Three Decades of South African Democratic Experiment: Consolidating or Retreating?

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Thesis submitted in Fulfilment of the Requirements for the Degree of

Doctor of Philosophy (PhD)

In

Political Sciences

School of Social Sciences, College of Humanities, Pietermaritzburg, KwaZulu-Natal, South Africa

November 2024

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ABSTRACT

South Africa's transition from colonialism and apartheid to a constitutional democracy was fraught with many complex challenges which included several difficult phases. During apartheid, the National Party minority government enacted laws that promoted and advanced the democratic, political and civil rights of a few to the detriment of the black Africans that constituted the vast majority of the country's population. This triggered a challenging and protracted fight for an inclusive democratic system of government where a person's social standing, race and gender would not serve as a factor determining their rights and their treatment by the state. Over time, and with the support of international organisations and governments, South Africans embraced a need for a dialogue that culminated in the 1994 democratic breakthrough which brought with it many political opportunities.

This study uses the pragmatic paradigm to assess the role of both apartheid and the post-1994 democratic era in serving or hindering the country's democratic consolidation. Whereas the theoretical framework underpinning this study facilitates both the analytical and conceptual constitution of the research on the state of South African democracy with specific concern over its consolidation or retreat. To this end, the research appropriates the institutional approach. This study first assesses the institutionalisation, legalisation, and entrenchment of the political, racial, social and economic stratification of South Africa. Later it assesses the role of the post-1994 democracy in strengthening institutions, values and practices that are geared towards democratic deepening. The study concludes by arguing that South Africa's democratic experiment although facing challenges, has overall shown the resilience of the South African society, even though equality remains an unfulfilled promise for many.

ACKNOWLEDGEMENTS

- First, I want to thank myself for the discipline, commitment, and the many long hours I have spent conducting this study. I will forever cherish every sweat, setback, and every minute I have spent working on this important contribution to the body of knowledge.
- To my supervisor: Dr Biniam Misgun – whose support and guidance throughout kept me going even when I was not sure. You are an inspiration. I am happy that I have worked with you.
- To the Editor: Professor Steven Friedman, I know you worked under an extremely strict deadline, but you pulled through, thank you very much!
- To my family – this is for you, and I hope one or some of you will be inspired.
- To the staff at Brakpan Library – City of Ekurhuleni: thank you very much for your continued support.

"After climbing a great hill, one finds that there are many more hills to climb" Nelson Mandela.

UZimu anitjudubaze (God Bless You)!!

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ACRONYMS AND ABBREVIATIONS

ABCD	Asset-based Community Development
AbM	Abahlali base Mjondolo
AG	Auditor-General South Africa
AIDS	Acquired Immune Deficiency Syndrome
AMCU	Association for Mineworkers and Construction Union
ANC	African National Congress
ANC YL	African National Congress Women's League
ANC WL	African National Congress Youth League
APF	Anti Privatisation Forum
ARV	Antiretroviral
Asgi-SA	Accelerated and Shared Growth for South Africa
AZAPO	Azanian People's Organisation
BAAB	Bantu Affairs Administration Board)
BBBEE	Broad-Based Black Economic Empowerment
BCEA	Basic Conditions of Employment Act
BCM	Black Consciousness Movement
BEE	Black Economic Empowerment
BNG	Breaking New Ground
CA	Constitutional Assembly
CBM	Community Based Monitoring
CBO	Community Based Organisation
CCSA	Constitutional Court of South Africa
CDG	Child Dependency Grant
CEPPAWU	Chemical, Energy, Paper, Printing, Wood, and Allied Workers Union
CGE	Commission for Gender Equality
CODESA	Convention for a Democratic South Africa
COSATU	Congress of South Africa Trade Unions

CRL	Commission for the Promotion and Protection of the rights of Cultural, Religious and Linguistic Communities
CPR	Civil and Political Rights
CPSA	Communist Party of South Africa
CPS	Cash Payment System
CSO	Civil Society Organisation
DA	Democratic Alliance
DDG	Deputy Director-General
DG	Director-General
DoSD	Department of Social Development
EEA	Employment Equity Act
EFF	Economic Freedom Fighters
EPG	Eminent Person's Group
EPWP	Extended Public Works Programme
ESTA	Extension of Land Tenure Act
FBS	Free Basic Services
FCG	Foster Care Grant
FDI	Foreign Direct Investment
FEDSAW	Federation of South African Women
FPTP	First Past Post
GBV	Gender Based Violence
GDP	Growth Domestic Product
GEAR	Growth, Employment and Redistribution
GNU	Government of National Unity
HIV	Human Immunodeficiency Virus
HPA	Homeless People's Association
HSRC	Human Sciences Research Council
IDC	Independent Development Corporation
IDP	Integrated Development Plan

IEC	Independent Electoral Commission
IFP	Inkatha Freedom Party
IMF	International Monetary Fund
ILO	International Labour Organisation
ISCOR	Iron and Steel Corporation
JMC	Joint Monitoring Committee
JSC	Judicial Service Commission
KZN	KwaZulu-Natal
LPM	Landless People's Movement
LRA	Labour Relations Act
MEC	Member of the Executive Council
MEC	Mineral Energy Complex
MK	uMkhonto weSizwe
MP	Member of Parliament
MPL	Member of the Provincial Legislature
NA	National Assembly
NCOP	National Council of Provinces
NDoH	National Department of Health
NDP	National Development Plan
NDPP	National Director of Public Prosecutions
NEC	National Executive Committee
NEDLAC	National Economic Development Labour Council
NEF	National Electricity Fund
NGM	National Gender Machinery
NGO	Non-governmental Organisation
NP	National Party
OAU	Organisation of African Unity
OSW	Office for the Status of Women
PAC	Pan-Africanist Congress

PHP	People's Housing Process
PIE	Prevention of Illegal Evictions and Unlawful Occupation of Land Act of 1998
PMA	Pharmaceutical Manufacturing Association
PMTCT	Prevention of Mother to Child Transmission
PPSA	Public Protector South Africa
RDP	Reconstruction and Development Programme
RSA	Republic of South Africa
SACC	South African Council of Churches
SACP	South African Communist Party
SAHRC	South African Human Rights Commission
SAIRR	South African Institute of Race Relations
SAMWU	South African Municipal Workers Union
SANCO	South African National Civic Organisation
SARB	South African Reserve Bank
SASCO	South African Student Congress
SASM	South African Student Movement
SASOL	South African Coal, Oil and Gas Corporation
SASSA	South African Social Security Agency
SATS	Standard Assessment Task
SCA	Supreme Court of Appeal
SER	Socioeconomic Rights
SEWU	Self-Employed Women's Union
StatSA	Statistics South Africa
STI	Sexually Transmitted Infection
SWRP	Socialist Workers Revolutionary Party
TAC	Treatment Action Campaign
TB	Tuberculosis
TBVC	Transkei, Bophuthatswana, Venda and Ciskei

TRC	Truth and Reconciliation Commission
TYR	Twenty Year Review South Africa
UDF	United Democratic Front
UNCTAD	United Nations Conference on Trade and Development
USSR	Union of Soviet Socialist Republics

CHAPTER ONE

1. Problematics and Dynamics of Democratisation in South Africa

1.1 An Introductory Background

This study sought to examine and interrogate the state of the South African democracy; that is, its ability to withstand external and internal pressures. When considering external pressure, one must pay attention to the political role played by international role-players including governments and their proxies in influencing South Africa's political and policy direction. Whereas internal pressures could be described as pressure brought about by citizens – both organised and unorganised in pursuit of their individual and/or collective needs. South Africa became a constitutional democracy in 1994, making the thirty years of the country's democratic rule. Therefore, it is crucial to assess the trajectory of this democratic dispensation, what it entails, how it is experienced, its constitutions and expressions. This study is thus interested in the three decades of South Africa's democratic experiment, and its trajectory, trials and tribulations, with particular focus on whether the country's democracy is consolidating or retreating.

Undeniably, at the core of the country's more than a century-long struggle for a democratic, free and prosperous South Africa was the desire for all citizens (regardless of gender, creed or race) to live in equality, respect, peace, and harmony. In this sense, democracy is associated with trust and accountability and is measured against specific expectations and renewed aspirations for improved social and material conditions. This speaks to the popular South African discourse of "service delivery" as well as citizen's demand for freedoms, material and social well-being that the country's democratic dispensation should offer. As a representative democratic practice, South African citizens give an electoral mandate to rulers to deliver on these, and rulers in return subject themselves to periodic free and fair elections. South Africa has held multiple inclusive elections since 1994, with the ANC as a ruling party dominating the national political scene; whilst many municipal and local spheres of government have changed hands.

It must, however, be said that elections do take place in authoritarian states and therefore they cannot and should not be used as the only barometer to measure whether a country does indeed subscribe to proper democratic rule. In addition, elections are not necessarily an indicator of whether democracy endures. These views form the basis from which this study sought to broadly interrogate the state of South African democracy and its trajectory since the establishment of the first republic.

It should be known, however, that South Africa's democratic experiment has two phases to it: the periods 1948 – 1990 – commonly known as the consolidation of whites-only democracy or

apartheid; and 1990 to date - as constitutional democracy (1990-1994 a transitional period and 1994 to date as the first truly inclusive democratic era). Thus, the consolidation or retreat of South African democracy can only be properly and correctly understood when it is studied in terms of its continuities and discontinuities; that is, assessing the institutions as well as institutional cultures, values and norms that have been carried over from apartheid to the current constitutional democracy. Consequently, this study compares these two systems by focusing on whether the whites-only democracy has been helpful to all other racial groups and, secondly, whether elements of apartheid's whites-only democracy have featured in the new constitutional democratic dispensation since 1994.

This study is thus concerned with questions: Has South Africa managed, to borrow Schedler's (1998:91) phrase, to "extend the life expectancy of democracy beyond the short-term"? Are South African democratic institutions incrementally maturing? Alternatively, have the promise of the democratic ideals of an open and accountable government, freedom of speech, association and of the press been achieved? After all, these are what had catalysed and magnetised thousands of South Africans to relentlessly pursue the century long fight against the Nationalist Party's regime. The proposed research thus seeks to crucially examine these questions, specifically whether the country's democracy is consolidating or retreating; and how if likely, South Africa's democratic experiment of almost three decades has entrenched links to her pre-1994 past.

It is worth noting that the South African democratic project has been a subject of intense scrutiny and interrogation by both international and local scholarship over the last almost three decades of the country's transition from apartheid to a democratic dispensation. The question is thus, how is this different from the rest? What is different about this study is the focus on aspects of the consolidation or retreat of the democratic experiment. In this regard, particular attention is given to the continuities and discontinuities between the two phases of the democratic experiments. On one hand, the need to assess whether "the whites-only democracy" has been helpful to all other racial groups; and on the other, whether elements of apartheid's "whites-only democracy" have featured in the new constitutional democratic dispensation since 1994.

1.2 Choosing Topic, The Rationale and Objectives of the Study

To conceptualise the practice and concept of democracy including what is meant by democratic consolidation or retreat, one must grapple with the strengths, weaknesses, prospects and trajectory of South Africa's democracy. This must be done by reflecting on the two phases of the democratic experiments in the country noted above. We have a critical issue to raise here: challenges of interrogating democratic consolidation or retreat, given the varied discourses of democracy, democratic consolidation or retreat. Fayemi (2010:1) appears to hold the view that it cannot be simple, because "discourses on democracy … [and therefore its consolidation or retreat] are polemically complex and pervasive in contemporary politicking." The varied positions on these issues have affected the ability of scholars to develop a universally acceptable definition of the democracy. This could be why there is disagreement about the proper philosophical and historical conceptualisation and taxonomy of democracies. This

disagreement has affected the classification of 'secure or complete' or 'incomplete or regressing' democracies.

Linz and Stepan (1996) and Schedler (1998) contend that some democracies have consolidated – that they would last for many years or that they are proper democracies. Critics of this view including O'Donnell (1996) argue that consolidation does not represent a proper way of understanding democratic prospects. Friedman (2011), who supports and develops O'Donnell's critique, argues that consolidation is an attempt to impose Western ideas on new democracies. Both the proponents and critics of democratic consolidation leave many gaps in their discussion of whether democracies across the globe, South Africa included, will reach the state of completeness and whether elections are the only determining factor of a democratic trajectory.

Most academic writings on South Africa's fight for democratic order detail a long history characterised by race-based politics that perpetuated social, economic and racial inequality. The discovery of gold and diamond could be credited for giving birth to social, racial and political domination which (see Bernart, 1994; Leibbrandt *et al*, 2007, Pampallis, 1991; Spies, 1993; Thompson, 2001; Terreblanche, 2002) mobilised South Africans across racial and gender lines to pursue a relentless struggle against a South Africa divided into two societies, one white and prosperous and another poor and mostly black and African. These race-based inequities could be linked to fact that the country had undergone colonialism and apartheid, which could be characterised as whites only democracy because only white South Africans were allowed to participate in state affairs including the election of public representatives.

The research undertaken by all the above-mentioned scholars has contributed immensely to development of the subject. This development focused more on organised formations and specifically political parties but has unfortunately ignored the role/position of citizens operating outside of trade unions and political movements and who were involved in the fight against apartheid or whites only democracy. Political formations and trade unions were not the only players involved in the fight for democracy; citizens – both organised and unorganised (see Gaventa and McGee, 2010; Friedman, 2002; Tilly, 2004) - also played an important role in bringing black African's demand for democracy and contributed to changes in government policies. If trade unions and political organisations were able to organise and oppose an unjust system which included poor working conditions, ordinary people acting alone or in groups, as well, could apply other mechanisms and achieve the same results.

The South African literature, although replete with the history of various organisations' fight against racial and political domination, leaves many unanswered questions on citizens' role in the struggle against racial, economic, political and social inequalities. For this reason, it is important to explore citizens' role by ways of unpacking whether South Africa's democratic trajectory has enabled them to influence the government's policy to enhance their economic and social conditions, which are central in strengthening democratic institutions.

Books, journals, magazines, and other writings on the role and impact of the whites-only democracy on this topic abound (see for example, Ajulu, 1983 Brits, 1993; Jones and Inggs, 1994; Maguire, 1991; Motlhabi, 1987; Luiz, 1987; Stevens, 2016). Van der Berg *et al* (2001)

trace and detail black suffering and lack of participation in state affairs in this country to the founding of the Union of South Africa and more specifically 1917. This study argues that whites-only democracy helped to empower white South Africans and end their suffering, but entrenched black African economic, social, political and inequality. It further shows that the limited reforms of the 1980s which responded to challenges of political, economic and social inequalities were not enough to fundamentally change the situation because black South Africans wanted political power – the right and freedom to partake in determining their destiny and of their country.

Current theoretical debates on South Africa's democratic trajectory tend to focus on elections and how smooth and standardise these are, and the broader notion of democratic consolidation. However, not enough attentions are paid to the continuation or discontinuation of policies, practices and institutions that could be linked to apartheid. The assertion in this project is examining continuities and discontinuities allow us to focus on problematics of momentum inherent in institutional and political culture. The study, in assessing whether there is continuation or discontinuation of policies, practices and institutions central to strengthening or weakening democracy, use Schedler's (1998:91) description of democratic consolidation. It will assess whether the country's "new democracy [is] secure, [whether it will] … extend [its] … life expectancy beyond the short term, making [it] … more immune against the threat of authoritarian aggression, [including] … building of dams against eventual revers waves."

