination.

Despite the slow institutionalisation of decentralisation at country level, there have been significant developments with regards to decentralisation coordinating structures at continental level.

The amalgamation of the African Union of Local Authorities, the Union des Villes Africaines and the Africa Chapter of the União das Ciudades e Capitaes Lusofonas Africanas resulted in the launch of the United Cities and Local Government of Africa (UCLGA) in Tshwane, South Africa in 2005. UCLGA is the Africa Branch of the United Cities and Local Governments (UCLG) world body. It is comprised of approximately forty local government associations and two thousand cities. The aims of UCLGA are to promote decentralisation through the establishment of local government authorities across the continent, and to build African unity from a grassroots level. Its functions are to advise local authorities on the continent on administrative, technical and fundraising matters; to assist with the establishment of local government associations; and to facilitate the exchange of best-practice information amongst local governments in Africa and across the world (UCLGA, 2022).

Two clauses from the objectives of the African Charter on Democracy, Elections and Governance adopted by the African Union in January 2007, and which came into force in 2012, further affirm the AU's commitment to decentralised governance. These are:

> 6. Nurture, support and consolidate good governance by promoting democratic culture and practise, building and strengthening institutions and inculcating political pluralism and tolerance ...
>
> 10. Promote the establishment of the necessary conditions to foster citizen participation, transparency, access to information, freedom of the press and accountability in the management of public affairs (AUC 2019).

Articles 34 and 35 of the Charter further state that,

> State parties shall decentralise power to democratically elected local authorities as provided for in national laws. Given the enduring and vital role of traditional authorities, particularly in rural communities the State parties shall strive to find appropriate ways and means to increase their integration and effectiveness within the larger democratic system (AUC 2019).

To give further impetus to the driving of decentralisation by central governments, the All African Ministerial Conference on Decentralisation (AMCOD) was established in 2010. AMCOD was a body comprised of African ministers responsible for decentralisation and local development, at the level of central government.

The mission of AMCOD was to promote decentralisation and local governance to achieve local development in Africa and to contribute to improving the standards of living of the people and local democracy. In this regard, some of the services that AMCOD offered were knowledge product development, policy benchmarking, impact monitoring & evaluation, networking, supporting the formulation and national/local dissemination of common binding policy instruments, benchmarking, and structuring and capitalisation of peer-exchange visits (AMCOD, 2011).

In line with this spirit, the 15th ordinary session of the African Union Heads of State Summit endorsed governance as the central theme of the 16th ordinary session held at end January 2011, with shared values as its core topic. This Summit accordingly declared 2012 as the Year of Shared Values as defined by the African Charter on Values and Principles of Public Service and Administration (AU Decision EX.CL/645(XVIII)). Article 5 of the Charter makes reference to access to public services, emphasising that services should be delivered closer to users and that all stakeholders including civil society should be involved in the planning and delivery of services. The 17th ordinary session, held in January 2012, further endorsed the development of an African Charter on the values and principles of Decentralisation, local governance and local development, the adoption of 10 August as Africa Day on Decentralisation, and the introduction of a Local Governance and Decentralisation Excellence Award (AU Decision EX.CL/Dec.677 (XX)).

AMCOD was integrated into the African Union's Specialised Technical Committee on Public Service, Local Government, Urban Development and Decentralisation (STC 8) as part of the AUCs restructuring process, following the adoption of the African Charter on the values and principles of Decentralisation, local governance and local development, at the 23rd Ordinary Session of the Conference of Heads of State meeting in Malabo, Equatorial Guinea, in June 2014. Since the dissolution of Ministerial Councils and the formation of STCs, the focus of its subcommittee responsible for decentralisation has been on implementing the Charter. This is in line with the decision of the Assembly of the African Union (Assembly/AU/Dec.592) of January 2016, which calls on members states to,

> Accelerate the signing, ratification and implementation of the African Charter on Values and Principles of Decentralisation, Local Governance and Local Development adopted in 2014 (AUC 2019).

In March 2018, the STC signed a memorandum of understanding with UCLGA. It collaborates with UCLGA on its bi-annual Africities conference (AUC 2018). Progress with the implementation of decentralisation however remains slow. Despite advocacy efforts to popularise the Charter, including collaboration with UCLGA, only three countries had ratified the Charter by 2019. Its entry into force requires ratification by 15 members states. Difficulties related to the signing and ratification of the Charter raised at an advocacy meeting in Burundi in 2017 included insufficient information, government and institutional instability, and inadequate capacity resulting in the ratification process becoming an administrative burden (AUC 2019).

In addition to the efforts of STC 8, the United Nations Multidimensional Integrated Stabilisation Mission (Minusma) in Mali funded a workshop of the African Union Mission for Mali and the Sahel (MISAHEL) in Bamako in April 2018. The workshop was titled *'Knowledge sharing on decentralisation and regionalisation in Africa: Towards the implementation of the peace and reconciliation agreement in Mali'* (MISAHEL 2018). Furthermore, the UNDP has partnered with different stakeholders such as the PBF, LPSA and DeLog to conduct programmes, workshops and webinars on decentralisation and peace (UN 2019; DeLog 2021).

These efforts were in support of the AU initiative on silencing the guns in Africa as adopted by the 2013 Assembly of Heads of State and Government. The AU's commitment to silence the guns, initially by the year 2020, was a flagship initiative of its Agenda 2063, which the UN believes to be aligned to its 2030 Agenda (UN-DPPA 2020).

Increasing external and domestic pressure for better, more effective and more inclusive governance, is directing states towards embracing decentralisation. The exact character that decentralisation will take will be informed by constitutional formulas that embody the aspirations, the evolving cultural realities, and the historical conditions of nation states. Past and current practices related to the role of decentralisation in managing intra-state conflict, including the South African case study, broaden the body of knowledge that can be considered when designing public policies for domestic conditions.

### 3.3.The history of decentralisation and conflict in South Africa prior to 1994

South Africa was also colonialised. The colonisation led to conflict. The conflict was exacerbated by the introduction of ethnic-based decentralisation. Colonial-apartheid governance by its nature was about the reinforcement of the tribe, and the manipulation of constructed tribal territories and relatively devolved rule, for political and economic exploitation. An overview of the history of decentralisation and conflict in South Africa prior to 1994 is hereby presented.

#### 3.3.1. Governance in South Africa between 1652 and 1994

The country's colonial era spans from 1652 when the Dutch first built a half-way station on its shores, to 27 April 1994 when South Africa had its first non-racial, democratic election. Its strategic location at the southern tip of the continent of Africa, bordered by the Atlantic Ocean on the west and the Indian Ocean on the east, led Jan Van Riebeeck to set up a half-way station in the area on behalf of the Dutch East Indian Company in 1652. Soon thereafter, a number of settlers immigrated and settled in the Cape and its immediate vicinity (Cloete 1988, p.1). In 1815 the Cape was annexed as a colony by Britain. The Cape of Good Hope, as the area became known, experienced various governmental and administrative changes as it underwent progressive urbanisation, being ruled intermittently by the Dutch and British governments (Cloete 1997, p.1).

The Council of Seventeen or 17 Heeren majores in Patria, with its head office in Holland, governed the Cape of Good Hope on behalf of the Dutch East India Company from 1652 to 1795. The Council served as legislature and executive and originally also served as the High Court of Justice. In 1658 a High Court of Justice was introduced to administer justice based on the principles of Roman-Dutch law. The first known form of municipal council emerged in 1682 when the Governor appointed four persons who were outside of the employ of the Dutch East India Company or free burghers to serve as a councillors or *heemraden* for the Stellenbosch area. In 1685 a *landrost* or magistrate was appointed to serve alongside the *heemraden* as Chairperson of the Court of *Landrost* and *Heemraden*, which had restricted judicial functions and was also responsible for the administration of municipal matters. (Cloete 1992, p.2-3).

Over time and as the numbers increased, the settlers gradually migrated north and eastward, away from the coast and towards the interior of the land. In 1786, in response to a petition to the Council of Seventeen in 1779, a high court of justice was established to serve as a local authority for Cape Town. In 1795 the Cape of Good Hope was colonised by the British. The British replaced the committee of the high court of justice with six persons appointed by the British government called the burgher senate. The Dutch again ruled briefly from 1803 to 1806 under the Batavian Republic and during that time the burgher senate was removed and replaced by the raad der gemeente or town council. But the area came under British rule again in 1806 and once again the burgher senate replaced the town council. The burger senate was abolished on 26 December 1827 and Cape Town remained without a municipal council until the election of a 12-member municipal board in terms of the provisions of the Cape Town Municipal Board Ordinance, 1839 (Cloete 1997, p.1).

Settlers continued to move north and east. The movement inland gained momentum in 1835 during what was called the Great Trek. This resulted in the expansion of the territory of the Cape of Good Hope to include the areas that today fall within the provinces of the Northern Cape, Western Cape and Eastern Cape. It also led to the establishment of three Dutch settlements called Natal, presently known as the province of KwaZulu-Natal; Transvaal or the current provinces of Gauteng, Limpopo and Mpumalanga; and the Orange Free State, presently known as the Free State province.

British colonialism was also accompanied by the consolidation of urban centres. For example, the area previously known as Port Elizabeth was formed in 1820 with the arrival of British settlers. Johannesburg was formed after the discovery of gold in 1886. Pietermaritzburg was established as the capital of Natal in 1839. And, in 1846, Bloemfontein became the capital of the Orange Free State. In 1843, Natal, which was comprised of both Dutch and British settlers, became a British Colony. The Orange Free State and Transvaal remained independent (except for a brief period of British occupation of the Transvaal between 1877 and 1881) until the Anglo-Boer War from 1899 to 1902, after which they too became British colonies (Cloete 1992, p.1).

In 1909 the British decided to return governance to the Dutch settlers who by then had become indigenised and called themselves Afrikaners.

At a National Convention, it was decided that the four areas known as Transvaal, Cape of Good Hope, Orange Free State and Natal be amalgamated to form the Union of South Africa, as contained in the South Africa Act of 1909. This Act was passed by the Imperial Parliament of Great Britain, resulting in the establishment of the Union of South Africa on 31 May 1910. The four former republics, which now became provinces, retained significant powers and functions, including the management of municipalities. Parliament was regarded as the supreme legislative body, but each province was allowed to elect its own provincial council with specifically assigned powers and functions, as captured in the Constitution of the Union of South Africa. While the constitution was amended several times, and later replaced by the Constitution of the Republic of South Africa Act, 1961 (Act 32 of 1961) the roles, authority and functions of provinces did not change materially until 1983 (Kuye et al. 2002, p.31).

### 3.3.2. Indigenous communities

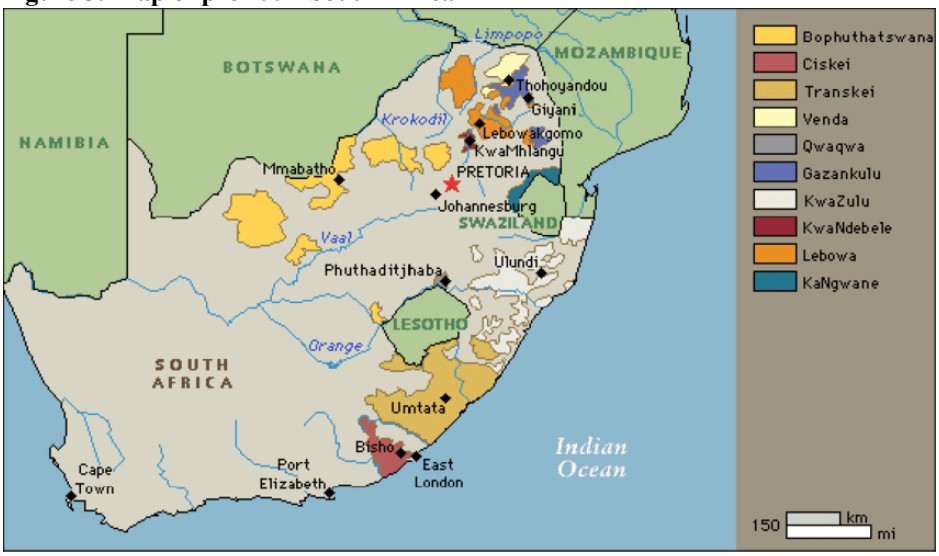
As colonialism expanded, indigenous communities were displaced, with differing degrees of violence being inflicted depending on the amount of resistance received. Governance became increasing racially segregated and various laws were passed to restrict the movement of non-white South Africans. The first Pass Law was introduced in 1760 to control the movement of slaves by the settlers of the Cape. This system was expanded in 1809 when Lord Caledon introduced a proclamation requiring Africans to carry passes when moving from one area to another (Sisulu 1956).

The South Africa Act of 1909 institutionalised and statutorily defined black South Africans as a subordinate category of persons. The Native Land Act, 1913 (Act 27 of 1913) saw the progressive formalisation of the ostracisation of black persons, with land ownership being restricted to 13 percent of South Africa. In addition, similarly to other colonies, the colonisers introduced legislation separating people from their historical leaders. The Black Administration Act, 1927 (Act 38 of 1927) empowered the Governor-General to appoint and dispose of traditional leaders. The objective of the Act was to systematically integrate the institution of traditional leadership into the colonial government of black communities (Ntsebeza 2003, p.41). In many instances traditional leaders refused to be co-opted. Where co-option was resisted, the traditional leaders were replaced by persons who were more willing to co-operate with government. These persons were not necessarily from the royal family (George 2010, p.18).

In 1948 the National Party came into power, resulting in the introduction of separate development or apartheid, which deepened the racial segregation of public management and governance in South Africa. In line with a determination to prevent racial integration, social laws such as the Prohibition of Mixed Marriages Act (1949) and the Immorality Amendment Act (1950) were introduced. The displacement of indigenous communities was reinforced with the introduction of the Group Areas Act (1950), which racially segregated residential and business areas; and the Bantu Authorities Act 1951 (Act 68 of 1951), which provided for the establishment of black homelands and regional authorities. The creation of homelands implied the containment of indigenous communities to ethnic self-governing states, restricting their political franchise to a designated area and limiting their movement in other areas of South Africa. Separate development was further entrenched by the introduction of several legislations such as: the Promotion of Bantu Self-Government Act 1959 (Act 3 of 1959); and the Group Areas Act, 1966 (Act 36 of 1966). Horowitz (1991, p.11) confirms that the apartheid system was refined, perfected, and significantly enforced during H. F. Verwoerd's prime ministership from 1958 to 1966.

The legislation of segregation continued after the assassination of Verwoerd. Such legislation include the Bantu Homelands Citizens Act, 1970 (Act 26 of 1970); the Status of Transkei Act, 1976 (Act 100 of 1976); the Status of Bophuthatswana Act, 1977 (Act 89 of 1977); the Status of Venda Act, 1979 (Act 107 of 1979); and the Status of Ciskei Act, 1981 (Act 110 of 1981). (Cloete 1988, p.2). This is depicted in the map below.

**Figure 5: Map of pre-1994 South Africa**




**Source:** Researchgate.net (2021)

The Republic of South Africa Constitution Act, 1983 (Act 110 of 1983) introduced the tri-cameral system in the area designated as South Africa, allowing race-based elections. It also allowed for the establishment of six self-governing territories namely KwaZulu-Natal, KwaNdebele, Qwaqwa, Gazankulu, Lebowa and Kangwane (Botes et al. 1997, p.188).

Section 37 (1) of Act 110 of 1983 provided for Parliament to consist of three Houses, namely the House of Assembly (whites), a House of Representatives (coloureds) and a House of Delegates (Indians). The three Houses of Parliament dealt with matters of 'own affairs' and 'general affairs' as outlined in sections 14 to 18 of the Republic of South Africa Constitution Act, 1983 (Act 110 of 1983). Matters listed in schedule 1 of Act 110 of 1983 included social welfare, education, community development, and local government. General or national affairs were determined by the State President as per Section 16 of Act 110 of 1983.

Furthermore, Act 110 of 1983 made no reference to the provincial administrations. In 1986, the promulgation of the Provincial Government Act, 1986 (Act 69 of 1986) provided for the dissolution of the four provincial councils and for their replacement by administrations and members of the executive committee as appointed by the State President. It remained in place until the interim Constitution of the Republic of South Africa, 1993 was passed (Botes et al. 1997, p.188).

Despite the perceived notion of equal, segregated development, in which each racially and ethnically based community had relative autonomy, the numerical distribution of power within Parliament favoured the white community, as demonstrated by the extract from the Republic of South Africa Constitution, 1983 (Act 110 of 1983) with the House of Assembly (whites) consisting of 166 members, the House of Representatives (coloureds) consisting of 80 members and the House of Delegates (Indians) consisting of 40 members.

Decentralisation in South Africa's colonial period was thus highly stratified racially. By the 1980's distinct racial categories existed namely white (all persons of European descent), coloured (persons of mixed descent), Indians (persons of Indian descent), and African ethnic groups were strongly enforced. A unique form of decentralisation was legislated, which created a perception of each 'community' being empowered to govern its own affairs. The power and authority, however, was not equal nor unilateral.

The power remained within the hands of white South Africans, and the State President in particular, and many South Africans did not accept this asymmetrical relationship, thereby making the authority and legitimacy of the government at the time questionable.

### 3.3.3. Conflict

The consequences of a governance system that caused disenfranchisement, severely restricted movement, access to ownership of productive resources and participation in economic opportunities and exerted harsh inequalities and brutal repression was resistance. From the onset of colonialism, various chiefdoms had sought to defend their land and their independence, but these rebellions were effectively crushed with the defeat of Bambata in 1906 (Odendaal 1994, p.1).

The establishment of the Union of South Africa in 1910 triggered unprecedented levels of protests across the country. In a unified voice, numerous meetings were held, and petitions were sent to Parliament. The South African Native National Convention was arranged as an alternative to the white National Convention, and the Native National Convention decided to send a delegation to London to demand that all South Africans be given equal political rights. This intervention was unsuccessful (Odendaal 1994, p.4).

The South African Native National Congress was born in 1912 (renamed the African National Congress in 1925) at a conference in Bloemfontein. The heightened level of consciousness assisted black workers to organise themselves into trade unions resulting in the establishment of the Industrial and Commercial Union (ICU) in 1919. The ICU became a nation-wide movement encompassing both urban and rural workers. The ICU, together with the ANC and the Communist Party of South Africa (later known as the South African Communist Party (SACP) after its banning in 1950), organised the 1920 Mineworkers' Strike. By 1927 it had a membership of 100,000 (Terreblanche 2002, p.281). Trade unions shaped by the non-racial politics of the SACP also increasingly became non-racial.

In March 1950, the Communist Party of South Africa, the African National Congress (Transvaal), the Indian Congress and the African People Organisation organised a 'Freedom of Speech Convention' in Johannesburg.

The Convention was called to protest against the Suppression of Communism bill and a ban imposed on Dr. Yusuf Dadoo and Sam Khan prohibiting them from speaking in certain cities. The Convention was attended by 500 delegates and the rally afterwards by 10,000 (Vahed and Desai 2009, p.3-6).

In 1952, the Defiance Campaign was launched. It lasted four months and involved a wide range of people. More than 8,000 people were arrested. By 1953, joint progressive action became common practice and formal alliances that existed between the ANC, TIC and NIC were expanded to include the South African Coloured People's Organisation (SACPO) and the South African Congress of Democrats (COD). In 1955, the Kliptown Conference or Congress of the People, resulted in the adoption of the Freedom Charter, a vision of a non-racial, democratic South Africa and an alternative system of governance (Liebenberg 1994, p.14).

As resistance against apartheid increased, so too did state repression. Anti-apartheid organisations and newspapers were consistently banned; leaders were imprisoned, and protests were brutally crushed. The killing of protesters in Sharpeville on 21 March 1960 resulted in the ANC reviewing its strategy. The ANC went underground and many of its members fled the country, into exile. On 16 December 1961, the ANC launched its armed wing, Umkhonto we Sizwe (MK).

The four-pronged struggle of the ANC, namely mass mobilisation, international solidarity, armed struggle and the underground were complemented by protests within South Africa, and most notably the formation of the United Democratic Front in 1983 and the Congress of South African Trade Unions in 1985. South Africa's conflict was unusually bitter and protracted. The extreme inequality and intensity of the conflict resulted in South Africa having practically no political institutions that commanded legitimacy (Horowitz 1991, p. xi1). The end of the Cold War, rising internal instability, and an increasingly weakening economy, forced the National Party to the negotiating table.

### 3.3.4. The socio-economic impact of apartheid

It is however worth noting that the conflict in South Africa prior to 1994 was not just political, it had a material base. Data from a Household Survey conducted by Central Statistics South Africa in 1995, only one year after South Africa's first non-racial national election, as tabulated below, reflect some of the disparities that prevailed under apartheid.

| Table 9: Racial Distribution of Select Socio-Economic Development Indicators in South Africa in 1995 | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| 'Race' | % Households with water | % Households with electricity | Education levels Prim | Sec | Ter | % Household Income <R12,659 | R12,660-R23,987 | R23,988-R53,091 | > R53,092 |
| White | 97 | 99 | 1 | 72 | 27 | 6 | 8 | 22 | 64 |
| Indian | 97 | 99 | 13 | 70 | 12 | 8 | 12 | 35 | 45 |
| Coloured | 72 | 84 | 33 | 53 | 5 | 32 | 24 | 28 | 16 |
| African | 33 | 51 | 29 | 48 | 6 | 50 | 23 | 18 | 9 |

**Source:** StatsSA (2014)

Using apartheid classification, it is noted that only 33 percent of African households had access to running water in their homes as opposed to 97 percent of white households. Only 51 percent of African households had access to electricity as opposed to 99 percent of white households.

Education was also racially segregated. There were not only huge disparities in education spend per 'race', but access to education was also a problem. Whereas only 48 percent of Africans had secondary education and 6 percent had tertiary education, 72 percent of whites had secondary education and 27 percent had tertiary education.
The degree of inequality however is most apparent in the household income with 73 percent of African households having earned less that R23,987 as opposed to 14 percent of white households.

The model of decentralisation applied under apartheid had deepened political and socio-economic disparities, and had heightened intra-state conflict, thereby forming the backdrop for the negotiations process that was to follow from the year 1990. On 2 February 1990, National Party leader, President De Klerk acceded to the demands of the OAU's Harare Declaration, paving the way for a negotiated settlement. After centuries of resistance by the country's indigenous people to political and economic oppression and exploitation, the apartheid government and the liberation forces, represented inter alia by the African National Congress and the Pan African Congress, began formal negotiations in 1990 in a process known as the Convention for a Democratic South Africa (Codesa).

This negotiation process and the resultant interim constitution are important elements to consider when examining the South African path to managing intra-state conflict. Likewise, knowing South Africa's demographic composition and how it had historically been exploited to sustain ethnic divisions, sets the backdrop to the current imperative of building state legitimacy and managing intra-state conflict.

| Table 10: South Africa's demographic statistics | |
|---|---|
| **Geography** | |
| **Size** | 1 219 0900 $km^2$ |
| **Characteristics** | Vast interior plateau rimmed by rugged hills and narrow coastal plain<br>9.9 % land arable<br>Mostly semi-arid |
| **Population** | |
| **Number** | 56,97,635 inhabitants<br><br>Apartheid designated ethnic groups: African 80.9%, coloured 8.8%, white 7.8%, Indian/Asian 2.5% |
| **Languages** | IsiZulu 25.3%, IsiXhosa 14.8%, Afrikaans 12.2%, Sepedi 10.1%, Setswana 9.1%, English 8.1%, Sesotho 7.9%, Xitsonga 3.6%, other 8.9% |
| **Religion** | Christian 86%, Traditional 5.4%, Muslim 1.9%, other 1.5%, unspecified 5.2%, |
| **Source:** StatsSA (2021) | |

## 3.4.Conclusion

The review of literature on the history of decentralisation on the continent in general, and the history of decentralisation and conflict in South Africa in particular, provides essential background information for understanding the development of South Africa's post-apartheid decentralisation model. Both the broad continental history and the specific South African history allow for an appreciation of the depth of fragmentation that existed when South Africa started its negotiations process. Each interviewee has his or her own recollection and interpretation of history and its context, which will be extracted through the research process and presented in the findings. The literature review provides a more scholarly, objective presentation of the conditions that led to and informed South Africa's negotiation process.

# Chapter 4
# Research methodology

## 4.1. Introductory remarks

The usefulness of a case study is dependent on its credibility. Since the purpose of this study is to investigate the imperatives that led to the formation of South Africa's post-apartheid decentralisation model and the conditions that enabled it to relatively appease the key role-players in South Africa's pre-1994 conflict, as well as to critique the contribution of the model to state legitimacy, the research process must be accurate and reliable. In so doing, the policy recommendations derived from the study are legitimised. Accordingly, qualitative data collection methods, namely semi-structured interviews and document analyses are applied and analysed through a specially constructed, three-dimensional framework to attain this purpose.

The initial intention was to conduct a comparative study between South Africa and Kenya's decentralisation models. Having been the former head of a continental body responsible for decentralisation, the researcher had good relations with persons who were central to the negotiations and decentralisation development processes in both countries, and it was assumed that access to the relevant information would be uncomplicated.

However, though the relevant regulatory prescripts were readily provided, there were insurmountable challenges when trying to conduct research in Kenya in general. The numerous efforts to obtain an ethics clearance certificate were unsuccessful as the criteria kept changing despite having paid the required fees. Likewise, it was not easy to secure candidates for interviews. One reason was that some of the desired interview participants had been taken to the International Criminal Court for the 2007 intra-state conflict.

On the contrary, the South African interviews were successful beyond expectation. Once the data was obtained, it became apparent that the process and resultant post-apartheid decentralisation model is so significant that it merited a dedicated focus. A comparative study would have watered down the value of the findings.

Furthermore, specific developments in South Africa brought the resilience of the post-apartheid decentralisation model, particularly concerning state legitimacy, into question.

These included the political unrest in July 2021, the call by the WGDWD for an independent state, and the continued demand for self-determination by some in the Afrikaner community. The 2021 local government elections outcomes demonstrating a rise in ethnic polarisation also tested the resilience of South Africa's post-apartheid decentralisation model. The findings from the three data collection techniques, the details of which is outlined herein, generated the need for a deeper analysis in this regard. A short proposal that the research title be changed to 'The role of decentralisation in managing intra-state conflict in South Africa' was accordingly presented to and endorsed by the relevant authorities.

This chapter expands on and justifies the research approach and methodology summarised in the introductory chapter. Rosnow & Rosenthal (1996, p.9) state that a research approach is not always a 'single, fixed procedure but a philosophical outlook as much as an arsenal of research tools' and that social science research outcomes could be influenced by 'rhetoric, perceptible images, and aesthetics'. Hence, some limitations and ethical considerations of the research are thus also presented.

### 4.2. The research problem, question and objective

McNabb (2002, p.53-54) outlines eight steps to be followed when conducting research. These are: identifying the research problem, establishing the research objectives, determining the research strategy, preparing a research plan, conducting a literature review, gathering, analysing and preparing the data, and preparing and presenting the findings.

The first step in a standard research process is to identify the research problem or research area (Welman and Kruger 2000, p.12).The inconclusiveness around the role of decentralisation in the management of intra-state conflict and the lack of clarity on the conditions under which a country can devise a decentralisation model that responds to the drivers of conflict are problematic. This is particularly because decentralisation is promoted widely by a number of international organisations as one means to address intra-state conflict. This justifies further examination at country and at cross-national levels. Therefore, the research question posed in this case study is '*What is the role of decentralisation in managing intra-state conflict in South Africa*'?

Research can be conducted for many reasons. While one such reason is the attainment of a solution to a specifically defined problem, it could also be undertaken to augment theory in a given field (Brynard 1986, p.7). We can thus differentiate between basic research, which focuses on the theory, and applied research, which is more practically orientated (Kuye 2002, p.3). Basic or scholarly research seeks to contribute to knowledge by exploring and testing hypotheses to explain social phenomena and, thereafter, to capture the established patterns in theories. Applied research is used to strengthen existing, or to introduce new, programmes, or solve problems (Johnson 2010, p.10-11). This research study is more basic in nature.

Accordingly, the second step in the research process is to clarify the objective, outcomes and outputs of the research. The objective refers to what the study is trying to achieve. The primary objective of this research is to investigate the imperatives that led to the formation of South Africa's post-apartheid decentralisation model and the conditions that enabled it to relatively appease all the key role-players involved in South Africa's pre-1994 conflict. This achievement is significant because the degree of intra-state conflict was very high when South Africa's negotiations formally started. In addition, when negotiations began, the demands related to a decentralisation model were poles apart, ranging from a unitary state to a federal state, to separate states.

The outcome refers to the intended effect of the study. It is hoped that the outcome of this case study of South Africa's unique, historical experience in developing its post-apartheid decentralisation model, and the systems that were put in place to support it, will be of value to other countries on the continent that are experiencing intra-state conflict.

The outputs refer to the tangible deliverables of the study. This study presents policy lessons related to the context, process, design and support systems that could be considered when developing decentralisation models, as part of constitutional reform, in situations of intra-state conflict, particularly in Africa. Drawing on existing, applicable theories, it introduces a unique analytical framework to determine the role of South Africa's decentralisation model in managing intra-state conflict, including its contribution to state legitimacy. Thus, the study also hopes to strengthen theory related to decentralisation, state legitimacy, and conflict management.

The collation of information to meet the research objective requires a plan. The plan, which covers the remainder of the steps relevant to the research process, is preceded by a discussion on the research approach.

### 4.3. Research approach

The research question informs the ontological and epistemological approaches to this study. The formulation of the research question is underpinned by an aspiration to determine the process of solving a real problem that affects society (Smith et al. 2009, p.47). According to Gray (2014, p.62), 'Ontology is the studying of being, that is, the nature of existence and what constitutes reality'. Realists promulgate the existence of only one objective reality. Relativists argue that reality constitutes the subjective interpretations of those who experience it and, therefore, more than one version of reality exists (Gray 2014, p.62). This research study explores multiple views of the construction of South Africa's post-apartheid decentralisation model and thus, primarily follows a relativist ontological approach.

Gray (2014, p.63) defines epistemology as the study of knowledge. Gray (2014, p.63) further identifies three forms of epistemology, namely objectivism, constructivism and subjectivism. Objectivism recognises the subjectivity of research participants' views but emphasises that studies must be conducted objectively. Constructivism argues that truth and meaning are social constructs derived from the interaction of the research participants and their respective environments. Subjectivism argues that the construction of meaning, while occurring subjectively, is confined to a paradigm or 'collective unconsciousness' such as religion, for example (Gray 2014, p.63-64). The primary epistemological approach to this study is constructivism. It premises that South Africa's post-apartheid decentralisation model emerged from a complexity of interactions between the personalities, background and skills of those who participated in, influenced and monitored its construction; and the relative environment and events that prevailed at the time.

May (1993, p.3) contends that science has multiple perspectives and is the outcome of contested disciplines. The school of thought that is applied in a research study is determined by the research objective. It also influences the choice of research method. Accordingly, he refers to four theoretical approaches to research, namely positivism, empiricism, realism and idealism.

- Positivism

Positivists argue that social life can be explained in the same manner as natural science and that patterns of behaviour can be constructed, which enable behavioural outcomes to be predictable under similar conditions. The patterns are constructed based on empirical information (May 1993, p.4-5).

- Empiricism

Empiricism also advocates that it is possible to gather information independently from how people interpret the social world by using appropriate data collection methods. This approach differs from positivism in that the research occurs outside the realm of theory and focuses on the meticulous and precise attainment of generalisable data as the end goal (May 1993, p.6).

- Realism

Realism focuses on the structural mechanisms that underpin developments in society. This approach, which is associated with critical theory, acknowledges the interrelationship between knowledge, behaviour, and the environment or social world. Accordingly, realists argue that,

> The task of social research is not simply to collect observations of the social world, but to explain these within theoretical frameworks which examine the underlying mechanisms which structure people's actions (May 1993, p.7).

- Idealism

Idealists argue that the interpretation of the social world is created in the realm of ideas. They dismiss the narrow focus on cause and effect and assert that reality is a construct of social interaction. Thus, social life can only be understood 'as the result of examining people's selection and interpretation of events and actions' (May 1993, p.8).

Gray (2014, p.62) refers to five theoretical perspectives: positivism, interpretivism, critical enquiry, feminism and post-modernism. Interpretivism is viewed as a theoretical perspective in its own right, which is comprised of symbolic interactionism and phenomenology.

- Interpretivism

Interpretivism argues that the 'subjective meanings of people used in social interaction are a starting point for the objective analysis of society' (May 1993, p.28).
In this regard, there should 'not be a gap between social theory and data generated on social relations', given that the social world is created through an inter-subjective process (May 1993, p.9).

- Approach applied in this study

Welman and Kruger (2000, p.188) view interpretivism as falling within the phenomenologist approach, juxtaposing it against positivism. In this regard, they assert that, 'We cannot detach ourselves from the presuppositions of our cultural inheritance' (Welman and Kruger 2000, p.188).

Investigating why South Africans were so divided and the imperatives that enabled them to bridge that divide in the process of, among others, developing a unique decentralisation model, necessitates an appreciation of the subjective interpretations of those who participated in, or influenced, or observed the process.

While some attribute the intra-state conflict to structural factors such as capitalism, the positions presented by those who were negotiating were fundamentally influenced by their cultural, historical, and lived experiences at the time. This is why this research study, which falls within the social sciences, is conducted from an interpretivist perspective.

Decentralisation is politically sensitive as it impacts on the sovereignty of a country and involves an extensive range of stakeholders and interest groups; accordingly, its form is influenced by a multiplicity of factors and differing perspectives. An interpretivist approach to the research maximises the opportunity to reflect on these factors and record the broadest range of views possible. This approach further allows for more significant interpersonal interaction, enabling the observation of subtle nuances that depict the values and perceptions of the research participants.

- Enhancing the reliability of an interpretivist study

Research that contributes to the expansion of the social sciences must be conducted in a manner that reduces the level of subjectivity that might occur when social life is being studied.

By being conscious of the difficulty of conducting value-free research within social sciences, steps can be taken to enhance the reliability of research outcomes. The fact that the definition of a problem is influenced by factors of culture, history and social power has to be considered. It is also important to note who the research funders are and their intent behind the research. Hence, measures should be taken to ensure that the selection and collection of information are not contaminated. Moreover, caution should be exercised when interpreting the research findings to manage subjectivity (May 1993, p.33-35).

The recommendations of May (1993) are reinforced by Johnson (2010, p.13), who further outlines five elements or ethical principles of good research. The first is that it should not be harmful, should guard the confidentiality of the participants, and the benefits of the research should be accessible. The second is that the research should be honest, and the methods used should be fully disclosed. The third is that quality control procedures should be built in to ensure accuracy in data collection, analysis, interpretation and the writing of the research report. Fourthly, reliability should be promoted through systematic approaches with fixed measurement rules. Furthermore, measures should be built into the process to minimise bias.

Accordingly, conscious efforts are made to enhance the reliability of the study. It is self-funded. The problem definition does not promote or dissuade the use of decentralisation as a mechanism for managing intra-state conflict. Instead, the research question is left broad, so its outcomes are unbiased. Additionally, the research design is such that the views of the role-players in the former conflict are objectively reflected. External instruments such as the analysis of regulatory measures or international data are also used.

This interpretive study relies primarily on qualitative data collection methods as informed by the research design. Those are semi-structured interviews conducted virtually due to the Covid-19 pandemic; and document analysis of primary sources in the form of policies and legislation, some of which are also retrieved online. It is also necessary to critique governance effectiveness, which requires document analyses of quantitative data obtained from secondary sources.

### 4.4. The research strategy

The research strategy is the most cost-effective way to gather the information required to address the research question and attain the research objectives. In determining the research strategy, knowing the forms of information and the methods available to collect them is essential.

- Qualitative and quantitative research

Qualitative research is one of two types of research. The other type of research is quantitative. Quantitative research is numerically based and is generally applied in the positivist approach to research. Hence it is primarily used in experimental research but can also be applicable for measuring period-specific causality. Qualitative research is descriptive. It seeks to collate information in a manner that appreciates the context which informs it and includes techniques such as case studies, observations, interviews and focus group discussions (Brynard 1986, p.26; Johnson 2010, p.10-12).

Qualitative research collects and analyses information that explores social or human phenomena (Blaxter et al. 2006, p.60). Qualitative research enables the researcher to develop a more comprehensive appreciation of the subject matter being studied (Kuhns & Martorana 1982, p.8-9). Decentralisation informs the nature of governments; it informs the nature of governance and shapes the impact of governance outcomes. Given the complexity of decentralisation, qualitative research is used.

- The case study method

To better understand the social phenomenon, decentralisation, and its use to manage intra-state conflict, South Africa's post-apartheid decentralisation model is selected as a case study. The case study method is one form of qualitative research. According to McNabb (2002, p.287) it is a valuable way of determining some regularity in accepted theory or of investigating specific problems. Moreover, case studies can be intrinsic and instrumental by focusing on a specific phenomenon, in this instance decentralisation; and by using the insight gained to expand on knowledge about that specific phenomenon, for example the role of decentralisation in managing intra-state conflict (Brynard 1986, p.19).

South Africa is selected because of the difference in its historical and current decentralisation model forms. The system of apartheid had significant elements of ethnic-based devolution, and the shift to South Africa's present, quasi-unitary state model of decentralisation is unique. The study focuses on the post-apartheid decentralisation model because it relatively succeeded in appeasing two extremes, separatists and centralists, thereby ending apartheid-related, intra-state conflict. What is also of interest is the current unintended consequences of the decentralisation model and its relation to the management of intra-state conflict.

### 4.5. Research plan

A research plan refers to the specific steps undertaken to gather the information required to reach the research objective and address the research problem. According to Rokkan (1970, p.9),

> To get a basis for detailed comparisons of rates of development within new as well as established nation-states, it is essential to supplement the information from historical documents and observers' reports with data from standardised accounts and other efforts at systematic social, cultural and political map-making. Only in this way is it possible to approach reliable estimates of changes over time and of within-unit variations in the conditions and the sequences of development.

While the above quotation from Rokkan (1970, p.9) refers to comparative and longitudinal studies, the requirements are applied in this case study.

The open-ended, semi-structured interviews accommodate the need for 'systematic social, cultural and political map-making'. They do this by extracting the mechanisms used during the negotiations and constitution-making processes of the country case to manage the vast interests of the various parties in the conflict situation; and to understand how these interests were accommodated in the resultant decentralisation model.

Furthermore, two document analysis data collection methods are used to complement the interviews. This includes what Rokkan (1964, p.11) refers to as 'the acquisition of detailed knowledge of the workings of each national system'. Official government policies and legislation are analysed to ascertain the regulatory manifestations of the negotiation outputs in support of the decentralisation model and to enhance its contribution to state legitimacy.

The quantitative research, informed by a document analysis of the data that was obtained from secondary sources, critiques governance effectiveness in relation to state legitimacy.

### 4.6. The data collection methods

The interviews and document analyses populate a three-dimensional framework of analysis. An ethics clearance certificate was acquired before the data collection process commenced.

- Interviews

The findings of one dimension of this research study are based on twenty open-ended, semi-structured interviews. Interviews in qualitative research seek to establish both fact and meaning. It allows for the extraction of in-depth information on a given topic as it is a personal one-on-one engagement. Rokkan (1964, p.12) argues that,

> Interviews, combine within one unified operation at least six hitherto distinct models of social and behavioural data gathering: the census questionnaire, the standardised observation checklist, the informal reportorial conversation, the referendum, the election and the psychological test.

Interviews can be informal and conversational, they can be semi-structured, or they can be structured. Semi-structured and structured interviews ensure that the collection of information from each interviewee covers the same themes. In addition, they can be standard but open-ended or closed fixed-response interviews (Valenzuela & Shrivastav 2004, p.3-15).

The interviews in this research study are semi-structured to ensure that all interviewees address the same broad themes. While the study focuses on how the decentralisation model was designed to manage intra-state conflict and not the causes of the conflict, the caution by Skocpol (1979, p.38-40), regarding the influence of the nature of the conflict, its historical context, and the similarities or dissimilarities of its concrete revolutionary trajectories on research outcomes are considered and accordingly integrated into the research. The interviews, as guided by an interview schedule, Annexure 1, have standard, semi-structured questions aimed primarily at obtaining information pertaining to the context, processes and design that informed the decentralisation model, including the nature, form and impact of the pre-1994 conflict, as perceived or interpreted by those associated with the negotiations and constitution-making processes.

Data is obtained from those who participated directly in the apartheid-related conflict and the processes that led to the development of South Africa's current decentralisation model, as well as from experts that monitored the processes. Given the significance of the research outcomes, the interviews are confined to those who were around at the time, whether as creators, influencers or monitors of the processes of negotiations and constitution-making. Accordingly, purposive sampling is used.

Rokkan (1964, p.8) recommends that, 'To make such repositories [of data] useful for the testing of generalisations in the social sciences, efforts would have to be made to ensure representative coverage of each category of data for each society.' Therefore, to ensure representativity, the interview participants are further purposively selected from a diverse range of political players and experts based on the sampling frame below.

**Table 11 : Interviewee sampling frame**

| Cluster | Details | Number |
|---|---|---|
| Political parties | Senior leaders from diverse political parties | 9 |
| National government | A relevant member of the Executive | 1 |
| National legislature | A member of the legislature in both houses | 2 |
| Security sector | Intelligence community representative | 1 |
| CSOs | Representative from organised labour | 1 |
| | Representative from organised women | 1 |
| | Civic/Residence association representative | 1 |
| | Representative of traditional leaders | 1 |
| Sectoral experts | Academia | 1 |
| | Legal fraternity | 1 |
| | Religious fraternity | 1 |
| **Total** | **Interviews** | **20** |

**Source:** Author's thematic synthesis (2022)

As depicted above, the sample includes one senior leader, from nine political parties that were key players in South Africa's transition. Not all parties that were affected by South Africa's conflict and that influenced the transition, participated in the negotiations. The sample of political parties therefore includes non-participants. Multiple sectors significantly influenced the negotiations, therefore senior sectoral leaders, particularly from organised women, traditional leaders, labour, civics associations and the security sector are included. The choice to interview members of the executive and the legislature is to demonstrate the link between the negotiations, the Constitutional Assembly and the legislative processes. Due to Covid-19 restrictions, focus groups, is replaced with three expert interviews for triangulation.

The interviews occur following the dispatch of formal request letters to all prospective interview participants and the submission of consent forms. The request letters explain the purpose of the research and indicate that the identities of the participants will be concealed to protect anonymity.

- Document analysis

May (1993, p.134-135) lists government documents such as policies, laws, declarations, statutes, government reports and Hansard recordings as valid primary document sources that may be used for research. He thereby affirms document analysis as a social research method in its own right and 'as representative of the practical requirements for which they were constructed'.

In this research study, document analysis is applied to two different sets of data for two distinct purposes. The first, which constitutes the second dimension of the study, collates, analyses and synthesises primary documents, namely the Constitution and relevant legislation pertaining to the decentralisation model. The documents are analysed according to an analytical framework based on Hyden's (1992) human agency perspective of the governance realm, in support of understanding the decentralisation model's contribution to state legitimacy.

Secondly, to quantitatively critique governance effectiveness post the design of the current decentralisation model, an analytical framework based on Huther and Shah's (1998) good governance outcomes, the third dimension of the study, is used. Data is obtained from four documents that reflect measurements on areas of government performances that are relevant to the study. They are the Ibrahim Index of African Governance, the United National Development Programme Country Report 2021, the World Bank's Global Economic Prospects Report 2020 and the Organisation of Economic Cooperation and Development Report 2021.

Two further sources are used to reflect on the findings of the four international reports, one is domestic, namely StatsSA and the other international, namely, Afrobarometer.

The data collection techniques and how they are organised is tabulated below:

| **Table 12: Research plan** | | | |
|---|---|---|---|
| **Research question:**<br>What is the role of decentralisation in managing intra-state conflict in South Africa? | | | |
| **Broad themes** | **Model** | **State legitimacy** | **Effectiveness** |
| **Technique** | Interviews | Document Analysis | Document Analysis |
| **Themes** | Context<br>• Cause<br>• Form<br>• Consequences<br>Process<br>• Mechanism<br>• Inclusivity<br>Design<br>• Party perspectives<br>• Sustainability<br>• Traditional Leaders<br>Effectiveness | • Actor dimension<br>• Structural dimension<br>• Empirical dimension<br><br>Hyden 1992 | • Citizen's participation<br>• Government orientation<br>• Social development<br>• Economic management<br>Huther & Shah 1998 |
| **Data Sources** | 20 Interviews | Policy & legislation | IIAG, UNDP, WB, OECD<br><br>StatsSA, Afrobarometer |
| **Source:** Author's thematic synthesis (2022) | | | |

Concerning the process of collecting data, Rokkan (1970, p. 9) states that 'the study may be carried out … in one single centre or one single site, it may be initiated in one centre but requires data gathering by centres in the other cultures, societies or nations, or it may be organised through close cooperation within a network of centres.' Due to the Covid-19 pandemic restrictions, online methods for the interviews and data collection (beyond the researcher's personal archive) are used.

### 4.7. Collation and analysis

The data collection and analyses are guided by a three-dimensional, decentralisation analytical framework. Saito (2001:3) argues that 'there has been little systematic analysis of devising an appropriate framework for assessing the effects of decentralisation. This difficulty partly derives from the ambition that decentralisation is hoped to achieve numerous goals at the same time: public administration restructuring, economic efficiency political legitimacy and democratisation, and ultimately poverty reduction'. Hence a uniquely designed analytical framework is used to map and establish linkages between the development of South Africa's decentralisation model and its current administrative, social, political and economic contexts.

### 4.7.1. Interviews

The interviews seek to understand how South Africa's post-apartheid decentralisation model was developed. The bulk of the report focuses on the negotiations process as the essence of the decentralisation model, which is expressed in the Constitution of the Republic of South Africa, Act 200 of 1993, that was negotiated in this phase. This interim constitution was in place from 27 April 1994 to May 1996.

The constitutional principles constrained the Constitutional Assembly negotiations around the final constitution that occurred from1994 to 1996. Thus, the current decentralisation model does not deviate significantly from the Constitution of the Republic of South Africa, Act 200 of 1993.

Valenzuela & Shrivastav (2004, p.16-20) state that the stages following interviews include thematising, designing, conducting the interview, transcribing, analysing, verifying and reporting. Accordingly, broad themes exist in line with the primary and secondary research questions. The themes are assigned categories that form the key outcomes of the interview questions. These questions inform the interview schedule. The questions are open-ended, allowing for flexibility to obtain the views of experts, as well as from those political parties that had chosen not to participate in the negotiations but whose views still impacted on the decentralisation model.

The themes and categories that guide the questions in the interview schedule (Annexure 1) are:

**Table 2 : Decentralisation model formation**

| Theme | Categories |
|---|---|
| Context (conflict) | Cause |
| | Form |
| | Consequences |
| Process (1990-1994) | Mechanism |
| | Inclusivity |
| Design | Party perspectives |
| | Sustainability |
| | Traditional leaders |
| Effectiveness | Effectiveness |
| **Source:** Author's thematic synthesis (2022) | |

The interview schedule, supported with a formal introductory letter (Annexure 2), a copy of the consent form (Annexure 3), and the ethics certificate (Annexure 4) are sent to each research participant.

The initial set of interviews took place between April and June 2021. Before the interviews commenced, the purpose of the research was again explained; the consent form was read aloud; permission to record the interview was obtained; and interviewees were assured of their rights as participants. Furthermore, participants were assigned numbers for recording purposes and anonymity. Each interview was transcribed fully, that is verbatim, and then checked at least twice to ensure accuracy.

The interviews were conducted electronically, via Zoom, due to the restrictions arising from the Covid-19 pandemic. The researcher was based in Syria and therefore could not travel. Requests for interviews were relatively positively received. One extremist right-wing political party and the surviving three former homeland leaders were not interviewed. One apologised due to ill health but couriered a comprehensive book to Cape Town that was collected once travel restrictions were lifted, which included his biography and the role of his political party in the negotiations. He also offered to provide electronic responses to any further questions, but the book was adequate. The views of homeland leaders were also articulated by interview participants that were part of COSAG.