For the purpose of this study, Linz and Stepan (1996:15) formulation of democratic consolidation is chosen; and they describe this "as a political regime in which democracy as a complex system of institutions, rules and patterned incentives and disincentives has become… the only game in town." The question that arises is whether South Africa is at a stage in her political life where all state actors promote democracy and are intolerant of the reversal of democratic gains? Or is there still a possibility of a reversal of the democratic gains made since 1994? These questions are central to the study's research aims.

While embracing the over principles of democracy, this study from the outset rejects the wholesale importation of European democratic institutions and practices and use them as paragons of virtue and standard bearers for all other democratic experiments. This is important since many, if not all, democratic consolidation paradigms readily apply the European experiences as a blueprint and standard. Friedman (2011) cautions that there has been a deliberate attempt, by democratic scholars both in this country and across the globe to "import a western liberal democratic consolidation paradigm in their assessment of South Africa's democratic legitimacy" (Friedman, 2011:27). This "ethnocentric, nebulous and sometimes teleological" approach is not suited to a proper assessment of South Africa's democracy (Friedman, 2011:27). For instance, principles of ubuntu underpinning South Africa's constitutional democracy are sometimes ignored or incorporated only intermittently in their writings. Most importantly, the assertion is that a whole host of cultural, political, socio-economic and historical contexts need to be considered in reviewing democratic experiments in any given country.

The post-1994 democratic experiment thus must be applied within the country's historical, political and cultural contexts. Specifically, we need to consider the historical and political

trajectories that shaped pre-1994 struggle for freedom and democracy. Indeed, these constitute an important lesson in the fight for equal political, economic and social rights (Pampallis, 1991). For example, one blueprint that laid the basis for the current democratic dispensation is the Freedom Charter, adopted in Soweto in June of 1955. The potency and cogency of the Charter in shaping and influencing the struggle for democracy is well documented and was recognised when it was integrated into the preamble of the 1996 Constitution. The Charter's undertakings, particularly its two first declarations – "the people shall govern" and that "all national groups … [will] have equal rights" (Freedom Charter, 1955:1) are critical in assessing the post-1994 democratic era. The ability of the people to govern themselves should, as Dahl [cited in Varshney (2013:265)] argues translate into affording them the freedom and the right "contest and participate" in state's affairs.

As to whether South Africans are governing themselves and/or living in "a political system where nearly every adult may vote but where knowledge, wealth, social position, access to officials, and other resources are unequally distributed …?" (Dahl, 1961b:1) is a matter which this research contends with. It is thus central to this study whether the impact and significance of South Africa's shift to a "constitutional democracy has created favourable social, economic and political conditions for black Africans" (Terreblanche, 2002).

In reviewing the historical context, this study seeks to examine whether the international, economic and political milieu of the 1980s has had any impact on the institutions, practices, and policies of the constitutional democratic dispensation. These are deemed crucial to understanding the continuation and discontinuation of these practices, policies and institutions (Terreblanche, 2012). Furthermore, the role of the Mineral Energy Complex, partnering/collaborating with British and American multinational corporations, to strategically influence the country's post-apartheid policy trajectory is an important part of such consideration. Here, the manner in which these special interest groups, through their perceived or real relationship with some leaders of the ruling African National Congress, worked to influence political outcomes and reconfigure power relations in this country is closely scrutinised.

Another dimension to this is the pressure from below - to what extent the ruling elite resists, or readily embraces, the pressure from organised labour, the working class and the poor. Their demands to effect specific policies often appear to conflict with the desires of the economic elites (particularly that of the Mineral Energy Complex). It is thus worth examining the implication of these tensions and conflicts, exerting a pulling pressure on the political class, on the country's democratic experiment. These questions enable us to assess whether democracy "offers those at the bottom of the economic pile a way into the market economy" (Friedman, 2002:31).

Scholars and academics such as Friedman (2002), Lodge (1999), Mnguni (2016) and Kotze and Loubser (2017) have provided reviews of the post-apartheid South Africa. For instance, Mnguni (2016:1) argues that "contrary to popular belief, South Africa is not a vibrant democracy." He attributes this to the non-functioning three branches of the state. Lodge (1999) concluded that South African democracy is enduring because of the country's leadership, civic movements and periodic elections. Kotze and Loubser (2017) are of the view that the country

is still lagging largely because society has embraced its liberal attitudes and values. In addition, these writers argue that the country's democratic consolidation is confronted with political and economic trials on the one side and, a declining institutional competence to execute policy, on the other.

Mutalipova (2017) points to political and socio-economic challenges like mass poverty that are deemed to be impediments to the achievement of democratic consolidation.

To examine Mutalipova's assertion, this research explores the grounds and their dynamics: the rule of law, economic society, political society and civil society are interceding with one another as they normally should in a consolidated democracy (Linz and Stepan, 1996). These grounds form the prism through which to examine the state of South African democracy. This includes the manner in which people act as individuals or groups to strengthen democratic institutions, hold their representatives accountable, and make them answerable to the aspirations and the needs of the masses. These grounds are also important in assessing whether the South African democracy and specifically the state's democratic policies, practices and institutions are reactive to the desires of the country's inhabitants.

The study's purpose is not to measure South Africa's democratic trajectory by how much it approximates the democracies of the North. From the outset, it does not accept that the democracies of the North are complete products. Friedman's argument here is instructive: "… all democracies are incomplete and… each will show uneven progress, so that older democracies will lag behind new ones in some areas of democratic quality while surpassing them in others" (Friedman, 2011:27). Taking this as a point of departure, this study has invested instead in exploring and evaluating democratic dispensations through the lens of the demands, aspiration and needs of the masses of this country.

Much of the literature on South Africa's democratic consolidation has tended to focus on the ruling ANC's "electoral performance" (see Southall, 1999; Suttner, 2004; Lodge, 1999; Mnguni, 2016; Mekoa, 2016; and Kotze and Loubser, 2017 amongst others). But electoral performance is not the only measure of the strength or weakness of South Africa's democracy, because "democratically elected regimes [sometimes], … routinely ignore constitutional limits on their power and deprive their citizens of basic rights and freedoms" (Zakaria, 1997:22). There are many examples of such regimes on the European, Latin American, Asian and African continents. The focus on the ANC's electoral performance has limited study of South African democratic consolidation; hence this study's much wider focus. The intention here is to "move beyond the fallacy of electoralism – the notion that a country has become democratic simply because it holds elections" (Friedman, 2011:11). The study shows that Linz and Stepan's (1996) five grounds are important to a wider and fuller assessment of South Africa's democratic retreat or consolidation.

1.3 Formulation of the Research Problem

This study is inspired by the necessity to analyse and assess the three decades of South Africa's democratic experiment - its prospects and challenges. This assessment is necessary because South Africa is in her thirtieth year of democratic rule and the twenty-eighth since the

acceptance of the world-acclaimed democratic Constitution. In addition, the study must investigate whether the strengthening of democracy and democratic institutions would have been realized if racial political domination had not ended. This forces us to ponder over the possibilities of constitutional democracy without the end of the racist system of domination and apartheid in South Africa. In other words, how has the 27 April 1994 elections helped this country achieve a constitutional democracy? The weight of this can only be understood by the essence and aspiration this historical juncture presented: the end of racism and political domination of the majority by the minority.

Following these, more broadly, the foremost preoccupation of this study has been to account for, assess, explore, and analyse the trajectory of South Africa's democratic experiment. To this end, it sought to explore the following key questions:

1. What is the general state of democracy in South Africa after almost three decades?
2. How are the relationships among the different arms of the state? How do we make sense and how do they help us assess the health of democracy in this country?
3. More specifically, what do the growing contestations and claims over the country's judiciary overstepping its powers in how it deals with the executive tell us about the state of the country's democracy?
4. How are South Africa's socioeconomic challenges of inequality, poverty and unemployment implicated in and impacting the country's democratic institutions?
5. What are the implications and consequences for democracy of corruption, weak state bureaucracy and disregard for the rule of law?
6. What constitutes the consolidation of democracy and how does one define the retreat of democracy?

April 2024 marks three decades since the historic April 1994 democratic elections and twenty-eight years since the acceptance by the National Assembly (NA) of South Africa's democratic Constitution – a product of public participation by South Africans. As the write-up for this project is underway, in April 2024, the country celebrated its 30 years of democracy. The country also hosted the most fiercely contested election since 1994.

Such a major milestone necessitates this scholarly review of South Africa's democratic experiment, and its prospects and challenges. The intention is to travel "beyond viewing democracy as a method of managing elites' competition and formal processes through which to gain power" (Linz and Stepan, 1996; Linz, 1990:156). The focus therefore is on South Africa's democratic practices, mechanisms through which citizens influence decisions and processes including institutionalised forms of democracy. The research will set out the following broad objectives to achieve this:

- account for the almost three decades of South African democratic experiment,
- explore the condition of South Africa's democratic institutions and their handling of external and internal policy and political pressures, and
- critically appraise the health of South African democracy through the prism of societal aspirations and state-citizen relations.

1.4 Research Design and Methodology

From the outset, an appropriate research paradigm for this study is deemed to be the pragmatic paradigm. This paradigm is useful to engage with any relevant material and process that aids the generation of knowledge. The methodological choice of this study is essentially framed by such persuasion. According to Haradhan (2018:4), "research methodology indicates the logic of development of the process used to generate theory, that is the procedural framework, within which the research is conducted." Schwardt (2007:195) in supporting Haradhan contends that "research methodology is a theory of how an inquiry should proceed. It involves analysis of the assumptions, principles and procedures in a particular approach to inquiry."

Since this investigation is interested in reviewing South African democratic experiments over the last thirty years, moving between history and the present is necessary. This necessitates working through materials from the past and the present. Thus, this study aimed to engage both historical and contemporary materials. Again, democracy as a concept and practice involves thinking through and interrogating state-society relationships, the study has to get involved in reviewing quantitative and qualitative materials. Historical data and sources are appropriated. However, several economic and statistical data are collected. In this sense, this study primarily adopted qualitative and quantitative methods. This makes the methodology a mixed one.

The qualitative approach makes the uncovering of nuances and trends much more noticeable. Weinreich (2009) asserts that qualitative approaches "generate rich, detailed data that leave the participants' perspective intact and provide a context for the phenomena being studied." The generation of rich, detailed, data that leaves the participants' perspective through qualitative approach is, according to Neutman (2011:101), "informed by the interpretive paradigm of social sciences… interpretive Social Science is rooted in verstehen where the primary aim is to study social action". The quantitative aspect of this study focused on the relationship between variables. Most importantly, these are used to provide a baseline and a layer for the exploring the issues under investigation.

This study thus collected quantitative and qualitative data, employing desktop research. To this end, data are collected from a range of agencies, government documents, published sources - websites, earlier studies and writings on the subject, policy documents, and press reports amongst others. These are treated as primary sources of data. In addition to these, secondary sources are used, such as research outputs and publications by other authors. For the statistical and economic data, the study mainly depended on StatsSA's census and survey data. Relevant data are extracted from the various files and sources for respective variables.

These data are then analysed using content analysis and statistical data analysis. While the qualitative data analysed are presented as a discussion and reflection on the themes and discourses, the quantitative data analysed are presented in tables and graphs, exploring/representing the variables and their relationship.

1.5 Outline of the dissertation

Chapter One: Assesses the problematics and dynamics of democratisation in South Africa and provides an introductory background. The chapter also offers reasons for choosing the topic, rationale and aims of the study, formulation of the research problem, research design and methodology and finally detail the outline of the dissertation.

Chapter Two: Gives a historical context and overview of the relentless fight for a democratic and free South Africa. The chapter also looks at the Afrikanerisation of South Africa and the push back against it. The role of the state, capital and mass resistance led by civil society is also analysed. The chapter concludes by assessing the road towards a democratic South African state.

Chapter Three: The focus here is on the theoretical and conceptual framework, democracy as a concept and practice, conceptualising democratic consolidation and retreat. Additionally, the chapter theorises democracy and democratisation in Africa including reviewing Africa's democratic experiment, the features of South Africa's democracy and their importance.

Chapter Four: Critically assesses the founding of a constitutional democratic, united and a prosperous South African state, the disintegration of the whites-only "democracy", apartheid government's external and internal pressure for reform, the intensification of the fight for a democratic South Africa, the transition to democracy and the CODESA negotiations, the negotiated transition and the new dispensation. Finally, the chapter looks at the new democratic order, the Constitution and policy as institutions of redress and democratisation.

Chapter Five: Focuses on South Africa's democratic experiment: continuities and dis-continuities (Pre- and Post-1994), apartheid democracy and the legislation of racial inequality, legitimising and institutionalising the whites-only "democracy", the legacies and inertia in framing the new democratic dispensation. Focus is also on the new dispensation and its struggle against the past, reflection on continuities and dis-continuities: the post-1994 democratic government's intervention.

Chapter Six: Examines the role of the Constitution and democratic institutions in strengthening or weakening the South African democracy. The chapter assesses the forging of the new dawn, the role of parliament, judiciary, and the executive in promoting democracy. Chapter 9 institutions are also critically looked at.

Chapter Seven: The role played by Civil Society Organisations (CSOs) on democracy, governance and democratic institutions including the fight for access to lifesaving medication, better living conditions, land, free basic services, social protection for the poor and inclusion in post-apartheid decision-making in the informal economy is thoroughly analysed.

Chapter Eight: Provides concluding remarks on democratic experiment, consolidating or retreating. This includes challenges to the development, deepening and the ingraining of democracy as a political culture.

CHAPTER TWO

2. Historical Context and Overview of the Struggle for Democratic South Africa

2.1 Introduction

Democratisation in South Africa has its own historical trajectory and unique processes that led to its current form. The current South African inclusive democratic regime therefore emerged out of an apartheid state that was primed on a social organisation that separated the country's citizens along not only tribal, but also along racial lines with a view to promoting separate development. This has to be read along with the apartheid government's claim that it was constituted as a democratic regime. Indeed, it was deemed by some as white-only democracy, which has excluded non-whites and sought to aggressively repress and subordinate them to white dominated political and economic order. Here the continuities and discontinuities of features of this order and the historical context to this need to be evaluated, which this chapter seeks to achieve.

We know that the struggle against apartheid regime was waged by international and local organisations. Such struggle has propagated the notion that these fights were for the total emancipation of South Africa, and equality and the liberation of black people in general. Indeed, these have effectively shaped how an inclusive democracy should be viewed. It was inevitably felt that once liberation is realised, democracy would enable the masses to reverse the social inequities and ensure that race, gender and social status would as they should not be the determining factors in accessing government services and opportunities including the enjoyment of freedoms and rights that are inherent to a democratic system. There was also hope amongst ordinary citizens, specifically those who supported and or took an active role in the liberation struggle, that the end of racial, political and economic domination would translate into better living conditions for the many black Africans who were regarded as non-citizens in the country of their birth. The determination to transform their living, economic, political and social conditions became the central feature in the mobilisation and indoctrination of thousands particularly during the periods between the 1970s and 1980s. This chapter explores the historical processes and contexts that have led to conceptualising and imaging democracy as a new dispensation and the expectations that ensue from these.

2.2 The Struggle for Democratic South Africa

This study sought to embark upon one of the most daunting tasks of assessing the almost thirty years of the South African democratic experiment. The main concern is to specifically pay attention to and interrogate whether democratisation in this country is consolidating or retreating. Such an attempt should begin by historically locating the South African democratic

experiment. History of South Africa's democratic experiment is marked by two major political phases. The first one is the 1948–1990 period commonly referred to as the rise of the Afrikaner political hegemony or whites-only democracy. The second is the post-1994 constitutional democratic era, which made South Africa a republic. The 1948–1990 era, known as the whites-only democracy, began with the National Party taking power during the 1948 elections and the party's push towards formal constitution of apartheid and the blatant institutionalising racism.