The participating nine senior political party representatives were personally involved in the transition process. Given that only one person per political party was interviewed, the selected participants were among the best placed to represent their parties' positions on decentralisation at the time. On the statutory side, the interview participants represented four instrumental political parties, one of which did not participate in the negotiations. On the non-statutory side, interview participants included a representative from the ANC and one significant political party that did not participate in the negotiations. A further senior leader from the ANC that contributed to the negotiations from the onset in the 1980's, is also included due to his well-known strategic and intellectual prowess and to replace the person who was not available. The other two significant parties that participated in the apartheid government's tricameral parliament aligned themselves with the non-statutory side during the negotiations.

Two persons from the ANC who were approached, did not participate in the interviews. One, who had been part of the process from the onset in the 1980s, stated that his memory was no longer that good and that he was not specifically involved in the decentralisation discussions.

The other had time constraints and believed his view was unnecessary, given that I had already interviewed the most relevant person from his party and his non-statutory counterpart.
These responses must be understood from the perspective that, given the researcher's background, some interview participants struggled to understand why they were being asked questions that they assumed the researcher already knew the answers to.

Of the four civil society interview participants, two directly represented their sectors in the negotiations and two were instrumental in drafting their sectors' position papers. The security sector participant was directly involved in the amalgamation of one arm of security.

Regarding interview participants who were either members of Cabinet or in the National Assembly, three played leading roles in the Constitutional Assembly process before two became members of the executive, while the third went into the security sector.

The three expert interviews took place between March and April 2022. The academic was selected based on his many writings in this area. The religious expert was selected based on his former leadership role in the global religious arena. And the lawyer was selected due to his former leadership role in the National Association of Democratic Lawyers.

The data obtained for each interview was organised by themes. Thereafter, the historical veracity of each data set was established based on copies of the primary documents used during the negotiations, as well as books and articles that were written at the time.

The data derived from the interviews were manually grouped into themes, after which inductive reasoning was applied to establish patterns in the data and to group the data into distinct categories within a given theme. Extreme caution was applied to ensure the accurate transfer of data during the collation process. While organising and categorising the data manually was a lengthy and cumbersome process, it enhanced the interpretation thereof. The results of this process are reported in the chapter on the research findings.

The interview outcomes were richer than anticipated as much, formerly unrecorded detail pertaining to the genesis of the decentralisation model was obtained. Four of the political party representatives, statutory and non-statutory, at various stages post-apartheid, went on to occupy

positions in the executive, which shaped the policies and legislation on decentralisation. Their insights were invaluable.

At the time of the selection of the experts, the researcher was not aware of the direct roles that some of the experts had played in the negotiation and constitution-making processes nor their current political party affiliations. It was therefore enriching when the interviews revealed that the expert from the religious sector had chaired a working group during the negotiations. He was therefore able to share anecdotes about the sophisticated persuasive techniques that were applied to dilute the separatist position. The lawyer went on to occupy a very senior administrative position in the Department of Justice and was able to provide a government view of the accession of the 1996 Constitution and other related policies and legislation.

With regard to assessing how the decentralisation model contributes to state legitimacy, document analysis is applied to two different types of data. Thematic analysis is applied to both document analysis processes. In this regard, 'the reviewer takes a closer look at the selected data and performs coding and category construction, based on the data's characteristics, to uncover themes pertinent to a phenomenon' (Bowen 2009, p.32).

### 4.7.2. Document analysis – state legitimacy: qualitative

The analysis of the final constitution, policies and legislation that ultimately reflect and support South Africa's post-apartheid decentralisation model, serves two purposes. The first is that it provides documented substance to the data gathered in the interviews. The second is that the framework used for the document analysis enables the reader to understand better whether the regulatory prescripts supporting South Africa's decentralisation model contribute to state legitimacy in the country.

In this study, the researcher presents Hyden's (1992) human agency approach as an ideal type to demonstrate the regulatory measures part in place to support the decentralisation model's contribution to state legitimacy. The reasons for this selection are presented in the literature review, Chapter 2 of this report. Accordingly, the dimensions advocated in this approach are used as an analytical framework for the primary document analysis aspect of this research. Categories that speak to South Africa's conditions are applied to this broad framework as expressed in Chapter 1 and below. The aspect of traditional leaders was added as a category, given their significance in South African society.

| Table 3: Governance realm (Hyden 1992) – State legitimacy<br>Theme | Categories |
|---|---|
| **Actor dimension**<br>(Reciprocal and interrelationship between power and authority) | • Levels/spheres of governance, associated powers, elected/appointed<br>• Intergovernmental relations<br>• Powers of traditional leaders |
| **Structural dimension**<br>(The ability to promote compliance, trust, accountability and innovation) | • Devolution of fiscal responsibilities<br>• Accountability, monitoring and control |
| **Empirical dimension**<br>(Citizen influence and oversight: Responsive and responsible leadership social reciprocities or the extent to which citizens or groups respect each other) | • Powers and functions of judiciary<br>• Legislative and institutional measures for public participation |
| **Source:** Graphic illustration based on Hyden (1992) | |

The researcher was an active member of the ANC at the time of the negotiations, and thus had access to and possesses many of the documents that derived from it. Furthermore, the researcher also worked in the field of decentralisation domestically, at the Department of Cooperative Governance, and continently as the head of AMCOD, and therefore possesses historical and current policy and legislative prescripts. Accordingly, much of the qualitative documents are derived from the researcher's personal archives. Outstanding policies and legislation are obtained online. The current constitution and relevant policies and legislation are studied, and data is organised using thematic analysis. The findings are expressed in the next chapter of this research report.

### 4.7.3. Document analysis – state legitimacy: quantitative

Skocpol (1985, p.19) argues that it is essential to 'examine states in relation to particular kinds of socio-economic and political environments populated by actors with given interests and resources.' The research does not infer causality between the decentralisation model and changes in the politico-socio-economic environment of the case country but acknowledges that the politico-socio-economic environment influences state legitimacy, and hence intra-state conflict. The extent to which this environment has changed after implementing the post-apartheid decentralisation model accordingly becomes relevant.

The analytical framework for organising the data derived from the secondary sources, namely the IIAG, UNDP, WB and the OECD, is the governance outcomes themes identified by Huther and Shah (1998). The themes with corresponding variables are presented in Chapter 1 and below:

| **Table 4: Governance effectiveness (Huther and Shah 1998) – State legitimacy** | | | | |
|---|---|---|---|---|
| **Theme** | **IIAG** | **UNDP** | **World Bank** | **OECD** |
| **Economic management** Outward orientation, (central bank independence, and inverted debt to GDP ratio) | Foundations for economic opportunities | | Economic performance | Economy<br><br>Equality<br>Environment |
| **Social development** (Human development and egalitarian income distribution) | Human development | Human development index | | |
| **Government orientation**<br><br>(Judicial efficiency, bureaucratic efficiency and lack of corruption) | Security and rule of law | | | |
| **Citizen's participation**<br><br>(Political freedom and political stability) | Participation, rights and inclusion | | | |
| **Source:** Graphic illustration based on Huther and Shah (1998) | | | | |

The framework that is used to present and analyse the findings of the research thus has three dimensions. Inductive reasoning is applied to interpret the data.

The scope of the research is more clearly presented below, including its limitations and the related ethical considerations.

### 4.8. Scope and limitations of the research

Given that a research study has defined parameters, it is inherent in the research that these parameters result in limitations in its findings. Therefore, four limitations are presented.

- The scope of this research study is confined to intra-state conflict in South Africa that resulted in a negotiated settlement through constitutional reform within a multi-party democracy.

- While efforts are made to contextualise the formation of the current decentralisation model, it does not examine the roles of economic, social and political factors in maintaining domestic political stability.

- Some key factors that influence decentralisation and intra-state conflict, such as capacity building, border demarcation and monitoring and evaluation, are not addressed.

- The influence of external factors on decentralisation and intra-state conflict is not studied.

Ethical considerations are also an important aspect of research.

### 4.9. Ethical considerations

Ethical considerations form an integral part of the research process, including in selecting the research participants, engaging them, and processing the findings. This includes the signing of participant consent forms.

The research techniques have been purposely selected to eliminate the biases, or at least reduce them significantly, in addition to acquiring meaningful data. Therefore, interactions, including during the interviews, are consciously conducted in a manner that is unbiased, effective, transparent, honest, considered and to preserve the dignity of respondents.

Special attention is paid to ensuring that there is no deception in the research process – not by commission, nor by omission, nor by the manipulation of research outcomes. Accordingly, fair-mindedness is applied, and personal views and interests are suppressed.

A key concern is that the researcher would have an inherent bias during the interviews due to being a former anti-apartheid activist and current member of the governing African National Congress and its ally, the South African Communist Party, given the intensity of the conflict that had existed at the time. The researcher's background instead enhanced the ability of the research participants to speak freely, and sometimes even crudely. Objectivity is facilitated by an interview schedule, which allows for the retention of focus when denigrating views are expressed. While the data in the findings is captured verbatim that which contained profanities are eliminated in the interpretation process.

In addition, biases and conflicts of interests are managed by undertaking this research within a professional institution, under the supervision of astute supervisors.

Overall, the research experience deepens the researcher's understanding of the perspectives of other political parties, something that would never have happened outside of this study, thus making the process exciting and informative.

### 4.10. Significance of the study

Intra-state conflict in countries in Africa is a significant concern due, among others, to the devasting impacts on human life, the environment and development. Accordingly, the year 2030 had been set by the African Union (AU) as the target for 'Silencing the Guns' on the African continent.

Endeavours to resolve intra-state conflict almost always include a constitutional review process that results in amendments to the state's decentralisation model. The context within which it is developed, the design of the model, and its ability to accommodate the various interests within a given state is therefore vital.

The collation of first-hand experiences of constitutional reform-driven management of intra-state conflict in South Africa, particularly as it pertains to the context and structural design of the post-apartheid decentralisation model; and how this process was consolidated and resourced institutionally and legislatively, serves as a reference for similar processes on the continent. It is hoped that this case study will contribute to the body of knowledge on the context, formation, design and effect of decentralisation in the management of intra-state conflict.

### 4.11. Conclusion

The interpretive case study on the role of South Africa's decentralisation model in managing intra-state conflict comprise qualitative data collection methods that include semi-structured interviews; document analysis of primary qualitative data; and document analysis of secondary quantitative. The interviews and document analyses inform the three-dimensional analytical framework used to assess the role of decentralisation in managing intra-state conflict in South Africa.

# Chapter 5
# Research findings: The formation of South Africa's decentralisation model

## 5.1. Introductory remarks

The framework of analysis applied in this interpretive case study research has three dimensions. This chapter presents the research findings of the first dimension, which focuses on the formation of South Africa's post-apartheid decentralisation model. The findings are based on the outcomes of 20 semi-structured, open-ended interviews.

The interview schedule extrapolates the interview participants' views on why the negotiations succeeded and how the post-apartheid decentralisation model was developed as per the research question, '*What is the role of decentralisation in managing intra-state conflict in South Africa?'* In addition, the interview schedule is informed by the following five secondary research questions:

a. What process was undertaken to manage the intra-state conflict, and how was decentralisation located within that process?
b. What were the key factors considered when determining the design of decentralisation?
c. How were these factors accommodated in the design of decentralisation with specific reference to the allocation of powers, responsibilities and resources across the various central and provincial governments within the country's constitution, policies and legislation?
d. Which, if any, institutional mechanisms were introduced to sustain the form of decentralisation?
e. Has decentralisation assisted in managing intra-state conflict?

This chapter presents the detail of the interview outcomes. Decentralisation can take many forms. The variety is because specific historical conditions and contexts influence the form of decentralisation within a given country. Therefore, understanding the imperatives that contributed to the resolution of South Africa's intra-state conflict and the role of decentralisation in that regard, can contribute to the broader body of knowledge on the relationship between decentralisation and intra-state conflict.

## 5.2. Interview outcomes

The interview outcomes are presented according to the themes of dimension one of the framework of analysis devised for this study. Dimension one has four themes: context, process, design, and success.

Given that the research approach applied in this aspect of the study is interpretivist, the data presented herein reflect the subjective perspectives of the interview participants. The responses of the interview participants are classified according to the themes mentioned above using inductive reasoning.

Data related to the context of the conflict express the causes of the conflict, the form that it took and its consequences. Data related to the process expresses the structural mechanisms that underpinned the negotiations and the inclusivity of the process. Concerning the design, the various political party perspectives on decentralisation, how they were able to reach consensus, how they ensured the sustainability of the design, and why and how they accommodated traditional leaders are presented. Lastly, the findings on whether the interview participants believe that the post-apartheid decentralisation model succeeded in ending the intra-state conflict, are presented.

Inductive reasoning is applied to present patterns in the data and to group the data into distinct categories within a given theme. The data, in the form of quotations from the interview outcomes, is presented to support the categories. The data and categories for the given theme, are summarised in tabular form. This is done to generate strategic knowledge associated with the broader discourse on the relationship between decentralisation and intra-state conflict. Tabulating the data also makes it easier to extract policy lessons applicable to urgent continental challenges. The outcomes of the interviews are presented herewith.

### 5.2.1. Context of the conflict

The interview participants' perceptions of the causes, forms, and consequences, which constitute the context of the conflict in pre-1994 South Africa, are hereby presented according to the related categories. The context, as perceived by the interview participants, is important because it frames the positions that the various political parties took during the negotiations and consequently influenced the design of the post-apartheid decentralisation model.

#### 5.2.1.1.Causes of the conflict in South Africa

Interview participants were requested to respond to the question, 'What do you think were the main causes of the conflict in colonial-apartheid South Africa immediately post the 2007 elections'? An analysis of the data on what interview participants perceived to be the causes of the conflict in South Africa prior to 1994, highlights five key points. These are colonialism, imperialism, economic exploitation, apartheid, and disenfranchisement. Some participants also mentioned the importance of understanding intra-coloniser conflict, believing that it would contextualise their positions towards the negotiations and the model of decentralisation that emerged from it.

##### 5.2.1.1.1. Colonialism and imperialism

The views regarding colonialism and imperialism are as follows.

*Interviewee 1:* 'The cause of the conflict was the conquest and occupation of South Africa, the subsequent control of the state and the economy by a racist white minority, and the oppression and exploitation of the majority of the population.'

*Interviewee 5:* 'The conflict was a rejection of colonialism and subsequently apartheid.'

*Interviewee 9:* 'The issue of colonialism was always the bigger framework within which everything needed to be evaluated. And when we talked about colonialism, the key issue was that there was a social attack on indigenous people, which resulted in institutional oppression. So, for us, it was that entire formation, the complexity of social, economic and political formation that informed our struggle. What you would call the struggle against apartheid, we called a struggle against colonialism. So, it was an anti-colonial struggle. Apartheid became a further version or an extension of that, in a white tribal form.'

*Interviewee 10*: 'The main cause of conflict in South Africa was with the start of imperialism, colonialism, which then turned into what I term colonialism of a special type or apartheid. I would say broadly, in history, those were the three main thrusts that caused havoc in South Africa by the exploitation of its resources and its people over many, many centuries, starting in 1652.'

*Interviewee 11:* 'Fundamentally, it's an issue of imperialism and colonialism. The so-called discovery of Africa by the European powers, South Africa in particular. The growth in exclusion of the black majority that they found there through the British administration, the brief Dutch administration, the British administration again, and eventually the NP in 1948. Their governance was built on exploitation, political exclusion, economic exclusion and on the profit motive of an imperialist, capitalist system.'

*Interviewee 12:* 'We had a situation of colonialism of a special type where the coloniser and the colonised lived together. This colonisation started in 1652 with the landing of Jan van Riebeeck where land was seized from the people and the people were not allowed to participate in whatever government was formed. We actually even went through a period of slavery in South Africa. And then came the British after the Anglo-Boer war, which also continued with the issue of land dispossession and not letting people make decisions about their country, including the right to vote and the right to be voted etc. So, it has been a long period.'

Colonialism and imperialism were cited as the cause of South Africa's conflict by all interview participants, namely statutory, non-statutory and experts. While the interview participants highlighted colonialism and imperialism, the exploitation associated with it was elevated as an important reason for the conflict.

#### 5.2.1.1.2. Economic exploitation

Quotations from five interview participants express why they believed that greed and economic exploitation contributed to the pre-1994 conflict.

*Interviewee 2:* 'There are three main sources of conflict that you would find in most political conflicts throughout the world. The one is of a religious nature. The second is where ethnicity was a very strong problem, conflict developed as a result of that. And then the third one is the matter of greed. It is often political greed, but it can also be economic greed. That type of conflict is the most common that you would find in many countries, in many established states, even in democratically practising states.

'Unfortunately, our conflict was also determined by greed. There were people that had the power but were not prepared to share it. And they were in the minority and as a result of that, there was a conflict on how to get the minority to release that power or to transfer the power to

the majority. That was the basis I think, to a large extent, of our conflict. To a much lesser extent, it was ethnic. It was mainly used by the NP government to differentiate between black people to create different so-called nations and to establish Bantustans and homelands.'

*Interviewee 8:* 'There was the clash of British interests and South African interests, mainly Afrikaner interests, the Dutch who became Afrikaners, and those were competing nationalisms, but I think also competing economic interests. One has to think of the discovery of gold and diamonds to see part of the origin of the clash between what led to the South African war or the Boer War with the British.'

*Interviewee 9:* 'Then there was an economic assault on indigenous communities, which resulted in complete economic dispossession, proletarianisation of independent producers of whatever kinds that people found here and leading to a complete break away from the traditional economic formations that were found here and readying the people for a colonisation of economics. So, there was economic exploitation, social oppression and, interestingly, political domination, political structuring.'

*Interviewee 14:* 'The other factors of course, would be exclusion from the economy, trade and industry, the well-being of the blacks in general; these resulted in huge conflicts that festered.'

*Interviewee 15:* 'Obviously there was the national oppression of people of colour, black people in general and Africans in particular, and it was also obviously gender oppression, particularly of people of colour, in particular of African women. And clearly, underlining this were huge class differences. In fact, racial and gender oppression are ultimately a reflection of class exploitation. We had a sort of interconnection between these three aspects of oppression and exploitation but ultimately the other forms of oppression were a reflection in the ultimate sense of capitalist exploitation.'

All interview participants acknowledged economic interests as the source of the conflict and linked it to colonialism and imperialism. Two placed the system of capitalism at the heart of the conflict. The majority emphasised economic exclusion and stratified access to economic opportunities. And two interview participants highlighted the competing economic interests between white South Africans of differing descent. The form that it took in South Africa, namely apartheid, was regarded as another significant cause of the conflict.

#### 5.2.1.1.3. Apartheid

While interview participants recognised the links between colonialism, imperialism and exploitation, they argued that apartheid, as a specific system, also contributed to the pre-1994 conflict in South Africa. Quotations from five interview participants are listed to demonstrate this argument.

*Interviewee 2:* 'The basis for apartheid was racial separation, segregation. And, of course, it became more formalised after 1948 when the NP government took office. But the basic paradigm prevailed long before that. There was racial superiority on the side of white Europeans or so-called Europeans, and inferiority as far as the rest were concerned. And that determined the being of South Africa as a nation, or as a people because we were not a nation, for those centuries.'

*Interviewee 3:* 'The basis of the conflict was the separation of black and white, the other, with the other being seen as less, less of a being. Long before apartheid, we had this separation, where people were seen as other. Sometimes there were allowances made, like if you converted to Christianity, you became a 'free black'. You had certain rights. There were some inter-racial marriages and sometimes the kids coming from those marriages were not discriminated against. They were sort of accepted because their mothers would have been seen as free blacks and so on. And then in 1948 it got codified, almost institutionalised. While you had these discriminatory laws before, it was all codified in 1948.'

*Interviewee 7:* 'There was the conflict between the Afrikaners and the British government on the one side. And then of course there was a conflict as far as the system is concerned, let's talk then on the race, the black people in South Africa. So, on the one side yet the white people of South Africa in conflict with the United Kingdom with colonialism; on the other side, you had the black people who was in conflict because of the system that prevailed in South Africa. The whites actually focused on their own freedom because they wanted to get of British government. And then that's what happened in 1961 on the 31st of May. Then South Africa became the Republic of South Africa with its own Constitution and not under British rule anymore.'

*Interviewee 8:* 'Then straight after the World War II, we got on to apartheid. And then every aspect of life in South Africa became subject to apartheid legislation. It was all pervasive. It applied to white, to black, to coloured, and to Asian South Africans. Everybody had to live under this regime, and this went on for the next 40 years.'

*Interviewee 12:* 'And then came the institutionalisation of apartheid by the NP, especially in 1948. But the NP was just consolidating many of the laws which were passed during British rule. We have one of the landmarks, which was the passing of the Land Act of 1913, which divided South Africa into 80 percent of the land, actually 87 percent of the land was seized to belong to the Afrikaners and only 13 percent was left to the indigenous black people who forms the majority of the country. Apart from the race and gender issue, was the issue of what we call the triple oppression of women which was based on race, gender and also the economy, the workers especially.'

All participants regarded the formal, legislated separation of South Africans by race as a source of conflict. Two interview participants however justified its necessity by stating that the primary objective of apartheid was the need to protect a formerly oppressed Afrikaner minority. Apartheid segregation included disenfranchisement.

#### 5.2.1.1.4. Disenfranchisement

One of the manifestations of apartheid was that South Africa's indigenous majority was denied the right to vote. Decades later, when the apartheid government permitted electoral participation, voting was restricted in respect of race and ethnicity and even geographically. Herewith are two perspectives from interview participants on how disenfranchisement contributed to the apartheid-era conflict.

*Interviewee 7:* 'While the Anglo-Boer conflict had been resolved, the other conflict, as far as the black people in South Africa and the white government, was not solved, of course. And that conflict continued in different ways. I think the main issue in that conflict was the right to vote. In the early 1930s, white people had the 'arme blanke vraagstuk', 'the poor white problem'. In fact, they felt that they were misused by the British government and therefore quite a lot of people were very poor. And that was then in 1948 when the NP came into power, they had always had this ideal to become a free nation, which happened in 1961.

‘Therefore after 1961, the white government did everything for white people. And the black people were deprived, for instance, of the right to vote. And the argument is that if you have one man, one vote, we will lose the political power again.’

*Interviewee 16:* ‘Primarily, there was an absence of human rights, in other words, including the disenfranchisement of most South Africans. For labour, that was the key thing, how we can be full citizens in our own country with all the rights, which a normal citizen would have: equality before the law, absence of discrimination on the basis of race, colour, gender and class, you name it. So those were the key areas of focus for organised labour.’

While some interview participants regarded the right to vote as an essential human right, others justified this restriction as being a means of ethnic survival.

#### 5.2.1.1.5. Intra-coloniser conflict

The views of three interview participants also demonstrate the complexity of colonial-apartheid era conflict. The initial Dutch colonial settlers regarded themselves as indigenised and viewed the British as the colonialists. This tension is significant as it underpins the post-1961 approach to resistance against colonialism and apartheid. When liberation movements such as the ANC describe the character of oppression in South Africa, they refer to ‘colonialism of a special type’, thereby inferring a recognition of the indigenisation of the former colonisers. The Freedom Charter, a document crafted under the leadership of the ANC in 1955 states, ‘South Africa belongs to all who lives in it, black and white’ (ANC 1955). It is also relevant as it assists in understanding the ANC’s insistence on a non-racial, united South Africa. Furthermore, the historically Afrikaner/English dynamic contextualises why some political parties that represent the Afrikaner community continue to demand secession.

*Interviewee 7*: ‘ ‘In the 1830s the Afrikaners started the Great Trek because of the conflict between them and the then British government, because it was about taxation of the people. And there is an interesting historical notion that states, and I translate it into English, ‘We will rather go barefoot over the mountains than be under British rule.

‘Then we can go back to 1880. I think that was the first Anglo-Boer War and the conflict again was the British government who wanted to annex the Republic of Transvaal. The only war they ever lost in the history of the United Kingdom was the first Anglo-Boer War.

‘That was in 1880/1881. And then, I think, in 1899, we had the second Anglo-Boer War. So that was the third main conflict, if I can talk about the conflicts. Again, against Britain. It was a three-year war and there the Boers lost the war. That's when they had the women and children in concentration camps and let them starve to death; and burnt down the farms. With great respect, they raped the women and the children and put them in concentration camps. More than 36,000 women and children died in those concentration camps.

‘That led to the situation where the Boers then actually said, okay, we will have peace. And it is known as ‘die Vrede van Vereeniging.’ It was sort of a treaty with the British government. And then in 1910, the United Kingdom actually colonised all the republics in South Africa. Then we became the Union of South Africa, but we were under British rule. The Afrikaners actually focused on their own freedom because they wanted to get rid of British government. And then that's what happened in 1961 on the 31st of May. Then South Africa became the Republic of South Africa with its own constitution and not under British rule anymore.’

*Interviewee 8:* ‘White people came to South Africa, most of them, in 1820 and most of them were brought here by the British. There were others that came in the 1600’s or 1700’s. But anyway, so you had the rebellion which caused a great deal of aggravation. After that you have the establishment of the ANC, I think that was in 1912. And that was around the time of the First World War, where there was conflict between British interests and a number of Afrikaans speaking people, who didn’t support the war effort. Of course, that allied to what happened in Namibia. General Louis Botha there, and General Smuts was involved in that as well. And that caused division between the members of the white population in South Africa.

‘This has all been forgotten in the years which followed. Then you got to the Second World War where the government was voted out through a motion of no confidence, and we joined the war on the side of the Empire of Britain and its other colonies and territories. And, of course, it caused a big rift between white South Africans. Black South Africans, it was more or less a society issue, but they were always subjected to racial discrimination through all of this period that I have talked about. And that must always be seen as a constant theme or constant cause of, if not outright conflict, then of bad feelings.’

*Interviewee 11:* 'So conflict, if you like, worked both ways. There was the conflict of oppression. There were the wars of conquest against the indigenous people, in what we now call the Western Cape, at the time of the arrival of the colonisers. The wars of conflict through the so-called 'Great Trek' into what later became the Free State and the Transvaal and parts of Natal, as well as the British wars of conquest. And then of course there was the conflict of response to the conflict of oppression. There were the Bambata rebellion, the Battle of Isandlwana and other forms of resistance, which morphed in the forties, fifties and sixties into peaceful protests and the petitioning of the colonial power. And as repression increased, particularly with the banning of liberation movements, political representatives of the black majority made a declaration to carry out an armed struggle.'

An analysis of the research findings related to the causes of the conflict in South Africa before 1994, establishes five key reasons. The reasons are colonialism and imperialism, economic exploitation, apartheid and disenfranchisement. While these are presented as distinct causes, the five reasons are interrelated and interdependent. The conflict between the South Africans of Dutch and South Africans of British descent was also raised.

Though interview participants highlighted similar causes of the conflict, their perspectives differed, with some justifying the system of apartheid. How the participants viewed the causes of the conflict directly influenced their preferences around decentralisation. The form of the conflict and its consequences influenced the attitudes that the negotiators had towards each other.

#### 5.2.1.2.Forms that the conflict took

The conflict in South Africa spanned centuries. Two broad conflicting parties emerge from the data derived from questions about the form that South Africa's pre-1994 conflict took. These are the oppressor and those associated with them, and the oppressed and those associated with them.

The causes of the conflict took various forms. Interview participants were requested to respond to the question, 'What form did the conflict take and how long did it last'? An analysis of the data establishes the following forms of the conflict, as expressed by the interview participants. They are racial oppression, patriarchy, authoritarianism and violence, dispossession, inferior education, tribalism, co-option, and black-on-black violence.

Interview participants also highlighted that the oppressed resisted. In the early 1900s this resistance was passive, but post-1960, armed resistance, mass mobilisation and international solidarity became more prominent. According to some interview participants, the three forms of resistance, together with the establishment of an underground organisation in South Africa, constitute what they term the 'four pillars of struggle'.

#### 5.2.1.2.1. Racial oppression

Quotations from four participants illustrate how racial oppression constituted one form of conflict during the apartheid era.

*Interviewee 2:* 'But it was later on, after the apartheid government in 1948, that it was far more regulated. It was enforced, this separation, through various methods that were applied by the government, for instance group areas acts and racial separation at school level.'

*Interviewee 10:* ' They ran their internal democracies by only regarding white citizens as citizens of that colony and blacks were treated as objects of the law. They were never subjects.'

*Interviewee 15:* 'The form of the conflict has mostly been racial oppression. People who were banded together of all classes and all strata were people of colour. It also united people who were African, Indian and so-called coloured. Apartheid, they argued, there was this whole group of academics as well, who argued that apartheid was actually a form of capitalism. In the UK and elsewhere, in theory at least, it was a non-racial form of capitalism and in South Africa it was a racial form of capitalism, racial-capitalism. Neville Alexander, of course, coming from the far left so to speak, put that thesis on the agenda. He critiqued the theory of colonialism of a special type.'

*Interviewee 17:* 'I think, one of the interesting things about the early days of the Cape was that, you know, Van Riebeeck would have been classified a 'coloured person' in the apartheid South Africa, for instance. I think that the inter-mingling between the Dutch with the Malaysians that traded in the East, the fact that many slave owners ended up having children with their women slaves, all contributed in a sense to a society that was very different from apartheid. And I think apartheid was almost a conscious effort to separate out what had kind of ended up intermingling quite a lot, both under the colonial rule and then to some degree under the British rule.'

The emphasis that the causes of the conflict took the form of racial oppression confirms that apartheid-colonialism was characterised by ascriptively determined superior-subordinate relations based on race with direct class differentiation links. Patriarchal oppression was, however, also highlighted as a form of conflict.

#### 5.2.1.2.2. Patriarchy

The quotation below encapsulates the sentiments expressed by most of the interview participants concerning the patriarchal form that the conflict took.

*Interviewee 9:* 'I have not said anything about the insidious patriarchal oppression and exploitation that was just inherent in colonial-capitalism. Not only did it itself impose oppression in explicit gender forms, but it got to reinforce pre-existing feudal, tribal gender forms and just complicated what it was that we had to deal with. And all of the things that we tried to do in our fight against apartheid and in the post-apartheid period have actually been so impacted by all of those that we are still stuck with them at the moment.'

The racism and sexism were enforced through the system of education.

#### 5.2.1.2.3. Inferior education

Apartheid South Africa's education system was racially segregated to the tertiary level. Within primary and secondary schools, gender mainstreaming also occurred; in particular, girls were encouraged to do needlework, and domestic science and boys had to do woodwork. Thus, the oppressor used education as one form to maintain domination, as expressed in the quotation below.

*Interviewee 13:* 'The other form was the imposition of inferior education, or what is known as Bantu education. It was a form of education that prevented Africans from getting a proper education, but to make them just educated enough to be able to read and write and to follow the instructions of the white bosses. That is the form that the conflict undertook.'

Education was a subdued form of entrenching oppression, but there were also far more violent forms of oppression.

#### 5.2.1.2.4. Authoritarianism/violence

According to the interview participants, the oppressor was also authoritarian and violent. Three quotations are used to demonstrate the violent form of the conflict.

*Interviewee 1:* 'The ruling bloc ruled primarily through the use of brute force. Blacks had to be in their place and if they didn't want to be, they were put in their place by force. So, it was a kind of a police state combined with a kind of a military rule. It was an authoritarian rule by force. And, at the same time, it did whatever it could to divide the oppressed and practiced divide and rule.'

*Interviewee 3:* 'On the other side, on the government side, you had suppression, bans, jailings, killings.'

*Interviewee 16:* 'Firstly, it was violent, and I can elaborate. It was violent in various forms. At the workplace, as these foreign companies got into the country, they abused workers, most of them lost limbs, most of them got killed. In the mining, in the construction sector, I know for example, the dam that is called Gariep Dam now, it used to be called Hendrick Verwoerd Dam, there are bodies in those pillars of the dam because the cement dries quickly, that's the nature of that cement. So, there are people who were pushed into the pillars while the cement was still wet. And there are many people that don't know that the bodies are inside those pillars. So that is the nature of the violence, which was unleashed.'

One of the expressions of violence was the annexation of land.

#### 5.2.1.2.5. Dispossession

Interview participants regarded land dispossession, and the consequent ethnic-based partitioning of land, as a fundamental form of the conflict. This is illustrated through the quotations below.

*Interviewee 5:* 'Anti-colonial struggles were a rejection of what was referred to as a problem of those from outside, who came in here. And when they, who were assumed to be visitors, began to take over land in a surreptitious, but often also in a very blatant manner, that led to resistances of many sorts and the culmination of the different forms of struggles.

‘What followed was informed originally by that arrival in the country of colonialists and the different methods they use to seek to suppress, to take over land, to subjugate people by using a variety of tactics, including forcing people off the lands who were cultivating and living from the land, destroying agricultural farms. Imagine the level of agricultural developments in the country.’

*Interviewee 10:* ‘So, really, the form of the conflict was one where either the colonisers or the internal colonisers who were all white were basically taking whatever they wanted. They took the land. They took the mineral wealth. And every single thing is what they took.’

*Interviewee 13:* ‘Well, there were forced removals of Africans from their land. There were the influx control laws that prevented blacks i.e. Africans, Indians and coloureds, from what was known to be ‘white’ areas. So, people were not in a position to go and earn anything freely, and conveniently, by being able to stay close to their places of employment. So, they were taken, moved away from their land, and when they had done their piece, given their energies, their intellectual resources, which whites used for their own benefits, they were taken back to the homelands. The other form of conflict was the balkanisation of South Africa into Bantustans, so that they would not consider South Africa as their home, but the homelands to which they originally belong.’

The balkanisation of the land took an ethnic form, resulting in the entrenchment of tribalism.

#### 5.2.1.2.6. Tribalism

Two quotations are presented to demonstrate how tribalism was used to support apartheid.

*Interviewee 13:* ‘And also it took the form of tribalism because they were fermenting tribalism by making sure that even those who lived in the urban areas, they were segregated according to their ethnic groups; Xhosa sections, Zulu sections, Venda sections and so forth. For instance, you’ll find there is a township in Pretoria known as Soshanguve. That area was designated for the Sotho, the Shangaan, the Nguni and the Venda, hence it is called Soshanguve. There were sections for Nguni speaking people, sections for Sotho speakers and sections for the Shangaan.’

*Interviewee 17:* 'Colonialist notions of isolating different ethnic groups and giving them some control over the areas where they were staying, the sort of British colonial model I'm talking about here. I think that ended up with quite significant divisions in South Africa at the time, between the different ethnic groups, especially I think they were trying to do it with some more or less success.'

Linked to tribalism was the co-option of indigenous people.

#### 5.2.1.2.7. Co-option

The quotations from two interview participants who could be regarded as indigenous, one co-opted and one not, demonstrate the tension that it created.

*Interviewee 3:* 'And you also had a black-on-black conflict. Oftentimes based on forms of opposition. There were those who saw participation or fighting from inside as an option, others of course just went along for their own interest, but there were differences of opinion on how to oppose. And that led to conflict among black people, I say black to be inclusive, as opposed to non-white. If I take my own community and my own experience, we dealt with it at a personal level. Families became estranged from each other. Communities were split. The churches were split. Sports organisations were split. It took a toll, psychologically and socially.'

*Interviewee 5:* 'There were many attempts to create dummy institutions for various groupings in the country. It failed and went defeated politically by a systematic advancing of a political perspective that said no, we might be different, but we are one country, and we will not accept any dummy institutions that claim to represent us when in fact they are not. So those attempts, including repression, failed the NP and its allies in the country and then we can safely say that the liberation movement was triumphant.'

The forms of violence used by the oppressor are best expressed in the quotation below:

*Interviewee 10:* 'Obviously it's a bit more complicated than that legally and constitutionally because when, of course, the coloniser was in charge, it was more Britain's parliament that was in control and when it was the internal colonisers, they of course had their own parliaments, at least from 1910 onwards. Obviously, from the side of the oppressed, that is exactly what it was, except for limited rights for people that had owned property.

‘But on the whole, they basically always were, for the 350 years, treated as objects of the law. That means that whichever parliament it was, whether it was the British parliament, or whether it was the internal colonisers, they were able to make laws that treated black people as objects and not as a subject and so in a general sense they had no political say at all in the processes and obviously had no political rights in the process. And from that fact, that they were treated as objects, they also did not enjoy rights in the sense that you and I would understand how one enjoys rights as a citizen. They only enjoyed whatever privileges the white parliament gave them.’

#### 5.2.1.2.8. Resistance

The various forms of oppression led to resistance. The following two quotations encompass the articulation of the nature of resistance.

*Interviewee 1:* ‘So there was a continual path of resistance from the first arrival of the colonial settlers right until the end of apartheid. There was continuous resistance. Sometimes it was more intense. Sometimes it was not that intense.’

*Interviewee 8:* ‘Sometimes it was hot and sometimes it was cold. Sometimes it was armed conflict, sometimes it was low level. Sometimes there was sabotage, sometimes there was relative peace for quite a few years. But the conflict bubbled away, and it just seemed to go on year after year. And it created really a political deadlock.’

Both quotations demonstrate that resistance occurred from the onset of colonialism and continued intermittently depending on the extent of repression in the country, in forms that were both peaceful and violent.

##### 5.2.1.2.8.1.Peaceful protests

The quotation below outlines the initial form of resistance to colonialism.

*Interviewee 5:* ‘Initially their attempts were peaceful. In other words, accepting the colonisers as visitors who had to go, but then noticing that in fact they have other intentions. And then emerged the fight about the land and attempts to take it over. And so, this led to the various wars in the Eastern Cape, around the country, in many areas. So, it was initially peaceful.

‘And then conflict of that nature that led to resistance and battles, and subsequent to that was the decision to put together appeals by intellectuals, incidentally, who came from inside the church, who had studied in the United States, Pixley ka Seme and others like Charlotte Maxeke. Although they were religious and came from a religious background, they were also very conscious politically of the necessity to work across the different tribal affiliations and to recognise the need for unity and they persuaded a number of people including Chiefs to form the ANC. The consequence was that that gave impetus to the convention that was held in Bloemfontein in 1909 and subsequently the formation of the ANC in 1912 and this proceeded in the 1930s’.

In the wake of increased oppression, resistance became more organised and broader, as the two quotations below depict.

*Interviewee 2:* ‘And that resulted in the rise of the anti-apartheid movement, and it became more and more active during the 1950s and then also resulted in the establishment of the arms struggle against apartheid by the ANC. After which, many of their members were actually imprisoned. Those that were not, had to go into exile.’

*Interviewee 4:* ‘Resistance included mass organisation and mobilisation, underground organisation, armed struggle and international mobilisation.’

**5.2.1.2.8.2.Armed resistance**

Resistance wars were predominantly ethnic-based in the early days of resistance to colonialism. However, over time, in the wake of consistent repression in the form of the banning of political organisations and persons, detentions and aggressive responses to protests, armed resistance by the oppressed collective became more structured in the 1960s. Four quotations expound.

*Interviewee 10:* ‘In some places, that conflict then spilt over into physical conflict, a violent conflict. For example, when the white people reached the Eastern Cape, there they had the clashes with the Xhosa people. When they came internally in the country, there were various other groups. And when they got into Natal with the Zulus, there was fighting and conflict, and the dispossession took place through the barrel of a gun. Then, of course, not to forget the Khoisan and the San in the Cape areas themselves, but that conflict started from day one in 1652, when the white people arrived here.

‘That conflict started with the Khoi and the Khoisan and the dispossession of them in the areas that are now known as the Cape. So, this conflict did not only take the form of people taking over and creating colonies and new countries, but it also took the form of physical contact, conflict in some areas. And, of course, with the conflict, people then lost even their possessions like cattle, their livestock, where they lived, and all those things were also then taken from them as time went on.’

*Interviewee 5:* ‘The other forms of conflict, of course, the arms struggle took off, it also meant that a decision was made in the ANC that, later, talking is no longer working, and that we have to pick on the state through an armed struggle, a guerrilla warfare, not a traditional military.’

*Interviewee 2:* ‘The conflict became more and more vicious over that period. It was suppressed by means of imprisonment of the leaders, but it re-emerged strongly in the 1970s, continued into the 1980s and it became more a conflict of not only passive resistance, but also physical resistance. And most of that was carried out on a guerrilla basis by some elements of the anti-apartheid movement.’

Interviewe*e 11:* ‘The conflict was not just a conflict, but it was accompanied by violence. Whenever people rose, they would be killed, jailed. Many even resorted to going into exile after the banning of the ANC and other liberation movements.’

**5.2.1.2.8.3.Mass-based organisation**

Mass-based, peaceful resistance inside South Africa continued and gained momentum in the late 1970s and 1980s, as demonstrated in the following quotations.

*Interviewee 1:* ‘But the main resistance started from 1976, with the mass uprising of students and scholars and workers. And that mass uprising intensified in the 1980s. It was the primary form of protest, mass mobilisation, and it was the biggest and most sustained mass uprising in modern history. It was very different to the mass uprisings in modern times in other parts of the world, for example, people speak about the Arab Spring, where you had a people maybe occupying Tahrir Square for a week or something of that sort. But it came and went. This was a mass uprising on a sustained basis, for a decade. But it really, if you look at the full period of it, I would say, really, it is from 1976 to 1990. And it was not a riotist uprising. Riotist is angry people going to the street. This was an organised, coordinated uprising.’

*Interviewee 5:* 'It was decided that there should be mass-based work done on the ground. This arose from the Vietnamese Revolution. The ANC sent a delegation to study the struggle in Vietnam. They were reputed to have successfully beaten the many imperialists who at one time or another sought to dominate Vietnam, but they all failed. And, so, the mass struggle, lessons from there, were incorporated into the struggles in South Africa.'

*Interviewee 12:* 'But the dominant liberation movement was the ANC, which waged the armed struggle; and the people inside the country through various organisations which ultimately formed the mass democratic movement, under the United Democratic Front (UDF). The churches, the workers, the women, the youth were crucial in the internal struggle and thus the conflict in South Africa has been characterised as colonialism of a special type. The oppressed raised against the colonisers and this ultimately led to the negotiations.'

**5.2.1.2.8.4.International mobilisation**

Another form of resistance was to mobilise the international community against apartheid. Quotations from two interview participants are used to elaborate.

*Interviewee 3:* 'You had the financial sanctions against the country, sports sanctions.'

*Interviewee 5:* 'So, inside there was lots of mobilisation and organisation on the ground. And, of course, there was the international part of the struggle, persuading the world that what was happening in this country is out of order and requires the support of people for South Africans to be as free as they wish, as in all other countries.'

The integration of the forms of resistance from 1960 is expressed in the following quotation.

*Interviewee 5:* 'So, the inter-connection of these four pillars, often needs to be emphasised because others, in their tendency to delink struggles, make the mistake of suggesting that one may have been weak instead of looking at them together and the accumulative effect on the state inside South Africa.'

The forms that the conflict took, as perceived by the interview participants, are presented in relation to the oppressors and the oppressed. The oppressors imposed racial oppression, patriarchy, inferior education, dispossession, tribalism, co-option and violence.

The interview participants argued that resistance initially was localised as various indigenous groups defended their territory. Over time, it progressed into collective, nationally-based responses by the oppressed people of South Africa and those who identified with them. The forms of resistance can be categorised as armed struggle, mass-based organisation, international mobilisation, and the underground. The conflict had deep-rooted consequences for South African society. Therefore, it is necessary to appreciate the consequences of the conflict as perceived by the interview participants, as it shaped their attitudes during the negotiations, and consequently influenced their views on the kind of decentralisation model required.

#### 5.2.1.3.Consequences of the conflict

Interview participants were requested to respond to the question, 'In your view, what were the consequences of the conflict'? According to the interview participants, there are six broad consequences. These were the creation of a working class, increased subjugation, hatred, death and trauma, generational poverty, as well as a state that was ungovernable and isolated internationally.

##### 5.2.1.3.1. Creation of a working class

Imperialist and colonial expansion, and later apartheid, essentially served to advance the development of capitalism in South Africa. The indigenous inhabitants had historically been primarily agrarian. Industrialisation required workers. The emergence of the working class is expressed in the quotation below.

The quotation addresses several factors. It provides insight into the links between dispossession, regulatory development and indigenous working-class formation. It also gives insight into past and current tensions among the oppressed working class. This quotation further gives context to the rise of trade unionism and communism in South Africa. All these factors ultimately resulted from South Africa's intra-state conflict and influenced the design of the post-apartheid decentralisation model.

*Interviewee 5:* 'One of the significant things we have to mention is that the development in the country, the discovery of gold and diamonds, brought in capital to explore for those minerals. But alongside capital they also brought their workers from these countries initially because they wanted people with experience to work there, and these workers came here although largely British, English speaking and so on, they were also trade unionists, some of them were members of the Communist Party. And, so, this is an important form which the conflict took, as the mining process progressed.

'The development also included conflict on the mines between the miners and the mining companies. Initially the conflict was between the white bosses and white workers who came from Britain. But soon enough the situation couldn't be sustained. They needed to expand because the industry was growing and one of the things that was also happening in their plantations and the land that they had taken over, Africans were refusing to work in these plantations, including in the mines. The Zulus were saying, 'we are not rats, what do we have to go underground for?' That is why the British went to one of its colonies, India, to ship thousands of Indian working class to South Africa to work in the plantations and a few of them in the mines.

'But that was the first British imperialism moving labour so-to-speak from one colony to another as a result of the resistance here. This is why the processes that led to 1913 was actually capital pressuring the then state not only to find out why Africans were resisting to work on the mines but also to almost instruct the then government to take action against the landowners as it existed at the time. The legislation that came up through the Land Act of 1913 was a classic case of capital pressuring the state to act in its interest against people, in this instance African South Africans. This is one form that the conflict took. The colonisation that led the British to fetch a working class from one part to another; and then the industry and the British themselves acting on behalf of the mining companies here, also forcing legislation to be implemented to directly dispossess but also favour the mining companies and those farmers who were working on these plantations to export stuff to Britain and to their other colonies.

'Because in essence, what these colonies were being used for was to get as much produce as can be found, which were plenty, and to ship it back to Britain in this instance. But the Dutch did the same thing. So, they did not at all beneficiate or add value to what was extracted in South Africa and elements of that still continues to date.'

#### 5.2.1.3.2. Increased subjugation

Another consequence of the conflict was increased subjugation of the oppressed. The following quotations demonstrate this.

*Interviewee 8:* 'Year after year, we had more legislation, a tightening of apartheid, more racial discrimination on the one hand; and on the other side, the majority of whites just saw apartheid as the way life was. I think so many of them didn't even consider the fact that black people had inherent rights as human beings. And most white people would treat their servants, their employees, the people that they came across or in contact with, they'd treat them, well, not terribly, but it just never occurred to them that the way it was, was not the way it should be or could be.'

*Interviewee 10:* 'When we came to about the year 1994, the whole country basically was owned by white people; and through the political structures that they had created there was a total of dispossession of the people that live here, and of course everything that goes with it, the minerals, the natural bounty of the country, all that was in the possession basically of white people.'

#### 5.2.1.3.3. Hatred

A consequence, which can be detected in even the recent responses of the interview participants, was hatred. Three quotations are used as illustrations.

*Interviewee 3:* 'There was a poster that I came across one day that said, 'Apartheid is pronounced apart-hate'. And that for me summed it up. The result of apartheid was hatred for one another, because that's how we saw each other. We were estranged from each other. We were suspicious of one another. We were scared of one another. We did not understand each other.'

*Interviewee 8:* 'And, I think also, it led to poor relations between English-speaking and Afrikaans-speaking white people. I think there were also poor relations between black South Africans and Indians. The Indians had arrived here in about 1870. They certainly were in conflict with the Zulus, who I think regarded them as having come and pushed them out of job opportunities and everything else that went with having a job and being a settled community.

So, then there were bad relations there. And I think that the major consequence of the conflict was poor relations between everybody in the country. There was just no such thing as national unity. When people talked about national unity, they meant white national unity, the English and Afrikaans. They certainly didn't think of white, black, coloured, Asian and so on. So, it led to poor relations.'

*Interviewee 15:* 'Secondly, our failure to recognise that these identities, racial, ethnic and other are not just the outcome of social engineering, they have their own momentum and space, and we didn't prepare to deal with that, nor are we doing so right now. We had also under-estimated, despite the level of industrialisation, the power of the industrial working class, the role of the Communist Party and trade unions over decades, even in the underground, with the tradition of bringing people together non-racially, that actually we still haven't dealt with the ethnic and racial identity issues. And I think the roots of it go back to our failure to appreciate its resilience and persistence. In addition to the legacy of violence, I think the failure to realise that actually, the Bantustans were a creation of an apartheid system, but they also gave rise to regional and sub-regional and even if you like, provincial identities.'