According to Terreblanche (2002:298-299), this was for large part motivated by: "growing African urbanisation [which] fuelled fears of *oorstroming* ('black swamping') …[leading] to [the] … formulation [of] an explicit and insulting version of racism, which crystallised into the policy of apartheid". The NP began consolidating its power immediately after its 1948 victory by, amongst other measures, "[creating] new parliamentary seats for representatives of white voters in Southwest Africa. Then, step by step, it eliminated every vestige of black participation in the central political system" (Thompson, 2000:182). Furthermore, "white representatives of black and coloured voters were also abolished" (ibid). The NP government "promoted Afrikaner interests" only (Terreblanche, 2012:41). In addition to this, to ensure continued control of the state, NP government pursued a policy of "Afrikanerising" the state institution. As Thompson (2000:183) put it:

> the government Afrikanerised every state institution, appointing Afrikaners to senior as well as junior positions in the civil service, army, police and state corporations. Medical and legal professional organisations, too, came increasingly under Afrikaner control.

From the Afrikanerisation of state institutions, the National Party proceeded to suppress dissent, specifically that of other race groups in the country, introducing laws restricting political activity. The government used its power to "manipulate the constitutional system to perpetuate NP rule and passed a plethora of racist laws to suppress and exploit blacks to an ever-greater degree than the white governments that preceded it" (Terreblanche, 2002:299). It legislated to impose racial segregation and forced removals, Bantu education and the Bantustans. All the above were occasioned by the growing African urbanisation of the 1940s giving credence to "*oorstroming".* As Terreblanche (2002:298) suggests ideologues of the Afrikaner elites had exploited this development to "emphasise the ethnic 'purity' of Afrikaners and the imperative of protecting this purity against miscegenation with ostensibly inferior indigenous races." It could be argued that "all this was … done within the framework of the apartheid ideal: the separation of the races as much as possible in all spheres of life" (Pampallis, 1991:181).

These impulses were followed by the drive to curtail political activities of those NP felt are a serious threat to its dominance, particularly, that of racial dominance of whites. The NP legislated the Suppression of Communism Act (1950), intending to curtail democratic political activity. In many respects, NP sought a serious threat against it emerging from the Communist Party of South Africa (CPSA) that had a multiracial appeal; CPSA "had some influence over Afrikaner workers and a following among the African working class" (Pampallis, 1991:181). This law banned the CPSA and criminalised anyone who propagated communism in South Africa. Ten years later, in 1960, the state banned ANC, forcing it to underground (Maguire,

1991:114). Another black organisation that was declared illegal by the government was the Pan-Africanist Congress (PAC) launched in "April 1959 … under the leadership of Robert Sobukwe" (Dubow, 2000:59). The establishment of the PAC "reflected [in large part] a growing concern among some members of the ANC about both the organisation's philosophy and political strategy" (Maguire, 1991:111) as it related to pursuing the struggle for the liberation of black Africans.

Clearly, the NP government had taken a firm view about how it intended to govern the country. Its position became even clearer when "the repressive legislation escalated from the 1950s onward. The catalogue includes the Riotous Assemblies Act (1956), the Unlawful Organisations Act (1960), the Sabotage Act (1962), the General Law Amendment Act (1966), the Terrorism Act (1967) and Internal Security Act (1976)" (Luiz, 1998:53). They triggered a response that was to characterise the NPs relationship with liberation movements operating outside and inside the country at the time.

The Nationalist government's central aim with the introduction of these laws was not only to curtail political activity amongst other racial groups, but to ensure its perpetual and uninterrupted hold on state power. For instance, in 1951 the government passed the Bantu Authorities Act which abolished the Native Representative Council. In 1953, the Criminal Law Amendment Act was passed in response to the Defiance Campaign. The most draconian of these laws "came in 1953 with the passage of the Public Safety Act – giving government powers to declare a State of Emergency accompanied by ruthless suppression, including detention without trial, of any dissent" (ibid).

Apartheid state led by NP government has sought to control politics, economy, and society to favour white Afrikaners by organising racial geography. Here, racial classification forced removals and settlement were crucial components of apartheid statecraft. The NP government introduced the Population Registration Act (1950) as "machinery to designate the racial category of every person. Its application led to the breaking up of homes; for example, where one parent was classified white, and the other was classified coloured" (Thompson, 2000:185). "The government also introduced laws which gave real meaning to racial classification - the Prohibition of Mixed Marriages Act (1949) and the Immorality Act (1950). These laws, over and above breaking up homes, created "legal boundaries between [South African] races by making marriage and sexual relations illegal across racial lines" (ibid).

In addition to these laws, the Nationalists, threatened by rapid Blacks urbanisation, developed a plan which aimed to "remove blacks from urban areas on a permanent basis except for those who were to remain servants of the whites" (Maguire, 1991:17). To achieve this, the Group Areas Act (1950) was enacted. In terms of this law, "all racial groups were assigned separate residential areas. The Group Areas Act and the Resettlement of Natives Act (1954) also gave the government the authority to remove non-whites from areas designated as white and transfer them to other areas" (ibid). As Thompson (2000:189) put it, "[t]he Surplus People Project, which made a thorough study of the removals, estimated that 3 548 900 people were removed between 1960 and 1983." Although the NP's programmes feature as a departure from the colonial government, they continued and modified some of the colonial laws; particularly the 1913 Land Act.

Much of the policies and programmes during this period were focused on promoting racial segregation and tribal classification. The passage of the Group Areas and Resettlement of Natives Acts led to the formal creation and institutionalisation of Bantustans or Homelands, namely, Transkei, Bophuthatswana, Venda, KwaNdebele and Ciskei amongst others. The resettlement of people from urban centres to these Homelands or Bantustans intensified the "overpopulation problem … [in these areas]" (Thompson, 2000:189).[1]

Over time, the NPs plan of entrenching racial segregation effectively merged with tribalising the Africans. Accentuating this claim, Pampallis (1991:187) writes:

> [E]very African in South Africa was to become a citizen of these homelands and would thus be deprived of his or her South African citizenship; white South Africa would [eventually] be left with no African citizen.

Consequently, Africans effectively became non-citizens in South African body politic, and mere labour pool for the white dominated economy, and "only temporarily resident in the European areas of the Republic" (SAIRR, 1980:458-500). Homelands were effectively constituted as labour pool for the exploitative racial based economic system. As Pampallis (1991:187) put it, individuals in the homelands, like the rest of their brothers and sisters, "they could be kept until they were needed again" in urban centres and later be returned to their homelands should they not be needed.

In this white only democracy, people in the homelands were turned into subjects of selected and apartheid state proposed up traditional authority. Mamdani (1996) calls this the development of bifurcated political systems; in homelands, subjects of kings and chiefs were segregated, and individuals in the white-only geographies were incorporated as citizens with rights and obligations. This too presented a problem to NP government: the growing cosmopolitan Africans and emerging intellectual lives of black Africans. Since its inception, Apartheid state has sought to control patterns of settlement, movement, and work, and since the 1950s onward, it has moved to regulate intellectual lives black Africans (Terreblanche, 2002:303). The latter was particularly evident in NP governments serious of legislations (the 1953 the Bantu Education Act to the Unlawful Organisations Act of 1960), which are designed to suppress and control the intellectual lives of Africans. The apartheid state was hellbent on dismantling avenues and spaces for intellectual growth of Africans, while fostering "an ethnic consciousness" among them and reduce them to mere unskilled labourers (Pampallis, 1991:185).

The NP led apartheid planning and policy was intended to - and did - cut across all sectors of society; so was the push back from those who were opposed to continued implementation of these. Most importantly, the fight against apartheid South Africa with its white only democracy to the exclusion of blacks necessitated a fight for the rightful roles for all in the country to take

[1] Thompson (2000:189) writes: "At the time of the 1950 census, 39,7 percent of the African population of South Africa lived in the areas that became Homelands; in 1980, 52,7 percent were there. The Homeland population increased by 69 percent between 1970 and 1980".

part in decision-making in matters of the state. Thus, it was born the struggle for a non-racial, non-sexist, united and democratic South Africa. The desire for inclusion in decision-making in state affairs, including the hope for freedom of association and of the press, equality before the law, plus the right to dignity were central to the aspirations and wishes that galvanised the multitudes of South Africans across gender and racial lines to pursue a relentless struggle to end racial and political domination.

In this struggle, ANC occupies a prominent place both in the imagination of the public and actual struggle against apartheid. The ascendancy of the Afrikaner supported National Party to power in 1948 coincided with the "process of intellectual and organisational renewal within the …[ANC] "(Dubow, 2000:19). ANC, which was founded in 1912, was initially involved in the fight against government policies like the Land Act of 1913, but over time the organisation began to lose its appeal amongst blacks, its key constituency, because of its perceived elitist approach. However, the perceived elitist views of the ANC about the direction South Africa should take were not the only contributing factors. Pixley ka Isaka Seme's leadership (he replaced Josiah Gumede as ANC Leader) also played a vital role. Holland (2012:35) writes:

> Seme's leadership was not the only factor in the ANC's apathy during the 1930s [and early 1940]. Severe economic depression had hit South Africa, accelerating hunger and unemployment among blacks, and distracting them from political goals.

However, the arrival of "energetic young thinkers including R.H Godlo, Z.K. Mathews, J.B. Marks, E. Mofutsanyane, H. Nkadimeng and G. Mbeki …[helped] to reinvigorate the ANC over the next decade" (Dubow, 2000:19). The active participation of young people culminated in the founding of the Congress Youth League in 1944. Anton Lembede was elected its first President.

We had to wait until 1948 to see ANC clearly formulating its clear vision of South African democracy. In August 1948 ANC Youth League Policy Document, the League sharply outlined the conception of African Nationalism, its projects, goals, political actions, the vision of the ANC and how it saw a "democratic" South Africa should look like. In this policy document, the League claims that it asserts that "the goal of political organisation and action is the achievement of true democracy: in South Africa and in the rest of the African continent."[2] Based on this, full rights of Africans and others within democratic South Africa is conceptualised. The policy document states the struggle of ANC is thus for: 1) "the removal of discriminatory laws and colour bars" and 2) "the admission of the Africans into the full citizenship of the country so that they have direct representation in parliament on a democratic basis."[3]

This vision of democratic South Africa reputed to have shaped the ANC's position from then on and paved the way to the launch of the Defiance Campaign. The Defiance Campaign was

[2] ANC Youth League Policy Document, 2 August 1948. https://www.anc1912.org.za/policy-documents-1948-anc-youth-league-basic-policy-document/
[3] ANC Youth League Policy Document, 2 August 1948. https://www.anc1912.org.za/policy-documents-1948-anc-youth-league-basic-policy-document/

preceded by the "1951 Joint Planning Council set up by the ANC and South African Indian Congress to give consideration to a strategy of mass resistance to six unjust laws: the pass laws, stock limitation laws, the Bantu Authorities Act, the Group Areas Act, the Separation Representation of Voters Act, and the Suppression of Communism Act" (Pampallis, 1991:195). Over and above the South African Indian Congress and the ANC, the Defiance Campaign also attracted white liberals who "opposed [to] the introduction of the Nationalist Party's policies of apartheid" (Maguire, 1991:18). The Defiance Campaign, launched on 26 June 1952, could be credited for shaping the content and context of South Africa's struggle for a democratic, non-racial and non-sexist society. Although the NP government's response to this and the many other campaigns was brutal, it did not dampen the spirit of those who were determined to fight for the realisation of a democratic South Africa founded on equality before the la, and freedom of association and of the press.

Indeed, these have lent to the impetus to the development of the Freedom Chater, one of the most important documents of the future republic. Dubow (2000:52) writes:

> nearly 3 000 delegates of all colours and backgrounds attended … [the Congress of the People] … which culminated in the adoption of a powerful ten-point Freedom Charter which affirmed a host of liberal-democratic freedoms.

It is for this reason that this document is also said to represent the aspirations and collective struggles against the apartheid state. Characterisation of this meeting as "Congress of the People" is very crucial. The resolutions of that June 1955 Congress of the People, held in Kliptown, Soweto, laid a foundation for a future in South Africa and helped to shape the struggle for a democratic South Africa.

Another important event in the second half of the 1950s was the mass protest against the pass laws, mainly organised by women and grassroots movements. Walker (1982:193) claims, "[i]n the first seven months of 1956 alone, the Federation of South African Women (FEDSAW formed in April 1954) estimated that 50,000 women took part in 38 demonstrations against the pass laws in 30 different centres". Capitalising on this momentum on August 9, 1954, FEDSAW organised one of its biggest protest actions, which managed to bring in an estimated 20,000 women from various backgrounds and from all over the country (Holland 2012:85). Women were carrying petitions against Pass laws that they wanted to deliver at the administrative seat of government, Pretoria. The ANC Women's League, formed in 1943, played an active role in mobilising support for these demonstrations. The women and youth struggles helped reposition the ANC as the leading black opposition organisation in South African politics.

In subsequent years, many leaders of anti-apartheid movements and political parties started to be hunted, harassed and detained by apartheid state security. This includes protest organisers and ANC Youth League members. December 1956 saw the mass arrest of those who took part in the Defiance Campaign and Congress of the People movements, and the state charged them for High Treason (Pampallis, 1991:208). This set the basis for future arrests of many leaders of the black opposition parties under the Suppression of Communism and Riotous Assembly

Acts. Massive attempt at suppressing the mass movements and struggles against apartheid only led to stronger defiance and resurgence of the opposition of Africans.

Following these, the state security under NP's government started a brutal response to Africans' opposition to its regime. These responses become even more cruel in the 1960s, responding with live fires killing hundreds of Africans. These only helped draw apartheid state's crimes to the spotlight. The government's response had been triggered by the Pan-Africanist Congress' call for an end to pass laws. The PAC was formed by Robert Sobukwe in April 1959 after leading "an Africanist breakaway from the ANC … he called on blacks to galvanise themselves in resistance against pass laws, 'the symbol of white domination'." (Holland, 2012:99). There are differing views on whether the ANC or PAC initiated and led the anti-pass law campaign. However, what is not in doubt is that the PAC announced its campaign against pass laws for March 21, 1960. As Dubow (2000:63) put it, this date was chosen "deliberately pre-empting the ANC's demonstration by a week." On this day, in Sharpeville, as swath of youth gathers, which apparently caused apartheid police to panic and fire live bullets at the demonstrators, which turned into massacre.

This incident is registered in the annals of South African history, highlighting the brutality of apartheid and its crimes against black bodies. The publicity this massacre received both nationally and internationally was crucial in bringing apartheid regime's brutality out in the open. Walker (1982:267) tells us that "[n]ews of the deaths flashed rapidly around the world, provoking a storm of condemnation internationally." Since this incident, several international organisations and African countries adopted an openly hostile attitude towards South Africa. Pampallis (1991:214) highlights:

> At the United Nations, the Security Council intervened in South African affairs for the first time. A resolution was passed (with the abstention of Britain and France) blaming the South African government for the recent killings calling on it to initiate measures to bring about racial harmony.