Apartheid-colonialism caused inter- and intra-racial hatred as citizens turned against each other, siding either with the oppressed or the oppressor. The patronage that accompanied the homeland and tri-cameral systems exacerbated the hatred. The hatred was fuelled by the fact that apartheid-colonialism was characterised by death and trauma.

#### 5.2.1.3.4. Death and trauma

A key reason for the divisions and hatred associated with the conflict was its resultant death and trauma. This is expanded upon in the following four quotations.

*Interviewee 14:* 'The first consequence is the legacy of violence that it left us with, which we are still unable to undo and gender-based violence is part of that.'

*Interviewee 11:* 'Too many people died fighting against the dispossession of their land and their resources.'

*Interviewee 16:* 'The consequences of the conflict was that people lost their lives; that people were displaced; a number of people had to leave the country or leave their areas of origin for survival or fearing the pursuit of the government of the time. And it resulted in families basically falling apart.'

*Interviewee 5:* 'The country was traumatised, in a big way. The liberation combatants, both those who are in the guerrilla army and those who were civilian so to speak, those who were in the structures politically or underground. But the population as a whole was traumatised by what happened even if there was excitement about finally reaching an important milestone in the revolution.'

Interview participants argued that South Africa remains deeply traumatised due to the violence and death that underpinned apartheid-colonialism.

#### 5.2.1.3.5. Generational poverty

One long-lasting consequence of the pre-1994 conflict is generational poverty among the oppressed. Quotations from two interview participants are shared.

*Interviewee 3:* 'The consequence of apartheid was dispossession. People were dispossessed from their land. We were dispossessed of our homes. I remember my father telling me stories about how there, in the rural areas, how our people had to sell their cattle, sell their sheep, because they were forced to by the laws in the sixties. And how these butchers would come and just buy up, the white farmers would just come and buy it up for next to nothing. It had a huge economic impact on people, some of which we are still suffering from today. It had an economic impact because my mother and my father didn't even go to school, and it had an impact on me. So today we see the results of apartheid still continuing. Another consequence of the conflict would be, with the school boycotts, student boycotts, 'liberation before education'. It impacted on a lot of people's ability to prepare for the future.'

*Interviewee 13:* 'Blacks lost their land through these forced removals, and they became poor as a result. They did not have the skills to run the economy, so even now, while we are politically free, we don't really have control over the economy.

We have not been properly educated and trained to run businesses and build the economy, and as a result we continue to depend on the whites who are beneficiaries of the business laws of apartheid. And we are employees rather than employers and creators of employment.

Regardless of how much government pumps money into our businesses; there is so much that government insures in terms of the black economic empowerment policies; that we have a piece of some of the white owned businesses; but the moment that we receive our shares, the black empowerment shareholdings mature, then we sell them and take the money, because we don't have an understanding of how the economy is supposed to run. We didn't get the necessary training.'

#### 5.2.1.3.6. Ungovernability and international isolation

Lastly, two further consequences of the conflict were ungovernability and international isolation.

*Interviewee 4:* 'The apartheid state was unable to exercise control as the resistance gradually rendered the country ungovernable; and the regime was isolated internationally.'

*Interviewee 5:* 'In fact, the declaration in the United Nations of apartheid as a crime against humanity was a tribute to the international campaign and its steps towards the end of apartheid. And it was the success on this front, skilfully led by the movement externally, the Communist Party working with the ANC and with the Congress of Trade Unions and its allies internationally. So, all of that environment was worked on including, persuading, those countries to use a variety of tactics, to put pressure on the South African government.'

The two quotations demonstrate the challenges of legitimacy that the apartheid government experienced domestically and abroad.

### 5.2.1.4.Synthesis of the context of the conflict

Below is a synthesis of the context of the conflict as perceived by the interview participants.

**Table 13: Context of the conflict**

| Theme | Categories | Outcome |
|---|---|---|
| Context | Cause | • Colonialism and imperialism<br>• Economic exploitation<br>• Apartheid<br>• Disenfranchisement<br>• Anglo/Boer conflict |
| | Form | The oppressed:<br>• Racial oppression<br>• Patriarchy<br>• Authoritarianism and violence<br>• Dispossession and ethnic-based balkanisation of land<br>• Inferior education<br>• Tribalism<br>• Co-option<br>• Black on black violence<br>The oppressors:<br>• Peaceful, localised protests (pre-1960s)<br>• Country-wide, mass-based demonstrations<br>• Armed resistance<br>• International mobilisation<br>• Internal, underground coordination |
| | Consequences | • The creation of a working class<br>• Increased subjugation<br>• Hatred<br>• Death and trauma<br>• Generational poverty<br>• An ungovernable state<br>• International isolation |

**Source:** Author's thematic synthesis (2022)

According to the interview participants, the combination of imperialism, colonialism, apartheid and its resultant economic exploitation and disenfranchisement created conflict between what can broadly be categorised as the oppressor and the oppressed. The conflict took on a variety of forms of oppression that resulted in resistance. Some of the consequences of the conflict as understood by the interview participants were increased subjugation, hatred, death and trauma, and generational poverty. The consequences of the conflict set an essential background for why the varying parties agreed to negotiate.

### 5.2.2. The negotiations process

The framework for South Africa's decentralisation model was primarily determined during the 1990 to 1993 negotiations process and was encapsulated in the Constitution of the Republic of South Africa, Act 200 of 1993. The interviews sought to ascertain the factors that compelled the conflicting parties to go to the negotiating table from their perspective. Understanding the primary conditions that led to the negotiations enables a better appreciation of the process that was followed, how public ownership of the process was generated, and the perceived success factors of the negotiations.

#### 5.2.2.1.Why negotiate?

Understanding the imperatives that led South Africans to seek a negotiated settlement is a significant aspect of this study. This is because it is a contributing factor to why the negotiated decentralisation model worked. Interview participants were requested to respond to the question, 'What were the factors that led to the decision to negotiate and who initiated the process'? According to the interview participants, there are six reasons. One consistent factor that was raised, even by those that ultimately did not participate in the negotiations, was the willingness to negotiate. Internal resistance had escalated. A stalemate had been reached. All parties felt that the violence had to end. The collapse of the USSR led to changes in the international environment. International pressure had resulted in isolation and an economic collapse. The military defeat of the South African Defence Force at the battle of Cuito Cuanavale in Angola also influenced the decision to negotiate.

##### 5.2.2.1.1. A willingness to negotiate

According to the interview participants, there was a general feeling that the status quo could not remain.

*Interviewee 1:* 'Firstly to say that, from the side of the liberation movement, it was always a view that the enemy, when it is at the point of defeat, will agree to negotiate and that the liberation movement was open to it, and advocate for the creation of a united, non-racial, non-sexist, democratic South Africa. (By the way, the non-sexist was not there in the early days, it was a later addition). But the liberation movement was always of the view that the sooner the negotiations could happen, the better. Because the longer it would take, the more bloodshed there would be and more suffering and more loss of life, torture and imprisonment, etc.

In the end, the regime could see that it was beginning to crumble, and it was beginning to fall apart. The intelligence agencies of the apartheid regime thought that the best deal that they can get is if they negotiate. And the reason it calls for a negotiated settlement is so that its own forces and soldiers can withdraw in an orderly manner rather than be destroyed, and so that they do not lose everything. For the ANC it was not something new. And that's why the ANC had all of these sorts of things like preconditions, the Harare Declaration, Talks about Talks etc etc.'

*Interviewee 3:* 'I believe that negotiations was a result of mutual realisation between the ANC and the NP. I know that there was a PAC that claimed to be a big player, but I don't regard them as such. I did until we got to Codesa because the ANC and the PAC were seen as equals by the international community. At Codesa, I could see that they are not. The ANC and the government, I think came to mutual agreement that the status quo could not continue.'

#### 5.2.2.1.2. Internal resistance

Internal protests and boycotts were causing domestic discomfort and attracting international attention. This is expressed in the two quotations below.

*Interviewee 17:* 'I do think that the growth of internal resistance, first the union movements and then the UDF, did start having a significant impact. Sometimes I would like to believe a major impact but I'm not quite sure that's true.'

*Interviewee 9:* 'But another condition, a positive condition, was the fact that internally, inside the country, the oppressed people had mounted an ongoing struggle against the apartheid regime. We had discredited them on an ongoing basis. We not only discredited them ideologically in the eyes and minds of our own people here, but also internationally. And the moral basis of those things, which if ever existed, was no longer really tenable.'

#### 5.2.2.1.3. Stalemate

According to all interview participants, the conflict had reached levels that created a stalemate. Accordingly, several quotations are presented to provide a more comprehensive understanding of the climate that prevailed at the time.

*Interviewee 1:* ‘As far as the military resistance was concerned, the regime had ways and the means of fighting back because it had a strong army and a military capability and also an intelligence capability. But it did not have the capability to combat a mass uprising. Around 1987, after the state of emergency in 1986, they thought that if they would arrest the entire leadership of the uprising, it would come to an end. So, they arrested everybody whom they thought was a leader, but the uprisings continued. And they arrested more of the leaders and by 1987, there were 40,000 activists and leaders of the mass democratic movement in detention without trial. Forty thousand, that is a large number. But even that did not stop the mass uprising. And in the end, it toppled the apartheid regime.’

*Interviewee 2:* ‘The situation with regards to the conflict became so tense towards the last part of the 1980s that it was unavoidable that it would result in a full-scale civil war if we could not find a way out of the conflict.’

*Interviewee 3:* ‘The internal and external pressures, as I said earlier on; your ungovernability, your sanctions, your boycotts, all those things put pressure on the government. So, they could have kept on. They could have kept on for quite a long time but would not have been able to win.’

*Interviewee 4:* ‘The struggle had rendered the country ungovernable, and the apartheid political elite was concerned about a scorched earth for its privileged constituency. At the same time, the ruling class (business elite) was starting to experience a meltdown in its business endeavours. On the other hand, the liberation movement – led by the ANC – was conscious of the fact that it would take much greater effort and a toll on the population to defeat the apartheid regime.’

*Interviewee 5:* ‘The liberation organisations were not at the stage that they could triumphantly say they've defeated the enemy, so to speak. But similarly, the apartheid government and its supporters could not continue to do what they've been doing all along. They'd been sufficiently wacked by multiple campaigns, both inside and outside the country.’

*Interviewee 10:* ‘There was also strong non-violent protests, which were very successful. And we basically reached the stage where there was a stalemate in the country.’

*Interviewee 11:* 'The government of South Africa realised that they cannot continue to govern in the same way because the country was now ungovernable through the struggles which were based in the country. And the ANC, which was waging the struggle, realised that we cannot get the power through total seizure of power. So, we ended up with the negotiations.'

*Interviewee 14:* 'The alternative to a constitutional solution would have been bloodshed. The country was on the threshold of a civil war. It was clear. The oppressed masses were now mobilising and mobilising quite efficiently. The mobilisation was quite great this time because under the banner of the UDF, you had your sports bodies, your religious bodies, across all races, getting together and fighting against the system. That would be the background broadly and a solution had to be found. The solution had to be an inclusive solution that involved everybody. This also had to be concrete and to include the release of Nelson Mandela and other political prisoners, the people coming back from exile and to allow the conversations to take place.'

*Interviewee 15:* 'Given Nkomati, the squeezing of southern African states, the pushing us backwards towards Lusaka and Tanzania, we were not in a position. Angola was being squeezed and so on. We couldn't have taken it much further. So, I think that its correct. I think that we were in a semi-insurrectionist situation, but I think it is not as if we could have continued endlessly. What we would have ended up with was, you see, neither side was strong enough to defeat the other, but neither side was too weak to continue the struggle. We would have ended up with a 'scorched earth', if you like, policy, with destruction on both sides. We would have suffered casualties; they would have suffered casualties. They had the military power. It wasn't a conventional war. It was a guerrilla struggle and an urban one. It was really an impasse.'

*Interviewee 16:* 'The reality is that the parties involved realised that there can be no winner through the pursuance of violence. And if you look at the liberation movement, the ANC, the SACP, including your PAC and Azapos, they did not have the muscles to violently drive a revolution and put a flag in the Union Building as Fidel Castro had done in 1959 and many other revolutions. On the other hand, the apartheid regime was falling apart, economically, financially, sanctions were hitting and in the intelligence community they could see that the space is closing up globally. And, therefore, there was no way of avoiding engagement.'

The quotations reveal the determination and intensity of aggression among all players in the conflict and the volatility of the domestic environment at the time. The levels of violence that prevailed became untenable.

#### 5.2.2.1.4. To end the violence

By the late 1980s, South Africa was caught in a vicious cycle of violence. The violence created fear among white citizens. The increased fear led to increased repression, militarisation, and the sponsorship of violent vigilantism by the state. The repression further fuelled resistance, suspicion, and brutality towards those regarded as spies. By the time South Africa entered negotiations, the levels of violence had spiralled out of control, and everyone just wanted it to end, as expressed in the quotation below.

*Interviewee 3:* 'I get pissed off when these bloody youngsters talk about Mandela selling out and the Constitution this and that, and that it came through economic interests and so on. You work with the reality of the times. People were being killed. People were dying. And that was part of the reality that we had to deal with.'

#### 5.2.2.1.5. Change in the international environment

The domestic environment was a compelling factor for the commencement of negotiations; however, the change in the international environment served as an equally critical pressure point. The following four quotations confirm this.

*Interviewee 4:* 'It should also be noted that the change in the balance of forces in Angola that led to the liberation of Namibia; and the thawing of relations between the Soviet Union and the United States of America against the backdrop of the Communist Party of the Soviet Union's perestroika and glasnost, also influenced the atmosphere.'

I*nterviewee 9:* 'The conditions that led to the negotiations have officially been characterised as the changes in the global, geopolitical situation, the relationship between the west and the east. With the weakening of the USSR and all of the other states that had traditionally supported the liberation movements, in that context, they were unable to continue to do so.'

*Interviewee 10:* 'There was the Berlin Wall coming down; the whole collapse of the socialist countries and the socialist bloc falling. All these of course created all kinds of pressures in societies. Those socialist countries could not freely support liberation movements monetarily and otherwise.'

Inter*viewee 17:* 'And the other factor, I think, was the sort of collapse of the Soviet empire, which I think had always been, for the Nats, a major threat because of their military power and otherwise.'

The quotations illustrate that the conflicting parties were pressured by the general global preference for mediated resolutions to intra-state conflict induced by the end of the Cold War.

#### 5.2.2.1.6. International isolation and an economic collapse

A fundamental factor that pushed the oppressors to the negotiating table, however, appears to have been the international isolation and resultant collapse of the South African economy. In this regard, interview participants expressed the following:

*Interviewee 2:* 'There were very strong punitive measures organised against South Africa by the international community. There were sanctions in various ways, but it was very comprehensive. I think it was the most comprehensive set of sanctions against any country ever because it was not only economical, but it was also not only political, it was not aimed at certain people, it was comprehensive. It affected all spheres of life including cultural and sports sanctions, which means it was effective and I think that that had a very specific effect on the apartheid government.'

*Interviewee 7:* 'So the main issue to have an influence was of course the global pressure and of course the actions of the, call it the ANC, with their demands and the fact that the international world started to put certain preconditions when it came to financing. For instance, if the government wanted loans from the International Monetary Fund or any other international countries, the whole campaign, as far as apartheid is concerned, the then government, the NP could not handle the situation as far as I am concerned. But what I want to say, the campaigns from the ANC, of course it played a major role, and of course international pressure that was put on the then Nationalist government, to answer your question, so that I would say were the main reasons that lead to the negotiations.'

*Interviewee 8:* 'International sanctions, I think, was extremely important. Pressure from friends, even the British government, which would be quite supportive of the South African setup, they started pushing. The United Nations of course, pushed. Everybody started pushing the government. And I think that was significant. The Human Rights Council proposed resolutions all the time.'

*Interviewee 15:* 'Big monopoly capitalists, the power mining and manufacturing capitalists, the elites had been stifled. There was no internal domestic market. They had difficulty in getting foreign direct investment, difficulty in getting loans internationally, difficulty in selling products and exporting in key areas of trade. They were restricted completely from big markets like China and India and many South American countries like Brazil. They were quietly engaging the Western countries, some of them had adopted sanctions but continued to trade and others traded openly, saying that that was not the way to deal with apartheid. You know how high interest rates were, inflation was, and so on. So, there were a whole lot of economic, isolationist successes of the sanctions programme. The escalation of struggles inside the country, mass struggles in particular, but also to a lesser extent, MK activities. So, the squeeze came on the state'.

*Interviewee 17:* 'I think in the end it was the growth of the sanctions movement, which I think was one of the big pressure points. I suppose American sanctions, America having been seen as a major ally for a long time was probably one of the more important factors as well.'

Interview participants, particularly those who had been part of the apartheid government, indicated that sanctions and its impact were core reasons for agreeing to negotiate.

#### 5.2.2.1.7. The Battle of Cuito Cuanavale

The Battle of Cuito Cuanavale in Angola, where the Movimento Popular de Libertação de Angola (MPLA) and the South West African People's Organisation (SWAPO), supported by Cuba, defeated the South African Defence Force (SADF), marked the start of negotiations for Namibia's independence from apartheid South Africa. This had a psychological impact on the apartheid government which had regarded itself as militarily undefeatable. The quotation below expounds.

*Interviewee 5*: ‘What I didn't say earlier on is that part of the help to try and resolve some of these conflicts was the invitation by Angola to the Cubans to assist them in repelling the Portuguese, and after independence, the South Africans. And subsequently also then the Cubans there, MPLA in Angola and SWAPO in Namibia, and that campaign there, led by Fidel Castro, was significant in that it led to the defeat of the SADF in Angola and as well as in Namibia, enabling SWAPO to come into power there. So, it changed the balance of forces in the region and consequently led to the defeat of the apartheid regime, although they refused to accept it even now, that they were forced into a position that they were ultimately beaten. Cuito Cuanavale was a definitive intervention that led to this collapse of domination by the apartheid regime and its supporters in the region. The interventions of the Cubans were decisive interventions and led to very important developments in our own country. In fact, we attribute our final push to that victory in Cuito Cuanavale.’

Knowing the context of the conflict in South Africa pre-1994 provides insight into the interests of the various players in the negotiations. Furthermore, understanding the conditions that led to the negotiations provides insight into the balance of forces that prevailed at the time. This includes the environment in which people were negotiating and the influence the various negotiating parties could exert on the negotiation process.

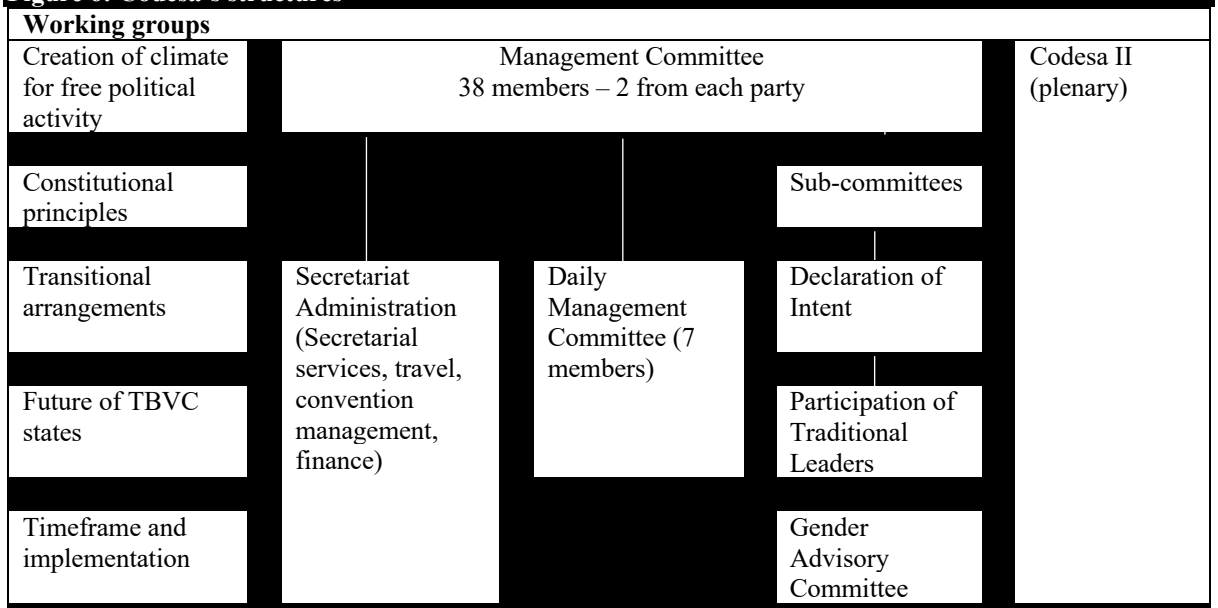
#### 5.2.2.2.The negotiations process

South Africa’s negotiation process is well documented. It was nonetheless necessary to obtain the perspectives of the interview participants as it informed the nature of engagements on decentralisation. Accordingly, Interview participants were requested to respond to the question, ‘Was there an institutional structure to manage the process? If yes, how was it constituted, who participated in it, how was its secretariat constructed to avoid bias and how was it funded?’ A synthesis of the responses regarding the process is depicted in the timeline below.

| **Table 14: South African formal negotiations process time-line** | | |
|---|---|---|
| *Impactful events* | Significant milestones in the negotiations | |
| *De Klerk speech announcing the release of political prisoners and the unbanning of political organisations, February 2, 1990* | | |
| | May 2-4, 1990 | Groote Schuur talks, minute signed |
| | August 6, 1990 | Pretoria minute signed |
| *ANC Consultative Conference December 1990* | | |
| | September 14, 1991 | Signing of the National Peace Accord |
| *ANC/PAC/Azapo led Patriotic Front launch October 1991* | | |
| | November 29-30, 1991 | Multi-party preparatory meeting for Codesa |
| | December 20-21, 1991 | Codesa 1 |
| *'White' referendum in support of negotiations March 17, 1992* | | |
| | May 15-16, 1992 | Codesa 2 |
| *ANC Policy Conference May 28-31, 1992* | | |
| *Boipatong Massacre June 17, 1992* | | |
| | June 23, 1992 | ANC withdraws from negotiations |
| *Bisho Massacre September 7, 1992* | | |
| | September 26, 1992 | NP and ANC sign a record of understanding |
| | October, 1992 | Formation of COSAG |
| | December 1992-January 1993 | NP and ANC have two joint bosberaads |
| | March 1993 | Negotiations resume at the World Trade Centre |
| *Chris Hani assassinated April 10, 1993* | | |
| | May 13, 1993 | First report on the Transitional Executive Council presented |
| | June 3, 1993 | Multiparty Forum decides on election date |
| *AWB attack at World Trade Centre June 25, 1993* | | |
| *Meeting between NP and IFP September 16, 1993* | | |
| | November 18, 1993 | Constitution of the Republic of South Africa, Act 200 of 1993 (the interim constitution) concluded |
| *Afrikaner Volksfront established October 1993* | | |
| | December 7, 1993 | Transitional Executive Council Act of 1993 enacted |
| *ANC, NP, AVF, IFP sign pact to strengthen federal powers November 1993* | | |
| *Uprising March 9, army joins the rebellion on March 11. AWB man shot dead. Mangope deposed March 12, 1994. Ciskei's Gxozo resigns on March 22, 1994. IFP marches to Shell House March 2, 1994.* | January 1994 | Independent Electoral Commission (IEC) established |
| | April 27, 1994 | South Africa's first democratic election |
| | May 1994 | Constitutional Assembly and Government of National Unity established, TEC dissolved |
| | May 31, 1996 | Constitution of the Republic of South Africa, Act 108 of 1996 adopted |
| | December 1996 | Constitutional Court certifies the constitution |
| **Source:** Author's thematic synthesis based on interview outcomes(2022) | | |

The timeline above demonstrates some of the complexity associated with the 1990 to 1994 negotiations process. At each stage of the negotiations, there was a structure that supported it. The figure below outlines the structure for Codesa II.

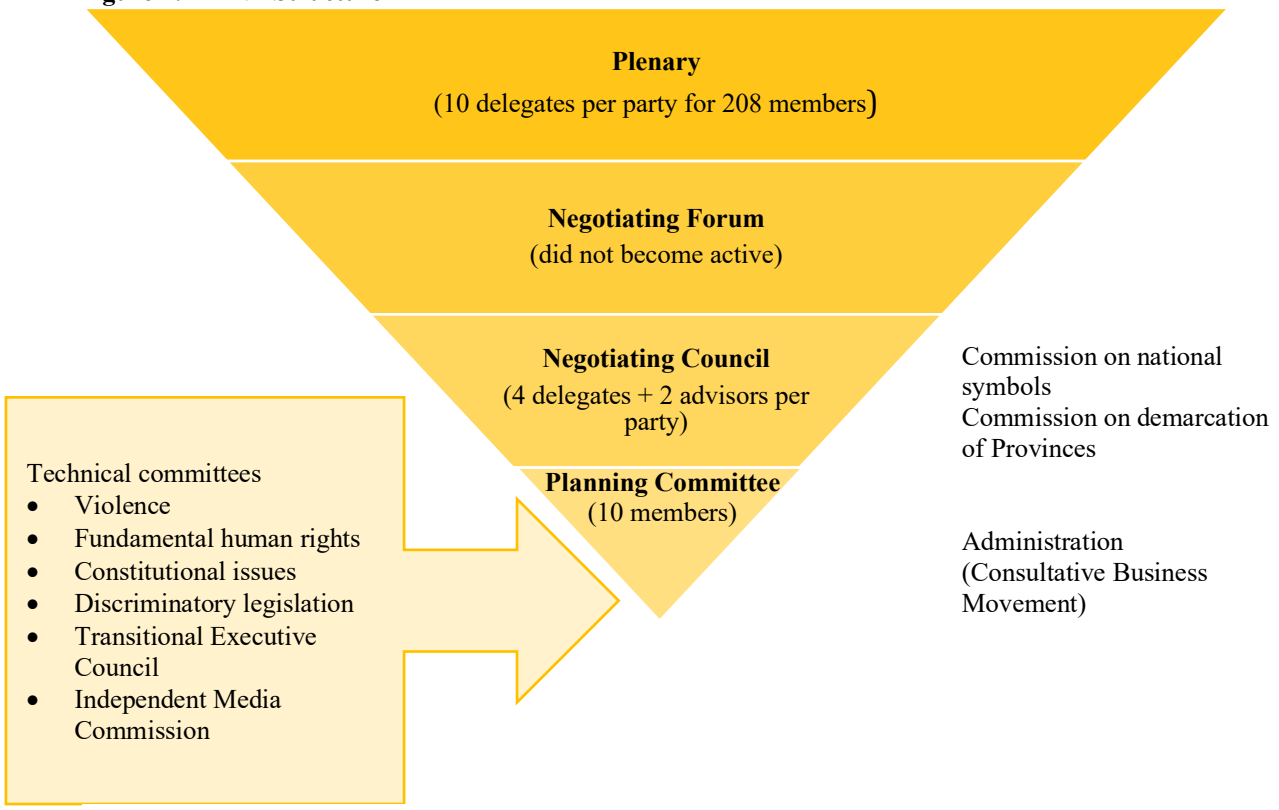
**Figure 6: Codesa's structures**




**Source: Barnes and De Klerk (2002, p.30)**

The negotiations regained traction with the Multi-party Negotiations Process (MPNP). The structure and composition of the MPNP is depicted below.

**Figure 7: MPNP Structure**




**Source:** Adapted from Barnes and De Klerk (2002, p.30)

The broad, general sentiment was that negotiations were necessary. However, the elaborate structure to support it made managing the powerful party-political interests and their determination to advance those interests, complex. Furthermore, the structure was not sufficiently robust to endure the continued violence that clouded the negotiation process. For this reason, it broke down. The quotations below provide insight into the process.

*Interviewee 1:* 'Pre-1994, we had what initially was called Codesa, Conference for a Democratic South Africa. That was followed by something called the multi-party negotiations process. But these are just names. It was mainly the same thing. Initially, the ANC was of the view that the negotiations should take place between the ANC, which represents the liberation movement and the people of South Africa, on the one side of the table and on the other side, must be the apartheid regime, what we used to call a two-sided table. The apartheid regime, of course, did not want that because they had a number of allies in the black community, people who were collaborating with the apartheid regime in the Bantustans. So, they wanted those people also to be involved, but they also didn't want the ANC to be given so much power and recognition. They wanted to dilute the influence of the ANC and therefore they said that the ANC, for example, cannot speak for the Bophuthatswana government. And they said that they can't speak for the Bophuthatswana government as it is an independent entity and then they said that they can't speak for the IFP and that the IFP should be at the table.

'The regime really wanted Inkatha to be at the table because they thought that Inkatha would be able to play a major role in splitting the power of the ANC. Their objective was to weaken the ANC. And they had assumed that the IFP was far more influential than it actually was; and you bring in as many other political parties from the black community and then the ANC becomes one among many. So, in the end, when elections do take place, the ANC will not win the majority. They then would also stand a very good chance of securing minority rights for the white minority. They were not committed to a united South Africa and a non-racial, democratic country. When the negotiations started, they refused to commit to that, and they said but this is what we must negotiate. And it was only after the downfall of Codesa, when Codesa broke down, after the Boipathong massacre, that the liberation movement refused to restart the negotiations unless there was a commitment to a united, non-racial, democratic South Africa. It is at that point that agreement was reached on that important concept.'

*Interviewee 3:* 'I was at the first meeting where we decided on the two judges to chair that meeting, at the Holiday Inn. Obviously, there was talks about talks about talks about talks, so it wasn't as if things just fell out of the sky.

'Let me give you an example. We were all sitting there in a room. Now, nobody called the meeting, because nobody's in charge. We were equal. And then somebody just proposed, 'Could we ask Mr De Beer to chair for us?' Okay, it was already canvassed before that. So, De Beer then says yes. Then he says, 'Good afternoon, welcome everybody, we need to decide on a chairperson for this process and there is a nomination for Chief Justice Corbitt and Judge Ismail Mohammed.' Those were the two, who were sitting in a hotel close by, waiting for the call, because they had been told that they are going to be asked. So, there was the appearance and there were also things that were happening behind the scenes. After they made the proposal, we agreed and then we adjourned until the judges came so that we could go on with the process. And then of course it was decided that we should have a convention.

'Of course, it was also at Codesa 1 where all the leaders got up, starting with Mandela, to say words about the convention, the first convention since 1910. Everybody was really in a good vibe man, in a good space. This was what we wanted, to get together to talk about change. De Klerk was the last speaker. And De Klerk attacked the ANC. I think it was about the armed struggle. So, Mandela sends a note to Judge Mohammed saying, 'I want to speak'. So, they call him. So, Mandela goes up to the podium and I was thinking he was going to say something like 'well done guys, we have gotten the show on the road now', you know. But Mandela said, 'You see this man over here,' and he points to De Klerk. 'You see this man. He cannot be trusted.' And Mandela rips into De Klerk. And that place becomes silent, that big hall, the World Trade Centre. In front of the whole world! That centre was packed shoulder to shoulder with international cameras, including in South Africa, being broadcast live. And Mandela is all over De Klerk. I met a senior journalist and he said to me, 'If ever anyone ever asks me, when did power change hands in South Africa, I will point to this speech of Mandela'. It was very powerful.

'So, there were the different working groups. One to look at the courts, one to look at government, one to look at the TBVC states and so on. And they started to do their work, and then we got together and then at Codesa 2 we couldn't agree. Then of course we had the whole thing of the IFP and the King and couldn't agree on whether the King could attend or not.

‘So, we managed the process without the IFP and without the PAC. When it came to Codesa 2, you had the massacre at Boipatong. And then the ANC called a halt to everything. And then of course you had the back-handed discussion of Roelf and Cyril, which led to the establishment of the Multi-Party Negotiating Forum. Ja, that is where the work was done.

‘The Secretariat was Mac Maharaj, Roelf Meyer and Fanie Van Der Merwe. And I think this guy, Theuns Eloff, I think he became the rector of North West University after that, there was a group. They became the administrators of the process. Government was just a participant like everybody else. You know how Mac Maharaj operates, a brilliant man. Every time a little piece would be put aside as agreed on. I tell you, by the end of the night, we look at what we were looking to achieve and what we had achieved, and he was brilliant, a brilliant strategist.’

*Interviewee 9:* ‘Our decision not to participate was informed by the agenda for negotiations. We took the position, first of all, that the organisations of the oppressed must agree on some kind of collective approach to the negotiations and that the content of that approach would be what we put down as the agenda items. And generally speaking, one could articulate them in broad terms as political freedoms; negotiate the characteristics of what it means to free the country politically. We would also talk about the economy, and we would agree on the key issues, the non-negotiables so to speak, or the key negotiables. On the economic front that we must talk among ourselves and say that we must have a minimum list of demands and addressing the whole concept of social inequality. But we did not have agreement on that – that we need to establish an economically egalitarian society in South Africa if we were to address our challenges, and that the land played a critical role in that particular matter.’

*Interviewee 10:* ‘Basically, your two main groupings was the apartheid government and of course the ANC. But they couldn’t say that they were main people because there was a lot of other groupings as well. They then started pushing the processes. That’s how the Groote Schuur Minute came about. And over a period of time, they agreed to a multi-party preparatory forum. So, what happened in the end, is there was this multi-party structure that consisted of a whole lot of political entities. And, of course, the secretariat was mainly from the government and from our side and then one or two of these other parties also had people on the secretariat. But that structure did very little.

‘At some stage we also had a Transitional Executive Council. Basically, it was a joint government that we had created to work on areas of government, like the army, the police and so on, we became a joint governing party. On those issues there had to be decision-making at that level before going to the white parliament to implement it. Anyway, at some stage, remember Boipatong, there was basically a civil war in this country. People on a daily basis were hacked to death on trains by panga wielding guys. The Rooidoeke came into the townships and massacred people, and so on. And at some stage, that whole structure fell apart because Madiba attacked De Klerk and told him he’s in charge of all these third forces that they unleashed on the people. And that structure and everything fell apart.

‘That interim government thing still remained there because it had to oversee things and then at some stage we created what was called Codesa. That was a structure that was similar to this one, with similar people. So, this has now all collapsed, how are we going to do this? And as I said, Codesa was created. Codesa then became the mechanism. Codesa had a lot of sub-structures, issues around the army and the police were discussed in one structure; governance things in another; elections in another. And that’s how we started making decisions on certain things. Certain things were starting to happen through the Codesa structure. And it was mainly for two reasons, firstly we elected a white judge, I can’t remember his surname and Ismail Mohamed from our side. They became chairpersons in Codesa.’

*Interviewee 16:* ‘Firstly, there was a lot of mistrust between the parties and therefore there had to be some form of what you’d call ‘a few people in the foyer’ – a few people from different parties getting together to sense one other, to sniff one another, are we not falling into a trap and all those things. It has never been a formal way, but you ended up having those informal groupings, to have a sense of the thinking from the other party and the sensitivity. And then subsequently the process was formalised, where a proper secretariat was appointed, and funding was allocated from the budget.’

The interviews generated detail about the systems and processes that underpinned the negotiations. They also shared interesting anecdotes that provide a sense of the atmosphere and sentiments that prevailed at the time.

#### 5.2.2.3.Mandate

Given the high levels of animosity and violence in South Africa at the time, the negotiators had to ensure that their members and supporters were informed and that they felt included. Interview participants were requested to respond to the question, 'How did you derive your mandate?' The interview participants provided clarity on the processes that were followed to obtain their mandates.

*Interviewee 1:* 'We had what was called a negotiations commission, which was a subcommittee of the NEC that was in charge of conducting the negotiations and also in charge of putting forward proposals before the NEC for a decision. And then we had what was called a negotiations forum. The negotiations forum was a national body on which the NEC and each of our provincial structures were represented. There were quite a number of delegates from each province. And the provinces had their own provincial negotiations forums. We would have a matter that we would want a decision on, then we would send it to the provinces, the provincial structures would discuss them. We would then have a national negotiations forum and discuss the matter there and thrash out some kind of agreement or consensus. And, generally, there would be consensus around most things. And then we would take it to the NEC for formal approval. The Alliance partners were also represented on the negotiations forum, the SACP and Cosatu. Throughout that whole period, every meeting of the NEC was given a detailed report of what was happening in the negotiations and the issues that needed decisions. And then we also had a publication called 'The negotiations bulletin', which was a regular publication bulletin. So, that's how our mandate was obtained.'

*Interviewee 2:* 'There were two parts to how we derived our mandate. On the one side it was those in power, according to the apartheid system that existed. On the other side there were those who were entitled to the power because they represented the majority of South Africans. And I think we can say that the mandates derived from that factor. On the one side, those that were in power and on the other side, those that were entitled to the power. There was a natural process of organic mandates that resulted in a realisation that we have to find a way of how to move the powers from the one to the other. And that was a process of negotiations.'

*Interviewee 3:* 'The Tri-Cameral thing came in 1983. At the time we said, we rejected this because it was based on ethnicity and it creates racism, but that we would go in there for the first five years and see if we could use it to put pressure on the government to bring about change. So, we had a manifesto. We had elections, publicly. People voted for us. People like you boycotted us. But we got there so we had our mandate. The people that we were talking to were your ordinary grassroots people. Those people who wear doekies, you know, farmworkers, factory workers. So, we had a mandate.'

*Interviewee 6:* 'So, we began with negotiations, with Codesa firstly, just to discover that we were wasting our time a bit. Let me say why. There were 28 parties, but the approach was that of 'sufficient consensus'. So, when we got there, we realised what 'sufficient consensus' meant. It meant that if the ANC and the NP agreed, then there was 'sufficient consensus'. We were sitting there for 'spek 'n bone', the show of it, without any influence. We then withdrew, and Inkatha withdrew with us, and we formed COSAG – Concerned South African Group. Bophuthatswana and Ciskei were also part of it. And this group said that it will withdraw as we were wasting our time, and then there were separate negotiations with us. Mbeki was the chief negotiator.'

*Interviewee 7:* 'I personally did not participate in that as my Party did not participate in the negotiations. In the 1992 referendum, which FW De Klerk held, our Party always said that we are not part of the negotiations. Only at the very later stage, what then started was the Volksfront. It was led by General Constand Viljoen. Politically, we didn't want our constituents, our supporters, to say, but you are negotiating with the ANC. So, we used the Volksfront as a front organisation.'

*Interviewee 8:* 'How did I derive my mandate? Well, firstly, I was appointed by my party leader. But the mandate that we had was derived from decades of commitment to a negotiated settlement as well as a commitment to a new constitution with a Bill of Rights. At every election that we'd stood in, well going right back to the roots of the party in 1959, we stood for exactly that. Exactly what we ended up doing 60 years later. Well, 50 or 60 years later. So, we had a very strong mandate from our support base.'

*Interviewee 10:* 'We insisted on it. We were full of consultation and talking and we wanted to be part of the process. So, we created a national negotiating forum. There were some of them at national level that were there and then each province had a representative. And then of course, Cosatu had representatives. The Communist Party had representatives. The whole Mass Democratic Movement (MDM) structures were all invited. And we used to meet at least once a month, sometimes more, depending on how the issues that were arising came up. I would report there on what the issues are that we were discussing. We would then discuss it as a province. I would get my mandate from there, obviously also through the Provincial Executive Council. And when those issues then arise, I would go up to national to the negotiating forum and we will give our inputs there.'

*Interviewee 16:* 'There was not a direct representative of labour in Codesa. It was political parties. But there was a platform where labour, Cosatu in particular, supported by the ANC and the Communist Party could present its position. I remember being part of the team that of drafting proposals, which was being submitted. That is why the interest of labour, as per the Cosatu submissions, were taken into consideration.'

*Interviewee 17:* 'There was this thing about the UDF getting a bit 'demo-crazy' at the time. It exasperated the exiles quite a bit at the time. But yes, we consulted on everything.'

According to the interview participants, the negotiations that ended apartheid were a South African process, and participation in this process carried the total mandates of their constituents. As a result, the process was robust, allowing for a broad range of views to be heard. However, it was also time-consuming as discussions would go on until the wee hours of the morning to ultimately enable consensus to be reached.

#### 5.2.2.4.Entities not represented in the negotiations

Not all South Africans were in political parties. And not all political parties participated in the negotiations. Therefore, initiatives were taken to enhance the transparency of the negotiation process. Interview participants were requested to respond to the question, 'How were the interests of those entities that were not represented during the negotiations, and the voices of ordinary citizens accommodated?' Their responses are expressed in the following quotations.

*Interviewee 1:* 'Well, as far as the general public is concerned, we encouraged the media to participate fully in negotiations. That is why we had the meetings of Codesa, and the multi-party negotiations process open to the media so that they could sit in and write about it and then report on it on the radio and TV and such things. The negotiations was such a big thing that the media wrote a lot about it. And then we relied on the organisations to report to their members and to give us feedback on what they thought the feelings of their members were. At that time, the South African Council of Churches, for example, was quite active in the religious field and trade unions were very important. Cosatu was at its strongest at that time. So, they played quite a big role, firstly keeping organised workers informed and getting their views, and ANC structures of course and structures of the MDM. But you know, somebody like President Mandela was quoted so much in the media that he was able to use the media, even the commercial media, to communicate with the South African population on a regular basis.'

*Interviewee 2:* 'I think that one of the success factors of the South African process was actually the fact that we had a very inclusive process. What I mean is that all political groupings had the right to participate. No one was excluded unless they decided to exclude themselves. There were a few that excluded themselves and did not participate from time to time. The most prominent of those was the IFP who decided not to participate for long periods of the negotiations. But their seat was always there. It was always kept open for them. In other words, there was no determination from the side of the collective body of negotiators that they should not be there. It was very inclusive. The whole process was inclusive. It is true that civil society was not represented. Business for instance was not represented and labour as such was not represented but the belief was that these institutions and organs of state at large, were represented through the political voices that were there.'

*Interviewee 4:* 'Arrangements were made to interact with broader sectors of civil society such as religious bodies, and progressive organisations of the academic community, youth, students, women, and communities (civics). There were also arrangements to interact with sympathetic traditional leaders and elements within the Bantustan structures. The ANC also sought to bring the other liberation organisations such as the PAC and Azapo into a broad front, but this did not gain much traction as they were not enthusiastic about the negotiations process.'

*Interview 6:* 'There was a separate group from the ANC that negotiated with us. And our discussions centred around the things that you raised – a federation, decentralisation of authority, the accommodation of groups – those were the kind of issues that we put on the table for negotiations on the other side.'

*Interviewee 8:* 'Well, I think that it was mainly a small portion of Afrikaans people and IFP supporters. I think they were accommodated because firstly we agreed on eleven official languages. It was very important to them that the official languages included all the indigenous languages. Then, when you think about it, the constitution provided that there would be Cabinet seats if the ten percent threshold was reached, and then of course the IFP ended up just making ten percent. And I think generally one bore in mind that not everybody in South Africa was included in the negotiation and that it was important to try to bring in everybody. And I think the proportional representation electoral system, I think that was hugely important.'

*Interviewee 9:* 'There were efforts to get us back on board and to accommodate our demands. Most of them came from leaders of organisations rather than from the organisations themselves. It was a hard task to convince the organisation that first of all, negotiations was a good idea. Not only because of the De Klerk side of things, but also because of the ANC. It was clear that the ANC had already decided to accommodate particular approaches and that in fact, in the end, nothing would stop them from doing that. The impression that I got from Comrade Nelson Mandela was that he was willing to listen. I had a number of meetings with him, and I was willing to listen. My thing about listening was that I wanted to make sure that some of the things that were of importance to us had been placed on the table, had been argued, and it had been either agreed to or rejected. Well, but also of course, I thought that it was necessary to try and convince other people about what they should do. The future depended on us correcting certain things seriously. So, Comrade Nelson Mandela gave us a lot of audience, several times.'

*Interviewee 11:* 'There was a lot of media reporting, probably a lot of, I don't want to say gossip, but people who were closer to the process, were keeping us informed of what was happening inside'.

*Interviewee 12:* 'Yes, we would meet with the churches. We met with Cosatu. We met with the civic organisations. We met with the women, for instance for us, the women had even formed the Women's National Coalition, which developed the Charter of Women's Rights and informed what we took the negotiating table. So, there were a myriad of consultations which took place. We also made sure that we kept in touch with the people who supported us internationally, that helped us and that's how our first Electoral Commission consisted not only of South Africans but also people from the international community.'

All interview participants emphasised the importance of consultation, transparency and accountability. Accordingly, their collective effort to infuse these principles assisted in keeping the general public informed of what was happening.

#### 5.2.2.5.Key features of the negotiations

Seven key features emerged from the interviews as having contributed to the positive outcome of South Africa's negotiations process. Firstly, the process was domestically driven. The negotiators undertook study tours, received inputs from experts and consulted several governments, but took responsibility for drafting the interim and final constitutions, as ultimately informed by their organisational mandates. Thus, the peace talks were not coordinated by a multi-lateral organisation or external government. Accordingly, the negotiations were self-financed. The concept of 'sufficient consensus' was introduced as a deadlock-breaking mechanism. They agreed on a broad set of principles to guide the negotiation process. The 1993 Constitution outlined an electoral process that would allow for proportional representation. According to the interview participants, the negotiations also succeeded due to the negotiators' leadership skills. In particular, Nelson Mandela and FW De Klerk were emphasised, and to a lesser extent, Gatsha Buthelezi and Constand Viljoen as they chose not to go to war. Interview participants also contributed the resumption of negotiations, after talks had broken down, to Cyril Ramaphosa and Roelf Meyer. Furthermore, the Truth and Reconciliation process allowed for some element of healing.

##### 5.2.2.5.1. A home-grown solution

Interview participants emphasised that the negotiation process and its outcomes were constructed and managed by South Africans. On one side, African states and the international community were mobilised for support.

On the other, Western governments wanted to influence, but it was limited. The interview participants regarded total domestic control as an important reason for the process's success.

*Interviewee 1:* 'The ANC did not want any kind of international brokering of the deal. We often referred to the Lancaster House agreement, which was more or less, we argue, imposed on the Zimbabwean people and we didn't want to end up in a situation where the international community imposes an agreement. It's one of the reasons why the ANC at that time thought that we must keep the negotiations on. We must keep the momentum up because of the risk of an outside agreement being hoisted down on us. And the regime felt exactly the same way. They didn't want the international community to impose an agreement. So, on that score, the ANC and the apartheid regime were completely aligned with each other. The IFP was not aligned of course. The IFP wanted an internationally brokered agreement, but we were very clear about it. There was no international involvement at all. There may have been constitutional experts from this or that country that may have sat in as observers for a day or two, or that may have written some papers, but it was a home-grown process.'

*Interviewee 2:* 'Fortunately, there was no outside involvement. South Africans relied on themselves with sole responsibility and ownership by us as South Africans. We had even no mediators that facilitated the process. We listened to good advice, even when it came from outside, but we never had between us as negotiators, any form of mediation. It was us by ourselves that did the negotiations. I think that that was one of the success factors in the South African process. And I compare this from what I've seen in many other conflict situations where outside involvement led to no results or progress, so I think this is a very important factor.'

*Interviewee 8:* 'One of the important things though about that institutional structure is that we decided as South Africans, that it would be a home-grown constitutional negotiation. We were not going to have international mediators or mentors or anybody else. We were going to do it ourselves. I think that that was really important, so that everybody, which was virtually everybody, owned the process and wanted the process to succeed. Certainly, we tried to make it. I think that that is important.'

#### 5.2.2.5.2. Self-financed

The decision to have a home-grown solution implied that there had to be minimal reliance on external funding. Accordingly, the South African government financed the negotiation process.

*Interviewee 1:* 'Who paid for the negotiations? The day-to-day expenses of the negotiations, the government paid for all that. The ANC expenses was paid for by the ANC itself. And there was no international involvement.'

*Interviewee 8:* 'You ask how it was funded? I assume that the taxpayer paid for it. I can't imagine that anyone else paid for it.'