The government, in response to international condemnation and an attempt to shift blame and save face, began one of its largest crackdowns against black freedom fighters and opposition leaders. NP government declared "a state of emergency, rounding up and detaining hundreds of political leaders throughout the country," and this was followed by banning black political organisations (including PAC and ANC) (Walker, 1982:267).

The banning had a negative effect on both the Congress Alliance and the PAC. Since then, these organisations could not organise freely; consequently, their political programmes fell into disarray. The inability to conduct free political activity meant that they had to choose other methods of struggle in their pursuit of a democratic, non-racial, and non-sexist South Africa underpinned by freedom of association as well as civil liberties. Left with limited options the ANC (along with its other partners) and PAC established armed wings which signalled an end to peaceful strategies to overthrow the apartheid regime and that of the NP government. Deliberated in June 1961, ANC and its partners (including SACP) started organising its armed wing. Nelson Mandela and Jo Slovo were mandated to lead this. Umkhonto we Sizwe (MK), as ANC's armed wing, launched its first operations in December 1961. Dubow (2000:66)

indicates in these early operations MK "launched 200 small-scale attacks throughout the country over the next eighteen months."

PAC followed a similar route and organised its armed wing called Poqo. Maguire (1991:112) captures this in the following:

> Having abandoned the strategy of non-violent resistance, Poqo embraced the armed struggle with enthusiasm. Unlike the ANC, which initially took care in its selection of targets, the PAC launched its military attacks against whites in general.

The government reacted by enacting the Sabotage Act of 1962 which "provided for the death penalty for sabotage and much stricter restrictions on banned persons who could now be subject to 24-hour house arrest at the whim of the Minister of Justice" (Pampallis, 1991:221). Over and above the banning of the SACP, ANC and PAC, liberal white organisations such as the Congress of Democrats were banned, as was the newspaper New Age Spark.[4]

The government was determined to bring an end to the bombings and acts of sabotage happening all over South Africa. Fearing arrests, some liberation fighters went underground, and others went into exile. Some of the leaders including Nelson Mandela, Walter Sisulu, Govan Mbeki, Dennis Goldberg and Raymond Mhlaba, were arrested and charged with High Treason. Their trial, dubbed the Rivonia Trial, "opened on 8 December 1963 and lasted for eleven months, … [resulting in] eight of the accused … [being] sentenced to life imprisonment" (Holland, 2012:129-131). This impacted negatively on liberation movements and led to a hiatus in political activities at least until the Soweto uprising of the mid-1970s. The 1950s Defiance Campaign and the 1960s Sharpeville Massacres were historic events. In many respects, these events helped intensify the anti-apartheid struggle; consequently, the 1970s saw an upsurge in the resistance against the apartheid state on many fronts.

2.3 The Afrikanerisation of South Africa and the Push back against it

In response to the various campaigns, and not bothered by international pressure, the NP government intensified its forced removal policies through the Group Areas Act and control of the education system through the Bantu Education Act. In addition, the "government-imposed segregation in higher education as well. When the NP came to power in 1948, there were in South Africa four English-language universities, four Afrikaans-medium universities, one bilingual correspondence university and the small South African Native College at Fort Hare" (Thompson, 2000:191). The government forced the white universities to enrol only white students. This was despite the fact that whites were the predominant majority enrolled in the universities. As Thompson (2000:191): "By 1978, nearly 150 000 students were enrolled in universities in South Africa, 80 percent of them white".

[4] As Pampallis (1991:221) points out, "[t]he successor to the New Age continued to publish until March 1963, when it was forced to close because so many of its staff members were banned and no longer allowed to work on a newspaper".

The government not bothered by the epoch-making events of the 1950s and 1960s, pressed ahead with its plan to introduce further measures in pursuit of the Afrikanerisation of South Africa. Unbeknown to the government, these measures were to trigger a response so significant. This event further catapulted the South African struggle and brought black South Africans' plight to an international spotlight. Consequently, we observed an intensified international pressure against the Nationalist government.

The enactment of the Bantu Education Act and its resultant effects unintentionally galvanised young people in major centres around the country. The most significant response was the emergence of the Black Consciousness Movement (BCM) in the early 1970s. The BCM "defined liberation as a state of mind rather than in narrow political terms. Led by young student intellectuals like Steve Biko and radical thinkers like Barney Pityana, [it] focused on the need to counter internalised feelings of inferiority with a sense of pride and self-assertation" (Dubow, 2000:80). With major political organisations banned, the BCM, working with other student organisations such as the South African Students' Movement (SASM), intensified the struggle against Bantu Education.

Township schools, attended by black Africans, were faced with various challenges including but not limited to overcrowding and a lack of facilities and schoolbooks. They became an organising ground for the BCM and SASM. While township schools faced many challenges, "… the government's decision to order that African students should be taught in Afrikaans… sparked the student revolt in 1976" (Maguire, 1991:120). It appeared that the government's decision was not well thought out. It failed to properly read and anticipate the massive rejection by African students, who viewed this as a provocation and began mobilising against this unilateral decision.

In response to the uprising of African students and, to quell the growing dissent, the government deployed a large contingent of police in many of the country's black townships. African students were adamant that the imposition of Afrikaans as a medium of instruction was not only unacceptable but represented the government's long-term plan of providing black Africans with inferior education. So, "early on 16 June 1976 pupils marched from various assembly points around Soweto towards a meeting point in Orlando West from where they were going to march together to Orlando Stadium for a rally" (Pampallis, 1991:256). It was during this time that the police opened fire, killing some students. The "first child killed by the police in Soweto on 16 June 1976 was a thirteen-year-old boy named Hector Petersen, hit by a shot fired at him from behind" (Holland, 2012:149).

The government had hoped that the clampdown would force a retreat by students. Instead, "the protest became nationwide … The government [unconcerned by the killing of children] reacted brutally. By February 1977, …, at least 575 people had been killed, including 494 Africans, 75 coloureds, 5 whites and 1 Indian" (Thompson, 2000:207). Even more concerning was that "of the victims [killed], 134 were under the age of 18" (ibid). These and many other occurrences throughout the country led to the exodus of young people from South Africa to join the liberation movements in exile.

More importantly, "the Soweto uprising far exceeded the scale and intensity of the 1960 insurrection. It heralded the demise of white supremacy and made real the possibility of liberation, perhaps for the first time" (Dubow, 2000:82). Over and above this the demonstrations helped to shine the spotlight on apartheid. The "Soweto Uprising … struck a blow at the South African government's hopes of ending its international isolation" (Pampallis, 1991:261). Instead, the killing of young people and the draconian laws implemented by the government galvanised the anti-apartheid movement and, helped to discredit the government in the eyes of the world. The country's "hopes of international acceptance and its imperialist economic ambitions in Africa thus suffered a serious setback" (ibid).

2.4 State, Capital and Mass Resistance Led by Civil Society

The setbacks suffered by the government in the 1970s became more pronounced in the 1980s and the ensuing decades. In the annals of South African political history, the 20th of August 1983 represents one of the epoch-making events, specifically in the fight against apartheid. On this day, "a thousand delegates of all races, representing 575 organisations – trade unions, sporting bodies, community groups and women's and youth organisations - founded the United Democratic Front (UDF), to co-ordinate internal opposition to apartheid" (Thompson, 2000:222).

The UDF became the leading voice in the country against apartheid. It united all races against apartheid in pursuit of a democratic, non-racial, and united South Africa. To achieve its aim, the UDF sought to organise and mobilise against the tricameral parliament and local councils which did not represent the people they purported to serve. This attracted a brutal response from the government and led to massive killings. By 1984, "160 people had been killed and hundreds more injured, most of them victims of security forces. More than a thousand people were detained, compared with 453 arrests without trial the previous year" (Holland, 2012:171). Regardless of these killings, arrests and detentions, it was clear that South Africans across racial lines were determined to put an end to apartheid.

As a sign of defiance to the apartheid state's action, the Congress of South African Trade Unions (COSATU) in December 1985 was formed. This is another important development, in charting a non-racial, democratic and black working-class force. As Terreblanche (2202:342) put it, "[f]rom its inception, COSATU had a strong political agenda and acted in an openly militant way. It became, with other black trade unions, a member of the UDF and as such part of its liberation wing…."

In addition to such major organisational structures, we have also seen smaller and unregulated forms of resistance, championed by various movements against the state. The involvement of the civic, religious, trade unions, sporting and other organisations once more helped intensify the fight against apartheid and mobilised international organisations and bodies against it. Apartheid state's response to these had been to escalate the violence and double on its brutality. These brutal (re)actions of the state only led to an intensification of the struggle against it. In the mid-1980s, televised video footage and news items, showing brutal actions of apartheid police and soldiers, have also led to mounting international pressure on the apartheid state. Thompson (2000:226) writes: "As violence erupted in South African townships night after

night, millions of television sets in tens of countries showed South African police and soldiers beating and shooting unarmed blacks" (Thompson, 2000:226).

These occurrences were instrumental in hardening the attitude of international organisations. "In the United Nations and other international bodies such as the Organisation of African Unity (OAU), the Commonwealth and the Non-Aligned Movement, opposition to South Africa's apartheid policies continued to grow" (Pampallis, 1991:278). In addition, demonstrations here and elsewhere by tens of thousands of people calling for economic sanctions against apartheid South Africa were a common occurrence. It became clear that apartheid could no longer be sustained and that the only way out of the situation the country found itself was a negotiated settlement. The economy was almost in ruins and without any prospects of an immediate recovery and worse, multinational corporations were withdrawing their investments from South Africa. The latter parts of 1989 also coincided with the election of FW De Klerk as president of South Africa. This period saw major political developments including but not limited to, "large demonstrations [being] allowed at which ANC and SACP symbols were displayed. In October (1989), eight prominent political prisoners were released including Walter Sisulu and all the remaining Rivonia trialists except Mandela" (Pampallis, 1991:304).

Capital which had been benefitting from apartheid thus far had to review its position and started to see the untenable nature of the apartheid as a system. Perhaps motivated by their own interests, a few white oligarchs sought to broker a deal and convince the white establishment to seek a way out of the crisis. It is now an established fact that Anglo-America's leadership met ANC representatives in Zambia to discuss reform. Similar secret meetings had taken place within and outside the country between 1984 and 1989. During this period, like capital in the country, Western powers, particularly the US, with business interests had pressured the apartheid government to show flexibility, and the ANC to accept reform and gradual changes to be instituted and managed by the apartheid government (Maharaj, 2008).

In May 1989, Oliver Tambo wrote the following in May 1989:

> "We are under intense pressure from friends and allies, and also because of MT [Margaret Thatcher]-led drive by the West to evolve a strategy that belongs to the period following independence of Namibia. The race for who'll control developments in our country has started in earnest and we should be in the lead. Our friends, no less than we, [urge that we] don't leave the running to MT and other allies of the regime." (quoted in O'Malley, 2007: 315).

ANC policy document, titled "Strategy and Tactics", tabled at its 50th National Conference and amended by the conference on 20 December 1997 hints at the challenges and pressures it faced during these negotiations.[5] In some ways, this document also admits that ANC and its allied partners' radical transformation aspiration for the country had to be tamed to accommodate the will of these powers. ANC's reading of the end of the Cold War, and treatment of capital (both national and international) as a stakeholder is also evident in this document. In the end, the transition was midwifed by white capital (national and international) simply entrenched its

[5] https://www.anc1912.org.za/50th-national-conference-strategy-and-tactics-of-the-african-national-congress/

power. These historical processes that continued to shape the country's political economy have implications for the political order and the democratic dispensation.

2.5 Conclusion: The Road Towards Democratic South Africa

Indeed, the 11th of February 1990 will forever represent one of the turning points in South Africa and open the possibility to the current constitutional democracy. At the opening of parliament, de Klerk announced to the world that he was "unbanning the ANC, SACP, PAC and 58 other organisations. … De Klerk also declared that he intended releasing Nelson Mandela in the near future" (Pampallis, 1991:304). Mandela's release from prison set the tone for the commencement of negotiations towards what was celebrated as a new democratic dispensation. However, "before they could start with negotiations on substantial issues, the parties had to agree on a format – who should participate and what should the agenda be" (Thompson, 2000:240). After almost two years of disagreements in the Talks about Talks, as this period was called, political parties agreed to the commencement of the Convention for a Democratic South Africa (CODESA). It "oversaw the overall process of transition [and] first met at the end of 1991. Over two hundred delegates representing nineteen political parties were there" (Dubow, 2000:102-3).

These negotiations resolved that South Africa's first inclusive general elections should be held on the 27th of April 1994 thereby heralding the beginning of a constitutional democracy underpinned by the rule of law, supremacy of the Constitution, respect for human rights and an independent judiciary. An obvious question remains pertinent: what does it mean for South Africans to fight for democracy as a system of government? Hence why democracy?

The answer to the above question lies in the fact people have come to believe democracy is the only good political system. Despite the lack of precise conception of the term, democracy has indeed been the dominant political discourse. This is even more true for the South African context, and it was a rallying cry for the struggles against apartheid and post-apartheid demands for socioeconomic justice. As we have already seen, those involved in the struggle against apartheid were appealing to ideals of democracy that would imbue a just and fair system for all, where individuals would enjoy rights and freedoms as equal citizens. As Schmitter and Karl (1991:3) suggest: "[democracy] is the word that resonates in people's minds and springs from their lips as they struggle for freedom and a better way of life; it is the word whose meaning we must discern if it is to be of any use in guiding political analysis and practice." Thus, in some sense, democracy and experiment with this in South Africa inadvertently emerged out of the struggle against apartheid. This is notwithstanding the fact much of its specific formulation and constitution are based on negotiated settlements.

We should also note that 1990 was also a new wave in the rest of Africa, with states experimenting with democracy. These experiments predictably led us to review what it means to constitute a democratic state. As Friedman (2011: 27) aptly put it, "the emergence of a host of new democracies in Africa and elsewhere stimulated understandable interest in testing whether societies which call themselves democracies are really democratic." It is this deliberation Friedman raises that this project took seriously: how democratic is the democracy in South Africa is the question we need to raise while locating it within its historical context.

The section explores the questions: what is this democracy, that whose consolidation and retreat that would have motivated South Africans from across the political and racial persuasions to wage a century's long fight for its attainment?

CHAPTER THREE

3. Literature Review, Theoretical and Conceptual Framework

3.1 Introduction

There is no other discourse like democracy that is so popular, appealing, and self-evident, yet lacks sufficient consensus. The diversity of its conception is daunting. This poses a serious challenge to those who seek to review how democracy is put into practice and institutionalised. Such aspects of this discourse pose another challenge to any effort meant to assess its consolidation or retreat. It is with such premise that this chapter grapples with the manner in which democracy is conceptualised for the purpose of this research.

There are varying definitions of democracy, and this makes the identification and enumeration of democracies difficult. But why is this so since the concept is old and its invention, according to Keane (2009: ix), "ranks in historical importance with the wheel, the printing press, the steam engine and the cloning of stem cells" – a concept that Varshney (2012: 84) regards as "a continuous variable, not a dichotomous variable".

The study is cognisant that democracy is a difficult concept to define, and its origin is even more complex. This assertion follows Keane's (2009:x) claim that "democracy has no known wordsmith." According to him, this is because, in many respects, "the roots of the family of terms that make up the language of democracy and exactly where and when the word was first used, remain a mystery" (Keane, 2009:x).