*Interviewee 12:* 'The funding came from government because the ANC would fund its own activities taking place outside and the various parties would fund their own. The negotiations itself was funded by the government through the department which was headed by Roelf Meyer and them of constitutional development.'

#### 5.2.2.5.3. Sufficient consensus

The deadlock mechanism, namely the concept of 'sufficient consensus', did not enjoy the support of all negotiating parties but assisted significantly in ensuring that decisions were taken and that the process could move forward. These quotations from interview participants demonstrate this.

*Interviewee 5:* 'The whole concept of "sufficient consensus" was used at Codesa. So, when we disagreed with something and the ANC and the NP agreed, they could continue, even though I was unhappy. That made a big difference as we could move on issues.'

*Interviewee 10:* 'Out of Codesa came the concept of 'sufficient consensus'. And what 'sufficient consensus' meant was to try and stop this thing that every little party could stop decisions and basically 'sufficient consensus' meant that when the ANC and the apartheid government agreed on something, then the process could move forward. And then this whole concept of 'sufficient consensus' became the loadstar through which we moved the process forward. And a lot of decisions then started to get made. At times Inkatha wanted to walk out and that, but the parameters of the negotiating process were then set, and the procedure started working.'

*Interviewee 12:* 'We also developed what was called 'sufficient consensus' because we realised that not all the eighteen parties would agree on the various issues. We didn't want to subject whatever was to be agreed upon to a vote, but to achieve consensus. The 'sufficient consensus', which actually irritated the IFP and also the Afrikaner parties, including the government and the NP, and also the Bophuthatswana parties which were not part of us. Because at the negotiating table for the transitional period and finally the interim constitution, there were also Afrikaner parties like the Volksfront, who were not part of the regime officially, but they agreed with the regime and the NP on other issues and thus, if you were to vote or agree on certain things, we wouldn't have been able to move. So, the concept of 'sufficient consensus' enabled us to move on.

Because once we had an agreement from the NP and government and also the ANC and those parties which were in the Patriotic Front, as I said, we were able to move on and clinch various deals and agreements.'

While some interview participants argued that the 'sufficient consensus clause' deterred obstructive conduct during the negotiations, others viewed it as a bulldozing mechanism of the NP and ANC. Ultimately, all agreed that it aided progress in the negotiations and that they were relatively satisfied with the outcome.

#### 5.2.2.5.4. Constitutional principles

There was much mistrust between the negotiating parties. As a result, a broad framework of areas of agreement, called the constitutional principles, was accordingly collectively developed as a trust-building mechanism. The constitutional principles formed the basis for the Constitution of the Republic of South Africa, Act 200 of 1993 and served as a guide during the Constitutional Assembly process and the final Constitution of the Republic of South Africa, Act 108 of 1996.

*Interviewee 10:* 'In Namibia, the United Nations and the South African government at some stage agreed to a set of principles whereby the Namibians had to settle their negotiations and whereby they had to draft their constitution, that was given to them by the international community. So, we used that same concept of 'constitutional principles' and said okay let us agree with this.

‘What constitutional principles, in other words, what will the framework be that we are working towards. So that it doesn’t matter who wins or loses an election in the end, but at least we all know that there is a framework that we can’t move outside of. So that is how the ‘constitutional principles’ came about. And as I said, the idea came from the Namibian process, but the concept was ours, in the sense that we now had to sit down with our enemy.

‘We didn’t have the international community which could say, okay, we agreed to these principles, and it will bind you. We said, okay we are going to sit down, and we are going to negotiate the constitutional principles. And we then agreed on the constitutional principles and that then became part of the interim constitution and it said, whatever your final constitution is, it must comply with these constitutional principles. It wasn’t easy, it was quite difficult. We had to sit down and work out the principles.

‘Then we said, okay now who will check whether we have complied with the constitutional principles. And that’s of course where we created the whole concept of a constitutional court as the highest court in the land and the people to decide on the constitution. And its first job will be to check the final constitution that we drafted; does it comply with the constitutional principles that were contained in the interim constitution. And that court was given the job. And of course, the composition of the court became very important because on the one hand we then had to make sure that one side can’t just appoint all the people on the court and so we created the process of how to do that. And basically, we said that four of the judges came from the old apartheid court, we can agree on four of them to be there; and then some new ones will be appointed. And that’s how the constitutional court was created as that will become the arbiter of whether we’ve complied with constitutional principles.’

#### 5.2.2.5.5. Proportional representation

At the onset of the negotiations, the ANC demanded that the new constitution be developed through a constituent assembly. After the constitutional guidelines had been established, it was agreed that the constitution would be finalised in a Constitutional Assembly, after a national general election. One of the aspects contained in the Interim Constitution of 1993 is that members of the national and provincial legislatures would be determined by a general election based on proportional representation. A threshold was also set that entitled those political parties with a minimum number of votes to have representation in the post-1994 elections Presidency and Cabinet of the Government of National Unity.

*Interviewee 3:* 'And then, if we look at reducing conflict, look at our results, the 1994 results. The so-called dream results. The ANC got just under two thirds. You know that people were scared that the ANC would get over two thirds and that they would tear up the constitution. So, it got just under two thirds. The constitution also said that any party that gets 20 percent is entitled to a Deputy President. The NP got over 20 percent, so they got a Deputy President. It also said any party with over 10 percent of the vote is entitled to be in the Government of National Unity, the IFP got over 10 percent, just a little over 10 percent so they qualified to be in cabinet. A perfect result, IFP, ANC and NP, the three biggest groupings – let me call them that. And then of course, look further at that, the IFP gets to rule KwaZulu-Natal because they got the majority there. The NP got the majority in the Western Cape, so they got to rule in the Western Cape. And the ANC got to govern the whole country, with just under two thirds. So, ja, it was the best of all worlds for everybody. Imagine if the ANC had won all nine provinces. We would have had problems. So that dream results definitely de-escalated conflict and made the whole thing much more acceptable to so many more people.'

*Interviewee 8:* 'The proportional representation system has been an absolute blessing for South Africa because what it did was to ensure that the first parliament was reflective of the whole spectrum. Because if it had happened to be, if we just had parliamentary constituencies, you would have had the ANC, you would have had the NP, and you would have had probably a few IFP in KZN and nobody else. So it would have been totally unrepresentative. And I think that was one of the most significant and important things in ensuring that everybody owned that constitution and the political structure.'

*Interviewee 12*: 'Because we needed to ensure that we overcome tribalism, racism, inequality, especially in terms of the allocation of the budget and also in terms of voting. That's why we opted, for instance, for a proportional representation system because if we had demarcated a constitution and used the electoral system of first-past-the-post, the electoral parties which formed part of parliament and government would not have been able to be in parliament. We opted for this system because it was going to allow, through a threshold we had put, even the smallest parties to participate in government. And I think this is one of the things which dealt with the conflict because all parties bought into a new democratic South Africa and were able to reach a consensus.'

*Interviewee 14:* 'But they were also very clever. They argued for a proportional representative system of government. Because if they had gone the traditional way of first-past-the-post, a constituency-based election, you probably would have had the ANC having had over ninety percent of the vote and the rest of the parties much less. The ANC conceded there and in my view that was an error that the ANC made. They did not have a threshold, which means that a very small party could come in on the basis of PR.'

#### 5.2.2.5.6. Leadership

Interview participants were also of the opinion that the strong leadership exercised in general, particularly that of Messiers Mandela and De Klerk, assisted in ensuring that the transition to a non-racial democracy was peaceful.

*Interviewee 5:* 'And then, an overwhelming factor that must not be undermined is the presence and the personality of Mandela. He had the ability to say, like he did, suspending the armed struggle. How many other people in the ANC could say that and get away with it? He could. So, if you look at many other countries on our continent, are there leaders of that stature that can say to their own party, we are going to stop this now, whether you like it or not?'

*Interviewee 8:* 'And then there's one hugely overwhelming reason for us getting to negotiations. I believe in providence. I know some people don't. I believe in providence, and I don't think it was just an accident of history that we had Nelson Mandela and De Klerk alive and active in politics at that point in history. I think without both of those guys, we might well have taken several more years before we got to negotiate and killed a lot of people in the process.'

*Interviewee 10:* 'The day the penny dropped for me was one day Madiba was also there. We would argue about whether we should negotiate, and this and that and the other, and he came and said, 'What is it that we want from negotiations?' All the big guys were there but no one said anything. He said, 'Isn't it that we want majority rule?' Now we were nodding away. So, he said, 'Does it really matter if we aren't in control of this, and we get as a principle to agree to majority rule, does it matter whether we take two years to get there? Does it matter that we have to have these structures where we have to share power, a kind of coalition government? Does it really matter? If we have firmly in our heads that we all agree that it is majority rule that we want, whether it is a process of 3 years or 4 years or 5 years to get there, but that we

know that at the end of that period there is majority rule?' And I tell you, for me the penny dropped. From then on, I understood exactly how it is that we had to argue, what we had to argue for, where we could compromise and where we could not compromise.'

*Interviewee 15:* 'De Klerk could have continued. So we need to acknowledge De Klerk, really, because they could have carried on. It remains very rare that an authoritarian, tyrannical regime, has a leader who says, 'No, you know what, I can't carry on like this.' It was the leadership on both sides, Mandela and De Klerk who made peace possible. But we should never forget also, Constand Viljoen. I mean, he did have some influence in the army. He could've chosen not to come into Parliament and then argue for, you know, let's put bombs here, there and everywhere. And also, Buthelezi, for all the destruction he had caused in my Province, he didn't turn out to be a sub-enemy. We should acknowledge all four leaders for the roles that they played. I think it is amongst the epochal events in our history, and it shows the magnificent potential of this country.'

Reference was also made to the roles played by Cyril Ramaphosa and Roelf Meyer to keep the negotiations on track.

*Interview 15:* 'There is this story of Cyril Ramaphosa and Roelf Meyer finding themselves on a trout fishing expedition, right, and they brought back the negotiations process. They went back to their respective principals, De Klerk and Mandela and said, look, let's get back.'

Various negotiation theme facilitators also applied their personal leadership attributes to the process, as demonstrated in the following quotation.

*Interviewee 20:* 'I was a leading figure in the one theme committee on religious, cultural and linguistic rights. And of course, you would be aware that the question of cultural and linguistic rights was closely associated in the minds, or at least in the minds of some Afrikaners. I'm not sure what they were called at that time, but they later emerged as the Freedom Front Plus, and they were strongly pushing for the question of group rights. And the question of group rights in turn for some were also linked to a greater sense of federal autonomy.

‘One of the naughty things that I engaged in, it was in some ways kind of ridiculous, but I insisted on chairing my meetings in Afrikaans and this drew in the Afrikaner right. And the other political line was also to talk to people behind the scenes. So, every lunch break, every tea break, I had it with IFP people and I had with my Afrikaners’.

#### 5.2.2.5.7. The Truth and Reconciliation Commission

A factor that assisted to manage the intra-state conflict, though it does not relate to decentralisation, was the establishment of the Truth and Reconciliation Commission (TRC). This process allowed for people to speak about the impact of apartheid atrocities on their lives and provided a safe space for confession for those who wanted forgiveness.

*Interviewee 5:* ‘The systems that were then put into place to try and deal with this trauma through the reconciliation process, the TRC. It played an important practical role. The unfinished business of the TRC remains one of the sore points. The unfinished business, in the sense firstly, that others did not go there, such as big business and secondly, there were certain decisions that were taken that certain people should be prosecuted and they were not prosecuted.

So, it created an environment in which many of the victims and politically, many inside the liberation forces, felt and still feel unhappy and that we haven’t concluded that process appropriately.’

*Interviewee 10:* ‘Then of course there was the TRC. It was one of the means that we dealt with the violence that we unleashed against each other. It didn’t deal with the structural inequities that apartheid created but at least, as far as the violence that we unleashed against each other, it was one of the ways.’

Quotations outlining the negotiation process and some of the factors that contributed to its success are presented because it is where the fundamental substance of South Africa’s decentralisation model was concluded. The above quotations demonstrate why the interview participants thought the negotiations were successful.

### 5.2.2.6.Synthesis of the negotiations process

A synthesis of the interview outcomes on the negotiations process for the period 1990 to 1994 is presented herewith.

**Table 15: The negotiations: 1990-1994**

| | | |
|---|---|---|
| Process | Why negotiate | There was a collective willingness to negotiate because:<br>• Internal resistance had escalated<br>• A stalemate had been reached<br>• All parties felt that the violence had to end<br>• The collapse of the Berlin wall and the USSR created a change in the international environment<br>• International pressure had resulted in isolation and an economic collapse<br>• The military defeat of the South African Defence Force at the battle of Cuito Canavalia |
| | Mechanism | Codesa I and II – collapsed<br>Multi-party Negotiating Process<br>• Plenary – 10 reps per party<br>• Negotiating Council – 4 reps per party (2 advisers, at least 1 woman)<br>• Planning Committee (10 persons)<br>• 6 Technical committees (experts) |
| | Inclusivity | Securing mandates<br>• Internal political party consultation processes<br>• Those parties that formed part of the apartheid government also had the support of their voters<br>• The NP further conducted a referendum to obtain a mandate to participate in the negotiations<br>• The Afrikaner-based political parties formed a strategic alliance called the Volks Front<br>• The Volks Front formed a tactical alliance with the IFP, Ciskei and Bop called COSAG<br>• The ANC and SACP alliance also had a National Negotiating Forum, in which their structures as well as sectoral aligned formations (MDM) participated<br>• Beyond its internal strategic core, the ANC also had a tactical alliance at the level of the Patriotic Front, in which amenable parties that historically had been part of the apartheid government participated<br>• Informal separate discussions took place with those parties who were outside of the negotiations to ensure that they felt included<br>• The processes were open to domestic and international media, academia and general observers<br>• Formal drafting of the Constitution done by elected representatives in a Constitutional Assembly process |
| | Key features | • No external interference in the process<br>• Self-financed<br>• Deadlock-breaking mechanism of 'sufficient consensus'<br>• Constitutional principles<br>• Elections based on proportional representation<br>• Firm and visionary leadership qualities<br><br>Not directly related to the negotiations or decentralisation but necessary for the management of intra-state conflict<br>• The Truth and Reconciliation process |
| **Source:** Author's thematic synthesis (2022) | | |

### 5.2.3. A unique decentralisation model

The choice and development of the decentralisation model was a crucial issue in managing the pre-1994 conflict in South Africa. Hence, determining the sub-national levels of government and its powers and functions resulted in deadlocks and walk-outs during the negotiations. Interview participants were requested to respond to the question, 'What were the key factors considered when deciding whether the state should be unitary, federal, or a combination of both?' The tension caused by the discussion on the decentralisation model is depicted in the three quotations below.

*Interviewee 1:* 'This was a hot topic and one of the biggest things that were being debated in the negotiations process because decentralisation and preserving white privilege were very close cousins.'

*Interviewee 2:* 'Decentralisation, in our model in South Africa, was a question that was on the table of the negotiations process right from the start. Are we going to be a centralised, unitary state, or are we going to be a decentralised, federal state? And that was a question that we had from the beginning of the process. It was a challenging exercise. The challenge was there all the time to find, what I would call a compromise, between the two demands. This subject could very easily have been a point of serious contestation. In other words, it could have resulted in us collapsing, but fortunately, I can say, wisdom prevailed, and we started to sit down and look at what would be in the best interest of the country.'

*Interviewee 3:* 'The whole thing of federal and unitary, for me, wasn't so much a big thing. It wasn't so much that they believed in these things, but more about how best will they continue to protect their own interests and so on. So, they came and said, we want a province in the Northern Cape. Their idea was that they were going to trade Northern Cape for the Eastern Cape. It's not because they really wanted a Northern Cape or believed in a Northern Cape. It was used as a bargaining chip. But then the ANC went and agreed to a Northern Cape state. The idea was, okay, the NP can get the Northern Cape, assuming that all the coloured people in the Northern Cape would vote for the NP. And then of course, surprise, surprise, the ANC won the Northern Cape in 1994, much to the dismay of the NP.'

#### 5.2.3.1.Opposing views

The tensions witnessed during the negotiations were because the demands related to the decentralisation model were highly polarised, stretching from one extreme to the other. In particular, each party strongly believed in its position. These are demonstrated in the quotations below.

*Interviewee 12:* 'You know, that took a big chunk of our discussion, and we all came from different points of view. For instance, the ANC was saying that we should maintain the four provinces, which existed at that time; the Orange Free State, the Transvaal, the Cape Province and Natal, as we called it. Other parties were saying no, we need a federal state. And then other parties were saying that we need independent states, we need independent territories – that came from the Afrikaner groups. So, for a long time, at the negotiations, we even put it in a bracket because we realised that we couldn't move on this issue due to the diverse views; and we even called it the STP which was state, territory, and province.'

*Interviewee 19:* 'Behind that particular negotiation or debate was some pretty obvious assumptions which were not made, and which may or may not have been explicit, which is that the ANC believed that the purpose of decentralisation or devolution of various sorts was to weaken majority rule; was to create barriers to majority rule. And of course, they were right in the sense that, I mean, that was what was motivating the other side. It happened to be not a particularly effective negotiating strategy for the other side, because it didn't get them what they wanted. Even if they got everything that they wanted, it wouldn't have been what they wanted, because what they were looking for was some way of protecting white supremacy. And if you consider that South Africa doesn't have a single magisterial district with a white majority, then there's a limit to the extent to which you can actually achieve that through devolution.'

The parties that participated in the negotiations broadly fell into two categories. The statutory forces, which were primarily represented by the NP and the DP. The non-statutory forces, which were primarily represented by the ANC and the SACP, and also carried mandates from the PF, some of whose members also participated directly in the negotiations. Finally, those who wanted independent territories, also formed part of the statutory forces, but were largely grouped under COSAG and represented by the Vryheidsfront and later also the IFP. The diversity of the positions are reflected in the quotations below.

#### 5.2.3.1.1. A united South Africa

Historically the position of the ANC, its alliance partners and its aligned forces within the country, which eventually constituted the Patriotic Front, was always that of a united South Africa. This was expressed in the binding document, the Freedom Charter. The interpretation of the term 'united' however, was two-fold. Firstly, some were Marxist-Leninist and felt strongly that the state should be unitary with a strong central government. Then others came from the background of the UDF and, despite some being Marxist-Leninist too, placed a strong emphasis on grassroots participation in governance. The ANC and its aligned organisations' positions are reflected in the following quotations.

*Interviewee 1:* 'Of course we rejected the notion of federalism completely, on a number of grounds. The first being that the struggle for freedom had, as one of its central features, a struggle to create a united South Africa, one South Africa. Because the apartheid regime, over a number of decades, were trying to divide South Africa up into a number of Bantustans. The second important thing is that they were trying to create a situation where you could have a possibility of a creation of a Volkstaat. And one of the other reasons was because it would not promote national development and equity and redistribution. In other words, all taxes had to be collected at a central level. No province would have the authority to collect taxes. All the taxes would be collected at a central level and then the central government would at least have the ability to command a kind of a redistribution of those taxes in a more equitable manner and would be able to promote national objectives and programmes. And so, the economic integrity was very important.'

*Interviewee 2:* 'The ANC felt very strongly about a unitary state and central control.'

*Interviewee 4:* 'With regard to the content of constitutional issues, the ANC preferred a unitary state with an effective central government to address the totality of the exclusions and injustices entrenched under apartheid colonialism. It, however, also sought to eschew over-centralisation, and advocated for regional and local governments that would play a crucial role in development.

‘Given the experiences of divide-and-rule under apartheid, which in the latter years of the system was reflected in the Bantustan system and Tri-cameral Parliament as well as the hierarchy of oppression, the ANC sought to ensure a common national approach to development. This would entail the ability of the centre to ensure that resources are channelled in an equitable manner, taking into account areas most in need.

‘There was a recognition that regional (provincial) and local governments would play an important role in ensuring closer interaction with citizens and responsiveness to regional and local conditions in the implementation of policies. The delimitation of the regions and localities would need to avoid racial and ethnic considerations or any other forms of privilege and would also need to take into account the urban/rural divide. The central government would need to ensure a common set of overarching legislation as well as principles and practices common to the whole country. In this regard, the preference of the ANC was for subsidiarity, with the national government at the apex of the governance system having responsibilities for such functions as general economic policy, fiscal and monetary policy, international relations, security and so on. These perspectives are elaborated in the ANC’s 1991 document, Constitutional principles for a democratic South Africa.’

*Interviewee 5:* ‘The so-called non-statutory forces at that time, argued for a unitary approach to the state system’.

*Interviewee 10:* ‘And we basically wanted a strong, unitary state with strong decentralised features. Our conceptualisation of how we looked at the world at that time, 20 to 30 years ago, was that as progressives, as socialists, as communists, many of us had a worldview that you have a strong central government because you want planning, you want a vision, everything to come from your central government.

‘For me, apartheid was the second reason I was always scared of decentralising too much because the lower you get to the ground, the closer you get to apartheid reality. If we were to decentralise a whole lot of things, it would never have given us the opportunity to be able to start changing what we found 20 to 30 years ago on the ground. I mean, if you look at progressives, if you look at socialists, if you look at communists, theoretically, we should actually be strongly decentralised.

‘We would want the government to be as close to the people so that they can look after their own government, and be consulted, and have a say in those things. My third reason is, we don’t actually realise how the centrifugal forces, unleashed by fragmentation, whether it be race, gender, skills deficits, become so strong that they just tear at your society. I mean at every single level.’

*Interviewee 14:* ‘The ANC was really committed to a centralised government because it was committed to a united, non-racial, non-sexist, democratic South Africa, which had no provincial boundaries as it were but one united South Africa.’

The above quotations provide cogent explanations for the ANC’s original preference for a unitary state and its antipathy to federalism.

#### 5.2.3.1.2. A federal South Africa

The NP and DP advocated for federalism.

*Interviewee 1:* ‘And the white minority spoke about decentralised forms of government, but what they really meant was that they should be left to do their own thing. Initially they also meant decentralisation along racial lines. They were not just talking geographical lines, but racial lines. And then they decided that they would speak about decentralisation along geographic lines. And both the DP and the NP argued for federalism. They were saying that there should be a form of pure federalism, but even though they were saying federalism, they were arguing for a confederation. They were saying that all the authority and power must be held by the states, what we are now calling provinces. Taxation should be collected at a provincial level and then through some formula, provinces could allocate some of that to national government. So that’s what they were arguing for. And they argued quite strongly for it.’

*Interviewee 2:* ‘The majority of those that supported the more conservative view, wanted a federal state. –Now I must emphasise that South Africa had never been a federal state, –even the provinces that existed before had no powers of their own, it was all delegated authority from the national government. But suddenly, when it came to the point of the negotiations, the conservatives argued very strongly for a federal state’.

*Interviewee 3:* 'The NP, the DP, these were all federalists.'

*Interviewee 5:* 'The ambitions of the then statutory side and its supporters was to create a federal system. In other words, they were looking at examples elsewhere in which they thought they would be hegemonic in those provinces and the national would be rendered unable to do certain things, if you had a federal system that would frame certain things exclusively to their provinces and so on.'

An overview of the positions is expressed in the response by *Interviewee 16*:

> The ANC's stance, or let me say, the tripartite alliance's stance was for a unitary state. And that was the argument throughout the negotiations. The IFP came late to the party, but it came out very strongly, insisting on federalism because they wanted to keep on controlling KZN. Whereas the others from the homelands were won over by the ANC. But it was clear, later on, that the NP supported the IFP. And so instead of a federal state almost like the USA, the idea of provinces came about, but with limited powers, the central government being strong still. That's why, in the constitution, the number of meetings of provincial councils are numbered. It was to please basically the IFP and the NP. And then you've got local government, of course, that's why the local government electoral act is slightly different as compared to the provincial and national.

#### 5.2.3.1.3. A South Africa with self-governing states

There was also a group of political parties, within and outside the negotiations, who advocated for federalism, but their perspective was closer to that of self-governing states. Two interview participants are extensively quoted.

*Interviewee 6:* 'We then withdrew, and Inkatha withdrew with us, and we formed COSAG. Bophuthatswana and Ciskei were also part of it. And this group said that it will withdraw as we were wasting our time, and then there were separate negotiations with us. If we look at COSAG, what was Inkatha's demand? They wanted a Zulu Kingdom and more powers for the Zulu King, and they got KwaZulu-Natal, which is part of federalism and decentralisation. We wanted self-determination. Self-determination is a form of federalism. We used the term "Volkstaat" at the time, and that is what we placed on the table. Bophuthatswana wanted to retain some of its powers and so we explored how we could accommodate all of this.

‘And the whole concept of federalism, of subsidiarity, more powers to provinces, those were the issues that we brought to the table. Now, eventually, we were running against time. Mbeki was very clever, and he said, ‘Sometimes you can’t do something on a Monday, then you are successful on the Wednesday’. Now that is typical Mbeki-speak. With that he meant that the negotiations will not end on 27 April, let’s agree on certain principles and we were able to get principle 34 in, which makes allowance for self-determination, and he said that negotiations could continue after the elections.’

*Interviewee 7:* ‘We had different models. We for instance felt very strong on a federal system. In a federal system, you have more decentralisation of powers. And of course, with the ‘93 interim constitution, what then happened is that we had an Accord with the ANC, the NP as a governing party, and then the Freedom Front. And that Accord is still valid today. And in essence, that Accord said that if we received substantial votes in the ‘94 election, we will further pursue the issue of self-determination. Part of our demands were not that we should have more provinces. We said that there should be an area, a geographical area, specifically earmarked for the Afrikaner nation where they can have their own self-governance.

‘We believe that self-determination is the only option. At this moment, self-determination is actually the spearhead of modern and world democracy. Self-determination is where people have a say; your government is at the lowest level with the people. And if you recognise my rights as an Afrikaner, my language rights, my cultural rights, then we will live in peace. And let me give you an example. If we talk about the devolution or the decentralisation of powers. If you give, for instance, those groups the rights to make certain decisions, specifically concerning them as a group, then you will have peace. The moment you’re not allowing that, that’s when you get problems.

‘Well, the self-determination one was the main issue, but the other issues were also that we said that the modern trend in democracy is to give and ensure that the power is actually taken down to the people. Worldwide, they have the three spheres of government, the national, the provincial and the local, but the way we saw it and still see it is that those are the main criteria for different levels of government. But then you must even go further when it comes to, for instance, the powers to decide on your own income, what happens to your budget, that is most important. When it comes to your safety for instance, that’s very important.

‘Where there is a government, the people must feel that they have a say in the decision, not only every five years when they have an election.’

The statutory forces felt strongly about a federal state; some even wanted fully fledged self-governing territories. The non-statutory forces were, however, wary of adopting a decentralisation model that could be used to entrench ethnicity.

#### 5.2.3.2. Factors that influenced the design of the decentralisation model

Several factors influenced the design of the decentralisation model. This is expressed by the following interview participant.

*Interviewee 18:* ‘They were military, they were financial, and they were ethnic in the sense that they were homeland or ethnically based, and they posed a substantial threat. The apartheid state was bankrupt, and we knew we were going to inherit the debt of the apartheid state. We were subjected to pressures from essentially the capitalist class, and I think, by Anglo-American. And then we were also under a great deal of pressure, not only from the IFP in KwaZulu-Natal, but from the homeland leaders, generally. So, you will recall that we uncovered a lot of arms in KwaZulu-Natal and that pointed potentially to a civil war in which Inkatha would unleash its impimpis on the liberation movement and perhaps try and secure a case for itself as a separate country.’

Given the contribution of racism and ethnicity to the tension and violence that plagued South Africa before 1994, the overt reference to ethnicity in determining South Africa’s decentralisation model was generally avoided. Accordingly, opinions on whether it influenced the post-1994 form of decentralisation differed.

*Interviewee 20:* ‘The provinces are completely artificial creations. The Western Cape, the Northern Cape, have no political boundaries or cultural boundaries. Of course, at some levels, all places you move to, from one village to the next, if you move from one town to the next, the town assumes a different kind of character. But the currents in South Africa that are connected to a cultural identity or ethnic identity or linguistic identity, it's not a part of the South Africa of the nineteen hundreds. It wasn't an element of course, as far as the colonial powers were concerned. And that is where we saw the division of the country to these four provinces.

‘So given the absence of any of those dynamics, the default position for South Africans was in fact, the unitary state model.’

*Interviewee 19:* ‘If you asked any of the negotiators if ethnicity was an issue, they would say no. And I’m not saying that they’re lying, I don’t think it was an explicit thing to say, ‘well, look, we need to take ethnicity into account.’ But the reality is that there is a certain amount of coincidence in this country between ethnicity and geography. I mean, there aren’t Sotho speakers in the Western Cape. There aren’t many Xhosa speakers in the North West Province, et cetera. It becomes a question of what was deliberate and what wasn’t. Clearly, if you, if you drew the boundaries in particular ways, you would land up with a situation in which ethnicity was an issue. Even if that wasn’t the intension.’

*Interviewee 3:* ‘I don’t think that the issue of ethnicity was overt, but it was there. No matter how you draw the lines in KwaZulu-Natal, you are going to end up with a Zulu majority. Just think of it, geographically in South Africa, there is no way that you can draw the line to avoid a Xhosa majority in the Eastern provinces. The same with the Western Cape. So, it was not overt, but I think they were subtle or certainly part of the federalists’ calculations.’

*Interviewee 7:* ‘So, as far as the nine provinces is concerned, I think it was more the Bantustan leaders that felt strongly about that. Let’s take KwaZulu-Natal, the majority of people there are Zulus. If you go to North West, the majority of people are Tswanas, part of the old Bophuthatswana. If you go to Limpopo and those areas, everybody there is Venda, and the Free State and so on. So, you had that strong sentiment from their side, as far as the different provinces are concerned. And they felt, the way I understood it, is that if you have a province, then you have more powers. It’s true, academically it is so.’

*Interviewee 8:* ‘Yes. I think that ethnicity was a major consideration in the determination of provinces. That’s why there’s a KwaZulu-Natal, why there is a Limpopo, why there is the Northern Cape. But that would have been a very largely coloured province, except I think the ANC saw the danger, and they then insisted that a huge black township be taken out of the North West province and put into the Northern Cape to restore balance and make sure that it was politically safe. Most of these do make sense in ethnic terms and some security in places like Mpumalanga. For example, there I do think that it was taken into account.’

*Interviewee 10:* 'Ethnicity definitely played a role, some negatively. Like the police thing for example. You know, we thought about police and said, okay police use is a decentralised power because you want the police to be closer to the people and so on. And then we thought, hey, can you imagine a police force in KwaZulu-Natal. That's like a cooking an army to fight against you in the future. So, in that sense, in a negative sense, ethnicity definitely played a factor. And also, in the sense that, why we wanted a strong national government, was to try and negate some of the centrifugal forces of ethnicity. Because the country was based, both the white areas plus the Bantustans, we didn't want the Bantustans to become strong forces in their own right. We wanted them to be diffused forces within a province for example and so that ethnicity, hopefully over time, maybe decades, the ethnicity could dissipate because they were part of a mixed kind of structure. So, in that sense, for me in any case, I always thought that a strong central government in some areas would win against some of that kind of ethnic entrenchment that apartheid had done, particularly in the Bantustans, that would have to dissipate over time.'

*Interviewee 12:* 'Regarding ethnicity and the historically structured racism, yes, definitely we had to look and take it into consideration. Even as we were demarcating the nine provinces which the interim constitution and the final constitution came up with. Because we needed to ensure that we overcome tribalism, racism, inequality, especially in terms of the allocation of the budget and also in terms of voting. Apart from that, as I said that negotiations were a give and take. We had to agree to constitutional principles which bound even the writing of the final constitution by the newly elected Members of Parliament who formed in the first two years of Parliament the Constitutional Assembly, to negotiate for the final constitution.'

*Interviewee 15:* 'In addition to the legacy of violence, I think we failed to realise that, actually, the Bantustans were not just a creation of an apartheid system, but they also gave rise to regional and sub-regional and even if you like, provincial identities. And in fact, we shaped our provincial boundaries significantly around ethnic and racial identities. And so, for example KZN, KwaZulu-Natal as you know, is mainly Zulu; the North West is mainly Tswana, Limpopo has three major ethnic identities or communities; but Eastern Cape, Xhosa; Western Cape, coloured; Northern Cape, coloured so to speak, with significant isiXhosa speaking people, if you look at it. Gauteng is more mixed, and so on.'

*Interviewee 16:* 'At the time when the debate unfolded, you'll notice that the provinces were almost confirming the older Bantustans. You had a strong part of North West, which was Mangope, although it stretched to the old Northern Transvaal; and then you had KZN, which was predominantly Zulu speaking. And then you had the Eastern Cape, Xhosa; and then you had the Northern Transvaal, your Limpopo, where you had Shangaan, 'siVenda speaking, and then you had Mpumalanga, Swati. And so, in hindsight for me, they basically continued with pockets of the old system.'

*Interviewee 18:* 'The intention was, in fact, that we incorporate those Afrikaners into the Western Cape. But the Western Cape is dominated, I suppose, by English-speaking whites and the Afrikaners wanted a province for themselves. The thinking at the time of the decision was that the demographics would be of such a nature that, in effect, the Afrikaners in the Northern Cape would secure a sort of victory in the Northern Cape. And in fact, the Northern Cape would be governed by, essentially, Afrikaners. And then, to everybody's surprise, the Northern Cape was in fact won by the ANC narrowly, in the first elections, much to the dismay, I suppose, of the nationalists grouping who saw the Northern Cape as being a separate Homeland as it were, for themselves.'

The above quotations demonstrate the various interests and factors that contributed to shaping the ultimate design of the decentralisation model.

#### 5.2.3.3.Reaching an agreement

The perspectives on the decentralisation model for a post-apartheid South Africa were poles apart. The violent conflict that prevailed at the time, however had to be resolved. Interview participants explained how an inclusive decentralisation model, as firstly contained in the interim constitution, the Constitution of the Republic of South Africa, Act 200 of 1993 and later in the Constitution of the Republic of South Africa, Act 108 of 1996, was attained. Responses of the interview participants are expressed extensively as it speaks to the essence of how the diversity of views was accommodated to develop an inclusive decentralisation model that appeased all political parties at the time.

*Interviewee 1:* ‘And so we ended up creating these provinces and, after the Constitutional Assembly, when we took the interim constitution, and in the final constitution, we took the centralisation even further. The provincial governments were really governments in full, and they were in charge of the administration of certain government functions. They didn't have authority over the economy. They couldn’t determine economic policy or trade policy or taxation policy or anything of that sort – that was all with central government and they didn’t have legislative authority. And so, even though you may see that provinces have something called legislatures, provincial legislatures, these are more in the form of, they are representative bodies, that serve the purposes of provincial delegates coming together in the provincial legislature, talking about the Province, which is important, because you need elected people to be representing the interests of the province but they don’t have any authority of power.

‘So, the budget of the province, the budget is the most important thing. The budget of the province is determined by national government. So, you may be aware that national government would give KZN a certain amount of money in the budget annually and almost all of that money would be earmarked – say, you’ve got to spend so much on education, so much on healthcare, so much on this, so much on that. Within education, you get to spend so much on the salaries of teachers, and this is what you will pay the teachers; that's all centrally determined. Nurses and doctors and all of that sort of thing.

‘Then the provinces understand that they must implement this projects and programmes and follow this law. The provinces can’t really make laws. It was an administrative decentralisation. So, that’s what was done in the Constitutional Assembly in the final constitution.

‘You would ask, what purpose does it serve? It serves a very valuable political purpose in the provinces. Because we are a very big country and a very diverse country. And the feeling by the population that they can vote for a government in their own region, in their own province, which is concerned about what happens in that province, is quite important. Otherwise, government becomes too distant, out at the central level in Pretoria and in Parliament in Cape Town. So, that’s how we came up with a kind of a decentralisation.

‘In the final constitution, we also considered where does local government fit into all this decentralisation. Now, unlike provincial government, local government has got real powers. And their power is derived from the fact that local government collects taxes.

‘Provincial government does not collect any taxes. But local government collects taxes mainly related to property, property taxes or rates. And they also charge a surcharge on the supply of electricity and water and stuff like that. So, the bigger municipalities have huge budgets. Some of their budgets are provided for by the national government through redistributing the national taxes that are raised. But most of it, for the big municipalities, are raised themselves. So, this gives them enormous authority. These are serious governments, the local governments, particularly the metropolitan governments – they are powerful entities.

‘When we were doing the Constitution, we used the example of an hour glass, where you have central government at the top, which is strong. In the middle you have provincial government, which is weak. And at the bottom you have local government, which is strong. So, strong national government, strong local government and weak provincial government. And that’s the overall structure that we’ve got.’

*Interviewee 2:* ‘It was a long process. We have to thank the negotiating process. Firstly, we had clear agreements about what a new South Africa would look like at the very early stages of the negotiating process. The most prominent of this was probably the record of understanding that was agreed between the two main parties –the ANC and the NP government in September 1992. So, that laid the basis for a future that was acceptable to both sides, that we could use as a platform to go forward with. There upon we had endless negotiations between all parties.

‘I think the argument that won in the process, which satisfied both sides of the argument, against each other was the one that said that South Africa is a fairly big country, with a fairly huge population, and in the interest of the people, it would be better to have devolved governments, that would actually be in a better position to look after the interests of the people. And that is, I think, the argument in general that swayed both sides in finding a compromise somewhere in between. So, I think that the end result that we have is something of a hybrid system. It’s a national government with strong powers, but at the same time we have devolved power at a provincial level or at a regional government level that ensures that there is representation closer to the people, in such a way that people feel that that they have an attachment to these regional or provincial governments.

‘This was the content of the interim constitution. And the interim constitution was followed by the first democratic election. And I think, if we have to look for a moment, it was that first democratic election, because all South Africans, practically all South Africans, went out to vote, and in that way approved the system that we had created through the negotiations. And I think that by doing so, we can say that the future was guaranteed. But apart from that, we then had extensive negotiations about the final constitution, which was conducted in the constitutional assembly. And that was a further part of the stage of approval, because now it was the elected representatives of the nation that conducted the negotiations. It was not only parties coming forward by themselves and negotiating, like we did during the negotiation of the interim constitution. It was now all parties that were elected to conduct that process. And that I think, in itself, was a further guarantee. So, what we can say is that we had a very formal, continuous process of acceptability and legitimacy.’

*Interviewee 4:* ‘Ultimately what emerged from the negotiations was a hybrid system that recognised the centrality of a common framework of rights and responsibilities applying across the country, with a strong element of subsidiarity; but also, with original powers for provincial and local government spheres outlined in the constitution. These powers and responsibilities are, however, very specific.

‘Responsibility of national government for generic areas were accepted and are reflected in the current constitution. In addition, on all issues, national government has the responsibility to set national policy frameworks for the country as a whole, and to raise the bulk of taxes. To ensure transparency, fairness and predictability, a constitutionally defined statutory Financial and Fiscal Commission has been set up to advise on intergovernmental fiscal relations. In other words, while the ability of provinces to raise their own resources was largely circumscribed; the allocation of resources from national government to the sub-national spheres is meant to follow established prescripts to ensure equity, taking into account a variety of factors including population sizes and levels of development in different parts of the country. Further, each sphere has its own legislatures and executive councils which operate within the national framework, but with original powers defined in the constitution.

‘Critical in this approach is the principle of co-operative governance, further entrenched through structures that bring together national, provincial and local functionaries in planning as well as monitoring and evaluation of implementation – fora of national and provincial executives (Minmecs) and the Presidential Coordinating Council to planning makgotla where all three spheres are represented. Some of these are defined in legislation, and others have developed and been modified with experience as informal conventions.’

*Interviewee 5:* ‘The compromise, so to speak, was look, instead of going this way or that way, there’s a way in the middle that recognises the value of certain things being done at a central level and others provincially and others at a municipal level. And the question is, which of these powers and functions do we locate where. And it is within those decisions that the Movement’s position, although we didn’t get our way to make it unitary, but we succeeded to have a framework that allowed for significant powers to remain centrally and some of them at a provincial and some at the municipal level, with the understanding that with capacity, over time that we will target to build the new municipalities that were based now on a non-racial platform and not on a tribal or racial foundation, integrated, including spatially. They needed to be done in a different way.

‘There were debates of people who argued that the provinces would be a problem; that we should instead focus on creating districts. We have districts and national. But unfortunately that position did not make it because there were also political considerations that came to play. You see, the Bantustans had existed in some form or another. Some of their political ambitions would have created problems if in some way or another, we didn’t make provision at a provincial level for people who would operate there, politically, so that their political ambitions would be satisfied. We did not want to ignite a tribal warfare. But such provincial boundaries would not necessarily be tribally based, so that you defeat tribalism, so to speak. Many of these provinces have three or so, a number of these tribal groupings, who the apartheid regime had spoken about, creating for each tribe, some kind of independent Bantustan, with an impression of them having some form of power and authority, and so on.’

*Interviewee 6:* 'On the one side, and I must admit that the ANC was very clever, they did accommodate us up to a certain stage, ensuring that we were not frustrated. For example, we now have Article 235, which allows for self-determination. In Article 235 there were things that were acceptable to us, but it requires legislation that enables implementation. If there is an area, or region that wishes to be autonomous, how practically do they go about it. Twenty-five years later we still do not have the enabling legislation. So, the momentum was not sustained.

'I think General Viljoen was a great leader. We went to get him because he was a General, but we had no desire for conflict. I gave lectures in the past about negotiations and the rule was that you don't come to the negotiations with a smile and a friendly personality and a clever plan in your suitcase, but no power behind you. We had no muscle. The NP was governing the country and had the army. The ANC had the support of the world and the threat of war and terror. And we had nothing. So, we went to fetch the General, General Viljoen. And the ANC, conscious of developments in the rest of Africa and coups, they were very worried that that would happen and General Viljoen had the capacity to mobilise a number of people. He had 3,000 militants and a large portion of the army, and we used this effectively during the negotiations by simply threatening people. We also went to get Uncle Wally Grant. Who was Wally Grant? He was the head of the Atomic Bomb Board, that is the people who developed the atomic bomb. And over tea we would joke with Mbeki and Zuma that we have Wally Grant and that he still has the moulds of the atomic bombs that he created, in his garage. But that was only a means of ensuring that we were accommodated.

'After the elections, however, once we were now part of the state, the General systemically disbanded these things. But he did not realise that that was our muscle, and so we lost it. So, we ended up comfortably in Parliament, but we no longer had any power behind us as all those things were gone. That weakened our position. For example, there was a time when the ANC met us almost weekly during the negotiations. Later it became monthly. Then every three months, and it just became less and less.

'So, let me list the things that we achieved. We secured Article 235 that allows for self-determination. We regard it as important. In some countries, for e.g. Sri Lanka, just the mention of self-determination is regarded as a violation of the constitution, and it could lead to you being charged.

‘This article makes it possible for us to continue with propagating the idea, of placing it on the agenda, and hence the Western Cape can raise the issue of having more powers. We got Article 31 into the Constitution that deals with cultural, religious and linguistic communities. Now that is a step in the direction away from individual rights towards cultural or group rights. Now that is an important article that we succeeded in getting into the constitution.

‘How did we do it? We looked at the United Nations and the Organisation of African Unity and looked at the International Covenant on Civil and Political Rights, which was adopted by the UN in 1977. Article 27 states, ‘In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.’ We took that clause, and Kader Asmal, who was very clever with these things, and he found a way of getting it into the Constitution. And this assisted. It did not specify Afrikaners, as you cannot write a constitution only for one group – it must apply to everyone. And that is why the wording is so broad, to accommodate those who had the desire. But, as I said, we had very little success in relation to securing federalism, with powers to provinces, which we had hoped would have a lot more autonomy.’

*Interviewee 7:* ‘We had, I think it was Section 29 or 30, 31. Those sections, for instance, that recognise different cultural groups and their right to exist. There were a couple of sections in the constitution that was part of the whole idea of self-determination. Although we were not satisfied, for instance, you had Section 181, its sort of a body there to promote linguistic, cultural and religious processes and everything. But again, in practice, it does not happen. Yes, it's nice words in legislation and in the constitution, it's the same with Section 235. So, we succeeded with some aspects, but it was broad principles. As far as legislation is concerned, it is still outstanding.’

*Interviewee 8:* ‘The policies of the NP and ANC, plus the DP’s; that's what the design was. The ANC would not hear of a federal setup. The NP would have liked it, but they gave in. The DP would have liked a federal setup as well but had very little power because there was sufficient consensus.

‘I think that everybody recognised that they should try to accommodate each other, and therefore there were a few bones thrown, but in the main, the ANC got their way. And that’s how that was designed. The ANC was not to agree to anything if it was federal and that went on and on and so they ended up with victory.’

*Interview 9:* ‘It's incredible what role the former homelands structures played. In Bishop’s Court, I attended a meeting in 1990. It was a meeting with President Nelson Mandela and the homeland leaders, where the agenda was to gather all the leadership of the country to address the issue of violence that was spreading across the country. And we were asking the question at that meeting, what are the homeland leaders doing here? Because the issue was mainly how the apartheid state was unleashing violence against ordinary people in the communities and against activists, political activists using this very homeland leaders that we were sitting with at Archbishop Desmond Tutu's place. And we were saying, we can’t be talking to these people. We need to be talking to ourselves about how to save our people from their violence and what demands to make to the state that we were negotiating with at the time around the issue of the role of homeland leaders in violence. Also, we were going to talk about whether we would be prepared to sit with them at the negotiations. We sat through that meeting. There was no agreement. It was just felt that we are being extreme. As all of us were talking about creating a non-racial, unitary, free and democratic state; they were wanting to guarantee the rights of the Afrikaner minority and African tribal minorities. And so, it is incredible how much space was given to that particular issue and how in fact, in the end, violence was used to continue to prove the point that unless tribal items or minority racial items were allowed onto the agenda of discussions, that the outcome would never be good and true and that the only way that we could have peace was if we appeased tribal groups and racial minority groups.

‘It had a huge impact, and we are still stuck with some of the consequences of allowing that. Here we are, more than 20 years after the post-apartheid state, we can’t get rid of racism. People’s discourses are still racist. We can’t get rid of tribalism. We have not started to deal with gender equality because we are busy with more useless things. Like even younger people who are coming up now, even comrades themselves, have gone back to tribalism. People call themselves by their tribal names and tribal this and tribal that. You no longer hear about comradeship and the unity of the former oppressed people. It is just unbelievable how poisonous the social space has become. How poisonous the racial space has become. How entrenched and how much worse things are getting on the gender front.

‘I mean, there always was gender oppression and so on and even gender violence, but not to the extent that we have now. Things have just gotten worse, and it all starts from how the negotiations were structured and what who won at the negotiations in 1994, 1992, 1993.’

*Interview 10:* ‘Basically, we agreed at the stage of the constitutional principles that we are going to have a strong unitary state, but we are also going to have federal features and some of those features were in the constitutional principles. Some of the federal features were strong and in other senses they were weak. We found each other in the constitutional principles. And in my sense, when I try and describe what kind of country we have, some people say it's a federal state, it’s not a federal state at all. It’s a strong central government with federal features. And those federal features in some instances are strong and in some instances were weak.

‘Now, let me explain that. So, what we did was, firstly we agreed on a whole lot of things that would be national powers – so only the central government can perform that. So, there were certain features that we looked at as the ANC. Basically the army, foreign affairs, the economy to a large extent and I'll come back to that one. Our justice system is completely unitary. There are no elements of federalism in our justice system and the money, the finances is strongly with central government. The money’s collected centrally and then devolved out. And police also was strongly central but there we were able to give little bits of federal, but at the end of the day, our police, our army, our foreign affairs, our labour system, our justice system, our finance system were all strong, unitary state orientated.

‘And then what we agreed was, (and we borrowed a lot from the German system) things like education, health, welfare, these things that had to be performed closer to the local level. And we thought, okay, we are not going to give it just to the provinces – so that's why I said that it’s a weak federation. We said we will keep those powers and we will call them concurrent powers, which is your health, welfare and all those things. Your ecology, trade and industry, that was all concurrent powers.

‘Now what we meant with concurrent power is that both national and provincial have the power to legislate. So, in other words, on health, welfare and so on, there are ten legislators that can legislate on it. But when it comes to administration, only the provinces administer. So, you can see, we kept a lot of national powers and even when we gave provincial powers, we said that it is still concurrent.