According to O'Donnell (1996:34), we have been offered multiple definitions of democracy, each picking on a selection of strands. Instead of clarities, these attempts tend to point to complexities of, and add complexity to, democracy. Perhaps, this is the reason, as Schmitter and Karl (1991: 75) point out, "scholars hesitate to use it (democracy) – without adding qualifying adjectives – because of the ambiguity that surrounds it". The ambiguities attached to its meaning bring to the fore the question of whether a democratic system can consolidate. This chapter first looks at the various definitions of democracy; then, it explores whether democratic consolidation is a useful term for new democracies. The latter part of the chapter engages with South Africa's democratic features and their importance.

The first few sections of this chapter are dedicated to exploring the conceptualisation of democracy in all its complexities as well as ambiguities, and outline how this study appropriated this concept. In an attempt to draw a parameter for democratic retreat and consolidation, this chapter outlines the various theoretical formulations of democracy.

3.2 Democracy as a Concept and Practice

The most dominant forms of defining democracy, by and large, refer to the mechanisms of organising state power and managing elites' competition over control of political power (the government). This has been the predominant thought for much of the conceptual definition of democracy offered. Lipset (1959:71), for example, defines democracy "as a political system which supplies regular constitutional opportunities for changing the governing officials. It is a social mechanism for the resolution of the problem of societal decision making among conflicting interest groups which permits the largest possible part of the population to influence these decisions through their ability to choose among alternative contenders for political office." Schumpeter (1942:242) (cited in Avritzer, 2002:17) argues that "democracy is a political method, that is to say, a certain type of institutional arrangement for arriving at political – legislative and administrative – decisions and hence incapable of being an end in itself".

Zakaria (1997: 24) however asserts that "from the time of Herodotus democracy has meant, first and foremost, the rule of the people", and thus, this should not be surprising. This view of democracy, adds Zakaria (1997: 24), "as a process of selecting governments, articulated by scholars ranging from Alexis de Tocqueville to Joseph Schumpeter to Robert Dahl, is now widely used by social scientists". Przeworski *et al* (2009: 86) amplify this point when they argue that "our definition of democracy is a minimalist one. We follow Robert A. Dahl's 1971 classic Polyarchy … ." O'Donnell too (1996: 34) argues that Robert's Dahl conceptualisation of democracy as "polyarchy" is by far the most productive compared to the various definitions of democracy. We also have a counter-argument to this claim, suggesting that Dalh's formulation of "polyarchy" to capture the meaning of democracy does not have the necessary precision (Schmitter and Karl, 1991).

Schmitter and Karl (1991: 76) argue "that there are many types of democracy, and their diverse practices produce a similarly varied set of effects". They proceed to assert that "the specific form democracy takes is contingent upon a country's socioeconomic conditions as well as its entrenched state structure and policy practices" (Schmitter and Karl, 1991: 76). The argument that the form democracy takes is contingent upon a country's socioeconomic conditions as well as its entrenched state structure and policy practices is very important in the context of this study because it reflects on the very issue it investigates - whether South Africa's democracy is consolidating or retreating. While Schmitter and Karl (1991) suggest that democracy is influenced by social and economic conditions, the key question is whether those conditions are influenced by democracy.

Democracy clearly does mean many things to different people, and these reflect where they place emphasis. For instance, Schmitter and Karl (1991:76) define political democracy as "a system of governance in which the rulers are held accountable for their actions in the public realm by citizens". In this definition, the gaze is on the citizens and their relations to political power. Lipset (1959:71) definition of democracy "as a political system which supplies regular constitutional opportunities for changing the governing officials" can be deemed to place emphasis on elites' competition over political power.

Even where the definition broadened, as Huber, Rueschemeyer and Stephens (1993:73) has done, the focus remains on political classes access to the state power and modalities of keeping

them accountable: “democracy has three features: regular free and fair elections of representatives on the basis of universal suffrage; responsibility of the state apparatus to the elected representative; and guarantees of freedom of expression and association.” If democracy only holds officials accountable, that does not necessarily mean that citizens have a serious capacity to influence decision-making processes. This is also true if democracy is only about changing government officials. In Huber *et al*’s (1993:73) broadened definition, the elements that speak to citizens are “universal suffrage” and “freedom of expression and association.” Yet, there is no clear indication in this definition that the citizens can have meaningful and effective mechanisms in the system through which people can take part in and influence decisions that affect their lives.

In an attempt to fill this gap, Keane’s definition suggests that democracy needs to be considered as a system that can empower people to change their circumstances. What is not resolved in Keane’s (2009:10) definition is how citizens will ‘govern themselves’ under democracy: it is “a special type of political system in which the people or their representatives lawfully govern themselves, rather than being governed.”

A review of the literature in contemporary works shows that the commonly accepted conceptualisation has been the one offered by Robert Dahl (Varshney, 2013). Dahl (2005) reduces democracy to two rudimentary standards: “contestation and participation.” The first has to do with how the political opposition contests the rulers. The second asks whether all groups – irrespective of social and economic status – or only some groups participate in politics and determine who the rulers should be” (Dahl, cited in Varshney 2013:265). This definition also suggests that people generally can if they so choose to use the system to change their circumstances.

What is evident from the above is that these democratic definitions offer a variety of explanations, and this may mean different things to different people. Despite the diversity of definitions appropriated, democracy in its various conceptualisations is contingent on one common denominator - how government is formed. The attempt in all of them is placed on how the “demos” form this government – in other words, the government of the people. However, many of these definitions are unable to imagine processes through which people directly participate in governing affairs of the modern state; instead, they are stuck in trying to capture elites’ competition for power and the voluntary participation of people in selecting their representatives. In essence, citizens may enjoy the right to choose their government freely; however, they may not be enabled to influence policies and ensure that the government advances their interests.

The fundamental argument here is that democracies thus must provide citizens with the means to ensure that they are able to choose and influence policies that advance their interests. Affording citizens the right to choose policies that advance their interests accentuates and gives meaning to Dahl’s explanation, especially his two basic criteria - contestation and participation. The preceding definition, as provided by Dahl, allows for participation in policymaking. But it also recognises that contestation in a democracy is essential because citizens have different interests and values. This means that democracy does not only allow citizens the right to choose policies that help them fight democratic retreats but also allows them to create opportunities to

influence their opponents. It is for this reason that this study adopts Dahl's definition of democracy. Particularly, the appeal of his definition of democracy stems from the criteria he employs to consider the contestation and participation of everyone in a society, irrespective of their standing. The relevance of Dahl's explanation becomes even more pronounced in the context of this study's investigation of whether South Africa's democracy is consolidating or retreating. In theory, democracy makes it easier to promote participation and contestation because it enables even the marginalised in society to have a view on matters affecting them thereby placing their concerns and aspirations on the public agenda. On the other hand, democracy does allow those who benefit from inequality to defend it. Whether that has happened in South Africa in practice is a question that this study explores in some detail.

3.3 Conceptualising Democratic Consolidation and Retreat

Friedman (2011:27) asserts that "the emergence of a host of democracies in Africa and elsewhere has stimulated understandable interest in testing whether societies which call themselves democracies really are democratic and whether they will remain democracies in form." The interest generated by testing whether societies which call themselves democracies are really democratic has split scholars into two opposing camps; those arguing in favour of the notion of democratic consolidation and the critics who are of the firm view that it is impossible to know whether a democracy will last and that the idea that there are 'proper' democracies is an attempt by the West to impose its values and views on everyone else.

Schedler (1998:91) argues that "with the extension of democracy to additional countries now having slowed, political scientists – and political actors in new democracies - have been focusing on what has come to be called 'democratic consolidation'". He proceeded to argue that the term "democratic consolidation was meant to describe the challenge of making new democracies secure, of extending their life expectancy beyond the short term, of making them immune against the threat of authoritarian regression, of building dams against eventual "reverse waves." Linz and Stepan (1996:14) amplify this point by asserting that "democracy cannot be thought of as consolidated until a democratic consolidation has been brought to completion. A necessary but by no means a sufficient condition for the completion of a democratic transition is the holding of free and contested elections that meet the seven institutional requirements for election in a polyarchy that Robert A. Dahl has set forth."

Linz and Stepan (1996:15) further argue that "essentially, by a 'consolidated democracy' we mean a political regime in which democracy as a complex system of institutions, rules and patterned incentives and disincentives has become, in a phrase, 'the only game in town'". The point that the holding of inclusive election is but one of the conditions for the completion of a democratic transition is further accentuated by Bothlomilwe and Molebatsi (2014:815) [citing Barkan, 2009:1], who argue that the "development of the legislature is both a dependent and an independent variable in relation to democratisation" and that the process of democratic consolidation cannot be realised in the absence of a strong and powerful legislature.

The preceding paragraph, if critically analysed, suggests that democratic consolidation is a process wherein democracy permeates every facet of the state. By this is meant that there is universal acceptance of democracy by society as a whole and that such acceptance leads to

respect for the rule of law including judicial independence, and the protection and respect of the civil and human rights of every citizen. This is a state where order reigns supreme and where chaos has no place. Lastly, a state where all the inhabitants, irrespective of their social standing, accept that there is equality before the law. Linz (1990:156) [cited in O'Donnell, 1996:37] calls it a situation "in which none of the political actors, parties, or organised interests, forces, or institutions consider that there is any alternative to democratic processes to gain power, and … no political institution or group has claim to veto the action of democratically elected decision makers…". Simply put, democracy must be seen as the only 'game in town.' In addition, Przeworski, (1991) argues that democratic consolidation occurs "when no one can imagine acting outside the democratic institutions".

A democratic retreat cannot be understood outside of analysing the views and writings of the sceptics of democratic consolidation. These sceptics hold that there is no such thing as a 'complete' democracy and that no democracy is a 'finished product'. In advancing this point further they argue that "the consolidation literature, because it provides no coherent way of determining the circumstances which reversals might occur, cannot tell whether democracies are fated to survive" (Friedman, 2011:33). Guillermo O'Donnell (1996: 42) accentuates this point by asserting that there are "conceptual quandaries" [that make] "it impossible to clearly specify when a democracy has consolidated".

In addition, Friedman (2011:33) argues that "more controversially – and topically – some might see the erosion of civil liberties in the United States and Great Britain in pursuit of the 'War on Terror' as one among other signs of democratic decline in older democracies". He further argues that

> "it is impossible to establish which democracies are certain to endure because none are: 'democracy … is an always fragile conquest that needs to be defended as well as deepened. There is no threshold of democracy that once reached will guarantee its continued existence."

The preceding paragraphs raise two important questions:1) Does the inability of the ''consolidation literature to provide coherent ways of determining the circumstances which reversals might occur" (Friedman, 2011:33) mean that democracy cannot evolve beyond its current form? Because, if this argument is accepted, we should equally accept that disagreements about the meaning of democracy make its efficacy and desirability, let alone its consolidation, less likely. In addition, have the 'conceptual quandaries' of democracy not made its identification impossible, even after more than two thirds of the countries of the world have embraced and accepted it? 2) Can the 'War on Terror' waged by the United States and Great Britain against those who threaten their sovereignty be equated to signs of an erosion of democratic decline in older democracies? Shouldn't we regard the terrorist attacks on the US, UK and others as a threat to human and civil liberties of the inhabitants of those countries?

Sceptics in their argument unwittingly infer that democracy cannot ever reach a state beyond its current form. Their inability to see beyond the current is borne out of the belief that democracy can only be seen and understood in terms of a person's geographic location. This belief is predicated on the assumption that societal advances including the relations between

rulers and the ruled cannot advance beyond the sceptic's understanding of democracy and its typology. Their views are oblivious to the fact that each democratic government or regime differs from one another because of the historical conditions/reasons that preceded the acceptance of democracy as a system regulating the relationship between citizens and their leaders; this is because in most countries leaders are a microcosm of a country's citizens. Furthermore, sceptics are unable to recognise the fact that although a country's people might not be a homogenous group, their acceptance of a system of government and the fear of war, violence, crime, and other social ills might homogenise them, making them become willing participants in strengthening institutions of democracy.

O'Donnell (1996:46) asserts that "we believe that democracy, even in the rather modest guise of polyarchy, is vastly preferable to the assortment of authoritarian regimes that it has replaced". He argues that "we shared in the joy when those regimes gave way, and some of us participated in these historic events. These were moments of huge enthusiasm and hope" (ibid). Schedler (1998:103 -104) argues that, when referring to democratic consolidation, "we should restore its classical meaning, which is securing achieved levels of democratic rule against authoritarian regression". In Schedler's (1998:103-104) view that means restricting the use of democratic consolidation to:

> "two negative notions … avoiding democratic breakdown and avoiding democratic erosion. The term democratic consolidation should refer to expectations of regime continuity – and to nothing else. Accordingly, the concept of a consolidated democracy should describe a democratic regime that relevant observers expect to last well into the future and nothing else".

In light of the above, this study therefore affirms democratic consolidation as a useful term for new democracies, because it does, as it should, guarantee a democratic regime's continuity and, therefore, democratic endurance. The normative notion that democracy "needs to be defended as well as deepened" (Friedman, 2011:34-35), in so far as it retains its universal appeal. This is precisely because no one can predict the future of democracy. Keane (2009: ix) argues that democracy has the capacity "to magnetise millions and arouse passions on a world scale, understandably so, since it required human beings to picture themselves afresh, to live as they had never before lived".

The notion that we have to be concerned by democratic consolidation emanates from, on one hand, the normative assertion on democracy and its universal appeal, and, on the other, the precarity inherent in the early stages of any political formation. The debate on the meaning and desirability of democratic consolidation in the context of its usefulness for new democracies is thus situated in the above premises. Furthermore, many scholars of democracy appear to place emphasis on democratic consolidation in order to ''build dams against eventual reverse waves'' (Schedler, 1998:91). This is to be conceptualised as strengthening democratic institutions and their functionaries.

An underlying assumption here is that most present-day states, particularly those in Africa, evolved out of authoritarian regimes. It was through resistance or military takeover that they gave way to democratic or semi-democratic regimes. Thus, democratic experiments in these

states are precarious, and are presumed to lack the necessary maturity and institutional strength. Erosion in the strength and proper functioning of democratic institutions is considered a retreat. More broadly, any conception of retreat has to contend with what distinguishes democracy and other systems of government. For long, such attempts have focused on regular, free and fair elections. However, contemporary practices have muddied the water. We tend to notice that authoritarian regimes establish semi-democratic practices with regular elections and are supported by various institutions (national and international). These have been used to stay in power for a longer period.

We need to pay attention to state-society relations and the structures that shape these while thinking about democratic consolidation. This is to be prefaced by the defining features of modern democratic forms – a mechanism to establishing a representative government. If we accept Huntington's (1991) and Lipset's (1994; 1959) proposition that democratisation is driven by one fundamental factor – the emergence of a strong and stable middle class, the consolidation of democracy is thus centred on the growth and stability of the middle class.

This last point is crucial to the understanding of democratic consolidation or retreat in South Africa. What does it mean to the South African democratic experiment, where we have massive poverty, inequality and unemployment? The composition and growth of the middle class in South Africa leave us with no confidence. Decades after the democratic dispensation, South Africa remains the most unequal society and struggles with pervasive poverty and unemployment. Over 70% of the population is constituted of chronically poor, transient poor and vulnerable middle-class (see Schottea *et al*, 2017). Deducting from the theory that a stable political system requires economic stability and a growing middle class, the South African polity can be deemed fragile and susceptible to democratic backsliding.