‘That we as a national government can still legislate on education, on health, on welfare, and so on. The provinces could also do it. And then we created a clause, I think is clause 134, that if there was a clash between the legislation of national and province, then why national would prevail. We gave a whole lot of reasons. And you will see that it is completely loaded towards national. So, for example, if there was a trade law, we said that at national level, you can open shops on a Sunday and a province says no you cannot open a shop on a Sunday, then we made sure in that instance, that the national law will prevail. We called the clause the deadlock making mechanism.

‘And, so those powers, although they are concurrent, they of course are decentralised national powers at a provincial level. So, you can't take that power away from the province. It is not like in a pure central state, where you devolve powers down and you can take it back any time. For those provinces at a legislative level, on health, welfare and so on, we created or gave them creational powers at that level to make sure that they also can legislate. But more importantly, we gave them exclusive power to administer. So, they can make laws on an issue, and only they can administer education and welfare, etc etc.

‘So, you can see that there's some federal stuff in there; some decentralisation, but it's still strongly held by the centre and still strongly controlled. And then of course we gave some original powers, not many, but there are some original powers at the local level, the third sphere of government. The fact that we created three spheres of government was also deliberate. They wanted that one day national government can’t just say, okay, there can’t be local government anymore. They wanted to make sure that the constitution entrenches the three levels of government and then in some instances give original powers at that level, and in some instances give delegated powers at that level, which can’t be taken back at any stage. And that’s how we tried to balance it out. And that is why I say that we have a strong centralised government with some federal features to it.

‘Then of course, to make sure, because you see, the one thing you must be careful of in decentralisation, although one’s gut feeling is always to decentralise, to take the powers as low as possible so that people can govern themselves. The problem, of course, was also we knew that we had 350 years of apartheid and 300 years of structural racism that was in the DNA of the system that existed. So, of course, apartheid manifested at its worst at the lowest level. So, if you go to the area where I live, there would be white people.

‘Go to the area of someone else and it would be black people. Go to the area of someone else and it would be coloured people. So, the lower you go, the more the apartheid manifests itself and the more it is entrenched. And we now, in 25 years, we have seen that. Look at how we struggle to change the spatial planning of this country. Even where we’ve got black governments, we basically use the spatial planning to a large extent of the apartheid system. That’s how deeply it was entrenched.

‘So, we have a strong unitary state with some federal features and we’ve created a whole lot of deadlock breaking mechanisms to make sure that government should not stagnate at one level because we’ve only given the power at that level because there are possibilities of intervention from either provincial government, or local government or national government. We created federal governments. In some instances, they are weak and in some instances they are stronger. But in the end of the day, national government can basically, on most of these issues, override if they wanted to wield these powers that had been devolved from centralised. If it wasn’t working, there is a possibility of intervention from a higher level of government.’

*Interviewee 12:* ‘And we had a process too, which was taking place because we had to learn from other countries. So, we visited several countries as joint delegations, which had for instance a federal state or different way of organising themselves. We visited countries like the United States, Ghana, Cote d’Ivoire, India, Germany. Yes, I think those were the main countries that we visited, where we were studying not only the issue of their federalism but also the issue of their judiciary. Our Constitutional Court, we learnt a lot from the German one, which is based in Karlsruhe. We visited various states, spoke to the people, to see how they are functioning; and we also met the leadership of those countries, like the Chancellor, in Germany, Chancellor Kohl.

‘That was when we were now trying to finalise the issue of what type of South Africa we want. A united or a divided South Africa; a non-racial, non-sexist, democratic South Africa; so those visits informed us. I remember very well that when we came back from Germany, the IFP which was pushing for federalism, the NP which was also pushing for federalism, the Afrikaner parties which were pushing for independent states and us, we were pushing for provinces, had to, after those many visits, to sit down and say what will be the best for South Africa because we had learnt that all these things that we were talking about from various parties would not suit South Africa.’

*Interviewee 14:* 'Decentralisation occurred as a result of the other parties making demands. So, you have to look at decentralisation within a context of a contestation for political power which occurred. And the contestation went beyond the four provinces because now you basically had to address the ethnic identities of the homelands that came into play. So instead of having your four provinces historically, it now expanded to nine provinces. To the NP at the time, that was a huge victory.

'But at the heart of your decentralisation are the elements of concurrent and exclusive powers. They argued more and more for concurrent powers rather than exclusive powers and again it was a negotiation that took place. That process unfolded in the Codesa phase where they determined the kind of principles that would govern the framework of our final constitution. And the competencies that they decided on basically that were national and agreed on would be national were issues of justice, issues of defence, issues of security. They were critical national competencies and the other competencies such as health and education would be concurrent competencies. The land became a national competency while agriculture, which is a contradiction in my opinion, became a concurrent competency, hence the difficulties that we have had in the past two decades in relation to this particular reality.

'So, the issue of competencies lie at the heart of our quasi-federal system, because that is what we have in South Africa. Not a federal system like you would see in America or in Germany, but elements of what you would find in Germany, you would find in South Africa, in terms of competencies and where they are allocated. We also have a very strong Bill of Rights, and the freedom of expression, the freedom of conscience and the freedom of belief of individuals are protected by the constitution.

'We had four hundred members of Parliament; we had the National Assembly (NA) and we had the Senate. The Senate was made up of members of different provinces, but the reality was that the Senate was regarded as a mirror or replica of the NA, with it operating as a rubber stamp. And with the negotiations, we argued very strongly that you can't have a NA that is a mere rubber stamp. The Senate was not the same as the Senate in America. In South Africa, Senators are indirectly elected, whereas in the States they are directly elected. So, the CA had to look at other models.

‘And the model that it looked at very closely was a model in Germany. You have the Bundersraad and the Bundersstad. You had a federal state in Germany, with different legislatures. So, their notion of having a legislature in each one of the Provinces, which was a reality by the way in the context of the Codesa agreement, but here it assumed a different character because provincial powers were more definitively dealt with in terms of the legislative powers of provinces; in terms of its powers in the NCOP.

‘So, decentralisation occurs at different levels. At provincial level you have the nine provinces with determined powers and functions; at the legislative level you have one level, the NA and the NCOP. And the NCOP has basically as its chief function, the exercise of legislative power on concurrent competencies. In other words, where there is decentralisation. And it happens to be unique, or it is hardly anywhere else, but I think that South Africa is quite unique in this respect, that your local government, or SALGA has a voice. So, SALGA has representation. Ten people are entitled to be represented within the NCOP, although they are not there as permanent delegates and although they don’t have a vote, but they can speak. They can participate in the meetings, and they can speak in the NCOP, so you have all three spheres of government, functioning or getting together in the NCOP. They can’t do that in the NA, but they can in the NCOP. It is a powerful vehicle.

‘The other difference, and it is a unique situation in terms of decentralisation, is that the members of the NCOP are entitled to participate in the standing committee meetings of the provinces and in the plenaries of the legislature. Whether that is used optimally now, I don't know. For important things, say, if you want to change provincial boundaries for example, you will require the support of the majority of the provinces – now that is decentralisation at work. You can’t just willy-nilly decide centrally that this is going to happen. It is a good thing, and it depends on the lengths that you want to go to. Whether you want to make this quasi-federal system work efficiently and effectively.’

*Interviewee 15:* ‘There’s where the ANC’s abilities and its sophistication came into play. The ANC was street-savvy in negotiations. We don’t know why that was the case. Partly because the NP didn’t have a culture of negotiations, the repressor party that was always assured of a white vote for it, so who did they negotiate with? Nobody really.

‘Business negotiated with labour, but I mean, who did the NP negotiate with. Maybe they had some engagements with Bantustan leaders, but who else? So basically, the ANC had trade unionists on its side who were masters at negotiations. So what I’m saying is, I think that the ANC excelled at the negotiations process.

‘Although we did not use the term decentralisation then, we began to use it later, at least 15 years later, well after 1994. In essence we do have a form of decentralisation, but it is not linked to federalism. We are not a federal state. In my view, we are not a federal or a unitary state. But if you want to use those terms, we are a unitary state with federal features. But it is better to see us as a co-operative governance system, where the stronger the cooperation between each sphere is, the stronger each sphere becomes. And ultimately, while local government has in fact its own powers and functions, which cannot be taken away by provincial and national government because it is constitutionally enshrined, we are the first country to do it in the world. We are the trend setter in this regard. In other countries it is not like that. It is by provincial legislation or national legislation and if the power goes to some other party at local level, you just reduce their powers.

‘In practice of course, national is the major centre and site of power and so it should be, because we don’t want a federal state in a country with such extreme geographical diversity and economic diversity. I mean, Gauteng has so much more economic power than say Limpopo or the Northern Cape. So, we need to redistribute from the better off provinces and regions to the poorer provinces and regions.

‘We needed to adapt because there were pressures from the NP in particular, but also the FF and the IFP wanted a secessionist, independent state. So, we had to accommodate that. In any case, we gave in mainly to the opposition parties. But partly also, there were internal dynamics. People had developed much more in terms of ethnic identities, I think. The Tswana for one wanted their own province instead of being part of Gauteng. I think also, what was an imperative for decentralisation is the power of the civic movement and NGOs before 1994 and also the tradition of community and civic struggles. But frankly a key positive pressure was the pressure of an ethos of SANCO. It was this idea that the masses must control their own future, the people shall govern, it must apply at local level. So basically, I would say that that was a big imperative.’

*Interviewee 16:* ‘It is a tricky one in the sense that the negotiations or the outcome of the negotiations was in two phases and then subsequently sub-phases of the main phases. So, the first one was for us to agree on the interim government. We had to agree on an elections date, which was really pushed by the killing of Chris Hani. A date had to be determined and then to agree on an interim government framework, right. And then the development of the constitution of the country. So those two phases, and then obviously post the finalisation of the constitution, it means that we will follow the constitution.

‘But at the same time, I don't think that there was a proper, how do I put it, an infrastructure in place to deal with matters arising out of those processes. I'm raising this in the context of the TRC, which made certain recommendations. Up to now, some of those have not been implemented in terms of prosecuting those who failed to come forward and present their case, or those who were declined amnesty. And then, on the other hand, you had cases of apartheid, like, Timol and others who died in prison, that was never resolved. So, I don't think there was a proper institution presented to mop up all these other issues, which were supposed to be, as a result of the negotiations and as a result of moving forward, to further strengthen the healing of the country.’

*Interviewee 17:* ‘The development of the constitution was a sort of two-step process. So, there was initially the interim constitution that wasn't very democratically arrived at, but it was kind of important to speed up the process because it was just getting stuck and there were many things that could be negotiated later. I think the sort of government of national unity was an important process in moving democracy or not.’

*Interviewee 18:* ‘The idea behind a unitary state was that we'd have a central government, and it would have delivery points. And those delivery points would be the municipalities. So, in other words, the municipalities would be the drivers of development, provide the services, provide employment, create the conditions for investment, and generally, it would be the layer of government between national and the people. But it wasn't good enough for those strong forces, which were opposed to a unitary state. And so, basically, they were pushing for the federal system. In fact, if I recall correctly, the FF at one stage argued very strongly to put a confederal system such as the type used in Australia, but that was a non-starter. And so, so, so we settled on a unitary state with provinces.

‘And so there would be a devolution of powers from central to provinces, with the province, in fact, having exclusive powers to deal with certain functions and share certain functions concurrently with national government.’

*Interviewee 19:* ‘It's a technical question, but I'm going give a political answer. The way in which the negotiations panned out, is that at a particular stage in the negotiations, the Boipatong massacre and the breakdown of negotiations in mid-92 and so forth occurred. And so, after that happened, a lot of things got sort of, in effect, taken off the table. Just as there was no longer a discussion about automatic minority vetoes in the cabinet, there was far less discussion about the question of race, ethnicity in a federal system. But, of course, the big elephant in the room was that all of this excluded the IFP and its allies, who then of course mobilised and tried to destroy the whole process because they wanted a very strong form of ethnic federalism. So, it was accommodated in the end by fudge, which said, look, we have provinces with a certain degree of autonomy, but we have co-operative governance that needs to take decisions with the concurrence, and we seek the participation of the national ministry. And that fairly quickly became after 1994, a pretty unitary system.

‘The one interesting point about that is that in mid-92 in effect, the Americans offered the NP a lifeline, which they didn't seem to take at the end of the day, and I have certain theories about why they didn't take it. I don’t know if you know, but Herman Cohen, who was then the US Deputy Secretary of State for Africa, had told a congressional committee in 1992 that vetoes in the cabinet were out of the question, but he said to the NP, you can protect your interests through federalism. And I don’t think that they took that up. And I think the reason they didn't take it up was the reason I gave earlier. They were starting to realise that actually you couldn't have, which was what they were going for, which is what Cohen was telling them to go for, you couldn’t have a formal, non-racial system of devolution of any sort, which would protect white voters. It just wasn't possible. So once that fell away, we landed up with this co-operative system, which is still in operation today.’

*Interviewee 20:* ‘These were people that I had to keep in the tent. And I'll be honest with you: in keeping them in the tent, you also develop a better understanding of them and where they come from.’

The quotations provide useful insight on the extent to which ethnic institutions and sentiments influenced decisions about the size and location of provincial boundaries and the realpolitik arising from them. In this regard, the considerations that influenced the ANC to shift from its originally firm unitary stance is clarified. Likewise, the seduction of the groups that uncompromisingly wanted self-determination becomes apparent.

#### 5.2.3.4.Sustaining the agreements

Interview participants were requested to respond to the question, 'What institutional and legislative measures were introduced to ensure the sustainability of the negotiation's outcomes?' In this regard, interview participants stated the following.

*Interviewee 4:* 'The sustainability of the negotiations outcomes was assured through firstly, the fundamental principle of the supremacy of the constitution, with an independent judiciary as final arbiter on constitutionality of legislation, policy and practice. The second one relates to the recognition of the three arms of government, the executive, the legislature and the judiciary, as autonomous and independent of each other with specific roles and powers defined in the Constitution. Thirdly, there is a circular system of checks and balances. Judges are the final arbiters, but they are appointed through a process that involves members of the legislature and, ultimately, the President. And they can be impeached through parliament. Further, the Constitution also mandates the setting up of institutions to promote democracy: e.g. Human Rights Commission, Public Protector, Gender Commission and Commission dealing with religious, language and cultural issues. These have various levels of powers and a hierarchy of sanctions to ensure that constitutional rights are protected and promoted. In addition, various fundamental elements of the Constitution require high thresholds for the provisions to be changed, including a 75 percent majority for core constitutional principles.

'As can be expected, there will always be tension about the pace of transformation in as unequal a society as South Africa. This requires efficiency and effectiveness of state structures, as well as ongoing review of legislative and constitutional provisions. In the end, the people are the ones who finally determine the kind of government(s) to run the country, and they are able to do this through regular free and fair elections run by a credible and constitutionally defined electoral commission, as well as other platforms of citizen activism.'

*Interviewee 8:* ‘The Constitution itself is the guarantee of the sustainability of the outcomes of the negotiation because that constitution had the buy-in of everybody, I think. It was only one party in Parliament in 1996, that abstained. I don’t think that anybody voted against it. I think the African Christian Democratic Party might have voted against because the Constitution doesn't acknowledge Almighty God, and so on. But I think it's the Constitution itself – the fact that there was buy-in of the negotiations and that it was broadly representative of the people in South Africa and of all political parties, and the parties ended up in parliament because of the proportional representation. And for example, the Chapter 9 institutions were there also to ensure sustainability. The fact that the courts are there to interpret the Constitution and can order the government to change the law, I think it is fantastic.

‘And here we are, twenty-five years later, and we still have the same Constitution. And we don't just willy-nilly change it every five minutes. If you start unwinding the Constitution it’s the very thing that you asked about, the sustainability, that gets called into question. If it's too easy to amend the Constitution whenever you feel like, it might be a transient feeling among the voters. I'll give you an example, the question of the capital punishment. Now, if you have a referendum, you would find I'm sure the majority of South Africans would support the death penalty. But it might not always be so. I look at the United States now. For the first time in their history, its only around 50 percent now that support the death penalty there and 50 percent who are opposed. Now, it used to be 75 percent. So, times can also change and you mustn’t pander to things that you think are popular even if they contradict your principles. Just stick to your basic constitutional principles that we all bought into.’

*Interviewee 10:* ‘To ensure the sustainability of the negotiation outcomes, there are the constitutional principles and the constitutional court that can decide on their validity. I think that's the one main issue. I think that all the Chapter 9 institutions we created were supposed to do that. The Human Rights Commission, the Gender Commission, the Language and Culture Commission, the Public Protector, the Electoral Commission, all those were structures that were created to make sure that we maintain that. The Judicial Services Commission became a structure that appoints judges. I thought that was an important structure that we created to make sure that we don't manipulate who are appointed as judges. There is at least an open, transparent process.

‘But also, section one, in our Constitution. I think that section one in our Constitution is a very special clause. In fact, we took it partly from India and partly from our concept of constitutional principles that we took from Namibia, and we put clause one in there. What clause one does, it’s really a clause that’s more difficult to amend than other clauses. You can’t just do a two thirds majority with it. And it captures, I think in India they call it, the essence of our constitutional order.

‘The one thing of course that has never been written about, is probably one of the biggest compromises we made during the negotiations, is the last clause in our Constitution. That is Section 242. This is basically the biggest compromise that we made during the negotiations process. You remember we always used to say that apartheid is completely illegal, it’s against international laws and so on; but when we passed our Constitution, the only way that we could get a negotiated settlement was to accept that the laws, on the day our Constitution began, the laws that were the laws of the country, remained those laws until they were amended or removed. So, in other words, we kept the whole apartheid system intact within our new democratic order and under our new democratic Constitution for as long as it took for us to amend those laws or to get rid of them.’

Interview participants emphasised that the core framework for South Africa’s decentralisation was set in the constitutional principles and later refined further in the post 1994 election Constitutional Assembly process that resulted in the Constitution of the Republic of South Africa, Act 108 of 1996. The decentralisation model was a consequence of all parties transcending their dogma to advance the interest of South Africa as a whole. While some interview participants from the side of the ANC felt that they had given too much, representatives from all other parties felt that the ANC had outwitted them in the negotiations and had succeeded in securing a unitary state. This is confirmed by the fact that all interviewees described South Africa’s decentralisation model as that of a unitary state with some federal features, and two softening it by calling it a co-operative governance system.

Despite many having described the negotiations ultimately as a victory for the ANC, they interestingly all felt included in the process and a sense of ownership.

*Interviewee 15* captures the moment by stating,

> The period 1990-1994-1996 if we include the Constitutional Assembly process, it's phenomenal what happened! Most of us foresaw a major conflict, a violent, violent conflict, a civil war between African and whites mainly, with Indians and so-called coloureds caught in the middle. It didn't happen. And all the signs were there in the late '80s that it was going to happen. And it didn't happen. So, it's a phenomenal, epoch making, transition. It is one of the twentieth century's greatest events. The fifth actually, after the Russian Revolution and the Chinese Revolution and the two World Wars. I think Time Magazine and others picked it out as one of the ten big events of the twentieth century.

The respondents provide substantial information about how they decided on the constitutional safeguards needed to sustain the agreed to decentralisation model.

#### 5.2.3.5. A space for traditional leaders

While the role of former Bantustan leaders in shaping the current decentralisation model in South Africa has been espoused upon, it is also necessary to understand the role played by traditional leaders during the negotiations process. Some traditional leaders had aligned themselves with the apartheid government, but others had aligned themselves with the resistance. This influenced how traditional leaders were accommodated in the post-apartheid governance dispensation. Interview participants were requested to respond to the question, 'How were the interests of traditional leaders accommodated?' They responded as follows.

*Interviewee 13:* 'The Congress of Traditional Leaders of South Africa was launched in KwaNdebele in the Eastern Transvaal, at the time, which is now Mpumalanga, basically. I was invited to join this organisation, which was formed with the blessings and support of and on the instruction of OR Tambo, as the leadership of the ANC. The organisation was formed to unite traditional leaders across tribal lines so that they could fight against the continued balkanisation of South Africa. At that time there were four homelands that had already been given Pretoria-style, sham independence, which is Transkei, Ciskei, Venda and Bophuthatswana. It was now to be the turn of the homeland of KwaNdebele, to be given 'independence.'

‘So, the ANC told the UDF structures to mobilise traditional leaders, and then they formed this organisation and the organisation’s membership was open to all traditional leaders in South Africa, who were willing to fight against the Bantustan system. We moved around all the homelands, introducing this organisation to traditional leaders so that they are able to join it and be part of the struggle, which was being waged by their people. We subsequently organised the national conference that launched Contralesa, now as a national body, in 1990.

‘Of course, yes, the negotiations were dominated by political parties but there were opportunities given to those who had other interests, to come and make representations in the constitution-making process. At some stage the Constitutional Assembly would move around the country listening to the views of the people in the countryside, in the urban areas and so on, and then they would come back and process those things. Of course, religious fraternities and traditional leaders were given an opportunity to make submissions. But if many of those ideas were not of interest to the political parties, then they were not taken seriously.’

*Interviewee 2:* ‘That was one of the other challenges that we had to meet, and again, we have a bit of a hybrid system. On the one side, the principle that all the parties agreed upon is that the consequences of a full, democratic state, could not be held up by other institutional demands. So, we made it a constitution that is the supreme law of the land, guaranteeing democracy. But in order to give recognition to traditional leaders, we created separate institutions where they could also deliberate and come to conclusions on their own. So, houses of traditional leaders were created on provincial basis and then we have at a national level, a council of traditional leaders, where traditional leaders are also being represented. But let me emphasise, all of that did not prevent traditional leaders from participating through parties and many of them are in fact present in parliament. Out of their own effort, they had been elected to parliament as members of parliament. And I think in that way we found a combination that could result in an effective democracy.’

*Interviewee 3:* ‘But it was lots of pressure from the IFP again, in particular, with regard to the traditional leaders. I mean, the whole reason why they did not participate in Codesa 1 was because the King was not accommodated. And we were saying that the King is above party politics, and the negotiating forum was a forum of political organisations. But be that as it may, look, the House of Traditional Leaders was created.

The Constitution recognises customary law that is not in conflict with the Constitution, and certain rights of people who choose to fall under customary law'.

*Interviewee 4:* 'The place and role of the institution of traditional leadership are defined in very broad terms in the constitution – to recognise the institution and call for legislation to elaborate on its powers and functions. This, it is constitutionally asserted, should not detract from the constitutional principles enshrining citizens' rights and responsibilities. Laws in this regard have been developed over the years, ranging from traditional leaders' role in development, role and composition of traditional councils, women's rights and representation, management of land tenure rights in communal areas, traditional justice and so on.

'This is a continuing process of trial and error, and many of the issues are contested. Some of the legislation championed by government has ended up in the courts and occasionally struck down for detracting from rights enshrined in the Constitution. There is also the challenge that legislative prescripts are in some instances observed in the breach. Traditional leaders have continually campaigned for more powers; but this is not necessarily supported by communities in communal areas. Traditional leadership is based on heredity and can lend itself to dictatorial tendencies and even corruption in relation to economic opportunities such as mining rights for private companies and land management.

'Overall, South Africa's approach to traditional leadership is an evolving one with attempts being made to find an appropriate balance among various interests. Critical in this journey is the need to ensure that the country does not end up with a dual system of citizens' rights – in communal areas and the rest of the country.'

*Interviewee 5:* 'Initially, traditional leaders were not directly involved in the negotiations process because the argument was that they constitute part of other delegations and it was only subsequent that Buthelezi argued, and others of course, that some provisions should have been made for traditional leaders. In order to contain resistance that was beginning to threaten to grow, Chapter 12 was then put together and included in the Constitution.'

*Interviewee 8:* 'Well, I think that traditional leaders were lavishly catered for in a modern democracy. And we ended up with all these, 'your majesties', earning suddenly huge salaries and costing the taxpayer a lot, and I couldn't actually see what they, what they did.

‘The constitution talked about giving them a function at local government level and I could understand it, perhaps even local court level, which is also provided for, and you also have traditional laws, all of that, which must apply where appropriate. But I don’t know what it does. All that it ended up doing was creating more hands that wanted to be given a handout. And in return for that there was political support. We ended up accommodating traditional leaders because it was a simple buying of votes.’

*Interviewee 10:* ‘I think that although the ANC is based on trying to get rid of tribalism and chauvinism and the whole of that, I think that underneath there, in our people’s psyche, they wouldn’t always say it openly, particularly in progressive company, it is there.

‘At another level, realistically, we couldn’t just ignore it. When we were drafting the constitutional principles, Inkatha was there. You will remember that Inkatha was walking out all the time, wanted to go and start a civil war, and they were the strongest spokespersons for traditional rights and so on. So, I think we gave them the minimum we could give them. Now obviously, it’s cost us something because I think it cost something like R215 million a year to the Zulu King, to keep his nobility going. There are, I don’t know how many other kings and so on that we are paying lots of money to keep them around and accommodate and so on. So, I mean we have to pay the price for it, but I suppose in the bigger scheme of things, we really gave them very little.

‘Where there is a bit of a problem now is of course with the Judicial Bill because, by keeping the chiefs, the traditional leaders in place, one of the things that existed at the time were the Chief Courts, the traditional courts. I think a lot of people don’t understand. The problem is you can’t wish the traditional courts away. They have to exist. That is part of the deal that we made, and it is part of our Constitution. And the problem is that when traditional courts now, are run exactly like it ran under apartheid. And the Bill, that people have been negotiating on for probably a decade, is, how do you take the traditional courts, because it is a reality, how do you take these courts, and take away as much of its bad consequences as you can? And one of the things that we agreed on was the concept that people should have a choice of whether they want to be bound by customary tradition. That's the best we could do under the circumstances.

‘Other than that, the compromises that we made, except for us giving lots of money to them to accommodate them, other than that, it's had no real effect on our governance structure. Well, it’s not quite true. The Ingonyama Trust is a big thing. But you see, that was a separate negotiation. That wasn’t in the Constitution. That was something that we had to negotiate with Inkatha. And that was one of those agreements that were separate and that probably is going to create some problems in the future.’

*Interviewee 15:* ‘Traditional leaders have a lot of support. The initial idea was that they will not have the same powers and functions or status that elected councillors do. That was the initial model. But in recent years, as the ANC’s election results are declining, the ANC is increasingly giving in to the powers and functions of traditional leaders. It’s giving them more powers, more space in municipalities, you know that there have been amendments made to the regulations and now and then to the laws, but essentially, we have to find the right balance. We have to recognise their power. We have to recognise that no electoral party can just ignore a big base like that. We have to recognise that identity issues are also having a greater affinity among ANC people and Alliance people more generally and the traditional leaders – its linked. If I identify as a Venda, then I want my Venda Chief or Induna or King to be recognised. Look at the fights over kingships. ANC people get involved. NEC members get involved.’

*Interviewee 16:* ‘There are two factors. Firstly, there was a strong influence and I think primarily from the IFP side. Gatsha Buthelezi used the traditional leadership authority of King Zwelithini strongly, to an extent that is why we have this challenging land thing, the Ingonyama Trust. That is a concession which we had to give for the IFP among others to come to the party. Then the other historical fact is that the ANC has dealt with traditional authorities before. As you know that even in the formation of the ANC, there were traditional leaders and therefore it was not going to be easy for it to just walk away. If you will remember, King Sabatha played a very positive role and many other traditional leaders were progressive, some of them had to be in exile and therefore the traditional authorities had to be accommodated.’

The above quotations demonstrate the influence that traditional leaders, who were critical players in the conflict resolution process, had on the decentralisation model.

### 5.2.3.6.An all-inclusive decentralisation model

A synthesis of the substantive development of the decentralisation model as expressed by the interview participants is depicted below.

**Table 16: The development of South Africa's current decentralisation model**

| | | |
|---|---|---|
| Design | Party perspectives | The model arose from a contestation for political power<br>• NP and DP: Federal<br>• ANC-led Patriotic Front: Unitary<br>• Volksfront led COSAG: Confederation or separatist<br>Agreement was reached as follows:<br>• Continuous persuasion and engagement<br>• Drawing on international best practice based on study tours e.g. Germany<br>• Pragmatism<br>• Collective acknowledgement that South Africa was huge territorially, with a big population and that some form of decentralised governance was necessary<br>• Provinces were agreed to:<br>- although not explicit, border demarcation considered the interest of some of those who demanded federalism<br>- Full administrative authority was given to provinces<br>- Provincial legislature powers mostly concurrent with national<br>• Introduced local government<br>- Can generate revenue e.g. through property tax and surcharges on services<br>• All matters pertaining to labour, the economy and finances remained centralised<br>- Financial and Fiscal Commission set up to advise on intergovernmental fiscal relations<br>• The justice and security systems are centralised<br>• Established a two-tier parliament, namely the National Assembly and Senate, which later became the National Council of Provinces, which included a representative from the constitutionally enshrined South African Local Government Authority<br>• The final decentralisation model can be described as a hybrid system or unitary state with federal features. Thus it is an hourglass with strong central and local governments and weaker provincial governments, within the framework of co-operative governance<br>• Public endorsement through an election; and a transparent, representative CA process<br>• Made a broad allowance for self-determination, with no enabling legislation to date<br>• Made allowance for the rights of cultural, religious and linguistic communities<br>• Agreed to the establishment of the Ingonyama Trust |
| | Sustainability | • Constitutional supremacy with powers and functions of all three spheres enshrined in it<br>• The Constitution (chapter 9) also mandates the setting up of institutions to promote democracy<br>• Independent judiciary as final arbiter on constitutionality of legislation, policy and practice<br>• Credible and constitutionally defined electoral commission<br>• Coordinating forums: Presidential Coordinating Council; meetings of national and provincial executives (MinMecs); planning makgotla where all three spheres are represented |
| | Traditional leaders | • Traditional leaders had played a role in the formation of the ANC in 1912<br>• Traditional leaders who were anti-apartheid formed Contralesa in the late 1980s<br>• Traditional leaders that accepted apartheid still wielded a lot of authority<br>• Consequently, traditional leaders were allowed separate representation in the negotiations process, but not in the CA process<br>• Ultimately a House of Traditional Leaders was agreed upon<br>• Customary law is recognised |

**Source:** Author's thematic synthesis (2022)

### 5.2.4. Decentralisation model reviewed

It has been three decades since the negotiations started. Interview participants were requested to respond to two questions, The first was, in hindsight, do you believe that the decentralisation design as currently reflected in the Constitution was the most effective way to manage South Africa's intra-state conflict? The second was, 'What would you say are the key challenges and constraints experienced and is there anything that you would have done differently?' The responses of all interviewees are presented below.

*Interviewee 1:* 'I am comfortable with what we have currently. You know, each country has its own history and its own sort of needs. I think for us it works very well. I don't have a problem at all with the design of government. Frankly, if you ask me, there is a problem with the organisational design of the ANC. Because the ANC as an organisation has federalised itself. The state has not federalised itself, but the ANC has federalised itself. The provinces hold enormous power. But as far as government is concerned, there is nothing of that sort. You don't have, say, if you want to approve the budget, which is the most important law, you don't ask what does the provinces say and whether they favour it or not? Parliament doesn't care whether provinces approve of the budget or not, they pass it. On certain legislation, let's say in the area of health care, because health care is a combined authority of national and provincial government, Parliament must consult provincial government and then provincial government can express its view. And if provincial government is not happy with it, then Parliament has to have another discussion on it. And if provincial governments again still are unhappy then national government can vote it in anyway.'

*Interviewee 2:* 'I think that our decentralisation model works. It is not perfect, but no governance system is perfect. It is not perfect because I think that in many cases, we are letting down the people in terms of service delivery. But the problem does not lie with the system. It is in the execution, in the implementation. Personally, I think that we have a model that is workable, that can be implemented. We must just call on our elected representatives to do better jobs. I think that is the difference.'

*Interviewee 3:* 'I don't think there's any particular part in the constitution that exacerbated the conflict. It certainly reduced conflict, but it did not exacerbate it.

‘Because for example, the Freedom Front or their predecessor, the Volksfront or whatever they were called, there's this whole thing about the cultural and linguistic and religious commission, that Chapter 9 institution, that was crafted to accommodate the Volksfront at the time, the Freedom Front Plus, to reduce conflict. Some of the far, far right is as unhappy like some of the far, far left, because they didn't get everything that they wanted, which means we must have done a decent job on it.

‘What should improve is to hold people accountable. But how do we make people, leaders, elected representatives much more accountable to the electorate or to the citizens in general. You see, there is this whole debate going on now about electoral systems, about the constituency-based system and that the parties have control of the process because they decide who comes to Parliament and all that. I don't think that’s the real debate. I think we're missing the point. The debate should be about accountability.’

*Interviewee 4:* ‘In South Africa, there seems to be an appropriate balance between centralisation and decentralisation. The powers and functions are elaborated in the constitution and through relevant legislation; and the national legislature includes the Council of Provinces with specific forms of representation and set of responsibilities. There is also a National House of Traditional Leaders as well as provincial Houses where applicable. Various systems and structures have been introduced to entrench co-operative governance. Recently a system of more systematically implementing a spatial development framework through a District Development Model was introduced, to entrench common planning approaches, cycles and structures among the three spheres.

‘There is, however, ongoing debate on delimitation both of provinces and local government – given their levels of development and resources available. Further, consideration also has to be given not only to subsidiarity from national to sub-national level as defined in the constitution; but also, asymmetry i.e. flexibility in allocating powers to sub-national spheres taking into account their individual capacity. In other words, even if such power (e.g. undertaking housing projects) is not allocated in the constitution, a specific sub-national government can be requested to carry out a specific function if it is willing and has the capacity.

‘The South African polity has attained a certain level of equilibrium and stability; and there is nothing fundamental that needs to be changed except for refinement in relation to the following issues, among others: The country needs to entrench the culture and practice of long-term planning with common planning frameworks, cycles and structures across the three spheres of government. As argued earlier, the system of asymmetry needs to be systematically introduced, in order to improve effectiveness of implementation across the spheres. There is need for a more effective system of monitoring and evaluation, and accountability to legislatures and the broader populace, across the three spheres. The lessons learnt from the period of ‘state capture’ need to be operationalised, including professionalisation of the public service and management of the political-bureaucratic interface. The issue of traditional leadership should be resolved to obviate the current to-ing and fro-ing between the legislature, the executive and the courts – and to ensure that all citizens, wherever they are located, enjoy the same set of rights. Most of these issues do not require constitutional or legislative changes, but refinement of conventions, culture and practice.’

*Interviewee 5*: ‘Some of the things that we agreed on should be done. We should have put, although tentative, time frames. That the following things must be done so that by such and such a date, this happens. In other words an implementation plan should have accompanied each of the further decentralisation. From a finance and fiscal side, the decisions that were introduced soon after, around 1996, they were well-intentioned but misguided. They dealt with the debt of the country in a way that was based on assumptions that countries should not have that level of debt when in fact in the world there was evidence of debt handled in a manner that was appropriate to strengthening the positions of people, for example in the instance of our health sector, it suffered dramatically from non-investment. Of course, these are issues that will be debated for a long time to come of how we manage debt as developing countries. How the ladder is kicked when others have grown up on the same debt to build their economies. There will always be a debate about this issue, but for me, particularly the manner in which what is done, undemocratic manner, corners were cut, people were excluded and the manipulation finally of structures getting to approve this and that was a giant hoax with negative consequences that we are still living with today.’

*Interviewee 6:* ‘I believe that self-determination is in the interest of all groups who are willing to address the reality of South Africa. In multi-racial societies, you do not vote in accordance with your economic or social interests, you vote in accordance with race and religion.

‘We needed to find a system that works here. The problem is that political parties want votes. And to get votes, you usually play up to your own audience. It is popular to emphasise your group and not that of the general population. Now a settlement of the nature that was negotiated by Mandela and De Klerk requires a prioritisation of the entire population with an emphasis on unity rather than an overemphasis on the group. The third and fourth generation of political leaders focus on their own audience, incite them, which is easy politics and Malema is good at it. This creates pressure and everything falls apart if there are not leaders who can emphasise the communal interest; and particularly if there are leaders that don’t feel bound to the deal.

‘This requires that the deal must be so robust that it can transcend this. There are many examples where this was not achieved. I am currently concerned. I think that we are more racially polarised now than we were immediately post-1994. We understand each other less that what we did in 1994. Then, we were forced to speak to each other, to listen to each other, to understand each other. It was a case of me listening to you and you listening to me. The current atmosphere in Parliament is one of racism; one of conflict; one of screaming at each other. It is frustrating to sit there, in the current environment, with young people who have now entered politics. The dilemma is that if this is sustained, our negotiations settlement does risk collapsing. I am not sure that our Constitution is robust enough to withstand the demands that are coming from all sides.’

*Interviewee 7:* ‘Firstly, we would have submitted a different democracy model. We would have been very strong on federal powers. If you look at the United States for instance, and even if you come to Africa. You know what is interesting, I don’t think people know it. But if you look at the conflict in Ethiopia, in the 1970s, it was an ethnic war against the Eritreans and the Ethiopians and in the end, they became an independent state of Eritrea. And if you go and look at the constitution of Ethiopia today, you will find a clause there that says, determined on certain pre-conditions, that even secession can take place. That is how I see decentralisation. You must recognise the will of the people, of communities. And the Ethiopian constitution is written in such a way, that if a specific community or group, if they want to create another state by means of secession, their constitution allows for it.

‘Now, if I come back to South Africa, we would have proposed more federal powers. And of course, we would even have allowed or looked at sections of the Ethiopian constitution to include in our constitution. Not only for one group, but for any group of people. Let’s take for

instance the Zulus in KZN, last year, at one stage, when it came to the Expropriation Bill, the Zulu king, and it was about the Ingonyama Trust, the Zulu king then, the deceased one, he said, 'if you are going to take my Ingonyama Trust, you must remember that you will be at war'. And he used the words, 'then we will become an independent state'. He said that. It is on record. So that is how strong they feel when it comes to that specific issue.'

*Interviewee 8:* 'I think it did reduce the conflict, certainly for the first number of years. And in fact, right up until this day, I think it did reduce the conflict. In the beginning there was the influence of the President. He was generally accepted by black, white and everybody else as a good guy. He was the father of the nation. I mean, everybody recognises that, even all the people who didn't vote for him. I never voted for him, I never voted for De Klerk either, I tell you. But even if I didn't vote for him, his influence was very significant in reducing the conflict.

'The problem now is increasing racism, which I think is shocking. Now after 30 years, nearly a whole generation later, you would think that racism would be less and not more. And one of the problems is that black people have not gotten the deal that they would have and could have expected. I mean, with the largest unemployment rates that we have ever had in our history, how can millions of people be satisfied? How can people who have matriculated, and there are no jobs for them? They go to university, more than a million go to university, but when they finished for many of them, there's no job.

'But we're also silly. With university education, you go to a place like Thailand. In Thailand, if there are 120 vacancies in the department of foreign affairs, then they will allow 150 students at all universities in Thailand to study in there. And they get there on the basis of being the best. And if they're not the best, then they don't get to go to university. We allow people to go and do philosophy and things; not just ten or a hundred to go and do philosophy. Hundreds of people of them becoming psychologists. Our whole education thing is skewed. And I think that creates increasing tension and is likely to create more tension in future. If young people do not revolt one of these days, I will be very surprised.

'Then, we have the ridiculously outdated policies. They have failed everywhere else, but we seem to insist that we've got to try them here. Now if people were at East Germany or a few other places, they would see that those experiments did not work and what you need to do is to follow policies that are going to encourage growth.

‘And if you grow as an economy, it will be jobs for everyone. But the government can’t provide jobs for every worker. The private companies have got to do that. So, you've got to create a climate where they will do that. Now I can give you a whole political lecture about that, but I think that's enough to tell you why I think it's busy unravelling.’

*Interviewee 9:* ‘I think we had gotten to a point where in the country, the dominant discourse was one of oneness, not in the sense of complete uniformity, but oneness of purpose, oneness of action, oneness of morality and all of those kinds of things. What we should have asked was what are the true values of democracy? We should have put them first on the table and used those to build the structure of the new society, the new economy, the new polity.

‘Now here we are. We are dumping apartheid. We are dumping colonialism. But we are resurrecting our divisions. And so, we just got into a new society, without the morality of a new society. Without an ethos and culture for people who want to be one society. We are unable to. Why are we not putting everything into developing and creating and establishing a national identity, because that’s how countries pull together?

‘To a point, the current challenges being experienced in the ANC can be ascribed to accommodating the Bantustan leaders. I would say, for example, that it created a climate in which people didn’t think that there was anything wrong anymore about being ethnically divided, being tribally divided. We always said that we do not trust people, both black and white, to be sufficiently anti-racist. If you declare them non-racial, then they drop the guard. Then they no longer want to work at it. They will simply call themselves non-racial because for them it is just an attitude.

‘We have to work at it, constructing a society, constructing an economy, constructing a democratic dispensation. That is work to be done; the anti-race strategy, the anti-imperialist struggle, and the gender struggle. These are specific struggles that we must win and review so that we can have a society where we can say, we don’t need to speak about race, we don’t need to speak about gender. So, I think that the negotiations and the looseness of items that were being discussed, the unwillingness to be thorough on every one of these things, on the economy, on gender, on race, on equality, on poverty, we should have had a broad framework.

‘We didn’t reverse anything. We didn’t build from scratch. So, I’ll say yes, those divisions that were first created by colonialism and then further by apartheid, and now, continually being pushed forward by the neo-colonial settlement that we entered into at Kempton Park are responsible for the crises in the ANC.’

*Interviewee 10:* ‘To be honest, I would say yes, the decentralisation design is the most effective. There are a lot of things that have gone wrong and there are a lot of things that are wrong. But I don't think that that was the design that created that. I think it's just our weaknesses as human beings, as people. I think that this system, if we did it properly, of course when you look at decentralisation you must of course also go and study the old senate and the NCOP. Those were two very important mechanisms we created to help us let the decentralisation work well. The NCOP, if it was used correctly by the ANC, a lot of other things could have worked well. But of course, we bastardised it. We messed it up and we didn’t use it correctly.

‘All the weaknesses come from us, politically as the ANC and the Alliance. We just weren’t able to hold the centre; to look at the structure the way it should work. We kind of got more and more interested in politics and less and less in governance. And in that sense, we did not use it. But I do think that the decentralisation, like a lot of things in our Constitution, is very unique. It’s unique, you don’t get it in other constitutions. We’ve not even discussed the Bill of Rights. I mean if you want to know the reasons why the whole way that the Bill of Rights could be used, particularly to help the poor and so on, and the marginalised, which we haven't done again. If we had done all those things, then I think that the design that we had could have worked.

‘In a strong centralised state, you need a visionary group of people. If you think about the Communist Party in China, that kind of vision, that kind of cohesion of leadership to drive that vision, is the most important thing that you need. And that’s the thing that failed in our case. If you do not have a visionary leadership, and I am talking about a collective, not individuals, that are able to take what you have created in negotiations, what you’ve been able to achieve in negotiations, and take that thing to make it a real thing, so that it impacts on the lives of ordinary people; if you haven’t got that kind of driving force, then whatever you’ve got there, it all falls flat at the end of the day. You do not achieve it to its maximum. The maximum that could have been, we have failed not because of how it was structured or constructed.

‘We failed because we as human beings could not hold things together, and we, particularly as the ANC, were not able to give it that vision; that selfless vision that we had intended originally. That was the biggest failure in the end.’

*Interviewee 11:* ‘It was a necessary move, to respond to the attempts by the other side, government, Inkatha, white opposition parties, to try and use federalism as a way of reducing, I mean, they must have assumed that the ANC was going to win the election, reducing the ANC’s ability to have effective central governance. So, at the time I think, and I still think that intellectually, it was necessary.

‘But it turned out to be a bad idea. One, resource-wise, it added a whole layer of additional resource requirements. It also created a situation where one had a non-ANC government, like in KwaZulu-Natal and the Western Cape, which then reduces the ability of the governing party, bearing in mind that it was a party, a government, that needed to transform a country. It needed the level of control and coordination of a centralised system.

‘I think there was confusion about the powers of central government, the powers of provincial government, the powers of local authorities. There might not have been confusion on paper, on the actual legislation. But there was confusion in practice.

‘But also, given the challenges that we have as the ANC, corruption, entitlement, creating that provincial level of government just created huge opportunities for enrichment and corruption. So, I'm not saying that everybody was corrupt. I’m just saying that the historical circumstances, which led to our democracy, and of course the active efforts of capital to co-opt people, made people indebted.

‘The ruling party had not been able to attend effectively to the economic challenges, to economic liberation. They are manacled by the capitalist, free enterprise system, in this primarily neo-liberal world, in which we live. And the West worked hard to co-opt us into a neo-liberal system. That was always the continued, incremental racism that we were subjected to. After 20 something years of democracy, we still haven’t seen much transformation. You have to understand the anger and frustration.

‘Realistically and pragmatically, doing away with provinces will probably create ethnic issues that are not there now. Not because of provinces, but the process of doing away with provinces might ignite ethnic conflict, although I think we are past it. It is mainly a white/black issue that is prevalent now; but you don’t see conflict between African ethnic groups that much. There is the First People Movement. For me it is simple, we have lost ideological consciousness. It is a serious problem.’

*Interviewee 13:* ‘Well, in hindsight I don’t see any alternative to what we have because everybody is catered for. South Africa was disparate, there were different kingdoms, each of them fighting each other for dominance. Hence the importance of the diversity in building a country. It is important that we recognise that we have different languages. It is important that we recognise that we have different cultural persuasions and partisans. That we have different values. It is all captured in the constitution, which is one body that tries to ensure that in our diversity, we respect each other; and at the same time that we don’t do anything at the expense of the interest of the other groupings that do not belong, necessarily to your cultural persuasion.

‘So, what we have is the best thing that we could hope for. But there will always be people complaining. But it has to do with what I had said earlier: it needs education, so that people are able to take advantage of the policies that are meant to address the imbalances of the past. So, without proper education we are likely to continue to be servants of those who were better educated.’

*Interviewee 14:* ‘So, in my mind, if at all you want to move forward in terms of the transformation, the socio-economic transformation of our country; if you want to deal with the issue of land and land reform, you have to start off looking at the issue of competencies more closely. In other words, have we allocated, decentralised our powers correctly? Are we able to achieve that or is it an impediment? Do we have as much corruption now as we have because of our decentralised power and because we have created a trough for people at different levels to take what they want? The other argument is that if we had not decentralised, corruption would basically have occurred on an even bigger scale at central government as there are no proper checks and balances. But these are factors that one has to take into account.

‘The weakness in the system I think, was basically the leadership of those institutions. If you do not have good, strong leadership over there, you can’t elevate the NCOP to being anything other than the poor sister or Cinderella of Parliament. But it is a matter that has its internal dynamics that one has to deal with.

‘Our weakness has been implementation. So, we can’t really blame our federal system when our national system does not have the ability to drive transformation through legislation, which it is allowed to do in terms of the Constitution. So, I am saying, let’s look at efficiency in governance, and let’s look at the issue of competencies at the same time – concurrent and no-concurrent competencies. There are areas where we could make changes and there are areas where it is not necessary to make the change.

‘Regarding social cohesion and inclusion, I think that we have gone beyond ethnicity. Those who are counter revolutionary, are going to use their provincial boundaries to foster the current ethnic divisions. Our compromise at that time was to have an inclusive model, but now the country needs less of that and more of socio- and economic reform. If you should tell people, here are two provinces, they are going to choose the province that functions best socially and economically. Nobody looks at ethnicity. Nobody looks at these other factors. They look at their economic and social well-being, and that is basically the driving force for urbanisation, the driving force for change.’

*Interviewee 15:* ‘The other thing that we had under-estimated was our capacity; our capacity to govern, our capacity to wield transformation. So, I think that the system that we have is excellent. I really think that it is outstanding. But I think that we really under-estimated the lack of capacity to implement it. In my own view, it's not so much the model that is at stake here, or an issue, it’s our lack of capacity to implement. It’s our failure to appreciate how local government has become a site of patronage and power and infighting. It is our lack of appreciation of the financial issues. In essence I think that the model is correct, but we under-estimated our capacity. We got the financial model wrong, etc. But also, what happened was that too many of our best people went into national government, with due respect to councillors, because those who did not make the national and provincial lists were allocated to local government. We didn’t deploy the best in local government, so to speak, up till now. Then it became a site of patronage and power, we never foresaw that.’

*Interviewee 16:* ‘The decentralisation has worked in certain areas and in others it has not worked. You see the problem is that the standard we set at the time was as if we'll have the ability to enforce; that we'll have people of the same calibre throughout centuries to come, basically. Our standard of the Constitution basically was at the level of Madiba, men of integrity, and his colleagues at the time, Walter Sisulu, you name them. Now, let's just take it practically, a lot of powers have been decentralised to local authorities. We have discovered now that those powers are being abused to do wrong things. They're messing up things. They are failing. There's no capacity. They can't hire the appropriate skills. So, for government to intervene, they must go through a painful process. Either put a local authority through administration and all those things. You can't respond as ordinarily when it is a unitary state to say, there's a problem to fix in point A, let's get there, people must get services, and fix it. You must get permission from the same failing provision, or follow the law, which takes its own process. So, it's unfortunate that mainly the type of people who we end up putting in those positions, they make decentralisation of power to fail.

‘Ordinarily, in a normal situation, where people can be put, deserving people, I have seen in China, they've got a strong command, but they have an element of decentralisation. I sat in a local authority meeting in one of the cities where they say we have one, two people who wanted to build a mall in this area, people are worried about the parking. And they instruct the engineers right in that meeting, to say engineers, can you review this plan so that it responds to these concerns of the community in this area? And it was it.

‘I think that the biggest challenge is leadership. For me, at the different levels of our country, it's a problem. There's a deficit of leadership. The second issue is resources. There are limited resources, but we do have resources which can quickly improve the lives of our people, but it is mismanaged. The third one is a lack of implementation. Our own government, that is the ruling party, is very good in coming up with policies but very poor in the execution.’

*Interviewee 17:* ‘The reason why I think it was probably the best thing in the circumstances was, in a way, the complexities of the Bantustans and the attempts to get those people out of the grips of the NP, if we were going to make significant inroads. So, I don’t think that there was a huge amount of choice involved there. Either us or the Nats were going to win each Bantustan. There were already those like Buthelezi or Mangope who were fairly firmly on the wrong side. Some of the other minor ones probably didn’t matter so much.

‘But the reality was that the Bantustans had real patronage to dispense and so those leaders did have significant support in their Bantustans, and we had to find some way of dislodging that. But when you dislodge people, you also had to find some way of saying that you are not going to devastate their power base in the future, or their patronage basis.

‘But I think that if you look at the extent of corruption post ‘94, I think a lot of that, and the contamination of the ANC came from that decision. ‘Cause I think the Bantustans, though Bop seems to be in a bit cleaner than most of the other Bantustans, but I think that sort of systematic patronage systems run by corrupt political leaders of influence in those societies and amongst those politicians. Bringing all those politicians, with a legacy in those places, was sort of one of the things that meant corruption transferred fairly seamlessly into big parts of the state.

‘So, in the realm of real politics, some of those decisions had to be made. I think there was a multiplicity of events, but the Nats were desperately trying to woo those same people and they had lots of money to offer them, which we didn’t really have. So, in retrospect, though we paid a high price for it in terms of corruption, I do think it was the right thing to do.’

*Interviewee 18:* ‘You can't just say that the key challenges must be attributed to the compromises. It must be, in my view, firmly placed at the neoliberal policies that we implemented. We thought it would be a trickle-down effect. In other words, you establish a successful capitalist class that is supposed to invest in and to create businesses and employ people, and it may have a trickle-down effect. But the neoliberal policies in my view, led to something else. It led to people seeing a handful of people, literally, but mainly white and a number of blacks who were benefitting on an unimaginable scale. And so ordinary people were saying, well, if they can benefit like that, why shouldn't we? And I think that is what sowed the seeds of corruption on the scale that we are seeing in South Africa today. And under the current administration, in fact, those neoliberal policies are being entrenched in South Africa today, and we can see it in the corporatisation of the ports, for example, and we are seeing it in the corporatisation of Eskom.’

*Interviewee 19:* ‘I actually liked the idea of provinces. But I obviously like the idea for the reasons other than the NP. Anti-province lobbies, or campaigns, tend to assume that if you got rid of provinces, you'd get rid of provincial bureaucracies. But of course, you wouldn't. There would still be public servants doing their jobs in those parts of the country.

‘And then the question becomes, what's the most effective way of holding them to account? So, I would argue that you're far more likely to be able to hold to account those provincial bureaucrats if they are working for an elected provincial government than if every time they do something that you don't like, you have to find the relevant audience at that national level.

‘Our problem is not that there were too many compromises at the negotiating table. Our problem is that there were not enough compromises at the negotiating table. South Africa’s central problem, since 1994, has been path dependence. It means that the basic patterns have not changed since 1994. You still have a society divided between insiders and outsiders. The difference between now, and that under apartheid, is that all the insiders were white. The outsiders were black. What we have now is a situation in which some of the insiders are black, and all of the outsiders are still black. And the outsiders are about two thirds of the population.

‘The only thing we resolved in 1994, was, you know, the obvious question of citizenship and political rights. But what we didn't negotiate in 1994 was the economy, and the institutions of the society. The challenge is how do we get out of this path dependence? And my argument is that it is the effect of what we did in 1994 or that early 1990s; the unfinished business, which we didn't deal with at that time. But, of course, the implication of that is that it's not the political system, which was the problem. I argue that the problem is the society, it's not the political system.’

*Interviewee 20:* ‘I don't have any problems with the social and the political structure that was developed or devised for the country in terms of the unitary nature of the state. I think that under the circumstances we did an absolutely brilliant job. We weren't ever in denial of group identity. In fact, the Constitution embraces different forms of diversity, including these cultural identities. We call them culture. We never spoke about tribal identities. So, I think at that level, we were absolutely right, and there is nothing in the contemporary South Africa that indicates that we were wrong. What we were wrong about is a non-state element. Inside the liberation movement, people are now looking at that with really nefarious intentions. They are evoking a return of, you know, this hundred percent Zulu boy thing. And so now that kind of thing is used for really ugly ends. You know, you can't be a Zulu if you don't support Jacob Zuma. It's now being taken into that level. I don't know. I mean, we haven't had the conversation about this, but it is a seriously corrupt crowd, and they are monopolising this radical economic transformation trend. I mean, I hate the word RET for that.’

Generally, interview participants are content with the post-apartheid decentralisation model, though two still prefer self-determination. Interview participants believe it is the best decentralisation model, given the circumstances under which it was developed. Furthermore, most interview participants believe that the challenges befalling the country today are not due to the decentralisation model. Instead, some ascribe the challenges to governance inefficiencies. Three respondents locate the inefficiencies ideologically, with one arguing that the South African government is too strongly influenced by outdated socialist principles, and two attributing it to the consequences of neoliberal policies.

All interviewees who had at the time of the negotiations formed part of the non-statutory forces assign the governance weaknesses to the ANC and blame the compromises made during the negotiation period for increased ethnicity and corruption within the organisation. However, interview participants that observed the negotiation process believe that the fault is not political but societal. The responses on the effectiveness of the decentralisation model in managing intra-state conflict, as perceived by the interview participants, are summarised in the following table.

**Table 17: Perceived effectiveness of the decentralisation model**

| | |
|---|---|
| Perceived Effectiveness | • Decentralisation model good in general and was the best outcome under the circumstances<br>• There seems to be an appropriate balance between centralisation and decentralisation<br>• Understanding of the powers and functions in various spheres unclear<br>• Some view provinces as an administrative burden; others view provinces as a necessary measure of political inclusivity and administrative effectiveness<br>• Effectiveness heightened by the recent introduction of the District Development Model – but there must be an asymmetrical roll-out informed by capacity and tighter measures to combat corruption<br>• One key challenge is institutional leadership<br>• There are however challenges with regards to holding representatives accountable, particularly in relation to service delivery<br>• The professionalisation of the public service must be expedited and better management of the political-bureaucratic interface required<br>• Legislation around the powers and functions of traditional leaders need to be tightened<br>• A national identity remains elusive and racism is regaining prominence<br>• There remains a belief by some that self-determination is the only solution<br>• Challenges within the governing party problematic<br>- Underestimated the amount of capacity required to govern<br>- Poor current leadership and a lack of vision<br>- The centre is not holding<br>- It has developed a sense of entitlement<br>- Unable to contain corruption and tribalism – possibly due to absorption of former apartheid and Bantustan leaders |

**Source: Author's thematic synthesis (2022)**

## 5.3. Conclusion

Using the decentralisation model that emerged from South Africa's negotiation process as a case study, this research focuses on *'The role of decentralisation in managing intra-state conflict in South Africa'.*

This chapter presents the results of twenty open-ended, semi-structured interviews with those who participated in, influenced or observed the development of South Africa's post-apartheid decentralisation model. The interviews, which aim to understand how consensus was created among conflicting views on decentralisation, cover four themes: context, process, design and effectiveness.

To understand the context and better appreciate what informed political party positions on the decentralisation model during the negotiations, participants were asked to indicate their views on what caused the conflict, its forms and its consequences. The findings are that colonialism, imperialism, economic exploitation, apartheid and disenfranchisement were among the reasons that there was conflict in South Africa before 1994.

Participants list the main forms of the conflict inflicted by the apartheid government and its allies as racial oppression, patriarchy, authoritarianism and violence, dispossession, inferior education, tribalism, co-option, and black-on-black violence. Resistance by those opposed to colonialism and apartheid took the form of internal mass mobilisation and peaceful protests, supported by clandestine or underground networking to facilitate armed resistance and international solidarity. The findings regarding the consequences of the conflict are the creation of a working-class, increased subjugation, hatred, death and trauma, generational poverty, as well as a state that was ungovernable and isolated internationally.

With regard to the process, it was necessary to understand why the conflicting parties decided to negotiate after so many centuries of fighting. Interview participants list the following factors: the willingness to negotiate; the increase in internal resistance; a stalemate had been reached; the need to end the violence as the country was heading towards a scorched earth situation; the international environment had changed; the domestic economic situation had deteriorated due to sanctions; and the military loss of the South African Defence Force at the Battle of Cuito Cuanavale. Though opinions on how and when the formal negotiations started differing, the discrepancies are not prioritised as it does not materially impact on the substance of the study.

The negotiations process, particularly the formulation of the decentralisation model as expressed in the Constitution of the Republic of South Africa, Act 108 of 1996, took two forms. The first was a multi-party negotiation process from 1990 to 1994, chaired by two judges, within the context of a Transitional Executive Council. Interview participants are inconsistent about the number of parties that participated in the negotiations. However, despite an official recording, the figures cited in this research report are not changed as political parties were joining and exiting the process, and the responses are based on personal experiences. The multi-party negotiations process, also called Codesa, was supported by a multi-party management committee. Its outcomes culminated in an interim constitution that contained the constitutional principles, the Constitutional Court, South Africa's first non-racial democratic election on 27 April 1994 and a Government of National Unity. Elected Members of Parliament then took responsibility for finalising the Constitution by 31 May 1996 through a widely publicised and consultative CA process.

According to the respondents, the following factors made the 1990 to 1994 negotiation process successful. Firstly, although the content of the Constitution had been influenced by research, including expert advice and international best practice, the negotiations were not externally managed or funded. However, the influence of the Namibian, Indian, and German constitutional systems and practices on our process is worth noting. The concept of 'sufficient consensus' was introduced to sustain progress. Constitutional principles were collectively pre-determined as a guiding framework for negotiations. The interim constitution maximised inclusivity in the legislature through the use of proportional representation, as well as in government, by enabling the appointment of a Deputy President and Cabinet members from other political parties based on their support, for a minimum of two years. Respondents further cite good leadership as a success factor and also argue that the Truth and Reconciliation process aided in sustaining the negotiation outcomes.

Political party positions during the negotiations in respect of decentralisation were extreme opposites but noting the geographic and population size, it was eventually acknowledged that decentralisation could allow for better governance. There was further recognition of the need for the centrality of a common framework of rights and responsibilities applying across the country. Consequently, the final Constitution, while still containing unitary features, contained firm elements of subsidiarity, with original powers for provincial and local government spheres

outlined in the Constitution. The Constitution further allows for secession under certain conditions and acknowledges traditional leaders.

An unexpected outcome of the interview process was that thirty years on, those from the side of the historically oppressed still revealed unresolved anger. The primary reason for the anger, as expressed by the respondents, is the governing ANC's inability to meet the expectations created during the negotiations period and to sustain the standard set in its first term of governance. While this group of respondents agree that the decentralisation model is the best under past and present circumstances, some blame the service delivery challenges, corruption, and the current simmers of ethnicity on the compromises made during the negotiations, including the demarcation of provinces.

Those who had formerly argued for separatism restate that desire in the interview outcomes. However, the current desire for a separate state for Afrikaners, in particular, stems from fear rather than greed, as they argue that the country's current trajectory appears to be excluding them socially and economically.

# Chapter 6
# Research findings: State legitimacy

## 6.1. Introductory remarks

The framework of analysis applied in this study has three dimensions. This chapter presents the findings of the second and third parts of the research that arise from the document analyses of qualitative, primary sources and quantitative, secondary sources, respectively, using the format of the framework. This chapter complements the sections in Chapter 5 on the interview outcomes.

The first analysis of primary sources is undertaken to present the regulatory prescripts and institutional mechanisms developed to support South Africa's negotiated, post-apartheid decentralisation model. It is followed by an analysis of secondary sources, which presents data on the governance effectiveness associated with the decentralisation model. The two sections provide information that allows for a discussion on the role of South Africa's post-apartheid decentralisation model in managing intra-state conflict, particularly in relation to state legitimacy.

## 6.2. The governance realm

The second dimension of the decentralisation analytical framework applied in this study is based on Hyden's (1992) human agency approach to governance. This section of the research supports the interview findings and mainly responds to the following two secondary research questions:

- How were these factors accommodated in the design of decentralisation with specific reference to the allocation of powers, responsibilities and resources across the various central and provincial governments within the country's constitution, policies and legislation?
- Which, if any, institutional mechanisms were introduced to sustain the form of decentralisation?

The human agency approach to governance is presented as a governance ideal type for enabling state legitimacy. Data to populate three of the dimensions mentioned in the human agency approach, namely the actor, structural, and empirical dimensions, are extracted from relevant

South African policies and legislation. This information, particularly the interplay between the actor and the structural dimensions, constitutes what Hyden (1992) refers to as the governance realm.

The design of the final post-apartheid decentralisation model is expressed in the Constitution of the Republic of South Africa, Act 108 of 1996, also referred to as the 1996 Constitution, in this chapter. Therefore, the Constitution of the Republic of South Africa, Act 108 of 1996, regarded as the supreme law of the country, is the core data source.

### 6.2.1. The actor dimension

The actor dimension within Hyden's (1992) human agency approach to governance refers to the interrelationship between power and authority. Understanding the relationship between power and authority as enabled by South Africa's post-apartheid decentralisation model clarifies some of the links between the model and the vertical legitimacy of the state or the authority of the state to rule. To explore this, the legislative and institutional levers that determine interaction between various actors within the state are extracted from the relevant primary sources and presented herewith.

There are three categories of focus within the actor dimension. The first is how the various spheres of government are constituted and their related powers and functions. The second is the measures that were put in place to facilitate intergovernmental relations. The last is the powers and roles of traditional leaders. In addition to the Constitution of the Republic of South Africa, Act 108 of 1996, other data sources are the White Paper on Local Government (1998) and South Africa's Intergovernmental Relations Framework Act 13 of 2005.

#### 6.2.1.1. Spheres of government

Key to determining the interrelationship between power and authority as part of the actor dimension in the human agency approach to governance is appreciating the model of decentralisation, as expressed in the 1996 Constitution. South Africa's post-apartheid decentralisation model is outlined in Chapters 3 to 8 of the 1996 Constitution.

- Cross-cutting prescripts

The founding provisions of the 1996 Constitution negate the apartheid ethnic-based model of decentralisation by stating,

> The Republic of South Africa is one, sovereign, democratic state founded on the following values:
> (a) Human dignity, the achievement of equality and the advancement of human rights and freedoms
> (b) Non-racialism and non-sexism
> (c) Supremacy of the constitution and the rule of law (Constitution of the Republic of South Africa, Act 108 of 1996).

This first clause of the founding provisions of the 1996 Constitution is fundamental to the decentralisation model. Though no reference is made to a unitary state, the emphasis on one non-racial state with a national common voters' roll demonstrates an intent towards it.

Nonetheless, Chapter 3 (S40) of the 1996 Constitution allows for national, provincial and local governments and promotes a system of co-operative governance. It states, 'In the Republic, government is constituted as national, provincial and local spheres of government which are distinctive, interdependent and interrelated'. The various tiers of government are called spheres to depict the importance of cooperation.

Chapter 3 (S41)(1) of the 1996 Constitution further presents eight principles to which all organs of government and state, within each sphere, must adhere. The first being to 'preserve the peace, national unity and indivisibility of the Republic', and the second being to 'secure the well-being of the people of the Republic'. This implies a commitment to a central developmental vision. In defining the powers and functions of the three spheres of government, a deliberate effort was made to facilitate interrelatedness and cooperation and to ensure that no institution or individual is more supreme than the Constitution.

- National government

Chapters 4, 5 and 8 of the 1996 Constitution provide for a legislative arm or Parliament, an administrative arm, or the President and National Executive, as well as a judiciary or Courts and Administration of Justice in the national sphere.

The national government has exclusive competencies over social assistance, security services, general finances and international law. However, Section 27 of the 1996 Constitution promotes the progressive realisation of the right to social assistance to all citizens, including those who are unable to support themselves and their dependents.

With regards to security services, Chapter 11 (S199)(1) of the 1996 Constitution states, 'The security services of the Republic consist of a single defence force, a single police service and any other intelligence services established in terms of the Constitution.' However, Chapter 11 (S205)(1) and (2) of the 1996 Constitution concerning the police states,

> The national police service must be structured to function in the national, provincial and where appropriate, local spheres of government. National legislation must establish the powers and functions of the police service and must enable the police service to discharge its responsibilities effectively, taking into account the requirements of provinces.

Accordingly, Schedule 4 of the 1996 Constitution lists policing as a concurrent responsibility of both national and provincial government, thereby allowing the appointment of a provincial executive that is responsible for policing functions.

Likewise, Chapter 13 (S213)(1) of the 1996 Constitution refers to a National Revenue Fund into which all money received by the national government must be paid, with Section 216 emphasising central treasury control. Chapter 13 (S215) of the 1996 Constitution further confers to the national government the development of legislative prescripts on national, provincial and municipal budgets. While Section 228 of the 1996 Constitution does permit provincial governments to impose a tax on property or customs duties, the imposition of property taxes primarily occurs at a municipal level. It is subject to national approval as cited in Section 229 of the 1996 Constitution. This is expounded upon in the presentation of the findings on the structural dimension.

- Provincial government

Chapter 6 of the 1996 Constitution allows for the establishment of nine provinces: namely the Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape, North West and Western Cape. Parliament approves the boundaries.

Provinces are provided with legislative authority within the specific functional areas; to input on legislation passed within national parliament through the National Council of Provinces and to assign legislative powers to a municipality within that province. For this reason, a legislature also exists within the provincial sphere. Sections 75 and 76 of the 1996 Constitution prescribe the processing of bills and the role of provinces therein.

The executive authority of a province is vested in the Provincial Premier. The Premier, together with Members of the Executive Committee (MECs), are responsible for implementing provincial legislature in the province, as well as concurrent national functions listed in Schedules 4 and 5 of the 1996 Constitution, except where the Constitution or an Act of Parliament provides otherwise. Key functions to be performed concurrently with national government listed in Schedule 4 of the 1996 Constitution include housing, health services, indigenous and customary law, education, policing, and industrial development and trade. Key exclusive functions listed in Schedule 5 of the 1996 Constitution include provincial planning, provincial sports and culture, provincial roads and traffic.

Functions concurrent across the three spheres of government as listed in Schedule 4 of the 1996 Constitution include airport management, planning, health services, public transport, public works, water and sanitation services and trade regulations. Some key exclusive functions within municipalities as listed in Schedule 5 of the 1996 Constitution include local recreational facilities, licensing and control of local trade, pollution, refuse removal and solid waste disposal, and municipal roads.

Sections 138 and 139 of the 1996 Constitution also allow provinces to monitor and support municipalities and to intervene if municipalities cannot perform their functions. This is subject to Section 154 of the 1996 Constitution, which directs that such support provided by national and provincial governments must strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions.

- Local government

Chapter 7 of the 1996 Constitution provides for local government. Currently, there are 278 municipalities. Their boundaries are determined and approved by the Municipal Demarcation Board.

Section 151(3) indicates that ‘a municipality has the right to govern, on its own initiative, the local government affairs of its community, subject to national and provincial legislation, as provided for in the Constitution’, thereby underscoring the distinctiveness of this sphere.

Section 152 further lists the objects of local government as to provide local communities with democratic and accountable government; to provide services in a sustainable manner; to promote social and economic development; to promote a safe and healthy environment; and to encourage community participation in matters of local government. The Municipal Council has both executive and legislative functions and is, in terms of Section 160(2) of the 1996 Constitution, permitted to employ personnel; pass by-laws; approve budgets; impose rates, taxes and other levies and duties; and raise loans.

- The Judiciary

Chapter 8 of the Constitution of South Africa, Act 108 of 1996, provides for courts and administrative justice. It allows for the establishment of a Constitutional Court to determine on disputes concerning the status, powers and functions of state organs; the constitutionality of legislation; and presides over public disputes on the infringements of their rights. The Supreme Court of Appeal is the highest court of appeal on all matters other than constitutional matters. The Superior Courts Act No.10 of 2013 divides the High Court into nine divisions, one for each province. The High Courts may decide on constitutional matters other than those assigned to the Constitutional Court; as well as any other matter not assigned to another court by an Act of Parliament. A magistrates’ court is lower in status than the High Court and may not rule on the constitutionality of legislation nor the conduct of the President. South Africa has more than 400 magistrates’ courts. The 1996 Constitution also provides for small claims courts and Chiefs’ courts.

The judiciary is independent. Other than the Constitutional Court, judicial institutions are not involved in the activities of the legislative and executive institutions, except in instances where conduct within the institutions transgresses the laws of South Africa (Cloete, 1998).

A synthesis of the spheres of government and its powers and functions is depicted in the diagram below.

**Table 18: Overview of the 1996 Constitution**

| | | | |
|---|---|---|---|
| Fundamentals | Constitutional supremacy<br>3 spheres of government: national, provincial and local<br>Spheres have distinctive, interrelated and interdependent powers | | |
| | NATIONAL GOVERNMENT | PROVINCIAL GOVERNMENT | LOCAL GOVERNMENT |
| LEGISLATIVE AUTHORITY | PARLIAMENT<br>National Assembly<br>• Powers and functions set out in S44 (1.a.) of the Constitution<br>• Elections every 5 years<br>• 400 members based on proportional representation<br><br>National Council of Provinces<br>• Powers and functions set out in S44 (1.b.) of the Constitution<br>• Elections every 5 years<br>• 90 members (10 per province as set in S60, 61 and 62 of the Constitution)<br>• 10 representatives of organised local government | PROVINCIAL LEGISLATURE (S104)<br>• Bound by the Constitution<br>• May develop its own constitution within the ambit of the national one<br>• Elections every 5 years concurrent with national elections<br>• Size and composition based on proportional representation<br>• Powers and functions set out in S104 of the Constitution. The Provincial Legislature may pass legislation for its province with regard to matters within a functional area listed in Schedules 4, 5, matters expressly assigned to the province by national legislation<br>The legislature of a province, by a resolution adopted with a supporting vote of at least two thirds of its members, may request Parliament to change the name of that province. | MUNICIPAL COUNCILS (S156)<br>The local sphere of government consists of municipalities, which must be established for the whole of the territory of the Republic.<br>• Elections every 5 years – currently one year after national and provincial elections<br>• Councillors are elected using both constituency-based (wards) and proportional representation (municipalities)<br>• Powers and functions set out in S156 of the Constitution: has the right to govern, on its own initiative, the local government affairs of its community, subject to national and provincial legislation, as provided for in the Constitution.<br>The national or a provincial government may not compromise or impede a municipality's ability or right to exercise powers or perform its functions. |
| EXECUTIVE AUTHORITY | CABINET MINISTERS AND BUREAUCRACY<br>Departments<br>Director General<br>Public Officials<br>Public Entities | EXECUTIVE COUNCIL (MECS) AND BUREAUCRACY<br>Departments<br>Heads Of Departments<br>Public Officials | MAYORAL COMMITTEE AND BUREAUCRACY<br>The executive and legislative authority of a municipality is vested in its Municipal Council.<br><br>The Municipal Manager appoints and manages municipal administrative staff based on merit. |
| JUDICIAL AUTHORITY | Independent judiciary, the composition, powers and functions of which are set out in Chapter 8 of the constitution. The judicial system is comprised of: Constitutional Court, Supreme Court of Appeal, High Courts, Magistrate & other courts | | |

**Source:** Author's thematic synthesis based on the Constitution of the Republic of South Africa, Act 108 of 1996 (2022)

### 6.2.1.2. Intergovernmental relations

Geyer (2007, p.32-33) captures the interrelatedness of governance as outlined in the Constitution of the Republic of South Africa, Act 108 of 1996, by stating that the role of the national government is to provide overall strategic direction with regard to economic and social development and to ensure that each sphere of government is structured and capacitated to optimally promote the development of citizens, communities and the nation.

She further draws on the White Paper on Local Government (1998) to state that national and provincial governments should work with local government to establish sustainable human settlements and to have sector-specific engagements to enhance the overall livelihoods of the people who reside in a given municipality. Such sector-specific engagements are in health, transport, trade and industry, arts and culture, safety and security, minerals and energy, land affairs, public works, housing, water and sanitation, environment and tourism (Geyer 2007, p.33-41).

In addition to the White Paper on Local Government (1998), the processes of engagement between the three spheres of government are outlined in the Intergovernmental Relations Framework Act 13 of 2005.

- The Intergovernmental Relations Framework Act 13 of 2005

Section 41(2) of the 1996 Constitution states that, 'An Act of Parliament must establish or provide for structures and institutions to promote and facilitate intergovernmental relations.' The Intergovernmental Relations Framework (IGRF) Act 13 of 2005 sets out the platforms of engagement to facilitate co-operative governance between the three spheres of government and provides mechanisms and procedures to facilitate the settlement of intergovernmental disputes.

It establishes several platforms for sustainable engagement. Part 1 of the IGRF Act 13 of 2005 allows for the establishment of the President's Coordinating Council (PCC), to be comprised of the President, Deputy President, Minister in the Presidency, Minister of Cogta, the Cabinet member responsible for finance, the Cabinet member responsible for public service, the premiers of the nine provinces and the municipal councillor designated by the national organisation representing organised local government. The role of the PCC is to consult on matters of national interest and to discuss performance concerning the provision of services.

Part 2 of the IGRF Act 13 of 2005 allows for the establishment of sector-based intergovernmental forums across national and provincial government, or MinMecs, by any Cabinet member to promote and facilitate intergovernmental relations in the functional area for which the Cabinet member is responsible. Part 3 of the IGRF Act 13 of 2005 provides for a replication of the provincial intergovernmental forums, enabling the Premier to promote and facilitate intergovernmental relations between the province and local governments in the province. Part 4 of the IGRF Act 13 of 2005 provides for the establishment of municipal intergovernmental relations forums to facilitate sustainable engagement between districts and municipalities within the district. The IGRF Act demonstrates the commitment of the democratic government to forge cooperation between the various spheres of government.

In addition to the legislation, there is also a government department, which is dedicated, among others, to facilitating general coherence between the three spheres of government. It was initially known as the Department of Provincial and Local Government, and in 2010 it changed to the Department of Co-operative Governance and Traditional Affairs under one Ministry.

- The Ministry of Co-operative Governance and Traditional Affairs

The Ministry of Co-operative Governance and Traditional Affairs (Cogta) was established to drive the implementation of the IGRF Act 13 of 2005 and to, 'Reinforce an outcomes-based IGR system where there is a systematic IGR programme and process associated with the formulation and implementation of a single government plan' (Cogta 2020, p.16).

In this regard, Cogta (2020, p.12-14) also monitors the implementation of the following legislation and policies: Municipal Property Rates Act No. 6 of 2004, the Municipal Finance Management Act No. 56 of 2003, the Disaster Management Act No. 57 of 2002, the Municipal Systems Act No. 32 of 2000, the Municipal Structures Act No. 117 of 1998, the Spatial Planning and Land Use Management Act [SPLUMA] No. 16 of 2013, the National Development Plan 'Vision 2030', the Integrated Urban Development Framework (IUDF) (2016), and the National Spatial Development Framework (NSDF) (2020).

- Synthesis of intergovernmental relations in South Africa

South Africa's post-apartheid decentralisation model is neither unitary nor federal. It is quasi-unitary in that it promotes a strong central government with federal features. The arms of government, namely the legislature, the executive and the judiciary, are independent. Furthermore, South Africa has three spheres of government comprised of one central government, nine provinces and 278 municipalities. Each sphere of government has constitutionally defined powers and functions. Some powers and functions are concurrent and reside with two or more spheres of government. These are outlined in Schedules 4 and 5 of the 1996 Constitution.

The 1996 Constitution further emphasises that, though the three spheres are distinctive, they remain interrelated and interdependent and operate within a system of co-operative governance. The importance of coordination is expounded upon in South Africa's White Paper on Local Government (1998). The system of co-operative governance is institutionally supported by the Ministry of Co-operative Government and Traditional Affairs and enabled through the Intergovernmental Relations Framework Act 13 of 2005. The IGRF Act No. 13 of 2005 allows for two key intergovernmental relations facilitation platforms: the Presidential Coordinating Council and MinMecs.

South Africa's post-apartheid decentralisation model is thus consciously supported through the Constitution, institutions, policies and legislation to strengthen the interrelationship between power and authority, as part of Hyden's (1992) actor dimension. These constitute important enablers for strengthening the vertical legitimacy of the state at a government level. However, outside of the democratic institutions of the state, South Africa also had to accommodate traditional leaders in its post-apartheid governance realm.

#### 6.2.1.3. The role of traditional leaders

Key to the resilience of the post-apartheid decentralisation model in managing intra-state conflict, particularly its contribution to state legitimacy, is the role of traditional leaders. Under apartheid, some traditional leaders formed part of apartheid's ethnic-based model of decentralisation. As the post-apartheid decentralisation model did not allow for any so-called homelands, other mechanisms of accommodating former homeland leaders, including traditional leaders, had to be created.

The 1996 Constitution is analysed as a primary source document to understand how traditional leaders are accommodated. In addition, the following documents are also analysed: The National House of Traditional Leaders Act No. 10 of 1997; the White Paper on Local Government (1998); the White Paper on Traditional Leadership and Governance (2003) and the Traditional Leadership and Governance Framework Act No. 41 of 2003.

- The Constitution of the Republic of South Africa, Act 108 of 1996

The role of traditional leaders is enshrined in the 1996 Constitution. Chapter 12 (S211) states, 'The institution, status and role of traditional leadership, according to customary law, are recognised, subject to the Constitution.' Chapter 12 (S212) of the 1996 Constitution further states that national and provincial legislation may be developed to establish Houses of Traditional Leadership, 'to deal with matters relating to traditional leadership, the role of traditional leaders, customary law and the customs of communities observing a system of customary law.'

- The National House of Traditional Leaders Act No. 10 of 1997

In line with the provisions of Chapter 12 of the 1996 Constitution, which recognises the institution, status and role of traditional leadership, according to customary law, the National House of Traditional Leaders (NHTL) was inaugurated on 18 April 1997. The mandate of the NHTL, as outlined in the National House of Traditional Leaders Act No.10 of 1997, is to advise and make recommendations to national government with regard to matters relating to traditional leadership, customary law and traditions and customs of communities observing such a system.

- The White Paper on Local Government (1998)

Chapter 4 of the White Paper on Local Government (1998) outlines the role of traditional leaders and discusses the relationship between traditional leaders and local government. Some of the primary functions of traditional leaders as listed in the White Paper on Local Government (1998) are: presiding over customary courts and maintaining law and order; advising government on traditional affairs through the House of Traditional Leaders; and serving as custodians and protectors of the community's customs and general welfare.

In espousing a co-operative role for rural governance that does not undermine democracy, Chapter 4, section 3 of the White Paper on Local Government (1998) provides for elected leaders to exist in all areas falling under local authorities, but that the traditional leaders will form an integral voice in the decision making and work of Municipal Councils.

- The White Paper on Traditional Leadership and Governance (2003)

The White Paper on Traditional Leadership and Governance (2003) further outlines the role of traditional leaders in a democratic environment, stating that traditional leaders have a role to play in socio-economic development and to contribute to nation-building. It further encourages a value system that embraces and promotes a culture of democracy, enhances tradition and culture, and assists in maintaining harmony through a fair dispute resolution system based on customary laws for traditional local communities.

- The Traditional Leadership and Governance Framework Act No.41 of 2003

The Traditional Leadership and Governance Framework Act No.41 of 2003 augments the White Paper on Traditional Leadership and Governance (2003) by providing for, among others, the recognition of traditional communities, the establishment and recognition of traditional councils, a statutory framework for leadership positions, the functions and roles of traditional leaders, and the establishment of a Commission on Traditional Leadership Disputes and Claims. It states that national and provincial governments must promote partnerships between municipalities and traditional councils through legislative and other measures, based on the principle of co-operative governance.

- Department of Traditional Affairs

A demonstration of the democratic government's commitment to forging a progressive relationship with traditional leaders is the establishment of a separate department of Traditional Affairs within the Ministry of Co-operative Governance and Traditional Affairs in 2010.The democratic government took concrete measures to introduce a form of decentralised government in which all spheres enjoyed equal authority, and in which the voice of traditional leaders is respected. The Constitution of the Republic of South Africa, Act 108 of 1996, White Papers on Local Government and Traditional Leadership and Governance, and its enabling legislation, lay a policy and institutional platform for facilitating co-operative governance that will contribute to social harmony.

### 6.2.1.4. Synthesis of the action dimension

A synthesis of the regulatory and institutional measures that support South Africa's post-apartheid decentralisation model, with regard to the facilitation of the interrelationship between power and authority is presented below.

**Table 19: Overview of state legitimacy: Qualitative - actor dimension: The interrelationship between power and authority**

| Categories and findings |
|---|
| Spheres of governance & associated powers<br>• National government: Legislature elected; Parliament elects President; President appoints Cabinet. Merit-based appointment of administration. Responsible for overall planning, finance, security & international relations.<br>• Provincial government: Legislature elected. President appoints Premier; Premier appoints Members of the Executive Council. Merit-based appointment of administration. Concurrent functions as in Schedule 4 (a) include provincial planning, housing, health, education, trade, policing, customary law. Exclusive functions as in Schedule 5 (a) include culture, sport and recreation, liquor licences, veterinary services and provincial roads and traffic.<br>• Local government: Ward and municipal councillors elected. Mayor elected by Councillors. Mayor appoints Mayoral Committee. Merit-based appointment of administration. Concurrent functions as in Schedule 4 (b) include municipal planning, environmental management, port and transport management, local tourism, trading regulations, water and sanitation services. Municipal health. Exclusive functions as in Schedule 5 (b) include maintenance of public amenities, management of animals, refuse removal and waste disposal, noise pollution, street trading and street lighting. |
| Intergovernmental relations<br>• Institutions<br>- DPLG/ Cogta /DCog<br>- PCC, MinMec<br>• Policy measures<br>- The 1996 Constitution<br>- The White Paper on Local Government (1998)<br>• Legislative measures<br>- IGRF Act (Act 13 of 2005) |
| Powers of traditional leaders<br>• Institutions<br>- DPLG/Cogta/DTA<br>- NHTL<br>• Policy measures<br>- The 1996 Constitution<br>- The White Paper on Local Government (1998)<br>- The White Paper on Traditional Leadership and Governance (2003)<br>• Legislative measures<br>- The National House of Traditional Leaders Act, 1997 (Act 10 of 1997)<br>- The Traditional Leadership and Governance Framework Act, 2003 (Act 41 of 2003) |
| • Accountability, monitoring and control<br>Outcomes-based budgeting and performance management are important elements of accountability, monitoring and control.<br>- Regulatory prescripts<br>Key regulatory prescripts in this regard are the Constitution of the Republic of South Africa (Act 108 of 1996); the Public Finance Management Act, 1999 (Act 1 of 1999); the National Treasury Regulations (2002); the Public Service Act (1994); and Public Service Regulations (2001).<br>- Institutions<br>Parliament, the Office of the Auditor General, the Public Protector, the Public Service Commission and the Monitoring and Evaluation Unit in the Presidency |
| **Source:** Author's thematic synthesis (2022) |

### 6.2.2. Structural dimension

The structural dimension of the human agency approach to governance refers to the public policy measures that facilitate compliance, trust, accountability and innovation within the state and between the state and citizens. In this study, two categories are selected to depict the structural dimension. These are the devolution of fiscal responsibilities, and accountability, monitoring and control. These two categories are fundamental to securing state legitimacy, particularly the authority of the state and its ability to contribute to security, participation and distribution, as they speak to redressing the socio-economic inequalities created by colonialism and apartheid.

The primary documents that are analysed are the Constitution of the Republic of South Africa, Act 108 of 1996, the Intergovernmental Fiscal Relations Act No.97 of 1997, the Public Finance Management Act No.1 of 1999 or PFMA, the National Treasury Regulations (2002), the Municipal Finance Management Act No.56 of 2003 or MFMA, the Municipal Property Rates Act No.6 of 2004, the Municipal Fiscal Powers and Functions Act No.12 of 2007, and the annual Division of Revenue Act (DORA). The Public Service Act (1994) and Public Service Regulations (2001) also serve as primary source documents for analyses.

#### 6.2.2.1. Intergovernmental fiscal relations

Several laws were introduced to give effect to Chapter 13 of the 1996 Constitution to facilitate the effective flow of resources between the various spheres of government and the efficient management thereof.

- Effecting redistribution

Chapter 13 of the 1996 Constitution retains the concept of a National Revenue Fund for monies received by the national government and requires that monies be drawn from the National Revenue Fund through appropriation by an Act of Parliament.

Sections 212–219 of the 1996 Constitution speak to general financial matters and provide that monies be shared in an equitable manner. The Intergovernmental Fiscal Relations Act No.97 of 1997 gives effect to the 1996 Constitution by promoting cooperation amongst the three spheres of government with regards to fiscal, budgetary and financial matters; and prescribing a process for equitable sharing of revenue from the national fiscus.

The Division of Revenue Act provides for the annual equitable division of revenue raised nationally among the national, provincial and local spheres of government, as approved by Parliament.

- Municipalities

Municipalities, in general, generate approximately 85 percent of their revenue through property rates, user charges and fees. The balance is allocated from the national fiscus.

Section 229 of the 1996 Constitution provides for Municipal Fiscal Powers and Functions. Two Acts give effect to the provisions in the Constitution. The Municipal Finance Management Act No.56 of 2003 informs the management of local government finance, municipal revenue, budget, supply chain and debt management, co-operative governance, and powers and responsibilities. It clearly defines the fiduciary responsibilities of accounting officers. Such functions include general financial management, asset and liability management, revenue income management, expenditure management and budget implementation. The MFMA (2003), Chapter 12 provides prescriptions for financial reporting and auditing; the resolution of financial management matters; and disciplinary procedures for financial misconduct.

The Municipal Property Rates Act No.6 of 2004 regulates the power of a municipality to impose rates on property; excludes certain properties from rating in the national interest; and makes provision for municipalities to implement a uniform, transparent and fair rating system. The expenditure of municipalities, however, faces competing pressures. Municipalities are responsible for spending on services, including meeting the basic needs of the poor, while contributing to growth by investing in infrastructure and stimulating the local economy. Despite efforts to use boundary demarcation to create a more equitable distribution of economic activity and resources, the dual pressures do not affect all municipalities equally because of population size, demand for services, functional responsibilities, levels of poverty, and uneven fiscal capacity.

- Relative fiscal decentralisation

The analyses of primary documents associated with the intergovernmental fiscal relations that support South Africa’s post-apartheid decentralisation model indicate that fiscal decentralisation is mainly administrative and is heavily regulated.

In particular, the Constitution of the Republic of South Africa, as concretised in the MFMA (2003), assigns National Treasury the responsibility of monitoring municipal budgets to ensure that they are consistent with national government's fiscal and macro-economic policies. It is also tasked with ensuring that sound financial governance systems and internal procedures of control are in place at a municipal level. The MFMA (2003), also outlines harsh disciplinary steps in the event of financial misconduct. Further accountability, monitoring and control measures inform the structural dimension of the human agency approach to governance.

#### 6.2.2.2. Accountability, monitoring and control

Accountability, monitoring and control are essential for state legitimacy, including addressing the legitimacy gap concerning participation and distribution. The responsible management of state resources is comprehensively captured in sections 213 to 219 of the 1996 Constitution. The sections emphasise the centrality of Parliament to the distribution of money from the National Revenue Fund, the granting of state guarantees and the remuneration of persons holding public office. The need for an equitable and fair distribution of resources across the three spheres of government is recognised. Moreover, the importance of budgets for effective financial management, and the need for them to be formally tabled within the appropriate legislature, with all sources fully accounted for, is emphasised.

- Outcomes-based budgeting

According to Fourie, in Kuye et al. (2002) the government's budget could be viewed as an operational plan as it indicates the taxes that will be raised, how funds will be allocated, and what services will be delivered. Botes et al. (1997) further argue that the budget allows for public funds to be spent with the utmost care; to be deployed to benefit the public in the form of goods and services; and that public expenditure is appropriately accounted for.

The enactment of the Public Finance Management Act (PFMA) No.1 of 1999, the National Treasury Regulations (2002), the Municipal Finance Management Act No.6 of 2003 and the Municipal Fiscal Powers and Functions Act No.12 of 2007 give impetus to the constitutional requirements by laying the foundation for longer-term financial planning and control, including outcomes-based budgeting.

Chapter 4 of the PFMA (1999) is supplemented by Part 3 of the National Treasury Regulations (2002), which outlines government's planning process. Each national and provincial department is expected to table a three-year budget or Medium-Term Expenditure Framework (MTEF) and Medium-Term Strategic Framework (MTSF) along with an Annual Performance Plan (APP) in its relevant legislature. The expectation that national and provincial budgets be debated and approved within the legislatures of the relevant spheres, and that those municipal budgets are developed in a manner that allows for public participation, is a positive measure towards enhanced transparency and accountability.

Allowance for adjustment estimates is made in the Medium-term Budget Policy Statement tabled towards the middle of the financial year, which also has to be approved in Parliament. The Regulations further require that accounting officers institute effective performance management systems and provide quarterly performance reports to National Treasury.

- Performance management

Section 195 of the 1996 Constitution covers the basic values and principles that govern the country's public administration. It emphasises the importance of good professional ethics; the efficient, economic and effective use of resources; transparency and accountability; public responsiveness; and the need to provide services impartially and equitably. The Public Service Act (1994) or PSA provides for the organisation and administration of the public service as well as the conditions of employment of South Africa's public servants. The Public Service Regulations (2001) complement the PSA (1994) and give impetus to the constitutional requirements placed on the conduct of public sector employees.

While the entire set of regulations is instrumental in ensuring the efficient, effective and economic performance of public servants, Chapters 1, 2, 3 and Part III of Chapter 4 of the Public Service Regulations (2001) are of particular significance. Part III of Chapter 1 addresses planning, work organisation and reporting; Part IV addresses job evaluation and Part VIII covers performance management and development. Chapter 2 contains a code of conduct that regulates the personal conduct of persons within the employ of government as well as their relationship with the legislature and the executive, the public and with other employees. Chapter 3 presents the disclosure of interests. Part III of Chapter 4 addresses the performance management and development of senior managers. Performance Agreements signed by public servants are integrally linked to the departmental MTSF and APP.

The importance of a strategic plan with activities aligned to medium-term goals and targets are re-emphasised in the Public Service Regulations (2001). The strategic plan forms the basis for human resource planning and resource allocation. Furthermore, it stipulates that a performance management system that links staff performance with the department's strategic goals has to be developed. This has to be captured in a performance agreement that contains key responsibilities and priorities of the specific senior manager. Performance has to be assessed cyclically with appropriate feedback and skills development.

- Institutional oversight

The Public Service Regulations (2001) and National Treasury Regulations (2002) lay strong foundations for ensuring public sector accountability. In addition to the policy instruments, a number of institutional instruments also exist to encourage efficient, effective and economic public sector practices. Towards 2003, a national planning process was introduced by the Presidency. The process was formalised with the introduction of National Treasury's Framework for Managing Programme Performance Information (2007) and the Presidency's Policy Framework for the Government-wide Monitoring and Evaluation System (2007). In 2009 this process was institutionalised with the establishment of a planning department and a monitoring and evaluation department within the Presidency in 2009. The Revised Green Paper, National Planning Commission, General Notice 101 of 2010 formalised the establishment of the National Planning Commission.

Parliament also has a role to play in ensuring that the public sector performs optimally. Three parliamentary committees have specific oversight roles in respect of the budget, namely the Joint Budget Committee, the Portfolio Committee on Finance and the Standing Committee on Public Accounts. Each government department is also assigned a specific Portfolio Committee, which has oversight over it. The Department has to table its Medium-Term Strategic Framework (MTSF) for debate in its related Portfolio and Select Committees before its Budget Vote is debated in the houses of Parliament. It also has to present its Annual Report to its parliamentary committees whereby the Department's performance in relation to its business plan as derived from the MTSF is assessed (Kuye et al. 2002). This system is replicated within the provincial and local spheres of government.

Section 181, in Chapter 9 of the 1996 Constitution, also provides for oversight institutions. One such institution, the Office of the Auditor-General, plays a crucial role in financial and performance auditing. Section 188 of the 1996 Constitution stipulates that the Auditor-General must audit and report on the accounts, financial statements and financial management of all departments and administrations across the three spheres of government and any institution funded by the National Revenue Fund. Another institution is the Public Protector, who, in terms of Section 182 of the 1996 Constitution is empowered to investigate, report on and act against improper or prejudiced conduct in the public administration. Section 196 further provides for a Public Service Commission, which should investigate, monitor and evaluate performance within the public service. The National Prosecuting Authority is also critical for protecting sound governance practices within the state.

The most fundamental instrument of accountability, however, is the encapsulation of the direct voice of the citizens through a general election. The role of the public in enhancing government accountability is further discussed in the next section.

#### 6.2.2.3. Synthesis of the structural dimension

A synthesis of the regulatory and institutional measures that support South Africa's post-apartheid decentralisation model, with regard to facilitating compliance, trust, accountability and innovation within the state and between the state and its citizens is presented below.

| **Table 20: Overview of state legitimacy: Qualitative - structural dimension: Compliance, trust, accountability and innovation**<br>Categories and findings |
|---|
| • Devolution of fiscal responsibilities<br>Relative fiscal decentralisation as prescribed by the following regulatory prescripts: the Constitution of the Republic of South Africa (Act 108 of 1996); the Intergovernmental Fiscal Relations Act, 1997 (Act 97 of 1997); the Public Finance Management Act, 1999 (Act 1 of 1999) or PFMA; the National Treasury Regulations (2002); the Municipal Finance Management Act, 2003 (Act No. 56 of 2003) or MFMA; the Municipal Property Rates Act, 2004 (Act No. 6 of 2004); the Municipal Fiscal Powers and Functions Act, 2007 (Act 12 of 2007) and the annual Division of Revenue Act (DORA) |
| • Accountability, monitoring and control<br>Outcomes-based budgeting and performance management are important elements of accountability, monitoring and control.<br>- Regulatory prescripts<br>Key regulatory prescripts in this regard are the Constitution of the Republic of South Africa (Act 108 of 1996); the Public Finance Management Act, 1999 (Act 1 of 1999); the National Treasury Regulations (2002); the Public Service Act (1994); and Public Service Regulations (2001).<br>- Institutions<br>Parliament, the Office of the Auditor General, the Public Protector, the Public Service Commission, the National Planning Commission and the Monitoring and Evaluation Unit in the Presidency |
| **Source:** Author's thematic synthesis (2022) |

### 6.2.3. Empirical dimension

According to the human agency approach, the empirical dimension refers to those elements that sustain a regime. Thus, an analysis of regulatory prescripts that facilitate public participation and those on institutions established to enhance the sustainability of the decentralisation model have been selected as primary documents for analysis.