3.4 Theorising Democracy and Democratisation in Africa

Many writers have characterised how democracy spread globally as the "three waves" of democratisation (Avritzer, 2002; Schedler, 1998; Huntington, 1991). Such attempts have often paid attention to the Western model of democracy and its expansion throughout the world. In part, this is due to the fact that the specific theory of democracy that has become accepted in these considerations – as institutions and practices that determine state-society-individual relationships. Here, it is a specific strand of this – the western liberal democracy – that is appropriated. Thus, no serious attempt has been made to consider how democracy, as an institutional form, operated before the formation of the modern state.

This is despite the fact that anthropologists have already recorded multiple instances of democratic practices and institutions at work at a community level (see for example, Legesse, 2000; Kuper, 1970). Indeed, much of the discussion on democratisation in Africa has completely ignored such possibilities and are deeply affected by the Western liberal democracy as the only meaningful political order in the continent. Thus, democratisation in the continent is equated with the advent of liberal democracy in Africa. In the last two decades, there has a growing discontent with such wholesale importation of western liberal democracy into Africa political landscape.

Arguably, what Africa has accepted democracy is that of the western version (Etuk and Aweting, 2021). While Schmitter and Karl (1991:75) assert that democracy "is the word that resonates in people's minds and springs from their lips as they struggle for freedom and a better way of life", one cannot ignore the fact that liberal democracy has been instituted as part of conditionalities of western powers (Balyies, 1995; Clapham, 1995). The argument that democracy gains "its universal appeal" (Keane, 2009: ix) from the ideals and moral superiority inherent in it is thus rather flawed. Another justification for universality emerges from what Huber *et al* refer to democracy is viewed as "is a matter of power and power sharing" and establishing autonomy; thus, it features as desirable by the people for it entrusts them the right to choose a government of their choice, and the freedom of speech, of movement and many other rights. These are often contrasted with the claim that such rights are not present in an authoritarian regime.

Democratising Africa however features both as western imposition and local impulses of the 1990s. Writings on the history of democracy argue that ss societies developed, they were able to change regimes: "Over the last two decades, …, many countries have rid themselves of authoritarian regimes" (O'Donnell, 1996:11). This was a result of "the third wave of global democratisation [which] has brought more than 60 countries around the world from authoritarian rule toward some kind of democratic regime" (Schedler, 1998: 91). This brings to the fore the question, what led Africa to experiment with democracy while still not developed.

In some strange sense, theories of democracy and democratisation in Africa and much of the debate dwelled for decades on the necessity of democracy for development of African states. Indeed, in the African case, this was flipped: democracy is necessary for development of African societies and states, and thus, it should be instituted as matter of primary. As already pointed out, this was coupled with the political conditionalities of western development assistances.

"The emergence of a host of new democracies in Africa and elsewhere …" (Friedman, 2011:27) has raised a lot of concerns, especially amongst many Africans, academics and intellectuals. These concerns are triggered by what Comaroff and Comaroff (1997:4) call "the export of modernist European models…... that are founded on an extremely narrow conception of public life, one that places too much emphasis on votes and free market economics" and "too little on the realisation of universal human rights, civil liberties, the commonwealth, and transparent, and accountable government – all of which, according to the survey research, tend to be embraced in popular African definitions of democracy" (cf. Bratton, 2002: 5). The British politician who once claimed that democracy is 'the worst system of government except for all others' appear to gain traction in the early 1990s, with the push for democracy and political change in many parts of the continent. In addition, the fact that "many countries [are] ridding themselves of authoritarian regimes" (O'Donnell, 1996: 34) has created a ripple and sustained by discourse that democracy is by far the best system of government when compared to autocratic regimes.

The 'export of the Euro-American model' leaves South Africans and Africans all over the continent with an undesirable dilemma: to opt for "(i) a highly un-African political order,

wherein the body politic is composed of autonomous, individualised, right-bearing citizens whose primary political role is congealed in the exercise of the ballot, or (ii) an indigenous alternative, usually characterised as anti-modern, ethnically-based, patriarchal, traditionalist, customary, communalist, clientelist and authoritarian – and more insidiously yet, populist" (Comaroff and Comaroff, 1997:4). Ake (1993:239 – 240) collaborates this point when assessing the unique case of African democracy, arguing that Africa "is … still pre-industrial and communal and [its] cultural idiom is radically different. This is a society whose members are barely surviving on informal sector activities and subsistence farming. Very little attention is given to these realties that will ultimately determine the possibility of democracy in Africa." African societies, it has been argued, are ill-suited for liberal democracy because, African thought and practice focused more on "communality as opposed to individuality" (Oruka, 2002:121).

This explains why African scholars such as Kwasi Wiredu argue that the type of democracy that would best suit Africa is described by a concept called consensual democracy. Wiredu's consensual democracy, according to Ajei, (2016:445) is "a democratic system inspired by communalism in the African cultural context in which decisions are characteristically reached by consensus". Ajei (2016:446) proceeds to argue that "Wiredu's advocacy for consensual democracy is pivotal to the ongoing process of conceptually decolonising African thought and practice."

This, according to Ajei (2016:446), is predicated on two facets; "first, it reflects the relevance of indigenous African conceptual schemes for practices in contemporary societies; and second; it demonstrates the feasibility of jettisoning the unsuitable concepts and democratic practices that African states 'inherited' from their colonial governments after they attained independence". Wiredu's consensual democracy rejects majoritarian democracy which he defines as "democratic systems based on the majority principles. The party that wins the majority seats or the greatest proportion of the votes, if the system in force is one of proportional representation, is invested with the governmental power. Parties under this scheme of politics are organisations of people with similar tendencies and aspirations with the sole aim of gaining power for the implementation of their policies" (cf. Wiredu, 1997:186 – 187).

Ajei (2016:447- 448) argues that at the "fundamental level, consensual democracy and liberal democracy adopt different conceptions of the individual and of community, and the relationship that exist between the individual and the community. A consensual democratic system institutes consensus seeking as the aim of, and methodological guide to, decision-making".

Wiredu's consensual democracy, according to Fayemi (2010:2), does not make it clear "what he (Wiredu) considers as the political problem of human rights? To what extent can his philosophical postulates translate into reality and lived experience in 21st Century Africa"? Democracy should, if it is to enjoy popular support, be underpinned by human rights. These are rights that humans acquire at birth and should be at the core of any system that seeks to advance humanity. Their "deprivation … would constitute a grave affront to man's natural sense of justice" (Fayemi, 2010:2). Fayemi, citing Osita Eze, asserts that "human rights represent demands or a claim, which individual or groups make on society, some of which are

protected by law and have become part of *lex lata,* while others remain aspirations to be attained in the future" (Fayemi, 2010:2).

Wiredu argues – wrongly, of course - that "the major problem confronting majoritarian democracy in Africa has to do with multi-party politics and the aftermath, alienation of human right of representation" (Fayemi, 2010:7) because there is no evidence, at least advanced by him, that shows that consensual democracy lacks the potential to alienate the human right of representation. And so "consensual democracy is as problematic as majoritarian democracy" (Fayemi, 2010:7).

This view is predicated on the assumption that consensual democracy cannot guarantee, like all other forms of democracy, that others will not be excluded from ascending to high office, violating their human right of representation. "In all societies, including traditional Africa, there are always conflicts and tensions, which are either resolved by a stronger party having their way or the weaker being realistic enough to concede" (Fayemi, 2010: 8).

This problem is compounded by the fact that the colonisation of Africa has unintentionally, rightly or wrongly, inculcated into the many African ethnic groups the view that some groups; especially those of European descent, are superior to others. This has been a problem in traditional Africa and remains so. African history is replete with examples of ethnic conflicts past and present, and this negates Wiredu's philosophical conceptualisation of an Africa that embraced the principles of consensus which underpinned her democracy.

His philosophical postulates have also not translated into lived experience in 20th or 21st Century Africa. The consensus principles that Wiredu suggest contemporary Africa should adopt was prompted by "the need for collective labour in the then agrarian economy, which demanded cooperation, mutual assistance and shared decisions" (Fayemi, 2010: 9) and these cannot be achievable in a developing Africa.

In light of the inadequacies of Wiredu's consensual democracy, the type of democracy that would best suit Africa is that which has conditions for free and fair elections, the rule of law, a separation of powers between the executive, legislative and judicial branches of the state and the promotion and protection of human, religious, cultural and linguistic rights. In addition to these rights, freedom of speech, of the press and property should be guaranteed. Such a system will contribute to Africa's progress.

3.5 Reviewing Democratic Experiment in Africa

In the 2000s, we notice a plethora of efforts to assess the democratic experiments in Africa (see El-Khawas, 2001; Mukandala, 2001; Tar, 2010). The assessments on problems encountered as African states experiment with western liberal democracy point to multiple issues. What have been identified as challenges often speak to difficulties associated with instituting rapid changes to political systems (El-Khawas, 2001; Tar, 2010) and challenges posed by state formations and institutions in Africa (Mukandala, 2001; El-Khawas, 2001). The arguments in these circulate around the weakness and immaturity of state institutions, including civil society, in Africa. In another form, as Mamdani (1996) puts, state formation in Africa is rather

incomplete. These are necessary to re-organising and sustaining political actions and interaction.

This also follows the assertion that liberal democracy requires specific set of institutions that did not exist in Africa – at least in the early 1990s and 2000s. What this entails is democratic exercises are made possible through institutions that are products of legislations and normative practices, which in turn require existence of a strong state that can institute and carry these. These find their existence from the constitution of the state and a society that understands and relates to these.

Another critical issue raised in relation to this is the role of the ethnic and political ethnicity that have beset African political order and continue to shape African political institutions. These are seen as conflicting with liberal democracy. Let's us transpose the above with the accepted notion democracy as the ideals of "power and power sharing" (Huber *et al*, 1993: 73) through which democracy ordinary people to "replace arbitrary rules with just and rational ones, and to obtain a share for the underlying population in the making of rules" (Moore Jr., 1966: 414). In this, people can also, if they are dissatisfied with the conduct of their leaders, remove them even before an election. It is palpable why African political institutions, and traditional authorities may view these as a threat to their order. Worse, the very democratic ideal can easily be co-opted to bring the desire effective – we have seen how the ethnic has become central feature of elections and post-elections violence (evident in few election cycles in Kenya, Ethiopia, Mozambique, Burundi, Uganda etc.)

Mukandala (2001) adds additional dimension to the challenges of democratisation in Africa: the restructuring of global capitalist system and its potent project of globalisation. For him, global economic forces have emerged as having considerable influence not only on policies of the state but also institutional forms and interactions, and thus hampering the push toward democratisation. Here, Mukandala (2001) is referring to the manner in which global capital has come to elect stable authoritarian regimes, and in other cases, topple elected leaders (through coups or other means) who threaten the vested interests of global capital.

The readings from 2020s are even more bleak (see for example, Etuk and Aweting, 2020; Fombad, 2021; Wasserman, 2021; Slander, 2022). The picture these accounts and analysis paint is one of unmet expectation on democratic experiment in the continent. Aside from this, these viewed are also significantly tainted by the crisis of liberal democracy already prevailing in the western democracies. For Wasserman (2021), however, these should not be simply viewed as entirely negative, and he argues we should treat this as having a lasting contribution, for these experiences are necessarily productive. For him, even a conflict has a positive spin off – cleansing effects as well as encouraging new political path (through reconciliation).

This study in its assessment, interrogation, and examination of South Africa's almost three decades of democratic experiment adopts the institutional theoretical framework as the theory upon which the project is constructed. The intention here is to take South Africa's democratic experiment conceptually and analytically to a point that enables the researcher to easily unpack and give meaning to the acquired data. The institutional theory is chosen because its focus is on "local actors – whether individuals, organisations or national states – as affected by

institutions built up in the much wider environment" (Meyer, 2007:790). Institutional theory is suitable for this study because it is not only "complex [but] covers many fields like economics, sociology, political science, history and ecology" (Mohamed, 2017:150).

But out of the "seven versions of institutionalism" identified by Peters (2000:2) which of the approaches is more interested in the impact and retreat or endurance of South Africa's constitutional democracy? The most appropriate in South Africa's context is historical institutionalism, because "the argument of this approach is that policy and structural choices made at the inception of the institution will have a persistent influence over its behaviour for the remainder of its existence" (see Steinmo *et al*, 1992 cited in Peters, 2000:3). Since the study assesses both the periods 1948 – 1994 and 1994 to date, the historical approach "is obviously well-suited to explaining the persistence of policies but is much less promising as a means of explaining changes in policies or structures" (ibid). Fundamental changes to policies and state institutions in the period preceding 1994 were extremely limited and some policies and state institutions were only reviewed and continued or discontinued after the 1994 democratic breakthrough.

The measurement, analysis and assessment of democratic institutions, specifically the identification of the country's prevailing institutional arrangements, whether in structural or in policy terms, is central to this study. So is whether they have achieved the necessary changes to the living conditions of South Africans. The historical institutional approach helps this study focus on the effectiveness of the country's democratic institutions and the role of society in strengthening or weakening them. The democratic state has from 1994 introduced policies and institutions with the intention of strengthening democracy. Consequently, South Africa, like other established democracies, adopted the principle of separation of powers between the three branches of the state which provide in the exercise of their constitutional obligations and responsibilities for constant checks on each other. This aimed to guard against one or more branches of the state becoming more powerful than the other, usurping its powers and encroaching on its constitutional mandate. Democracy has also, through the Constitution, legislated for three interrelated, distinct but interdependent spheres of government – local, provincial and national. Each sphere has constitutional powers to develop and pass laws that must respond to the wishes and aspirations of the entire society.

These democratic institutions appear, at face value, to be not only responsive, but effective, hence their continued legitimacy in the eyes of the public. It could, be argued that the continued reliance by South Africans, particularly the poor and working class, on state institutions for sustaining their livelihood appears to give weight to the argument that the country's democratic institutions are indeed effective. This reasoning is further strengthened by the fact that people with disabilities, the elderly and children continue to enjoy uninterrupted access to social relief programmes which cushion them against extreme poverty. The majority, if not all, of these South Africans also have access to health care and free basic services to homeowners such as electricity, refuse removal and tap water at the democratic state's expense. It also provides free meals to those who qualify and free basic education to every learner whose parents or themselves receive a state social grant. Those from working class and poor backgrounds who are admitted into institutions of higher learning are given free tertiary education.

Democracy is believed to have a general appeal in the continent, and thus feature as the aspiration of many. Discourses of democracy, by comparison to other systems, are indeed appealing. Democracy promises better conditions, respect for rights and protection of citizens, and protect people's basic human rights, such as freedom of speech, assembly, religion and property. Over and above the right to vote and be voted into power, discourses of democracy claim to enable people to "live as they have never before lived" (Keane, 2009: ix). These conditions, which in the main are attributable to democracy, lead in most instances to economic development, because "the level of economic development is causally related to the development of political democracy" (Huber *et al*, 1993:83).

This has been projected as a rationale for demanding democratisation of African states, so that they attain economic prosperity; this was the dominant discourse throughout the 1990s and 2000s. Contrary to this claim, however, in non-democratic or semi-democratic regimes, sustained economic development is uncommon (see Woo-Cumings, 1999; Mkandawire, 2001; Riley, 2018). Thus, this study does not in any way suggest that economic development only occurs in democratic states; and it does not suggest that only democracy creates favourable conditions for (political, social and economic) that give rise to economic development. The most fundamental assertion is that democracy, compared to other systems of government, is believed to ensure the rule of law and attendant predictable institutions and ways of managing this. In addition, leaders or rulers mandated to govern on behalf of the people and are expected to be held accountable for their actions in the public realm. By comparison, these conditions do not exist in autocratic regimes.