#### 6.2.3.1. Legislative and institutional measures for public participation

The election of political leaders is a significant form of public participation for securing state legitimacy. The Constitution of the Republic of South Africa, Act 108 of 1996, along with the White Paper on Local Government (1998) introduces further platforms for sustainable public participation in the processes of governance.

- Elections

Botes et al. (1997, p.198) state that democracy is the principle of free general elections by qualifying citizens without intimidation. It allows registered voters to appoint a government, legislative authority and or head of state by means of the ballot. The founding provisions of the 1996 Constitution allow for, 'Universal adult suffrage, a national common voters roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness.'

Section 19, in Chapter 2 or the Bill of Rights of the 1996 Constitution then proceeds to state that,

(1) Every citizen is free to make political choices, which includes the right–
   (a) To form a political party
   (b) To participate in the activities of, or recruit members for a political party, and
   (c) To campaign for a political party or course.
(2) Every citizen has the right to free, fair and regular elections for any legislative body established in terms of the Constitution.
(3) Every adult has the right –
   (a) To vote in elections for any legislative body established in terms of the Constitution, and to do so in secret, and
   (b) To stand for public office, and if elected, to hold office.

To ensure that elections are free and fair, the 1996 Constitution, Section 190, allows for the establishment of an Electoral Commission to manage elections of the national, provincial, and municipal legislatures. The Electoral Commission Act No.51 of 1996 gives expression to this section of the Constitution and underwrites the establishment of the Independent Electoral Commission (IEC) on 17 October 1996. According to the IEC mission statement,

> The Electoral Commission is an independent constitutional body which manages free and fair elections of legislative bodies and institutions through the participation of citizens, political parties and civil society in deepening electoral democracy (IEC 2022).

National, provincial and municipal elections occur as per the Electoral Act No. 73 of 1998. Thus, all South African citizens above the age of 18, who are not imprisoned, are entitled to participate in a general election every five years. During this process, South Africans vote for national and provincial representatives based on a political party-list system. Municipal elections are conducted separately every five years, as well. Municipal elections allow for direct votes for ward councillors and proportional representation at municipal level based on the party-list system. Voters use a common voter's roll and are free to vote for any political party.

Public participation in governance in South Africa, however, extends beyond voting in elections. The 1996 Constitution also refers to the need for public participation in general.

- Sustainable platforms for public participation

According to Creighton (2005, p.7),

> Public participation is the process by which public concerns, needs, and values are incorporated into government and corporate decision-making. It is a two-way communication and interaction, with the overall goal of better decisions that are supported by the public.

In this regard, government's formal facilitation of public participation enhances state legitimacy.

The 1996 Constitution several sections that promote public involvement and participation. A key demonstration of this commitment is the constitutionally enshrined right to protest. Section 17 of the 1996 Constitution states, 'Everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket, and to present petitions.'

The importance of Parliament being representative of the will of the people is also constitutionally prescribed. Section 42 (3) and (4) of the 1996 Constitution emphasises the need for the NA and the NCOP to provide a 'national forum for public consideration of issues …'. These obligations are expounded upon in Sections 59, 72 and 118 of the 1996 Constitution, which outline processes for public access to and involvement in both houses of Parliament, as well as in provincial legislatures. Furthermore, among the objectives of local government, Section 152 (1)(e) of the 1996 Constitution states that local government should, 'encourage the involvement of communities and community organisations in the matters of local government.'

To give effect to the constitutional requirements, the then Department of Local Government developed the National Framework for Public Participation (2007). Accordingly, national Parliament developed a Sector Public Participation Framework (2012) to allow for structured participation of ordinary citizens in parliamentary processes. In this regard, all legislation has to be gazetted for a minimum of 30 days to allow for public comment. Parliament further conducts public hearings on new legislation or amendments to existing legislation, which also serves as a platform for public engagement. Both chambers' deliberations are broadcast publicly; and Committee meetings, except for that of the Joint Standing Committee on Intelligence, are generally open for public attendance. Furthermore, Members of Parliament have Parliamentary Constituency Offices to enhance their accountability to the public.

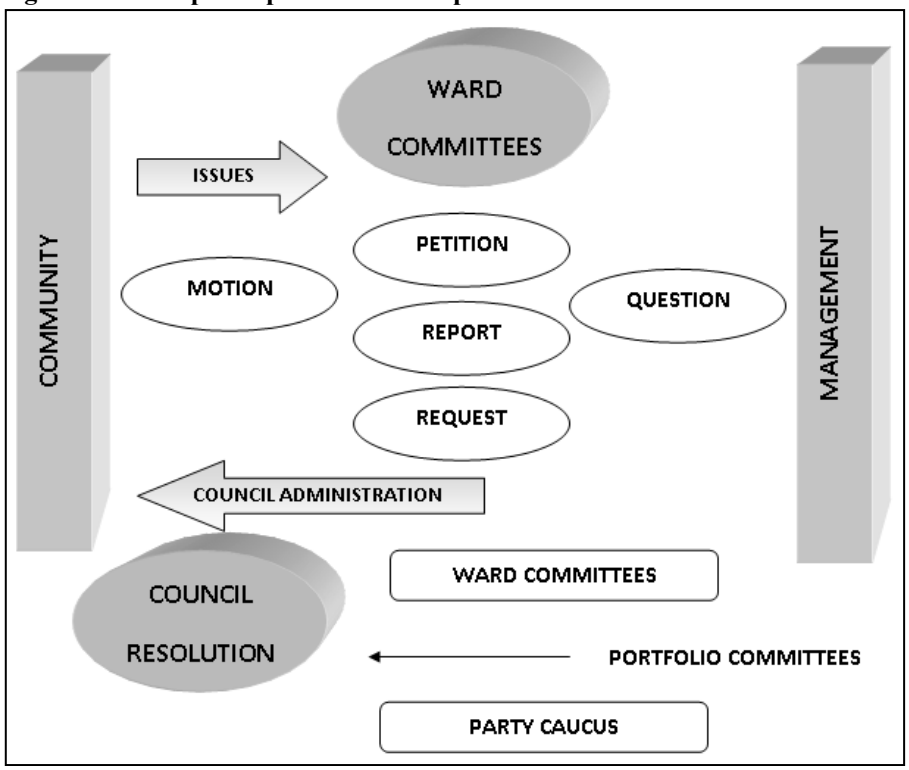
At a municipal level, the Municipal Systems Act No. 32 of 2000, particularly Chapter 4, and its enabling regulations outlines the steps required in relation to,

(16) Development of culture of community participation
(17) Mechanisms, processes and procedures for community participation
(18) Communication of information concerning community participation
(19) Public notice of meetings of municipal councils
(20) Admission of public to meetings
(21) Communications to local community

(22) Regulations and guidelines.

Within the sphere of local government, there is thus an expectation that mechanisms be put in place to enable public participation in the development of the Integrated Develop Plans (IDPs), and in municipal governance through Ward Committees. Communities may raise their issues through Ward Committees, which ensure that they are raised through reports or requests to the councillor, who poses it at Council and its management via petitions, questions or motions. These matters are deliberated upon either in council committees or in party caucuses, where proposed action is formulated through a resolution of council for implementation by council administration. The councillor gives feedback to the Ward Committee, whose members report back to their various constituencies. Councillors are also required to call regular public meetings as platforms of engagement with community members. The process is graphically depicted below.

**Figure 8: Public participation at municipal level**




**Source:** Geyer (2007, p.14)

The analyses of primary policies and legislation indicated that the Constitution of the Republic of South Africa, Act 108 of 1996, the White Paper on Local Government (1998), the National Framework for Public Participation (2007), Sector Public Participation Framework (2012), the

Electoral Act No. 73 of 1998 and the Municipal Systems Act No. 32 of 2000 contain prescripts pertaining to legislative and institutional measures for public participation.
The following institutions give effect to the regulatory prescripts by enabling public access and participation in the various activities of the legislature and government in the spheres where they are located: the IEC, Parliament, PCOs and Ward Committees.

#### 6.2.3.2. Institutions established to enhance the sustainability of democracy

A key aspect of promoting both vertical and horizontal state legitimacy is the Chapter 9 institutions as contained in the 1996 South African Constitution. They have been deliberately provided for as 'state institutions supporting constitutional democracy'. In so doing, they also strengthen the resilience of the decentralisation model contained in the 1996 Constitution by contributing to the strengthening of relations between government and the people, as well as strengthening relations among people.

The Auditor-General, the Public Protector, and the Electoral Commission have been presented earlier. Other institutions are the Human Rights Commission; the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities; and the Commission on Gender Equality. Murray (2006, p.5) emphasises that these institutions do not fall within the legislative, executive or judicial arms of government by highlighting three distinct features of these institutions, namely:

- Although they are state institutions, they are outside government; they are not a branch of government.
- Like the courts, they are expected to be independent and impartial.
- To differing degrees, they are 'intermediary institutions', providing a link between people on the one hand and the executive and Parliament on the other.

Agreement to the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, in particular, is a core contributing factor to the compromises attained in the negotiations. Section 185 (1) of the 1996 Constitution, which outlines the objects of the commission, emphasises that they are,

(a) To promote respect for the rights of cultural, religious and linguistic communities;

(b) To promote and develop peace, friendship, humanity, tolerance and national unity among cultural, religious and linguistic communities, on the basis of equality, non-discrimination and free association; and

(c) To recommend the establishment or recognition, in accordance with national legislation, of a cultural or other council or councils for a community or communities in South Africa.

This clause should be read in conjunction with Article 31, which states,

> Persons belonging to a cultural, religious or linguistic community may not be denied the right, with other members of that community to enjoy their culture, practice their religion and use their language; and to form, join and maintain cultural, religious and linguistic associations and other organs of civil society.

Furthermore, it should be read with Article 235, which states,

> The right of the South African people as a whole to self-determination, as manifested in this Constitution, does not preclude, within the framework of this right, recognition of the notion of the right of self-determination of any community sharing a common cultural and language heritage, within a territorial entity in the Republic or in any other way, determined by national legislation.'

The Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities Act No. 19 of 2002 gives expression to the above constitutional provisions. This Act, as well as other enabling legislation in support of the Chapter 9 institutions demonstrate the significance that the negotiators of the post-apartheid decentralisation model placed in building social cohesion and national unity, especially given South Africa's divided past.

### 6.2.3.3.Synthesis of the empirical dimension

A synthesis of the regulatory and institutional measures that sustain South Africa's post-apartheid decentralisation model is presented below.

| **Table 21: Overview of state legitimacy: Qualitative – empirical dimension: Elements that sustain a regime** |
|---|
| Categories and findings |
| Legislative and institutional measures for public participation<br>• Institutions<br>- IEC<br>- Parliament<br>- PCOs<br>- Ward Committees<br>• Policy measures<br>- The 1996 Constitution<br>- The White Paper on Local Government (1998)<br>- National Framework for Public Participation (2007)<br>- Sector Public Participation Framework (2012)<br>• Legislative measures<br>- Electoral Act (Act 73 of 1998)<br>- Municipal Systems Act (Act 32 of 2000) |
| Constitutionally prescribed state institutions that support constitutional democracy and their enabling legislation<br>- The Auditor-General<br>- The Public Protector<br>- The Electoral Commission<br>- The Human Rights Commission<br>- The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities and<br>- The Commission on Gender Equality |
| **Source:** Author's thematic synthesis (2022) |

## 6.4. Synthesis of the qualitative measures that support South Africa's decentralisation model with regards to enhancing state legitimacy

Ohlson and Söderberg (2002, p.7-8) argue that the degree of vertical and horizontal legitimacy of a government impacts on intra-state conflict. Vertical legitimacy hereby refers to the extent that a given government enjoys the support of its citizens and horizontal legitimacy refers to the degree of national unity and social cohesion among the citizenry.

The dimensions in the human agency approach to governance, as depicted by Hyden (1992), were used to analyse key elements that contribute to both horizontal and vertical state legitimacy from the perspective of the institutional, policy and legislative frameworks that support South Africa's post-apartheid decentralisation model.

Accordingly, the document analysis process demonstrates how the institutions, policies and legislation that support South Africa's post-apartheid decentralisation model facilitate more equitable distribution of power and authority; enable compliance, trust and accountability; and champion citizen participation and responsive leadership towards sustaining the current regime.

The post-apartheid decentralisation model, as expressed in the 1993 Constitution and finalised in the 1996 Constitution, is structured in a manner that recognises the necessity for the three spheres of government, while allowing for national coherence around a common strategic developmental agenda. Specific measures were put in place to include citizens in the governance process. In the actor dimension of the governance realm, legislative and institutional enablers guide the nature of interaction between the various government actors.

The Constitution of South Africa, Act 108 of 1996 outlines the powers and functions of each sphere of government as well as that of traditional leaders; and provides for independent bodies to protect key elements of a constitutional democracy. The Constitution is augmented with specific legislation that reinforces such powers and functions.

While fiscal responsibilities are largely centralised, provision is made for a sound structural framework to guide the generation, allocation and management of functional resources. This includes a comprehensive fiscal regime comprised of legislation and implementation levers, to support the constitutional requirement that monies from the national fiscus be shared in an equitable manner. Furthermore, regulatory prescripts to allow for proper accounting, monitoring and control have been put in place to ensure that public resources are managed in an efficient, effective and transparent manner.

Given that the vast majority of South Africans were disenfranchised and excluded from the governance processes in the colonial era, specific impetus was given in the empirical dimension of governance to protect and advance citizen as well as public participation that is free, fair and equal. This model of decentralisation, at a theoretical level, could be an enabler of responsible and responsive government and citizenry. The decentralisation model, as assessed from its institutional, policy and legislative enabling measures contributes to state legitimacy, particularly vertical legitimacy, and, in so doing, contributes to the management of intra-state conflict.

In practice, however, South Africa continues to experience service delivery protests, major political unrest such as in July 2021 and calls for secession from the Afrikaner community and the Western Cape Province, remain prevalent. To further understand the role of decentralisation in managing intra-state conflict, the role of the model in enabling governance effectiveness is undertaken.

### 6.3. Governance effectiveness

Socio-economic development is regarded as essential for managing intra-state conflict. The decentralisation model is an enabler of government's contribution to socio-economic development. Accordingly, Huther and Shah's (1998) measurement of governance effectiveness is used to analyse the current socio-economic situation in South Africa. This section supports the interview findings and particularly responds to the following two secondary research question, 'Has decentralisation assisted in managing intra-state conflict?'

The themes in this measurement of good governance are similar to those of the qualitative dimensions listed by Hyden (1992). They are citizen participation, government orientation, social development and economic management.

Secondary data from the Ibrahim Index of African Governance is used for this purpose. The Ibrahim Index, an African instrument, annually assesses the state of governance in Africa. The report has four broad categories, namely (i) security and the rule of law, (ii) participation, rights and inclusion, (iii) foundations for economic opportunities and (iv) human development, which cover 16 sub-categories, 237 variables and 79 indicators (Ibrahim, 2021). The Ibrahim Index is complemented with data from the World Bank, the OECD and the UNDP.

#### 6.3.1. Citizen participation

The Ibrahim Index's category on participation, rights and inclusion enables one to quantitively assess South Africa's performance regarding citizen participation and its ranking on the continent. The category on participation, rights and inclusion has four subcategories, namely participation, rights, inclusion, equality and gender. At the broad category level South Africa ranked seventh with an overall score of 67.2 percent (Ibrahim 2021, p.131).

| Table 22: Overview of state legitimacy: Quantitative –Participation, rights and inclusion | | | | |
|---|---|---|---|---|
| **Sub-category** | **Participation** | **Rights** | **Inclusion & equality** | **Gender** |
| Score | 78.5 | 74.2 | 60.7 | 55.2 |
| **Source:** Ibrahim Index of African Governance (2021) | | | | |

The indicators in the participation subcategory, for which South Africa scored 78.5 percent, the fourth highest score on the continent, are 'freedom of association', 'political pluralism', 'civil society space' and 'democratic elections'. South Africa scored 74.2 percent in the subcategory on rights, placing it second on the continent. This subcategory was comprised of indicators measuring 'personal liberties'; 'freedom of expression and belief'; 'media freedom'; 'digital rights' and 'protection against discrimination'. South Africa scored 60.7 percent and ranked tenth in the subcategory inclusion and equality.

Though it attained the second highest score for the indicators 'political power' and 'political representativity', its scores for the indicators 'socio-economic opportunity' and 'access to political services' were very low. With regard to gender, South Africa scored 55.2 percent, placing it twentieth on the continent. Once again, high scores within this subcategory were attained for the indicators 'political power' and 'representativity' as well as for 'civil liberties'. However, South Africa scored very poorly with regards to the indicators 'access to socio-economic opportunities' and 'access to public services' for women (Ibrahim 2021, p.131).

### 6.3.2. Government orientation

Government orientation refers to judicial efficiency, bureaucratic efficiency and corruption. The most applicable category in the Ibrahim Index to provide an indication of the post-apartheid South Africa's performance with regards to government orientation is security and rule of law, in which South Africa ranked eighth with a score of 67.6 percent. This category is comprised of four subcategories namely security and safety; rule of law and justice; accountability and transparency; and anti-corruption (Ibrahim 2021, p.131).

| Table 23: Overview of state legitimacy: Quantitative –judicial efficiency, bureaucratic efficiency and corruption | | | | |
|---|---|---|---|---|
| **Sub-category** | **Safety & security** | **Rule of law & justice** | **Accountability & transparency** | **Anti-corruption** |
| Score | 68.3 | 74.2 | 77.1 | 52.9 |
| **Source:** Ibrahim Index of African Governance (2021) | | | | |

South Africa was ranked 41st for the subcategory safety and security, having obtained a score of 68.3 percent. Indicators in the sub-category are 'absence of armed conflict'; 'absence of violence against civilians'; 'absence of forced migration'; 'absence of human trafficking and forced labour'; and 'absence of criminality'. In direct contrast to its score on the indicator 'absence of forced migration', where it ranked the best, in respect of the indicator 'absence of criminality', it is ranked 53rd (second last) on the continent. It ranked 5th in the subcategory of rule of law and justice with a score of 74.2 percent. It was ranked the best on the continent with regards to the indicator 'impartiality of the justice system' but performed poorly with regard to the indicator 'effectiveness of law enforcement', achieving a score of 45.6 percent, and a rank of 14th on the continent (Ibrahim 2021, p.131).

South Africa scored 77.1 percent for accountability and transparency, placing it first. This was largely due to public and civil checks and balances. The deviating indicator was that of 'absence of undue influence on government', where South Africa, while still obtaining a good score of 70.8 percent, was ranked tenth on the continent. In contrast, South Africa's anti-corruption score was only 52.9 percent, with a ranking of 12th. Despite good anti-corruption measures, corruption in public institutions, in government and in the private sector continued to prevail (Ibrahim 2021, p.131).

The subcategory public administration of the Ibrahim Index's category on foundations for economic opportunity also provides an overview of the government orientation of the post-apartheid South Africa. In this subcategory South Africa scored 53.7 percent and was ranked 22nd. In particular, it performed dismally in the indicator on 'professional administration', achieving a score of 25 percent and a rank of 37th (Ibrahim 2021, p.131).

### 6.3.3. Social development

South Africa spends a large percentage of its budget on health, education and social security provisions. Two measurement tools are used to discuss the post-apartheid South African government's performance with regard to social development. These are the Ibrahim African Governance Index's Category on human development, and the UNDP Human Development Report on South Africa.

The Ibrahim Index's human development category is comprised of four subcategories. They are health, education, social protection and sustainable environment. South Africa had an overall score of 64.3 percent for this category, and the ninth highest score on the continent (Ibrahim 2021, p.131).

| Table 24: Overview of state legitimacy: Quantitative -Human development | | | | |
|---|---|---|---|---|
| **Sub-category** | **Health** | **Education** | **Social protection** | **Sustainable environment** |
| Score | 78.6 | 58.2 | 51.2 | 69 |
| **Source:** Ibrahim Index of African Governance (2021) | | | | |

South Africa's healthcare system is rated the 3rd best on the continent, with a score of 78.6 percent. This is largely due to efficient record administration and regulatory compliance. Regarding the indicator 'access to healthcare', though it is ranked 16th on the continent, it scored 58.9 percent (Ibrahim 2021, p.131).

With regard to education, South Africa scored 58.2 percent and was ranked 15th. The indicators where performance was less than 50 percent were 'equality in education' and 'education quality'. It is ranked 15th with a score of 51.2 percent for the subcategory social protection. South Africa scored zero for the indicator 'socio-economic inequality mitigation', obtaining the rank of the worst on the continent. With regard to the subcategory sustainable environment, South Africa obtained a score of 69 percent and a ranking of fifth. The high scores obtained for the indicators 'promotion of environmental sustainability', 'good air quality', and 'land and water biodiversity', were affected by scores of less than 50 percent for the indicators 'enforcement of environmental policies' and 'sustainable management of land and forests' (Ibrahim 2021, p.131). According to the UNDP (2020, p.2),

> South Africa's HDI value for 2019 is 0.709, which put the country in the high human development category, positioning it at 114 out of 189 countries and territories. Between 1990 and 2019, South Africa's HDI value increased from 0.627 to 0.709, an increase of 13.1 percent. The table below reviews South Africa's progress in each of the HDI indicators. Between 1990 and 2019, South Africa's life expectancy at birth increased by 0.8 years, mean years of schooling increased by 3.8 years and expected years of schooling increased by 2.4 years. South Africa's GNI per capita increased by about 21.6 percent between 1990 and 2019.

**Table 25: South Africa's human development performance**

| Year | Life expectancy at birth | Expected years of schooling | Mean years of schooling | GNI per capita | HDI Value |
|---|---|---|---|---|---|
| 1990 | 63.3 | 11.4 | 6.5 | 9.975 | 0.627 |
| 1995 | 61.6 | 13.0 | 8.2 | 9.387 | 0.663 |
| 2000 | 56.0 | 13.0 | 8.8 | 9.881 | 0.631 |
| 2005 | 53.4 | 12.9 | 8.9 | 11.233 | 0.622 |
| 2010 | 57.7 | 12.8 | 10.2 | 12.195 | 0.664 |
| 2015 | 62.6 | 13.8 | 10.1 | 12.528 | 0.701 |
| 2016 | 63.2 | 13.7 | 10.2 | 12.357 | 0.703 |
| 2017 | 63.5 | 13.7 | 10.2 | 12.322 | 0.705 |
| 2018 | 63.9 | 13.7 | 10.2 | 12.232 | 0.707 |
| 2019 | 64.1 | 13.8 | 10.2 | 12.129 | 0.709 |

**Source:** UNDP (2020)

### 6.3.4. Economic management

The most appropriate component of the Ibrahim Africa Governance Index to assess the post-apartheid business environment, in the category foundation for economic opportunities. The Ibrahim Index is complemented with data from the World Bank's Global Economic Prospects Report 2020 and the OECD Going for Growth 2021 Report.

The Ibrahim Index regards it as a responsibility of government to create an enabling environment that promotes the freedom of all to participate in the generation of economic wealth. The foundation for economic opportunities category therefore seeks to measure government's ability to manage the macro economy and to promote economic development. It also seeks to measure the conduciveness of the regulatory framework for private sector investment and growth. South Africa scored 66.6 percent and a continental ranking of seventeenth in the business environment subcategory (Ibrahim 2021, p.131).

**Table 26: Overview of state legitimacy: Quantitative -Business environment**

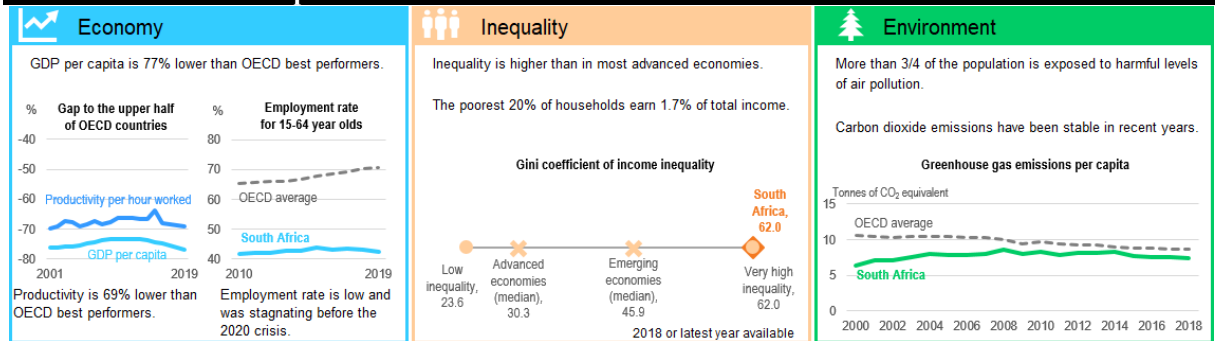
| Sub-category | Trade environment | Business & competition regulation | Access to financial services | Labour relations |
|---|---|---|---|---|
| Score | 73 | 80.3 | 74.9 | 38.4 |
| **Source:** Ibrahim Index of African Governance (2021) | | | | |

While its performance on the indicators 'trade environment', 'business and competition regulation', and 'access to finance' is above 70 percent, South Africa scored poorly with regard to 'labour relations', achieving a score of 38.4 percent and a rank of 36 (Ibrahim 2021, p.131).

The image below depicts South Africa's performance in relation to other OECD countries. The report states that,

> The Covid-19 pandemic caused millions of workers to lose their jobs, while the number of discouraged workers increased. Investment has been on a downward path already prior to the crisis, marred by policy uncertainty, lack of infrastructure leading for example to electricity shortages and lacklustre government financial prospects. Regulatory restrictions in many areas, including network industries, are a threat to the recovery. Stronger growth is needed to place the government debt trajectory on a sustainable path and to finance large, unmet needs in education, health and social spending. (OECD 2021)

**Table 27: South Africa's performance in relation to other OECD countries**




**Source:** OECD (2021)

According to the World Bank (2020, p.102),

> With economic activity in South Africa already on a weak footing before the pandemic hit, output is expected to have fallen 7.8 percent last year. The country suffered the most severe Covid-19 outbreak in Sub-Saharan Africa, which prompted strict lockdown measures and brought the economy to a standstill. However, sizable and decisive monetary and fiscal policy support— which included measures to strengthen health sectors, emergency food distribution, tax relief, and loan guarantees—likely prevented an even deeper downturn.

It further states that, 'In South Africa, growth is expected to rebound to 3.3 percent in 2021 – 0.7 percentage point below previous forecasts – before softening to a near-potential pace of 1.7 percent in 2022.' (World Bank 2020, p.104).

The governance effectiveness, using Huther and Shah (1998) as the third theory for the decentralisation analytical framework is thus summarised as follows:

| **Table 28: State legitimacy: Quantitative – Overview** | | |
|---|---|---|
| **Theme** | **IIAG variables/ score (2021)** | **WB/ OECD/ UNDP variables/ score** |
| Citizen's participation | Participation, rights and inclusion: 67.2% | |
| Government orientation | Security and rule of law: 67.6% | |
| Social development | Human development: 64.3% | UNDP: Human development index (2019): 0.71 |
| Economic management | Foundations for economic opportunities: 66.7% | OECD (2020):<br>• Economy-projected GDP growth 2022: 1,9%<br>• Equality, Gini co-efficient: 0,62<br>• Environment, inflation: 3,9%<br>World Bank – Economic report, projected GDP growth 2022: 1.7% |
| **Source:** Author's thematic synthesis (2022) | | |

### 6.3.5. The South African reality

An analysis of secondary data from international sources depicting South Africa's governance effectiveness confirms that South Africa is among the best on the continent regarding good governance overall, particularly in respect of regulatory measures and citizen participation. The challenge resides in social and economic development.

This is confirmed by Statistics South Africa (2018) in its report 'Overcoming poverty and inequality in South Africa'. The report was written before the advent of the Covid-19 pandemic, which exacerbated South Africa's high levels of inequality, poverty and unemployment, and the current reality is likely to be worse. According to StatsSA (2018), South Africa is by any measure one of the most unequal countries in the world, and in 2015 it had the world's highest Gini-co-efficient, 0.63. It lags behind its peers in terms of inclusiveness.

Furthermore, StatsSA (2018) states that, despite the social wage accounting for close to 60 percent of government spending,

> Nearly half of the population of South Africa is considered chronically poor at the upper-bound national poverty line of ZAR 992 per person per month (2015 prices). This segment of the population is characterised by high poverty persistence. A second segment of the population has an above average chance of falling into poverty (the transient poor).

> A third segment, the non-poor but vulnerable, face above average risks of slipping into poverty though their basic needs are currently being met. These latter two groups made up 27 percent of the population. Combining these two groups with the chronic poor suggests that for about 76 percent of the population, poverty is a constant threat in their daily lives. … A profile of the poor shows a typical poor household is rural and headed by a single, economically inactive female black South African. Rural areas remain the regions of highest poverty concentration and the Eastern Cape, KwaZulu-Natal, and Limpopo are consistently the poorest provinces.

With regard to unemployment, StatsSA (2018) notes that there has been a structural shift in the economy from primary to tertiary sectors since 1994, with the services sector accounting for 70 percent of GDP. It notes, however, that growth was not inclusive, nor was it labour intensive. According to StatsSA (2018),

> The global financial crisis hit South Africa hard, and economic progress has stalled since then. Growth between 2009 and 2017 averaged only 1.6 percent, gradually declining from an intermittent high in 2011 to only 0.3 percent in 2016/17. Net job creation between 1993 and 2015 was 2.7 million in the private sector (formal and informal) and 470,000 in the public sector, almost exclusively created after 2005.

Thus, the levels of unemployment in South Africa are high and skewed in terms of race, gender and generation. StatsSA (2018) states,

> Women have far worse employment prospects than men – around 37 percent of working age women are employed compared to 50 percent of men. Youth (15–24 years old) unemployment is also high, consistently around 50 percent, and much higher than all of the older age groups. Finally, employment does not necessarily reduce poverty: about 35 percent of those who are employed are in households living below any of the poverty lines.

Given the above statistics, it is understandable that 72,8 percent of participants in a survey conducted by Afrobarometer (2021) were of the view that generally, the country was going in the wrong direction.

According to the survey, participants identified the most important problems facing the country as unemployment, crime and security, and corruption, with 68.3 percent regarding the condition of the economy as ranging between fairly and very bad (Afrobarometer 2021, p.15). The survey also confirmed the high level of poverty as 53,4 percent of participants indicated that they or someone in their family, have gone without enough food to eat at least one (Afrobarometer 2021, p.19).

According to statistics, the legitimacy gap in relation to security and economic well-being is inadequately addressed. This puts South Africa's state legitimacy at risk.

### 6.4. Conclusion

While the political pillars that upheld apartheid might have been removed, the social and economic conditions associated with it remain prevalent. Most South Africans, particularly black South Africans, continue to bear the brunt of inequality, poverty and unemployment. Thus, a study on the role of decentralisation in managing intra-state conflict cannot be divorced from the socio-economic environment in which it is located. Stewart (2008, p.xv) emphasises the importance of the general well-being of citizens in affirming state legitimacy and, accordingly, the management of intra-state conflict.

The interviews are complemented with the analysis of primary documents to demonstrate the regulatory expression of South Africa's decentralisation model and, particularly, how it contributed to state legitimacy as a factor of managing intra-state conflict. The study also includes an analysis of secondary documents containing governance effectiveness indicators. In this regard, South Africa performed well in the areas of policy and legislation, as well as citizen participation, but performed less well in respect of socio-economic inclusivity and accessibility. South Africa's dismal performance on public administration, which witnessed a sharp decline in ranking post 2004, tallies with the continued public frustration regarding service delivery as marked by the high levels of service delivery protests. Data that depicts the South African reality however indicate a high legitimacy gap. This demonstrates that South Africa is at risk of re-experiencing intra-state conflict. This time economic factors will be the cause.

# Chapter 7

# Discussion of research findings

## 7.1.Introductory remarks

South Africa's negotiation process has been meticulously recorded and widely discussed. Given its uniqueness, its constant review remains relevant. Maharaj and Jordan (2021, p.8) state,

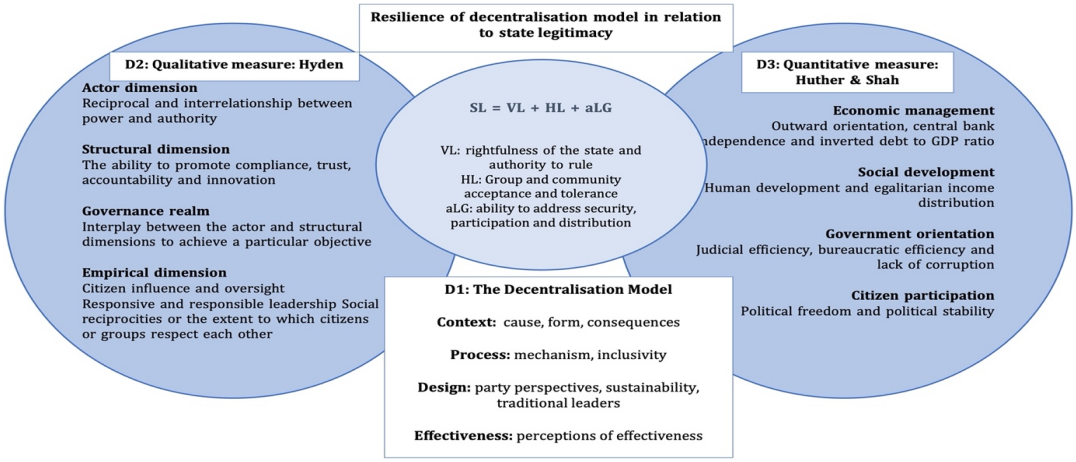
> Why and how South Africa moved from the certainty of abyss into which apartheid had propelled it to the promise of a non-racial, non-sexist democracy buttressed by an ambitious Constitution are essential questions, not only to understand the past, but also to come to terms with the present and embrace the future.

A key area of contention, the resolution of which has not been extensively documented, is the decentralisation model that emerged from the negotiation and constitution-making processes. Yet, once the National Peace Accord had been signed, this element became fundamental to the management of South Africa's colonial-apartheid, intra-state conflict.

This chapter focuses on the meaning, importance and relevance of the results that emanated from an interpretive case study based on the research question, *'What is the role of decentralisation in managing intra-state conflict in South Africa'.*

The findings are presented following the three-dimensional analytical framework, which was used to determine how SA's post-apartheid decentralisation model came into being, as well as to express its contribution to state legitimacy.

**Figure 3: The decentralisation analytical framework**




**Source:** Author's thematic synthesis (2022)

As re-depicted above, dimension one focuses on the formation of the post-apartheid decentralisation model. This dimension covers four themes. The first theme is the context of the conflict, particularly its causes, forms and consequences. Next is the process, including the structures that manage the process and its inclusivity. The third theme is the model's design, extracting the varying political party demands, including that of traditional leaders, as well as its sustainability. Furthermore, the fourth theme of dimension one is the effectiveness of the post-apartheid decentralisation model as perceived by those who monitored, influenced or developed it. The data source of this dimension of the analytical framework is interviews.

The second and third dimensions of the analytical framework contain qualitative and quantitative themes and indicators related to state legitimacy, which is regarded as a necessary condition for managing intra-state conflict. Hyden's (1992) human agency approach serves as the ideal type for analysing the qualitative aspects of state legitimacy, whereas Huther and Shah's (1998) measures of governance effectiveness are used to analyse the quantitative aspects. The data sources for these dimensions are primary qualitative and secondary quantitative documents.

Therefore, the chapter covers four areas. The discussion firstly focuses on the negotiation and constitution-making processes that led to the substance of the post-apartheid decentralisation model, as reflected in the findings in dimension one of the analytical framework, as well as why the negotiations were successful. Having applied an interpretivist approach to this case study, the results of the interviews accordingly reflect the subjective perspectives of the interview participants. The findings are therefore compared with existing research on South Africa's negotiations[1].

Secondly, the findings on the design of the post-apartheid decentralisation model, expressed in dimensions one and two of the analytical framework, are discussed. Thereafter, the research findings on governance effectiveness, as per dimensions one and three of the analytical framework, are discussed. Lastly, the extent to which the research findings derived from the decentralisation analytical framework demonstrate the contribution of the post-apartheid decentralisation model to state legitimacy, is reflected upon.

[1] A pertinent book by Richard Spitz, with Matthew Chaskalson, titled 'The Politics of Transition: A Hidden History of South Africa's Negotiated Settlement, 2000, could not be accessed as there is no Kindle or e-version and it was not possible to courier the book to Syria due to sanctions.

Thus, the discussion format will not follow the sequence of the presentation of the research findings. Nor will all aspects of the findings be discussed. The discussion will instead be confined to the purpose of the study, which is the formation of the post-apartheid decentralisation model and its contribution to state legitimacy.

### 7.2.The negotiation and constitution-making processes

The negotiation and decentralisation design processes form part of dimension one of the analytical framework applied in this study.

Data in this regard was obtained from semi-structured, open-ended questions posed to twenty persons, most of whom participated directly in the negotiation and constitution-making processes. In addition, interviews were also conducted with a few who significantly influenced or professionally observed its outcomes. The interview questions were based on the following secondary research questions.

a. What process was undertaken to manage the intra-state conflict and how was decentralisation located within that process?
b. What were the key factors considered when determining the design of decentralisation?
c. How were these factors accommodated in the design of decentralisation with specific reference to the allocation of powers, responsibilities and resources across the various central and provincial governments within the country's constitution, policies and legislation?
d. Which, if any, institutional mechanisms were introduced to sustain the form of decentralisation?
e. Has decentralisation assisted in managing intra-state conflict?

The questions sought to extract views on why the negotiations succeeded and on how the post-apartheid decentralisation model was developed. The questions about the negotiations process focused primarily on the period 1990 to 1994 as all interview participants indicated that the final constitution was bound by what had been agreed to in the constitutional principles.

Dimension one also included interview questions that spoke to the context of the conflict. The context of the conflict, or theme one, is detailed in the literature review contained in Chapter three and therefore is not discussed in this chapter. It was, however, necessary to determine and express the context as perceived by the interview participants as it explains their positions during the negotiations and their opinions on the effectiveness of the post-apartheid decentralisation model. Likewise, one aspect of theme two of dimension one, namely the structural mechanisms that supported the negotiation and constitution-making processes, is not discussed in this chapter. While knowing the structures were necessary for background purposes, they were platforms of facilitation and had little substantive bearing on the content or outcomes of the negotiations.

The negotiations had two phases. The period 1990 to 1993 culminated in the 1993 Interim Constitution. The final constitution was crafted in the CA from 1994 to 1996. Fundamental to this research is why the parties involved in the negotiations agreed to negotiate.

### 7.2.1. Why negotiate

South Africa's colonial-apartheid conflict spanned centuries and could have continued for decades. The compelling conditions that led to negotiations, as presented by the conflicting parties, warranted deeper investigation. This is particularly important as the study seeks to present policy lessons that could be applied to other situations of intra-state conflict. Such lessons must be located within the conditions that informed them.

Within the framework of institutional choice, Sisk (1995, p14) presents seven steps that characterised South Africa's transition to democratic rule, which he refers to as conditions for the success of South Africa's institutional design as reflected in the constitution. These are: the collapse of apartheid, a mutually hurting stalemate, the mutual willingness to negotiate, the creation of a nascent institutional structure, an agreement on the rules to govern the transition, the drafting of a new constitution, and the implementation thereof. Sisk's (1995) argument is in line with the research findings regarding why the negotiations were successful but does not detail how the decentralisation emanated.

The interview participants concur that there was a willingness to negotiate. The severe repressive response by the apartheid government to escalating resistance inside the country had resulted in it being discredited domestically and internationally. In this regard, Van Nieuwkerk

and Mosia (1994, p.426) state, ‘By the mid-1980’s the international community was largely united in its stance against the apartheid regime’.
Thus, a stalemate emerged, whereby the apartheid security forces could no longer suppress the resistance, but the resistance also was not able to overthrow the government. Accordingly, a scorched earth situation was looming, as full-scale civil war became inevitable. Thousands of people were dying, and all players wanted an end to the violence.

The views of the interview participants are confirmed by literature. Friedman and Atkinson (1994, p.8) state, ‘The pressure to abandon apartheid had been relentless, the costs of sustaining it steep. Management by co-option and coercion was proving impossible; the first could find no takers, the second could impose no control.’ They further note about the ANC, ‘…the state could be made to tremble, but could not be smashed’ (Friedman and Atkinson 1994, p.8).

Interview participants further opined that the moment for negotiations was opportune as the fall of the Berlin Wall and the disintegration of the USSR resulted in the end of the Cold War era and greater pressure for more peaceful resolutions of conflict. Further literature also confirms these findings. The West had viewed South Africa as the centre of a massive geopolitical manoeuvre by the Soviets, which, according to Ambrosini (2017, p.59), ‘rode liberation movements as Trojan horses into Africa’.

The Soviet Union commanded strong influence over Angola’s MPLA, Mozambique’s Frelimo and former South West Africa’s SWAPO. In addition, the ANC was receiving financial and military assistance from the Soviet Union and other socialist countries. The USA, in turn, funded Renamo in Mozambique and the Frente Nacional de Libertação de Angola (FNLA) and União Nacional pela Independência Total de Angola (UNITA) in Angola, which could muster widespread support. To prevent a perceived communist take-over in South Africa, Western leaders, notably Ronald Reagan, Margaret Thatcher and Helmut Kohl, backed the apartheid government as well as the IFP. The end of the Cold War removed the perceived threat (Ambrosini 2017, p.61-63). Furthermore, according to Friedman and Atkinson (1994, p.8), ‘The implosion of communism several months before deprived the ANC of moral and material support’.

By then, South Africa was experiencing such comprehensive sanctions and severe punitive measures by the international community that the economy was dire. In addition, the Battle of

Cuito Cuanavale demonstrated that the South African Defence Force was not invincible. Therefore, a negotiated settlement was the only solution.
In this regard, Friedman and Atkinson (1994, p.8) state, '…the country's peculiar mixture of apartness and interdependence ensured that, however much they were forced to hold their noses at the prospect, its warring elites preferred sharing it to destroying it'.

While the negotiations that led to the end of apartheid only formally gained traction in 1990, delegations from business and other key stakeholders, including the Commonwealth Eminent Persons Group, started making overtures to the ANC in exile, as well as the South African government from the mid-1980s. For example, Pahad (2014, p.125) states, 'The Eminent Persons Group (EPG) would visit South Africa between March and May 1986 to assist with facilitating a negotiated political solution from what was fast becoming an impending catastrophe in the country.'

Jolobe (2014, p.37) further refers to several visits by the South African elite, including meetings of delegations led by Thabo Mbeki, on behalf of the ANC, and Professor Willie Esterhuyse on behalf of the Afrikaner elite, in England between November 1987 and May 1990. Furthermore, the South African apartheid government started engaging Mr Mandela about the prospects of a negotiated settlement (Friedman and Atkinson 1994, p.6). According to Maharaj and Jordan (2021, p.23-26), Coetsee met Mandela at least fifteen times between 1985 and 1989, and Barnard and his team met him 48 times between May 1988 and December 1989. Repression and internal resistance, however, continued throughout these overtures.

The 2 February 1990 announcement by then President De Klerk to accede to the ANC's conditions for negotiations was followed by a swift public display of commitment from the side of the apartheid government. Political parties were unbanned. Those in exile were allowed to return home. Political prisoners were released. This included Nelson Mandela, who was released on 9 February 1990. Moreover, a series of agreements, such as the Groote Schuur and the Pretoria Minutes was concluded in the same year. The National Peace Accord was signed in September 1991. The first Codesa meeting occurred in December 1991, followed by Codesa 2 in May 1992.

Despite the overt commitment to negotiations, the state-fuelled violence intensified through a 'third force', which included a series of massacres. Between 1990 and 1992, at least 49

massacres resulting in 1,250 deaths took place in the old Reef and southern Transvaal areas (Human Rights Commission, 1992).

The ongoing violence against members and supporters of the liberation movement, particularly the Boipatong Massacre, which started on the evening of 17 June 1992 and resulted in the death of 39 people in the first few hours, led to the ANC withdrawing from the negotiations (Waddington 1992). Soon after that, during an anti-government demonstration in Bisho on 7 September 1992, the then Ciskei authorities opened fire, killing 33 people and injuring hundreds (Goldstone 1992). The need to end the excessive loss of life became compelling and talks about talks recommenced. The ANC presented a set of conditions for the resumption of negotiations, which included that the NP abandon its demand for power-sharing. On 26 September 1992, the ANC and the NP signed a Record of Understanding, enabling the resumption of multi-party negotiations in March 1993 (The Constitution Hill Trust *retrieved 2022*).

### 7.2.2. Critical success factors

Preparations for the next round of negotiations were meticulous to maximise its success. A set of criteria for participation was outlined, including a demonstrable support base and an established programme of activities. The agenda was tightly structured, and firm chairing made it difficult for delegates to raise issues outside of formally pre-drafted resolutions (Friedman and Atkinson 1994, p.22).

Despite these efforts, South Africa's right-wing and some former Bantustan leaders, particularly Dr Buthelezi, were aggrieved by their exclusion from the discussions between the ANC and the NP, and in October 1992, they formed COSAG. However, securing the participation of COSAG in the new phase of multi-party negotiations required a commitment from the ANC that the negotiations would not preclude the establishment of separate states. The PAC was also convinced to return to the negotiations based on the promise that the final constitution would be drafted after the first national democratic election through a Constitutional Assembly (Friedman and Atkinson 1994, p.23-26).

One other cataclysmic event was however, still to occur. The assassination of ANC leader and SACP General Secretary Chris Hani on 10 April 1993, resulted in nation-wide popular anger. To diffuse the anger, the ANC demanded the appointment of a Transitional Executive Council and the setting of an election date. In this regard, the ANC focused its demands on multi-party

control of those governance areas that would ensure a free and fair election (Friedman and Atkinson 1994, p.70).
Finally, a less cataclysmic event concerning shifts in the negotiations process but very significant for the ANCs agreement to leave an option of separate states on the negotiation agenda, was the attack on the negotiation venue, the World Trade Centre, by the AWB on 25 June 1993.

A very thin and fragile thread was holding everything together. Accordingly, technical measures were taken to maximise the success of the negotiations. Furthermore, interview participants expressed their views on why the negotiations succeeded. They argued that, while international best practices and technical advice were considered, the constitution and the decentralisation model contained therein were home-grown. This matter is disputed. Ambrosini (2017, p.98) states, 'The South African transition, more than any other event of the century, was produced by the interplay of foreign governments.' Ambrosini further purports that Roelf Meyer, the chief negotiator of the NP, presents the negotiation outcomes as 'home-grown' because he wants to amplify his role (Ambrosini 2017, p.98). However, it must be noted that interview participants came from various political parties and interest groups, and the concurrence with the view of Meyer was consistent.

Furthermore, the formal negotiation process was funded by the South African government. Technical concepts borrowed from other countries' experiences, like the 'sufficient consensus' concept and the constitutional principles, assisted in keeping the negotiation on track. Interview participants also attributed the success of the negotiation to visionary leadership and the knowledge that there would be a TRC to allow for retribution, healing and the fostering of legitimacy. The establishment of the TRC provides for a procedure for dealing with human rights abuses, which is in line with the core tasks of a new, post-authoritarian government (O'Donnell and Schmitter 2013, p.ix)

The critical success factor emphasised by all was the inclusiveness of the process. Inter-peace (2011, p.9) lists the broad principles of participatory constitution-making as 'public participation, inclusiveness (including gender equity) and representation, transparency, and national ownership'. South Africa's negotiation and constitution-making processes comprehensively addressed all four principles. Mainwairing (1989, p.9) also argues that the transition process must derive its legitimacy from the common people to succeed.