3.6 The Features of South African Democracy and Their Importance

If South Africa is a democracy, it must conform to Dahl's definition. It must, firstly, allow free and unrestricted contestation of ideas by citizens and politicians alike. Secondly and importantly, the country's democracy must ensure that all role players will, if they wish, participate in all decision-making processes that relate to state affairs. Considering this, can it be argued that South Africa's democracy permits free and unrestricted contestation of ideas and the participation by all political role players in decision-making processes in matters of the state?

The post-1994 democratic South African state was established on the principles of equality before the law, supremacy of the Constitution and the rule of law, an autonomous and impartial judiciary, and the regular conduct of free, fair and elections whose outcomes losers accept. Those who have emerged victorious form a government based on the will of the people – majority rule - and accordingly must develop laws that are applied to every citizen. They assume the role of rulers who derive their mandate, power and authority from the ruled or citizens. Rulers in a South African setting can be defined as "persons who occupy specialised authority roles and can give legitimate commands" (Schmitter and Karl, 1991:76). Because these persons occupy specialised authoritative roles, it follows that they should enjoy the legitimacy and the mandate bestowed on them from an election that is neither coercive, irregular, nor unfair. Their laws and policies should be applied fairly and justly to all inhabitants regardless of their gender and nationality.

The South African democracy also has a citizenry that is "the most distinctive element in democracies" (Schmitter and Karl, 1991:77). Inhabitants, who are sometimes not necessarily citizens of a given country, play a critical role in determining and influencing the policy and political trajectory of their country as opposed to those in non-democratic states. They achieve this by electing those who advance their interests into public office. They are also afforded an undeniable right to contest public policy decisions and to participate in public policy making between elections when they chose to do so. This provides opportunities to both the working class and poor but may be annulled by those with deep pockets - the rich, who can also contest and participate – and who may be more successful because they have more resources than the economically marginalised.

In most democracies, South Africa included, there are three independent branches of the state, the judiciary, legislature and executive branch. In South Africa, each of these is created by the democratic Constitution. The Constitution – the supreme law of the land - sets out the accepted rules for political participation and contestation and can be amended only by two-thirds of public representatives. The reason South Africa's constitution has survived this long is largely due to the respect and support it enjoys from citizens across racial and political lines.

The Constitution accords the executive branch of the democratic state an inherent right to initiate laws that are then referred to the legislative arm or National Assembly, which serves as a representative body of all South Africans and enjoys constitutional powers to pass or not pass legislation. South Africa also has a second chamber, the National Council of Provinces (NCOP). The NCOP succeeded the Constitutional Assembly at the conclusion of the drafting and adoption of the final Constitution. All the country's laws, especially those affecting provinces and local spheres, are required to first pass through the NCOP before they are referred to the National Assembly and subsequently signed into law by the President. The judicial branch is constitutionally empowered to interpret laws enacted by parliament and does not have law-making powers.

South African democracy has another key feature - majority rule. In theory this democratic feature affords the majority the right to shape the content and context of the policy agenda. Whether it actually does that is another matter. Schmitter and Karl (1991:78) best describe this when they argue that "any governing body that makes decisions by combining the votes of more than half of those eligible and present is said to be democratic, whether the majority emerges within an electorate, a parliament, a committee, a city council, or a party caucus". This should, however, not be taken to mean that such a majority should base its decisions on gender, religion and race, because this conduct violates democratic ideals of freedom of religion, equality and non-sexism. Majoritarian rule should also not trample, undermine and or ignore minority rights. The rationale here is that rights, of whatever nature, should be enjoyed by all irrespective of their race, sexual orientation or status in life.

In South Africa today, there is a raging debate on the relationship between democracy and minority rights on one side and on the relationship between minority rights and economic and social rights on the other. This debate is proper, but must not ignore the fact that, in a constitutional democracy, majorities, like minorities, must not, in their exercise of their rights,

unjustly and unfairly limit the rights of others. Minorities, like majorities, have a constitutional right in South Africa to freely participate in state affairs and to be treated equally and justly. Schmitter and Karl (1991:79) in their support of this reasoning argue that, to avoid the unjust and unfair treatment of minorities, "successful democracies tend to qualify the central principle of majority rule in order to protect minority rights. Such qualifications can take the form of constitutional provisions that place certain matters beyond the reach of majorities". In the South African setting this means that constitutional changes to property rights including the debate over land expropriation requires at least a two thirds majority of members of parliament: if it is a fundamental right, parliament needs seventy-five per cent or more members to pass that amendment. It is for this reason that some sceptics have argued that South Africa's democracy cannot and will not change the living conditions of the majority. It should be noted that minority rights in South Africa do not protect only property owners, but also left-wing organisations whose policies and programmes lack broader appeal and consequently mass support.

Finally, Schmitter and Karl (1991:79) assert that, "cooperation has always been a central feature of democracy. Actors must voluntarily make collective decisions binding on the polity as a whole". Furthermore, they assert that (1991:79) "[actors] must cooperate in order to compete. They must be capable of acting collectively through parties, associations and movements in order to select candidates, articulate preferences, petition authorities and influence policies". These democratic features have been embraced by the majority of South Africans not only because they are important in strengthening and developing democracy but because they also empower South Africans to "(1) check arbitrary rulers, (2) to replace arbitrary rulers with just and rational ones, and (3) to obtain a share for the underlying population in the making of rules" (Moore Jr., 1966:414).

These democratic features give context to the debate on whether South Africa's democracy is consolidating or retreating. Such a debate is not unique to South Africa: "in international [democratisation] debates, the challenge of building responsive and accountable states which in turn will work to alleviate poverty, protect rights and tackle social inequalities has been a focus of attention in recent years" (Gaventa and McGee, 2010:1). These debates corroborate the view that there are conflicting and varying views on democratic consolidation. Sceptics argue that there is no complete democracy, because as Huber *et al* (1993:75) argue, the powerful class does become "hostile to further democratisation when its interests seemed threatened". An alternative view argues that the poor and working class can use democratic rights and institutions to achieve the desired change if they act collectively in pursuit of their interests.

This second view enjoys the support of many scholars. Varshney (2013:262), for instance, asserts in support that "voting, …, is not the only mechanism of influence available to poor [and working class] people in a democratic polity. The [working class, and] poor can also, … be politically mobilised into [working class, and] poor people's movements, and can thereby exercise their weight and push the government to adopt pro-poor policies". Friedman (2002:32) in accentuating this point, asserts that "citizen[s] preferences do not automatically translate into policy, law or action in democratic societies. They do so only if they are expressed in organisation: citizens must combine if their preferences are to become policy. … preferences

only become policy when social coalitions or alliances are established which are capable of shaping the agenda".

This means that strengthening democratic institutions is not the sole domain of state institutions: "organised [and sometimes unorganised] citizens also play a critical role, through articulating their concerns, mobilising pressure for change and monitoring government performance" (Gaventa and McGee, 2010:1). It also means that democracy's health depends not only on whether the government promotes and introduces democratic policies but on whether citizens can use their democratic rights to force power holders to advocate for changes which favour all citizens irrespective of their social standing. In South Africa, as the study will demonstrate, citizens, through civil society organisations, have from early on been able to pressure the government to adopt policies that should ultimately strengthen democratic institutions.

3.7 Conclusion

Writings on prospects of democratisation in Africa were very optimist and viewed the universal value of democracy and its positive consequences to African states and society. However, recent reviews of these experiments paint a bleak picture. Increasingly, we have noticed a serious criticism labelled on liberal democracy as western ideal and how this has become out of sync with African conditions – of state, institutions and society. We have abundant work on theorising democracy and democratisation in Africa, and these have appeared to be rather confusing and conflicting instead of illuminating. On one hand, the ideals of liberal democracy are seriously questioned, and presenting a need for African version of democracy in line with its traditional institutions. On the other, democracy is presented as having universal appeal and African societies and political elites have no different opinions. To muddy the water, democratic experiments in Africa and their failures are attributed to political conditionalities; thus, making these experiments as an externally imposed rather than organically emerged from local context and dynamics. Other have also pointed out to the failures of democratic experiment in Africa are results of weak states and institutions that need to support and carry democracy as political system.

These issues are important deliberations so that we work on democratic consolidation and retreat. This chapter sought to establish what democracy entails, in African and the South African contexts. Through this then it weaves the theoretical position that informs its conception of consolidation and retreat. This chapter argues that these are for large part functions of the very definition of democracy and institutional forms instituted through and by it.

CHAPTER FOUR

4. The Founding of a Constitutional Democratic South African State

4.1 Introduction

South African democracy's momentous beginning on 27th of April 1994 was preceded by a century-long fight centred on demands to end political, racial and economic domination and create an inclusive democratic country founded on the supremacy of the Constitution and respect for the rule of law. Democracy does not, according to Sorenson (1993:29), "fall from the heaven. It is brought about by individuals and groups, by social actors, who fight for it". New democratic dispensation in South Africa is testament to this, as it is a product of long struggle for liberation of the country and its people.

There is also a context on the basis of which democracy is to be established. The current South African inclusive democratic regime emerged out of an apartheid state that separated the country's citizens along not only tribal, but also along racial lines. "The NP's (1948) manifesto was that of apartheid and Afrikaner empowerment …" (Luiz, 1998:52). Greenberg (1987:1) captures this unfortunate situation by correctly asserting that impropriety was a central feature of the social order in that

> "the state [was] formally and fully associated with the needs and dominance of a privileged racial minority; indeed, to all appearances, the state's racial character provide[d] its *raison d'etre*. The racial-state identity [took] a legal and publicly sanctioned form that pervades the national symbols and government ideology, as well as the practical activity of state agencies."

Greenberg proceeds to suggest that South Africa's repressive regime was incomparable to other states partly because its laws

> "operate[d] within a legal and ideological framework that appears to mandate dependence on direct coercion and to preclude the search for more consensual methods. There is a completeness to a repressive order that, at the top, leaves the African majority without any political representation or national identity and at the bottom, subjects them to group areas, tribal authorities and police raids…" (ibid).

Du Toit (1995:317), in affirming this, asserts that

> "the apartheid project required a state of exceptional strength. The legal enactments of apartheid comprised an extraordinary wide set of prescriptions by the state as to how people should behave and where they should live and work;

and it set out detailed rules concerning which survival strategies were to apply to whom – in short, an enormous project of social control was brought into effect".

History is replete with literature that points to the fact that "the backbone of apartheid was laid in 1950 with the Population Registration Act, which categorised people according to race. …The Nationalists extended racial laws and tightened up the administration and enforcement of those laws". (Luiz, 1998:52). Sorensen (1993: 29) writes: "Given this situation, it is not difficult to see why the nonprivileged, who were barred from political influence during authoritarian rule, struggle for a democratic polity that will give them access to political influence". These realities prompted some to rightly argue that "the twentieth century history of South Africa is such that inequality and poverty and, in particular, their changing racial profiles have been of special interest" (Leibbrandt *et al*, 2007:2) not only to South Africans, but to the rest of Africa and the world.

The narrative that organised the struggle against apartheid promises a reversal of these, and the messages communicated to ordinary citizens, specifically those who supported or played an active role in the liberation struggle are exactly this. Therefore, the end of racial, political and economic domination was expected to translate into better living conditions for the many black Africans who were regarded as non-citizens in the country of their birth. The determination to change their living, social, political and economic conditions became the central feature in the mobilisation and indoctrination of thousands particularly during the periods between the 1970s and 1980s. The 1976 Soweto student's revolts and the mid-1980s township boycotts against a plethora of government actions and inactions including calls by liberation movements to make South Africa ungovernable and apartheid unworkable, made the struggle an epoch-making event and placed the country on a new and irreversible political trajectory.

According to Pampallis (1991:264) "a small but growing population of whites" were taking part in the liberation struggle and its organisation. The involvement of whites in the resistance is of importance and raises the question; "why should members of the dominant forces, who held together in the power bloc behind nondemocratic, authoritarian rule, suddenly opt for a democratic solution that may entail a threat to their interests"? (Sorensen, 1993:29). Were those white South Africans who were opting for a democratic solution doing so, because they – especially the English-speaking whites - felt that their interests were also threatened or were they genuinely in favour of "policy reforms that attack the power and privilege of [the] dominant group"? (Sorensen, 1993:29). Did this signal a split in the power bloc behind apartheid? Sorensen (1993:29) opines that "democratic openings are often preceded by a split in the coalition forces behind authoritarian rule, a split between hard-liners and soft-liners. The latter may seek more democratic forms of rule-perhaps in order to get the upper hand in the conflict with the hard-liners – in the face of internal and external pressures and perhaps also due to normative commitments to democracy". In the absence of any evidence pointing to the contrary, this study assumes that the 'soft-liners' opted for a democratic solution firstly because of internal and external pressure and secondly, due to the normative commitment to democracy.

The broader project of this chapter is to account for historical and political processes that shaped the continuities and discontinuities in characters and institutions of the state. Through this, the chapter aims to examine the various aspects that shaped the content and character of

the new democratic dispensation. This is deemed important to developing an understanding on how consolidation and retreat be examined.

4.2 The Disintegration of the Whites-only Democracy

Luiz (1998:49) notes that "the grand plan of apartheid required enormous supremacy by the central agent, the state. The state fashioned almost every facet of South African life. Its intervention in the economy determined the course of industrialisation and the character of social relations. It co-opted white support through rewards and enforced black compliance through its security system." But like all authoritarian systems before it; it too faced an existential crisis and its disintegration, although long coming, was not surprising because of the relentless opposition to the system here and elsewhere.

As Sorensen (1993:40) writes, "The transition from nondemocracy to democratic rule [was] a complex process involving several phases. In the typical contemporary case, the beginning of the process is marked by crisis within and the eventual breakdown of the nondemocratic regime". The crisis was prompted by economic and political pressures on the government which compelled the whites-only democracy to transform. For instance, "the declining growth rate, which had been such a notable feature of the South African economy in the 1970s, continued in the 1980s, until by the end of the decade slow growth had been replaced by no growth" (Jones and Inggs, 1994:1). The "oil crisis of 1973, the rise of black worker militancy, and the 1976 Soweto students' revolt all combined to slow growth" (Beinart, 1994:165). Political unrests and skilled labour shortages (Friedman, 2002:36) put unbearable and enormous pressure on the government and "once more the state was confronted with identical problems as those of the 1940s – a larger, better organised and more politically conscious working class" (Ajulu, 1979:8).

The preceding decade, the 1960s to 1970s, had positives and negatives for the South African economy. The positive include massive inflows of foreign direct investments owing to the 'decade of industrial peace' – 1960 to 1970. The negative; depending on which side of the fight one stood, was the emergence and consolidation of a politically conscious working class. The 1960s to 1970s is called the 'decade of industrial peace' because it was characterised by cheap labour on the one side and on the other, the government's oppression and repression on trade unionism. The massive foreign capital injection into South Africa led to the "expansion and the centralisation of the economy and the emergence of state monopoly capitalism" (Ajulu, 1979:9), which unfortunately "… had done little to benefit South Africa's black workers whose wage levels had not improved" (Pampallis, 1991:246-247). The marginal economic benefits to black Africans and their families including the unending increases in basic goods did not remove the serious discomfort amongst them which led to several uprisings.