Every interview participant, including those who did not participate in the negotiation process, sincerely stated that his or her organisation recognised that the colonial-apartheid era intra-state conflict could only be resolved through a negotiated settlement. This point is significant. Based on the responses, key adversaries in South Africa's colonial-apartheid conflict all had demonstrable and substantive support and genuinely believed they were representing their domestic constituencies' interests. Given each player's substantial disruptive capabilities, securing their buy-in was essential. This achievement also resonates with Rawl's concept of 'overlapping consensus' in that they were willing to embrace public values of a 'political conception of justice related to freedom and equality among citizens and fairness and ongoing social coordination' (Abakare 2021, p.30).

In addition to the media having broadcast the sessions live, the political parties that participated in the negotiations had elaborate ways of keeping their constituencies informed. For example, the ANC established the Patriotic Front as a consultation mechanism involving organisations that had formed part of the mass democratic movement against apartheid during the 1980s. The then governing party, the NP, conducted a national referendum. Furthermore, those wanting a separate state formed COSAG.

Allowance was made for diverse views and robust debate among the statutory and the non-statutory forces. Efforts were made to include the demands of even those political parties that refused to participate in the negotiations. The far right reported having had a separate negotiation process with Thabo Mbeki, and the far left reported having regular meetings with Nelson Mandela. Despite their absence from the negotiations, both sides reported that these separate discussions had ensured that their views were incorporated into the interim and final constitutions.

Part of inclusivity was securing a general election and having representative Members of Parliament driving the CA process, which took place between April 1994 and May 1996. In this regard, the agreement to an election based on proportional representation was lauded by interview participants.

According to Reynal-Querol (2002, p.52), combining a proportional electoral system and a parliamentary form of government significantly reduces the incidents of ethnic-based intra-state conflict.
Ferree (2018, p.4) regards South Africa's electoral system as one of the most proportionally representative in the world. She confirms the research findings by arguing that 'Adoption of South Africa's extreme PR rules reflected both dissatisfaction with the earlier majoritarian system and the context of the transition from apartheid'. She argues that the choice of a PR electoral system aligns with the thinking of constitutional engineers who advocate the approach for countries with deep racial and political fissures (Ferree 2018, p.5).

In addition to maximising the number of political parties participating in the CA process, public consultation enabled grassroots participation through road shows, public hearings or written submissions. Furthermore, once the Constitution of the Republic of South Africa, Act 108 of 1996 was concluded, copies written in simple text, in all official languages, were circulated widely. In so doing, the South African citizenry had a voice in making the new constitution, including in the decentralisation model that emerged from it. Accordingly, the inclusivity associated with the process had created a high degree of state legitimacy.

The inclusivity had to be extended beyond the process. The emerging decentralisation model had to reflect the demands and expectations of all the interest groups.

### 7.2.3. A sustainable design

The findings on the design of the post-apartheid decentralisation model, as expressed in dimensions one and two of the analytical framework, are discussed in relation to other literature on the subject.

Horowitz (1991, p.87) highlights the sensitivity of the time by stating, 'When the old order dies, the future will not necessarily be secure. Several features of South Africa's structural situation put the democratic future in doubt.' He states that there needed to be a willingness by all to share power if the process was to succeed. However, he recognised that despite the urgency to heighten cooperation and reduce conflict, the various ideological contestations increased the difficulty of multiple parties reaching a consensus (Horowitz 1991, p. xiiii).

It was necessary to create acceptance of the constitution-making process and its resultant decentralisation model and establish state legitimacy because the apartheid government had lost credibility among most South Africans and internationally. This was thus an important factor to consider during the design of the decentralisation model.
Friedman and Atkinson (1994, p.92) state that, 'At issue was not only a search for a system of government, but for the terms on which the minority would concede power to the majority over which it had ruled'. Consequently, constitutional sovereignty was strongly preferred as it contrasted sharply with the former apartheid parliamentary rule (Friedman and Atkinson 1994, p.93).

In addition, it was perceived that the statutory forces had clung to the notion of federalism because they had wanted to retain some degree of power. Ambrosini (2017, p.106) states that the ANC saw itself as self-righteous and that it, together with the PAC, refused that a new constitution be developed while the oppressors were still in charge. Thus, Codesa could only focus on electoral law in preparation for a CA. Accordingly, Ambrosini (2017, p.107) states that, during the negotiations, the ANC was unwilling 'to discuss any matter dealing with group rights, cultural diversity, federalism, an independent judiciary, form of state, form of government or checks and balances'.

Ambrosini (2017, p.107) proceeds to confirm the research findings with regard to the tensions that existed at the time, stating that the DP 'stood by a rigid and obsolete notion of what a 'liberal' constitution should look like …. Because of their purism in the matter, they did not engage the issue'. On the other hand, the IFP preferred federalism because they believed it allowed for the preservation and pluralistic harmonisation of different cultures and ethnic identities (Ambrosini 2017, p.104). Ambrosini (2017, p.107), however, believed that the Nats just wanted to get the negotiations over and done with.

The reality of violence that hung over the negotiations and the threats of escalated civil war, including the use of nuclear weapons, compelled the non-statutory forces to find a way of addressing the demands. The non-statutory forces however, also had to deal with the expectations of their constituency to address the ethnic divisions, the vast geographic and socio-economic inequalities, and the homeland power bases that had resulted from the policy of apartheid and its associated spatial planning. It had mobilised around a united, non-racial,

non-sexist and prosperous South Africa, and its support base was expecting nothing less. Ambrosini (2017, p.109) confirms that the ANC argued for a strong, unitary state.

The decentralisation model's political framework and financing mechanism had to address these varying expectations.

• **The political framework**

The decentralisation model, having considered the above factors and international best practices, ultimately emanated from continuous engagement, persuasion and pragmatism. While the interview participants stated that the idea of the constitutional principles emanated from the Namibian negotiations, Ambrosini (2017, p.107) argues that the IFP tabled the idea of a two-stage constitution-making process at Codesa 1. The first being the production of the constitutional principles and the second being political. However, the IFP had wanted the second stage to occur before the elections. Ultimately the two-stage process was adopted, with the second taking place at a CA after the elections.

Political parties first developed their own desired constitutional principles. Then they negotiated until an agreed set of constitutional principles emerged. In this regard, the fact that South Africa was huge territorially and that governance would be more effective if certain functions were decentralised was acknowledged. The apartheid Parliament ratified it as contained in the Constitution of the Republic of South Africa, Act 200 of 1993 and a Constitutional Court was established to ensure that the final constitution adhered to the parameters of the constitutional principles.

The result was a decentralisation model underpinned by a political framework that resulted from contestation for political power. While negating the domestic contributions to the decentralisation model, the uniqueness of the model is expressed by Ambrosini (2017, p.108) when he states,

> American thinking, rooted in the 'melting pot' explanation of the United States' greatness and the European influence of Marxist ideologies, converged in advocating the pernicious delusion that South Africans would be better off if stripped of their cultural differences to form a new nation with common features. This favoured a unitary rather than federal state.

Thus, the political framework of the decentralisation model, as expressed by the interview participants and demonstrated in the second dimension of the research findings in Chapter six, allowed for a strong central government. The national government was accorded the authority to set a vision for the country and to take responsibility for driving social and economic development, creating a peaceful and secure environment, and advancing international relations. Given the size of the country, nine provinces were created. The boundaries were determined in a manner that would facilitate ethnic integration without significantly undermining the historical authority that resided with some former homeland leaders. Provincial boundaries were also shaped by economic activity and the potential to lay the foundations for a more equitable South African society. Provinces were assigned limited legislative authority but the full administrative authority to enable them to play a role in facilitating their residents' social and economic development, within a broader national framework.

The third sphere of government, the local government, was given legislative and administrative powers to facilitate people-centred development within their respective areas of jurisdiction. The powers and functions of each sphere were not only ultimately protected in the 1996 Constitution, but they were enabled through appropriate policies and legislation and the necessary government institutions. Such policies and legislation included aspects of intergovernmental relations to ensure policy coherence and programmatic alignment across the three spheres of government. However, the ideal of co-operative governance is yet to be realised as the emergence of a new elite has resulted in the formation of new power bases supported by elements of corruption, which ultimately inherently undermine a national agenda.

Furthermore, the 1996 Constitution provides a role for traditional leaders and the use of the traditional courts. Due to the role that the traditional leaders played in both sustaining and resisting apartheid, their incorporation within the realm of governance was a necessary point of agreement to ensure the end of the intra-state conflict and the sustainability of the peace. This enhances the uniqueness of South Africa's decentralisation model.

However, historically indigenous mechanisms of dispute and conflict resolution and maintaining social order are not effectively drawn on to date. Ewusi (2015, p.10) promotes the harnessing of indigenous justice systems as a means of achieving sustainable peace, as they focus on continuity and the harmonious existence of society rather than punitive measures.

The fight against colonialism and apartheid was not just political but also economic.

**• A redistributive fiscal relations framework**

According to the interview participants, the negotiators from the side of the oppressed had intended to facilitate adequate access to financial resources throughout the country for equitable development in line with the differentiated needs of provinces. In this regard, as demonstrated in dimension two of the analytical framework and Chapter six of this report, the primary responsibility of revenue generation and management was assigned to the national government, with provinces having no formal revenue generation authority and local government having limited authority, such as property tax. In addition, the constitutional provisions were supported by legislation to guide fiscal distribution and accountability and appropriate oversight institutions.

Despite the good policies and legislation, billions of Rands of public revenue still managed to be lost through corruption, and the funding designated for development was not efficiently and effectively spent; hence pockets of underdevelopment still plague South Africa.

**• Structured platforms of engagement**

The 1996 Constitution makes a dedicated allowance for citizen influence and oversight in recognition of the fact that the quality of participatory democracy is reflected in the degree of co-responsibility citizens take for their collective development. It is further supported by relevant legislation and institutional mechanisms that enable citizen participation in governance. These include parliamentary hearings, ward committees, school governing bodies and community policing forums. However, some of the interview participants argued that even these vehicles meant for citizen empowerment have been high jacked as objects of patronage.

### 7.2.4. A marked reduction in intra-state violence

The interview outcomes denote violence as a critical influencer in inducing compromises related to the post-1994 decentralisation model. One interviewee said they threatened to use nuclear weapons if the ANC was unwilling to accommodate them. Another interviewee

indicated that the escalating violence compelled the NP and ANC to accelerate finding solutions to the decentralisation impasse and accordingly the result might have been too rushed.

The compromises directly influenced the number of provinces agreed to and the provincial boundaries, which remain ethnically nuanced. In addition, provinces have full administrative powers, and local governments have some revenue generation authority.
A special chamber in Parliament, namely the NCOP, which includes representatives from SALGA and the NHTL, gives provinces, local government and traditional leaders a voice in the legislature.

The electoral system and agreement to have an inclusive cabinet during the CA process also contributed to allaying the fears of the statutory forces. The most significant compromise, however, was the inclusion of clause 235 on the right to self-determination in the final constitution.

The compromises reached were relatively successful. In the table and supporting figure below, the Uppsala Conflict Data Programme (UCDP) data demonstrates a marked drop in recorded political violence between 1990 and 2000.

**Table 29: SA Political violence trend**

| Year | Incidents |
|---|---|
| 1990 | 218 |
| 1991 | 549 |
| 1992 | 430 |
| 1993 | 536 |
| 1994 | 570 |
| 1995 | 232 |
| 1996 | 39 |
| 1997 | 37 |
| 1998 | 13 |
| 1999 | 0 |
| 2000 | 0 |

**Source:** ACLED (2013)




**Source:** ACLED (2013)

Accordingly, this interpretivist study, based on semi-structured interviews of twenty persons who either directly participated in, influenced or monitored South Africa's negotiation and

constitution-making processes, reveals that despite South Africa's diverse cultural composition, a unitary post-apartheid model of decentralisation with some features of federalism has contained the intra-state conflict relatively sustainably.

### 7.3.Governance effectiveness

Ewusi (2015, p.4-7) argues that, 'Resilient African societies will be the bedrock of conflict prevention and sustainable peace'. He asserts that the narrow aims of liberal peace related to ending armed violence and instilling human rights, democracy and market economies are inadequate; and that addressing underdevelopment, poverty and unemployment, particularly among youth, is central to managing intra-state conflict. This strong link between governance effectiveness and intra-state conflict management necessitated that the study also reflects on the contribution of the post-apartheid decentralisation model in this regard. Therefore, the research findings regarding governance effectiveness as per dimensions one and three of the analytical framework, are discussed.

The study addresses the issue of governance effectiveness using two methods. The first is based on the findings of the interviews, which specifically extracts the perspectives of interview participants on whether the decentralisation model is effective or not. The second is based on the findings of the document analyses.

According to the interview participants, the post-apartheid decentralisation model was the best outcome under the circumstances. However, they acknowledged that South Africa was experiencing glaring governance failures. These failures are attributed mainly to a dearth of leadership, inadequate capacity and a poor understanding of the decentralisation system, rather than the devolution of powers and responsibilities. Devolution also resulted in unfunded mandates, increased corruption, politico/ administrative interface override, and inadequate accountability regarding the poor delivery of services.

With regard to the document analyses, Huther and Shah (1998) identify citizen participation, government orientation, social development and economic management as key indicators of good governance. This forms the third dimension of the analytical framework, the sources of

which are the Ibrahim Index of African Governance (2021), the World Bank (2020), the OECD (2021) and the UNDP (2020).

The IIAG measures South Africa's performance against that of other countries on the African continent. Accordingly, South Africa performed above average with regard to its healthcare, education, social protection and environmental sustainability scores. Likewise, South Africa performed among the best with regard to economic management in general.
The World Bank, the OECD and the UNDP are also country comparative measures. Hence, South Africa's performance appears acceptable in comparison with the performance of countries across the globe. However, the World Bank's global governance index indicates a steady decline in South Africa's control of corruption from 1996 to 2014 (Cilliers and Aucoin 2016, p.5).

Statistics South Africa (2018) and Afrobarometer (2021), however, measure performance from the perspective of the people. South Africa has the highest Gini co-efficient in the world. This poses a danger, as a high degree and sense of inequality between and across segments of society is a pivotal contributor to violent uprisings (Cilliers and Aucoin 2016, p.3). About 76 percent of the country's population experience poverty as a constant threat in their daily lives. The unemployment rate is hovering around 34,5 percent. In this regard, women, particularly African women, are the most affected.

Accordingly, unemployment, poverty, crime and security, and corruption are the country's most important problems. These fall short of the expectations created during the negotiations concerning how a post-apartheid South Africa would be. It is also a security risk as it increases the pool of people that can be mobilised for political unrest and the vulnerability to the acceptance of incentives to evoke such unrest (Cilliers and Aucoin 2016, p.4).

Most interview participants argued that the governance failures were not because of the decentralisation model. Instead, some attributed it to inadequate leadership and capacity. Many – particularly those who identified with the governing party – argued that the challenges befalling the country today are due to weaknesses in the ANC. They blamed the absorption of former apartheid and Bantustan leaders into the organisation for its woes. Nonetheless, South Africa's poor economic and social performance affects the legitimacy of the state. Cilliers and Aucoin (2016, p.4) state that, 'Unemployment, inequality and poor governance in South Africa

impact upon social stability in complex ways'. This is expanded upon in the reflection on the resilience of the post-apartheid decentralisation model.

### 7.4.Advancing state legitimacy

Managing intra-state conflict requires that states balance the impact of globalisation against the citizens' demands. This role becomes easier if states have high levels of legitimacy. Political legitimacy refers to the recognition of and willingness to obey an authority.
It can be derived from cultural or shared beliefs, or it can be a charismatic personality or an elected body. State legitimacy is an element of political legitimacy and refers to the authority and influence commanded by the state. The lack of legitimacy causes state fragility and vulnerability to instability.

The formation of the post-apartheid decentralisation model, and the regulatory and institutional prescripts that support it, have been presented. The contribution of the decentralisation model to sustaining the management of intra-state conflict is, however, equally important. Thus, the extent to which the research findings from the decentralisation analytical framework demonstrate the contribution of the post-apartheid decentralisation model to state legitimacy is critiqued.

The year 2021 marked the twenty-fifth anniversary of South Africa's new Constitution, which is more than thirty years since the negotiations began. In the past decade, South Africa experienced daily protests ranging from labour disputes to discontent around service delivery. This included wide-scale protests in 2016 that demanded the resignation of former President Zuma. In July 2021, South Africa witnessed politically induced unrest at a scale not seen since the days of apartheid. Moreover, at least one province, the Western Cape, is motivating for secession. As a result, state legitimacy is being tested. Friedman and Atkinson (1994, p.xiii) argue that the warring parties did not bury their differences, and in their rush to conclude a negotiated settlement, they left many aspects unresolved.

The post-apartheid state's capacity to build vertical legitimacy between itself and its people and horizontal legitimacy between various groups and communities should be assessed within the context of a historically structurally divided South Africa. Maharaj and Jordan (2021, p.41) describe colonial-apartheid South Africa as, 'a white autocracy in which the majority were held down by force'. The regime was sustained by several repressive legislations, among which

were some that allowed for detention without trial, and the use of torture. Furthermore, the people of South Africa were subjected to sophisticated social engineering that resulted in physical separation and disparate access to economic opportunities and resources. Repression and reform were used as twin strategies, with the establishment of 'independent' black homelands forming a key pillar (Maharaj and Jordan 2021, p.52). Ambrosini (2017, p.96) describes apartheid as follows, 'This was the stuff of nightmares, as though a mad scientist were labelling people in order to conduct experiments on them'.

Apartheid repression was met with discontent and rebellion (Maharaj and Jordan 2021, p.64). Within the country, further to the historic 1976 uprisings, the heightening of resistance was characterised through the formation of the non-aligned FOSATU in 1979, the multi-sectoral, ANC-aligned, UDF in 1983 and Cosatu in 1985 (Maharaj and Jordan 2021, p.77-79). It also saw the re-awakening of the black-conscious Azapo. The resistance continued well into the phase of negotiations.

Interview participants listed hatred, death and trauma, generational poverty and ungovernability as some of the consequences of the colonial-apartheid, intra-state conflict. The decentralisation model was expected to contribute to addressing all those consequences.

Interview participants argued that the post-apartheid decentralisation model could facilitate the vertical legitimacy of the state. The role of the 1996 Constitution's Chapter 9 institutions was highlighted as important for sustaining the negotiation outcomes and the resultant decentralisation model. Theoretically, this assertion is confirmed. The document analyses using Hyden's (1992) human agency approach illustrate that the necessary policies, legislation and institutions exist to facilitate the interrelationship between power and authority, enhance accountability, and enable citizen influence and oversight. Satisfactory regulatory efforts to facilitate the vertical legitimacy of the state is also affirmed by the findings of document analyses based on Huther and Shah's (1998) model of effective governance, where South Africa performed well in general regarding citizen participation and government orientation.

Horowitz (1991, p.112) argues that, given all that transpired over the apartheid decades, the negotiations had needed to yield a clean break from the past for the process to have legitimacy. The outcome, however, was a compromise. A regulatory framework and institutional mechanisms to support the capability of the decentralisation model to facilitate vertical state

legitimacy might be in place, but its effectiveness has been questioned even by the interview participants. Unemployment, inequality and poverty remain high and continue to reflect the legacies of apartheid. This demonstrates a rise in the legitimacy gap, particularly concerning security and distribution.

The growing lack of vertical legitimacy between the state and the people is confirmed in survey findings by Afrobarometer (2021), in which 72,8 percent of participants indicated that they believed the country was going the wrong way. Trust in the governing party, in particular, is eroding fast. Cilliers and Aucoin (2016, p.6) state, 'South Africa has entered uncharted waters, as support for the ANC is on a sustained downward trajectory and the party is set to potentially lose its majority in due course'. The ANC could only garner 47,9 percent in the 2021 local government elections. This is a far cry from the 63,6 percent obtained in the 2011 local government elections, the sphere closest to the people.

Furthermore, the shift from resistance to reconstruction has not manifested at a grassroots level. Whenever communities are dissatisfied, they often opt for violent protests, as in the era of ungovernability under apartheid, rather than use the many legal platforms of engagement with government that have been created. South Africans, in general, appear not to have a sense of ownership and pride in public property, despite the theoretical facilitation of participatory governance. This Cilliers and Aucoin (2016, p.11) attribute to a perceived lack of capacity and willingness or concern by locally elected officials to engage with citizens. The absence of trust in government and the governing party as well as the lack of a strong sense of national identity makes the country vulnerable to future political uprisings.

The document analyses based on Hyden's human agency, as depicted in dimension two of the decentralisation analytical framework, also demonstrate adequate policy, legislation, and institutional mechanisms to attain the ideals of a united South African society. According to Khaile et al. (2021, p.8), 'Local government in South Africa is expected to contribute towards efforts to realise the constitutional vision of building national unity, diversity, belonging, social justice and a cohesive society'. Khaile et al. (2021, p.9) further confirm, as demonstrated in the research findings, that the various initiatives to facilitate social cohesion and spatial justice are implicitly and explicitly articulated in various government documents.

However, in addition to the increasing legitimacy gap of the state, the challenge of the horizontal legitimacy of the state remains. Schreiner (1994, p.249) states,

> The task of nation-building is one of welding a nation out of a society fractured by the brutality and divisions of artificial racial barriers, cultural differences, class and economic divisions, ideological splits, the oppressive gender gap, religious diversity and widespread social inequality and discrimination.
>
> It entails overcoming the apartheid legacy and constructing a new social definition for the citizens of South Africa. This process is not merely a cultural or ideological process but must be rooted in changed socio-economic and political circumstances for the majority of South Africans.

Interview participants maintained that not much had been done to consciously build social cohesion and national unity, particularly in relation to creating a progressive, non-racial, non-sexist and pro-poor society. The TRC process was meant to facilitate healing. Furthermore, the demarcation of provincial and local boundaries, in line with the post-apartheid decentralisation model, was meant to facilitate both ethnic integration and a more equitable spread of geographic activity and resources. But spatial patterns remain untransformed. The interview participants accordingly emphasised that racism and ethnicity were regaining prominence, including in the ANC, and that a national identity has not been adequately created. This is exacerbated by the inability of the post-apartheid state to substantively break the cycle of generational poverty. Accordingly, remnants of the consequences of colonialism and apartheid still prevail.

The views of interview participants are confirmed by the Parliament (2015) 'Diagnostic report on social cohesion and nation-building in South Africa'. In relation to the erosion of social cohesion over the past two decades, the report to Parliament (2015, p.34) states, 'This 'crisis of legitimacy' perspective is indicated by diminishing public trust in government and the country in general'. The sharp increases in racism, class divisions, social fragmentation, exclusion, marginalisation of women, unemployment, unequal experiences with the law, together with the fact that we have 11 languages that are associated with different race and ethnic groupings, have been listed as fault lines of the democratic era. In 2015, the SAHRC received 470 equality-related complaints, of which 270 were about racist statements (Parliament 2015, p.41).

South Africa experienced waves of attacks on foreign nationals. In May 2008, these attacks resulted in the deaths of more than 60 people and the displacement of thousands. A further wave of violence took place in 2011, and after that, it became an almost annual occurrence (Parliament 2015, p.43). However, while xenophobia currently supersedes racism and ethnicity, tension among South Africans becomes heightened during times of social crises. According to Parliament (2015, p.75), there is 'a disturbing level of interracial distrust in the country'. Furthermore, this distrust is influenced by external events. The July 2021 Phoenix 'Zulu-India clash' is an extreme example of inter-racial conflict and heightened inter-racial distrust.

The inability of the post-apartheid government to create an enabling environment for consolidating the horizontal legitimacy of the state also allows for the exploitation of a glaring fault-line in the decentralisation model, namely, the inclusion of Article 235, which allows for self-determination. Within the Western Cape Province, the Democratic Alliance, whose historical roots reside in the Democratic Party, a party which argued strongly for federalism during the negotiations, has seized the fault-line as an opportunity to reignite their vision of federalism and even independence through the formation of the WCDWG.

Should they succeed, the Afrikaner community, which remains boldly committed to separatism, will be justified in intensifying their demand for self-determination, nationally. Interview participants attributed the general weakness in facilitating the horizontal integration of the state to the negotiation process and not to the decentralisation model. Those from the side of the oppressed, whether inside or outside of the ANC, opined that the organisation, as the governing party, and a historical promoter of non-racialism, became diluted when it opened its doors to those that formerly were part of the oppressor, whether it was the National Party, non-aligned traditional leaders, or homeland leaders. This eroded the value of non-racialism, allowing for rising ethnicity and regionalism as these 'external' persons gained increasing prominence within the organisation.

### 7.5.Conclusion

In this chapter, the research findings are discussed relative to the research objectives. The primary purpose of the research was to investigate how the political parties that represented South Africans during the 1990 to 1996 negotiation and constitution-making processes could design a decentralisation model that accommodated their highly diverse interests.

The design of the decentralisation model that was ultimately agreed on gives sufficient authority to the central government to drive social and economic development in a more just and equitable manner, thereby meeting the demands of the non-statutory forces.
By allowing residents to elect provincial parliaments, which have the authority to appoint provincial executives with full administrative authority, the design also succeeded in appeasing the forces aligned to the apartheid government era, including COSAG. Furthermore, accommodating the existence and role of traditional leaders within the model also aided in ceasing intra-state conflict. Accordingly, embedding the negotiation outcomes in a political framework, namely the constitutional principles, and thereafter the Constitution of the Republic of South Africa, Act 200 of 1993, and the Constitution of the Republic of South Africa, Act 108 of 1996, and ultimately asserting the Constitution as the supreme law of the country, served to consolidate and secure it. The institutions captured in Chapter 9 of the Constitution of the Republic of South Africa, Act 108 of 1996, are meant to preserve the sustainability of the negotiation outcomes.

All respondents still believe that the decentralisation model is essential for the continued management of intra-state conflict in South Africa. However, they warned that the current discourse about reviewing the supremacy of the constitution and possibly reverting to making it subordinate to Parliament poses a danger of plunging our country back into a state of low-intensity, civil war.

# Chapter 8
# Conclusion

## 8.1.Introductory remarks

This dissertation's subject is the role of decentralisation in managing intra-state conflict in South Africa. The study was initiated because intra-state conflict is an immense global concern, including on the African continent. For example, of the 34 global armed conflict cases that occurred in 2020, 44 percent were in Africa. In addition, the African continent experienced 38 socio-economic crises in the same year. Thus, failure to effectively manage intra-state conflict leads to excessive loss of life, increases in refugees and internally displaced persons, and significantly impedes development. For this reason, the African Union, as part of Agenda 2063, has a flagship programme that seeks to 'Silence the Guns' by the year 2030.

In managing intra-state conflict, governments have to balance multiple contradictory pressures. These include the demands from multilateral and multinational organisations due to global inter-connectivity, vis-a-vis citizen expectations and demands concerning service delivery and group needs. Therefore, a governance structure that is adequately resilient in balancing the contractions in a culturally plural manner is essential. In this regard, decentralisation is advocated by international and multilateral organisations as the most suitable governance structure to accommodate the various interest groups. Chapters one and three demonstrate the influence that external bodies exert on countries in Africa dealing with intra-state conflict towards applying specific decentralisation models.

The problem, however, is that the effectiveness of decentralisation in managing intra-state conflict is debatable. Current literature regarding the relationship between decentralisation and the management of intra-state conflict is inconclusive. Furthermore, the context significantly influences the form of decentralisation required when managing intra-state conflict. However, the conditions under which decentralisation plays a positive role have not been determined adequately.

Given that the configuration of the decentralisation model of a state is crucial for the successful management of intra-state conflict, the detail around how it evolved and the legislative and institutional measures that support it, is important. South Africa's post-apartheid decentralisation model is unique and adequately appeased conflicting parties at the time to stop the centuries-long conflict.

Data confirms that incidents of political violence dropped significantly after 1995 and was sustained for several years thereafter. The case study thus sheds light on the current decentralisation model, contextualises its constraints and analyses the model's resilience. It is hoped that this study on the role of decentralisation in managing intra-state conflict in South Africa will contribute to a clearer understanding of this subject.

This chapter briefly summarises the thesis and assesses it. Furthermore, the implications, contributions and limitations of the study are discussed. Finally, the chapter concludes with recommendations.

## 8.2.Overview of the thesis

In answering the question, *'What is the role of decentralisation in managing intra-state conflict in South Africa*', the study unpacks how the various parties that were involved in a centuries-long conflict were able to shift from their various diverse demands, to create a decentralisation model that appeased them sufficiently to end it. The experience is phenomenal because of the extremities of the positions that were rigidly advocated by each of the parties concerned and because it led to a minority government trusting the process sufficiently to surrender its power through a negotiated settlement. Key areas of focus include the negotiation and constitution-making processes, the factors that influenced the design of the decentralisation model, and how it was accommodated in terms of policy, legislation and institutions. Furthermore, the study explores the contribution of the post-apartheid decentralisation model to state legitimacy.

The literature review spans two areas. Chapter two defines decentralisation and the key concepts associated with it. It also reviews the literature on decentralisation and conflict to demonstrate prevailing incongruencies. Chapter three unpacks the history of decentralisation and conflict on the African continent, as well as the historical inter-relationship between decentralisation and conflict in colonial-apartheid South Africa.

Chapter four details the research process. Only persons directly involved in the negotiations, whether through participation, influence or observation, would have been able to provide the details of how the decentralisation model came about. Therefore, semi-structured interviews were conducted with twenty people, using stratified, purposive sampling to ensure relevance and representativity.

An interview schedule based on the secondary research questions guided the interviews. Moreover, an analytical framework was designed to link the questions in the interview schedule with the purpose and to ensure a coherent presentation of the findings. The analytical framework encompassed the context of the conflict, the process of making the decentralisation model, the structural configuration of the model's design, and its effectiveness. Responses were frank and detailed, and the interpretivist approach applied in the study allowed for a vast and rich collection of data. These are presented in Chapter five.

As invaluable as the data derived from the interviews are, enhancing the value of the research and increasing its generalisability required the study to go beyond the conceptualisation of the decentralisation model. The study needed to delve into its substance and present the policy, legislative and institutional prescripts underpinning the model. In this regard, document analyses of primary data were undertaken. Yet another analytical framework is applied to link the research findings to the purpose. State legitimacy is fundamental to the management of intra-state conflict. In the absence of any known qualitative indicators to determine the contribution of a decentralisation model to state legitimacy, Hyden's (1992) human agency approach to governance is used as a framework. The qualitative indicators of the human agency approach are closely related to that of state legitimacy. The findings thereof are expressed in Chapter six of the research.

Likewise, a decentralisation model that collapsed after a few months would be of no value. Therefore, it was necessary to appreciate the decentralisation model's effectiveness from the interview participants' perspective and to obtain a quantitative view of its contribution to state legitimacy. The findings of the interviews on whether the post-apartheid decentralisation model effectively managed South Africa's intra-state conflict are also presented in Chapter five. Huther and Shah (1998)'s model of governance effectiveness is used as a framework to analyse quantitative secondary data from accepted international sources to critique the decentralisation model's contribution to state legitimacy. The findings of the document analyses, which are further critiqued based on domestic data, are also presented in Chapter six.

The model remains relatively unchanged twenty-five years after the adoption of the new constitution. This is a remarkable demonstration of resilience. However, despite this resilience, the country is seemingly falling apart. Does this imply that the model is not as effective, or is it due to human error, as alluded to by the interview participants?

Chapter seven, which discusses the research findings, explores this question. An assessment of the research is presented herewith.

### 8.3.Assessment of the research

Sisulu (2022) states, 'We have a neoliberal constitution, with foreign inspiration…'. Sisulu's articulation infers that South Africa's constitution is an outcome of bargaining among the political elite, with significant influence by Europe and America. A preferred response is the following quotation by Friedman (1994, p.xi), 'It illustrates the extent to which a past which once seemed to weigh on us so heavily has come to some to seem like a distant memory, to be recalled only by those with little taste for today's issues.' Interview participants and literature demonstrate that the process, whether it be the negotiations, or the work of the Constitutional Assembly, was significantly consultative, with definitive efforts to engender public awareness.

The initial intention of this research was to contribute to existing knowledge on decentralisation and intra-state conflict. While this remains paramount, the research also provides information that applies to the contemporary local discourse on the contribution of the Constitution, including our decentralisation model, to South Africa's political and socio-economic challenges. In lieu of disinformation about the origins of the 1996 Constitution due to South Africa's prevailing governance challenges, this study serves as an important record of history, the dismissal of which could lead to the dissolution of the glue that binds the South African society.

Some South Africans appear to have forgotten that, despite South Africa's negotiation process having received global accolades, it was not easy. The environment that surrounded it was bloody. There were the Katlehong, Boipathong and Bisho massacres. There was the assassination of prominent ANC and SACP leader, Chris Hani. There were bomb blasts and continued threats of war by right-wing extremists such as 'Die Wit Wolve'. An estimated fourteen thousand people died during the period 1990 to 1994. Maharaj and Jordan (2021, p.34) confirm that during those four years, the country, 'would swing wildly between high expectations and dashed hopes and see the senseless slaughter of thousands of black people'.

Parties mistrusted each other and blamed each other for the violence. Consequently, the negotiations broke down several times. Many of the deadlocks and walk-outs centred precisely

around disagreements on the future decentralisation model, as the demands related to decentralisation were highly polarised.
During the negotiations, the historical oppressors and their allies designated the 'statutory forces', strongly wanted federalism, and some even wanted separatism. On the other hand, the historically oppressed and their allies, designated as the 'non-statutory forces' during the negotiations, uncompromisingly demanded a centralised, unitary state.

Resentment about the high levels of anger and violence that had accompanied the intra-state conflict that existed in the colonial-apartheid era of South Africa was still apparent in the responses to the study interview questions. Nevertheless, what was also clear from the interviews was the high level of determination among all political players at the time to end the hatred and bloodshed. This determination to create a different or 'new' South Africa resulted in the drafters of the interim and current constitutions developing something unique. This is one of the reasons why the Constitution of the Republic of South Africa, Act 108 of 1996, is regarded as a miracle.

In seeking to respond to the research question, *'What is the role of decentralisation in managing intra-state conflict in South Africa*' the material substance of the 'miracle' is extracted. Despite the human weaknesses that underpin South Africa's current challenges, the research study demonstrates that South Africa's decentralisation model had contributed significantly to the management of intra-state conflict at the time of its formulation. In South Africa, the depth and violence of the conflict had reached such levels that most people developed a mutual determination to see it resolved. Accordingly, the decentralisation model that arose from South Africa's negotiation and constitution-making processes was instrumental to the solution. This was due to political will and the inclusive process that was followed.

Furthermore, the research findings demonstrate that the negotiators had intended that the decentralisation model should contribute to state legitimacy. As a result, the agreed decentralisation model was enshrined in the 1996 Constitution. Moreover, independent institutions, which were also captured in the Constitution, were created to protect democracy. In addition, platforms for enhanced coordination and cooperation between the three spheres of government and between government and the people were established.

However, the research findings also reveal the incongruence between theory and practice. The best intentions are often failed by human weaknesses.
According to Ewusi (2015, p.8), 'Personality matters a great deal in the psyche of the African person and has implications on the legitimacy of either the person or the institutions or processes they represent.'

In South Africa, it was assumed that the quality of leaders that existed during the negotiations would prevail for generations to come. Sadly, that was not to be. Not only were the leaders inadequately reproduced, but some of the leaders who were noble at the time lost their nobility as power and wealth increased. The study demonstrates that a good decentralisation model can assist in managing intra-state conflict but requires good leadership for the model's effectiveness to be sustained.

Sarakinsky (2000) stated the following about that period in his reflection on contemporary challenges,

> To bring about democracy, parties had to change the way they interacted with each other, realising that no matter how strong or weak they were, they depended on each other. This resulted in a form of political conduct that was multi-dimensional; it was both conflictual and cooperative. Now that the transition is almost over, conflict predominates, and it appears as though the parties now take each other and their mutual achievements for granted. As a result, politics in South Africa now is more about combating opponents and less about accommodating those with different interests and values.

The quotation succinctly reflects the interview participants' views that, at some point, all the negotiators decided to put their differences aside and place the country's needs first.

The impact of intra-state conflict is so severe that new constitutions, and their embedded decentralisation models, become symbols of hope to the affected. In South Africa, there was a realisation among the negotiators that the decentralisation model was more than a technical exercise. At the time, citizens viewed it as the panacea to the country's ills and a promise of a better life. The quotation also affirms the frustrations of interview participants, who state that currently, most political parties appear to have lost their sense of purpose.

## 8.4.Implications and contributions of the study

The implications and contributions of the study are outlined.

### 8.4.1. Implications

Constitutional reform that includes decentralisation is often a significant component of conflict resolution and management. Consequently, case studies are necessary sources of reference for countries seeking to resolve their intra-conflict.

South Africa's post-apartheid decentralisation model's centrality to the decentralisation and intra-state conflict discourse makes it a compelling case study.

The preferred decentralisation model advocated by international organisations in conditions of intra-state conflict is that of federalism or con-federalism because it had worked relatively well in Europe. Occasionally, even secession is recommended. Examples of secession in Africa are Eritrea and South Sudan. However, Africa's colonial history resulted in conditions that are very different to those in Europe, and therefore decentralisation models that worked in Europe cannot be applied unilaterally.

While acknowledging that the design of a decentralisation model is highly contextualised, it is critical to recall that ethnocultural decentralisation, with substantially devolved political, administrative and fiscal autonomy, failed in apartheid South Africa. It is also essential to note that despite South Africa's diverse cultural composition, a unitary model of decentralisation with some features of federalism has contained the intra-state conflict far beyond any of the countries in Africa that chose federalism, con-federalism or secession.

Ethnicity and race emerge as fault lines when reviewing the contribution of the post-apartheid decentralisation model to state legitimacy; however, it is no longer the main risk. Its adverse influence on vertical legitimacy is significant because it can be manipulated to reignite intra-state conflict. However, the quantitative analysis of governance effectiveness demonstrates that South Africa's high levels of inequality, poverty and unemployment are the factors that make it vulnerable to intra-state conflict. If there were to be a resurgence of intra-state conflict, it would be due to socio-economic problems and not cultural-ethnic, as under colonialism and

apartheid. Accordingly, the success of South Africa's post-apartheid decentralisation model makes it worthy of replication.

### 8.4.2. Contributions

These research findings contribute new knowledge on the imperatives that enable a country to devise a decentralisation model to respond positively to the drivers of conflict, using South Africa as a case study. It also expands on the body of knowledge concerning the contribution of a specific form of decentralisation to state legitimacy.

In this regard, it details the conditions that compelled the negotiations, how the negotiations process was structured, and how the post-apartheid decentralisation model emerged. Insodoing, it provides a substantive and demonstrable record of how a decentralisation model can be designed to bridge societal cleavages, foster conciliation and thwart an array of undemocratic impulses; and the regulatory prescripts and institutional mechanisms that were put in place to sustain it. Further to referencing how South Africa designed a decentralisation model that assisted in relatively resolving its conflict, countries can study the policies, legislation and institutions that underpin it and consider extracting and domesticating those elements relevant to their conditions. Additionally, countries can learn from the errors that South Africa made so that the errors are avoided, or at least so that they are addressed more effectively.

Thus, the study presents new knowledge, as these aspects of the negotiation and constitution-making processes have not previously been detailed. It details the sophistication of persuasion and the art of seductive engagement that comes to the fore as political parties seek to maximise their interests in a negotiation process. It also demonstrates that, ultimately, all parties must be willing to place the country's interests above their own, compromise and bind themselves to a lasting solution. In the case of South Africa, this solution was a hybrid decentralisation model based on a co-operative governance system; a centrally controlled, redistributive fiscal relations policy; and legal measures to facilitate citizen participation in governance.

Theoretically, the study brings new knowledge as it establishes the link between a given decentralisation model and state legitimacy as part of managing intra-state conflict. The study teaches that implementing a decentralisation model must contribute to the vertical legitimacy of the state by facilitating the establishment of trust between a government and its citizens.

Furthermore, implementing a decentralisation model must contribute to horizontal legitimacy by facilitating social cohesion, national unity, and cultural pluralism.
Lastly, a decentralisation model must contribute to narrowing the legitimacy gap by making citizens feel secure and included, as individuals and as groups. Citizens should also feel that they have equal access to the law, authority and social and economic resources and opportunities. The study demonstrates how South Africa's decentralisation model contributed to state legitimacy with detailed qualitative data and critiques it quantitatively.

**8.5.Recommendations**

Four recommendations arise from the research study. Two are practical and specific to South Africa and the others relate to its scholarly contribution.

Drawing on the country-specific points expressed by interview participants, it is recommended that the mechanisms of accountability between the three spheres of government and between government and citizens be strengthened to enhance the state's vertical legitimacy and to better address the legitimacy gap. Furthermore, to strengthen horizontal legitimacy, legislation and resources to give effect to all constitutional prescripts on the promotion and protection of the country's rich cultural heritage and the alignment thereof to create a sense of nationhood need to be accelerated.

In the interest of knowledge generation, the links between governance structure and state legitimacy need further study. Currently, post-conflict state building is too focused on compliance with international guidelines and attaining international recognition and is not adequately citizen centric. Accordingly, the needs, expectations and even the historical indigenous mechanisms of intra-conflict management are often not sufficiently incorporated into post-conflict state-building processes. The three-dimensional framework of analysis created for this study could form part of a more refined tool that could be used to critique the contribution of negotiated decentralisation models to state legitimacy.

Additionally, noting the gaps in this study regarding the security sector, it is recommended that a future research agenda considers further examining the dynamics of the transition regarding this sector and the extent to which it provided for enduring and resilient solutions.

### 8.6.Does the system work?

The research findings demonstrate the different challenges and interests to which the negotiations over decentralisation in the South African transition tried to respond. Furthermore, it shows that, even though the model was effective in appeasing all the negotiation participants, it was an incomplete arrangement in that it could not stem poverty and inequality or empower local communities.

The research concludes that decentralisation is an eminently political process that, at its best, is dynamic and elastic in responding to changing times. Unfortunately, all too often, rather than investing in a constant recalibration of decentralisation, it is treated as a static, almost immutable fix to a problem. However, the nature of the problem does change; hence the form of decentralisation cannot be static.

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## ANNEXURE 1: DRAFT INTERVIEW SCHEDULE

**Draft Interview Schedule**

Maximum time allocation: 2 hours

**Personal details**

Name:

Title:

Organisation:

Email address:

Role during the negotiations:

**1. Context**

1.1. What do you think were the main causes of the conflict in colonial-apartheid South Africa immediately post the 2007 elections

1.2. What form did the conflict take and how long did it last

1.3. In your view, what were the consequences of the conflict

1.4. What is your understanding of decentralisation

**2. Decentralisation formation process**

The negotiation's process

2.1. Participation

2.1.1. What were the factors that led to the decision to negotiate and who initiated the process

2.1.2 Was there an institutional structure to manage the process? If yes, how was it constituted, who participated in it, how was its secretariat constructed to avoid bias and how was it funded

2.1.3. How did you derive your mandate

2.1.4. How were the interests of those entities that were not represented during the negotiations, accommodated

2.2. Design

2.2.1. What were the key factors considered when deciding whether the state should be unitary, federal, or a combination of both

2.2.2. How were those factors accommodated politically, structurally, and financially with regards to the allocation of powers and resources, particularly in relation to national and provincial (county) governments

2.2.3. How were the interests of traditional leaders accommodated

2.2.4. What institutional and legislative measures were introduced to ensure the sustainability of the negotiation's outcomes

2.2.5. How are the voices of ordinary people reflected in the process

**3. Decentralisation impact**

3.1. In hindsight, do you believe that the decentralisation design as currently reflected in the Constitution was the most effective way to manage South Africa/ Kenya's intra-state conflict? Which aspects, if any, reduced the conflict and which aspects, if any, exacerbated the conflict

3.2. What would you say are the key challenges and constraints experienced and is there anything that you would have done differently

**ANNEXURE 2: PIS – INTERVIEWS: SOUTH AFRICA**




Dear Sir / Madam

**Request to participate in research study: The role of decentralisation in managing intrastate conflict in South Africa and Kenya**

My name is Reneva Fourie and I am a PhD student at the School of Government at the University of the Witwatersrand, Johannesburg. As part of my studies, I have to undertake a research project, and I am investigating the role of decentralisation in managing intrastate conflict in South Africa and Kenya under the supervision of Prof Ivor Sarakinsky. Within the context of the study, decentralisation refers to the transfer of power, responsibilities and finance from central government to sub-national levels of government.

The aim of this research project is to find out how the outcomes of the 1990-1994 negotiations process, which led to the interim Constitution, and the constitution making process as managed by the Constituent Assembly from 1994 to 1996 resulted in a decentralisation design that at the time, appeased all parties associated with maintaining or resisting apartheid, and to compare it with Kenya's process post the 2008 conflict. It is hoped that the outcomes of this study will assist to better manage intra-state conflict on the continent as we seek to silence the guns by 2030.

As part of this project, I would like to invite you to take part in an interview on a date and time that you may deem convenient. This activity will take around 60 minutes and can be done online via Zoom or at a venue that you will find comfortable.

There will be no personal costs to you if you participate in this project. You will not receive any direct benefits from participation but there are no disadvantages or penalties if you do not choose to participate or if you withdraw from the study. You may withdraw at any time or not answer any question if you do not want to. The interview will be completely confidential, and the information you give to me will be held securely and not disclosed to anyone else. If you experience any distress or discomfort at any point in this process, we will stop the interview or resume another time.

If you have any questions during or afterwards about this research, feel free to contact me on the email address listed above. This study will be written up as a research report which will be available online through the university library website. If you wish to receive a summary

of this report, I will be happy to send it to you. If you have any concerns or complaints regarding the ethical procedures of this study, you are welcome to contact the University Human Research Ethics Committee (Non-Medical), telephone +27(0) 11 717 1408, email hrecnon-medical@wits.ac.za

Yours sincerely,

Researcher:
MS. RENEVA ESTHER FOURIE

Supervisor:
PROF. IVOR SARAKINSKY.
Email address: Ivor.Sarakinsky@wits.ac.za

## ANNEXURE 3: DRAFT CONSENT FORM

*Instructions to participants:* Please print and sign your name in the space provided in Section A before you participate in this study. Once the study is over and you have been debriefed, you will be asked to initial the three statements listed in Section B to indicate your agreement.

*Section A*

I, _____ , voluntarily give my consent to participate in this project. I have been informed about, and feel that I understand the basic nature of the project.

I understand that I may leave at any time and that my anonymity will be protected.

_____ _____

Signature of research participant Date

*Section B*

Please initial each of the following statements once the study has been completed and you have been debriefed.

_____ I have been debriefed

_____ I was not forced to stay to complete the study

_____ All my questions have been answered satisfactorily

source: Rosnow and Rosenthal (1996, p.63)

UNIVERSITY OF THE WITWATERSRAND, JOHANNESBURG

Research Office

**HUMAN RESEARCH ETHICS COMMITTEE (NON-MEDICAL)**
R14/49 Fourie

| | |
|---|---|
| **CLEARANCE CERTIFICATE** | **PROTOCOL NUMBER: H21/02/06** |
| **PROJECT TITLE** | The role of decentralisation in managing intra-state conflict in South Africa and Kenya |
| **INVESTIGATOR(S)** | Ms R Fourie |
| **SCHOOL/DEPARTMENT** | School of Governance/ |
| **DATE CONSIDERED** | 19 February 2021 |
| **DECISION OF THE COMMITTEE** | Approved<br>Risk Level: Low |
| **EXPIRY DATE** | 15 March 2024 |
| **DATE** 16 March 2021 | **CHAIRPERSON** J Knight<br>(Professor J Knight) |

cc: Supervisor : Professor I Sarakinsky

**DECLARATION OF INVESTIGATOR(S)**

To be completed in duplicate and **ONE COPY** returned to the Secretary at Room 10004, 10th Floor, Senate House, University. Unreported changes to the application may invalidate the clearance given by the HREC (Non-Medical)

I/We fully understand the conditions under which I am/we are authorized to carry out the abovementioned research and I/we guarantee to ensure compliance with these conditions. Should any departure to be contemplated from the research procedure as approved I/we undertake to submit an amendment of the protocol to the Committee. **I agree to completion of a regular progress report. For Minimal and Low studies, this is due annually on 31 December. For Medium and High Risk studies, this is due twice annually on 30 June and 31 December.**

Fourie
**Signature**

18,03,2021
**Date**

**PLEASE QUOTE THE PROTOCOL NUMBER ON ALL ENQUIRIES**