The first of these was the Durban strikes. They started on 9 January 1973 and spread to other parts of the country attracting more and more dissatisfied black workers. "Although the increases they won were small, the Durban strikes offered the first large-scale resistance by South African workers since 1960. Other workers learnt the lesson that gains could be made by mass, united action, and many more strikes took place throughout 1973 and 1974, spreading to other parts of the country" (ibid). The influence these strikes had on black Africans in general

was felt three years later, when the Soweto uprising broke out. According to one analysis, "there appear to have been three reasons for the Soweto riots: black dissatisfaction with the regulation that certain school subjects had to be taken through the medium of Afrikaans; the government's indifference to the warnings that an explosive situation was developing; and dissatisfaction on the part of blacks about their political powerlessness, economic backwardness, and social insecurity" (Liebenberg 1993:461-462). "The uprisings spread rapidly through Soweto and into other Transvaal townships. It then took hold of many other parts of the country, most notably the Western Cape but also to areas in all four provinces and all the Bantustans" (Pampallis, 1991:256).

These strikes had a devastating impact on the economy, and they unfortunately accelerated the country's economic decline leading to massive job losses in almost all sectors of the economy. Factories who were the biggest employer when compared to the agricultural sector began retrenching workers – specifically black Africans. "By 1977, unemployment among Africans was increasing at a rate of 14, 000 per month – 470 per day" (SALB, 1978:1). "African unemployment almost doubled from 1,2 million to 2,3 million between 1950 and 1977, by which time perhaps 26 per cent of Africans were unemployed. Consequently, blacks experienced high levels of poverty, under-nutrition and disease, especially tuberculosis" (Thompson, 2000:190).

What the unrests of the 1970s further did was create a "growing convergence of views among capitalists about the rising costs and inconvenience of apartheid" (Lipton, 1985:255). According to Lipton (1985:235-247) "the rising costs of apartheid had an impact on the government as overseer/manager of the South African economy". It was clear to all and sundry that black Africans were determined in their pursuit of a total departure from apartheid. The increasing internal and "international hostility towards apartheid, especially from the 1970s onwards, posed a threat to the external economic interests of capitalists, especially in Africa into which they hoped to expand. Large multinational corporations with subsidiaries in South Africa came under sustained international pressure to withdraw" (Luiz, 1998:59). This pressure and the aftermath of the 1976 riots scared off potential foreign investors and the country had to explore other avenues to maintain and fund its military and internal security agencies that were central in ensuring black Africans' compliance with the repressive laws. This complicated South Africa's international economic relations and endangered the country's export markets, impacting on its ability to attract technology and the needed foreign capital.

The decision by the United Nations in 1977 to impose an arms embargo on South Africa also limited the government's options. The National Party government began appreciating that the continued industrial action – strikes and stayaways - were more detrimental to it than international pressure. In response, it adopted a Total Strategy which was crafted to become a "comprehensive plan to utilise all means available to a state according to an integrated pattern to achieve national unity within the framework of specific policies. A total national strategy is, therefore not confined to a particular sphere, but is applicable at all functions of the state structure" (Defence White Paper, 1977:5).

It also pressed ahead with 'reformist plans' which aimed to appease not only local businesses, but international organisations, governments and multinational companies.

4.3 Apartheid Government and Internal and External Pressures for Reform

As society became increasingly mobilised, particularly of those of trade unions, the apartheid government, in response to these pressures, started to formulate commissions, even if these appeared to be symbolic gestures. Liebenberg (1993:469) writes,

> "[due to] general dissatisfaction with existing labour legislation, appointed two commissions in 1977 to investigate labour laws. The Commission of Inquiry into Labour Legislation, generally known as the Wiehahn Commission, concentrated on legislation which was administered by the Departments of Labour and Mines".

The "Riekert Commission", as the Commission of Inquiry into Legislation affecting the utilisation of Manpower, came to be known, investigated the detrimental effects which some apartheid laws, falling outside the ambit of Departments of Labour and Mines, had on black labour. The Wiehahn Commission, as will be explained below, was part of the NP's strategy to achieve three important goals that were central to the NP's continued existence. First, to restore its domination, ensuring its continued governance of South Africa. Second, to curtail the growing black African trade unions as the Botha Commission had in 1948 and finally, to demonstrate to multinational companies, governments and international organisations that the South African government was willing and committed to changing its labour legislation. The Riekert Commission investigated laws that impacted on black Africans' freedom of movement - influx control.

The work of the Commissions took two years and in 1979 both presented their findings to the government. Wiehahn recommended that "African workers be brought under control by legislation. Job reservations should be abolished, all trade unions (including African) should register, and each union should be free to prescribe membership qualifications as it saw fit" (Thompson, 2001:218). In many respects, this was a significant move, and the recommendations of the Commission had far reaching implications. Pampallis (1991:268) capture this in the following:

> "These major recommendations of the Commission were accepted by the government and legislated for in the 1979 amendment to the Industrial Conciliation Act. This represented a major shift in policy and marked a victory for the working class and the national liberation movement, which had fought for years against racially discriminatory legislation".

This has also paved the way for subsequent reforms we noticed in the early 1980s. For example, "[t]wo years later the Labour Relations Amendment Act of 1981 deleted all references to race and allowed multiracial trade unions to register" (Liebenberg, 1993:470). In addition, parliament "passed further legislation as a result of the recommendations of a commission chaired by Riekert, making it a criminal offence, subject to a large fine, for employers to hire Africans who did not possess rights in the cities" (Thompson, 2000:218). This was legislated "in terms of section 10 of the Natives Urban Areas Consolidation Act of 1945" (Liebenberg, 1993:471). Riekert's recommendation was:

> "urbanised workers be allowed to stay in the towns permanently, together with their families, but that the un-urbanised should continue to be removed. The townships themselves were to be recognised as a permanent element of the urban landscape and should have an administration that collected rents and local taxes" (Johnson, 2004:176).

As a result, and to achieve this, "the government implemented many of the Riekert Commission's recommendation, some of which required the drafting of new legislation. … the Black Local Authorities Act of 1982 … gave Black people in urban areas their own local government (town councils)" (Liebenberg, 1993:471). Liebenberg further argues that "the Black Communities Development Boards Act of 1984 … replaced the Administration Boards with Development Boards". Regardless of these 'reforms', Black Africans in some parts of the country including the Western Cape defied influx control laws by setting up settlements where they lived with their families. The continued defiance of the 'reforms' by Black Africans ultimately collapsed the government's plan in 1986 resulting in the "abolishing of influx control [and] passing of the Abolition of Influx Control Act of 1986" (1993:471).

The deduction that could be made here is that the NP government in keeping with its Total Strategy, had wished to use the recommendations of the Riekert and Wiehahn Commissions to neutralise black Africans, especially the urbanised – with the hope that they would support this plan. The central aim of this Total Strategy was to ensure that the "state determined almost every facet of South African society, and its intervention was paramount in shaping future development" (Luiz, 1998:64). But black people's refusal to accept the changes signalled that they were not going to comply with any plan that sought to absorb them into a system in which they would not be equal to their white counterparts. The government's reforms failed to recognise the increase in the political consciousness of the trade union movement and most urban black Africans. What, however, is not clear, is "how the government could concede these reforms (as per the Commissions reports) without realising that they were bound to be fatal to the system they still hoped to retain" (Johnson 2004:176). The rise of the militant black African trade union movement and the push for a total reform of apartheid hastened its demise.

4.4 Intensification of the Fight for a Democratic South Africa

Beinart (1994:236) declares: "If the renaissance of black opposition in the 1970s paved the way for political change, the insurrection of 1984-6 made the process difficult to reverse". A myriad of challenges confronting the NP led apartheid government triggered this, but the most important was the "economic recession and the intricacies of managing the black urban population" (ibid) that felt neglected and unattended by the government. Adding to the challenges confronting the government was the formation of a popular front consisting of workers, women, youth, churches, trade unions and black civic organisations. The United Democratic Front (UDF) was founded in August 1983; this front was formed as internal opposition to the regime and was constituted of a diverse constituencies and backgrounds and races – determined to fight for change (Thompson, 2000:222). This was a multiracial, multiclass front and its mass-based character enabled it to mobilise and galvanise South Africans in their fight to end political and racial economic domination.

During this time, black townships became a hot-bed of political activism and revolt. In some ways, this was made possible through UDF that was acting as internal front for ANC, which enabled creating a nationwide network against the apartheid government (Johnson, 2004:188). Key to the growth in the nationwide network was the introduction of democratic decision-making in leadership structures and in communities supporting the Front. Morobe (1987:195-241) argued that that the appearance of the UDF on the political scene established "notions of popular democracy, people's power, self-empowerment, the masses driving the process, democracy from below, and the creativity of the masses". This stressed the power that people at grassroots had in effecting change including influencing government policy choices. Furthermore, these new practices and ideas helped to inform and shape the struggle for a united democratic South Africa free of homelands and group areas and based on the will of the people. The 1980s it could be argued; were the decade that ushered in South Africa's democracy.

In addition to the unrest and revolt in most black townships, South Africa's economy was also beset with serious challenges – inflations, deficits in balance of payments, extremely high interest rates, and "these problems contributed to the political turmoil in the country" (Maguire, 1991:72). The economic misfortunes were partly, if not entirely, caused by the plummeting gold prices in 1980s. As Beinart (1994:240) put it: "Gold prices, which had helped the country through the oil crises and recession in the 1970s, declined in 1983. Expensive imports and debt repayment became a financial drain". These economic hardships toughened black African attitudes towards the NP's government and led to the intensification of violence and strikes for better working conditions and wages. In urban centres black Africans began and led boycotts against bus fares, municipal rates and poor living conditions. van Schaik (1993:507) captures ensuing political development in the following:

> "Demands which the consumer boycott organisers made in towns were of a twofold nature. On the one hand there were demands of a local nature, concerning the improvement of living conditions in a defined residential area. … On the other hand, there were demands of a universal nature, concerning the abolition of the apartheid system"

This is an indication that the UDF's demands are a system change, while at the same time demanding for better economic conditions.

The government also faced white opposition. "The white working class [who] also suffered from inflation and saw a narrowing gap between white wages and those of blacks …. Consider[ed] switching their allegiance away from the National Party towards the (more right-wing) Conservative Party" (Maguire, 1991:72). Moreover, "Afrikaner businesses, along with industry in general, openly criticised restrictions in the labour market and state monopolies" (Beinart, 1994:227). The "government's problems were [further] compounded by a deteriorating economic situation, engendered in large part by the political uncertainty and withdrawal of foreign investment. The annual rate of inflation rose from 11 percent in 1983 to 13,25 in 1984, 16,2 in 1985 and 18,6 percent in 1986" (Thompson, 2001:228). Unemployment was on an irreversible upward trajectory.

South Africa was in a political and economic crisis, and the poor black African majority could not afford to respond to this situation with silence. Few core developments were central to the protracted violence and unrest that engulfed the country between 1984 and 1986. Liebenberg (1993:499) identifies these as "[t]he economic recession of the mid-eighties, the unpopularity of the black town councils, the ANC's intention to make the country ungovernable, and dissatisfaction with the constitution of 1983" This turmoil "exacerbated economic difficulties" (Beinart, 1994:241) and consequently compelled "a number of private companies [to] withdraw their investment in South Africa due to pressure from shareholders or customers" (Pampallis, 1991: 299).

White businesses also felt that apartheid was increasingly becoming politically and economically costly. They founded the Urban Foundation "a privately funded welfare body set up by both English and Afrikaner magnates" which "became a testing ground for new urban initiatives" (Beinart 1994:228). These were geared to create liveable conditions in townships which they hoped would help calm the situation and prevent further revolts. The Urban Foundation appeared to recognise that "white and black South Africans were inextricably interdependent. Africans, no longer self-sufficient peasants, were obliged to seek employment, and whites needed African labour" (Thompson, 2000:235). Furthermore, (2000:235), "the cumulative power of black people as consumers, workers and entrepreneurs was becoming increasingly significant. In 1985, whites had about 55,5 per cent of disposable income, Africans had 31,8 per cent, coloureds 8,8 per cent and Indians 3,9 per cent, and the black share was rising". The initiatives undertaken by the Urban Foundation and Botha's view that "traditional apartheid must be modified if the white man's way of life was to survive" (Pampallis, 1991:279) signalled a change of strategy from the regime. Pampallis (1991:279) further opines that in the NP's view, "the whites had to adapt or die, and had to be prepared for healthy power sharing with other groups."

Thompson (2000:229) point out that:

> "the [apartheid] government had always recognised that it could not rule the country without cultivating some black allies …attention was now switched (from Bantustan leaders) to the urban black middle class. Africans were being offered gradual dismantling of job protection, incorporation in township local government, and the prospects of greater upward mobility".

Thompson (2000:220) adds that

> "the government repealed no fewer than 34 legislative enactments that had constituted the pass laws. It announced a policy of orderly urbanisation … By June 1986, the government had also eliminated some segregation laws. It had repealed the bans on multiracial political parties and interracial sex and marriage" [and more importantly] "it had stopped reserving by law categories of jobs for white workers".

But by this time the "popular struggle [had] reached its crescendo … and did begin to achieve its aim of ungovernability" (Beinart, 1994:241). Those formations and organisations that were working closely with both the UDF and Congress of South African Trade Unions (COSATU,

formed in 1985) felt that the reforms government was introducing were nowhere near enough without a united democratic South Africa founded on the will of the people. COSATU and the UDF were adamant that the fight for better economic and social conditions was closely linked with the fight for democracy and this is why "in 1986 COSATU issued a joint manifesto with the ANC in Lusaka, while linking up with the UDF inside South Africa" (Maguire, 1991:103) demanding the removal of the NP government and calling for establishment of a united democratic South Africa based on the will of the people.

Their demands correctly implied that the absence of freedom for the black African majority under the NP minority government made the attainment of an inclusive democracy impossible. They contended that "the reform process had distinct limits [in that] school education remained strictly segregated, … government was still spending seven times as much to educate a white child as to educate an African child, and similar disparities remained in health and welfare services" (Thompson, 2000:221). In addition, according to Thompson (2000:221) "the Land Act and the Group Areas Act still excluded Africans from landownership outside the homelands and African townships". Consequently, majority of black people in the country remained impoverished, unemployed and marginalised from the social, economic and political system of the state.

Furthermore, "in spite of much vague official talk about including Africans in national decision-making, President Botha and his colleagues were adamant about retaining the racial structure of government institutions and rejected any suggestion that Africans should participate equally with whites" (Thompson, 2000:221). Botha's infamous "Rubicon speech" at the Natal congress of the National Party on 15 August 1985 (Heunis, 2007:75) confirms the fact that there was no desire from the NP government to change the racial structure of government institutions including participation by other racial groups in decision-making processes.

These events compelled white business to take matters into its own hands. Besides, "by the mid-1980s the ANC's role in liberation was recognised even by the leaders of big business" (Pampallis, 1991:265). "A business delegation, led by Gavin Relly, Chairman of Anglo American, met the ANC in Lusaka and firms in South Africa committed themselves whole-heartedly to African homeownership, training and renewal through the Urban Foundation" (Beinart, 1994:242). This, it could be argued, was the beginning of formal negotiations between the ANC and civil society organisations and by extension with the government of South Africa. According to Johnson (2004:199) "unofficial talks between various intermediaries and proxies of the NP and ANC had been going since 1984. Mandela, with the ANC's consent, had been involved in unofficial secret talks for three years while still in jail". This followed on the heels of a decision by the United States and other Western countries and the Commonwealth of Nations which in "1985 … appointed the Eminent Persons' Group (EPG) to try to find ways of ending apartheid through non-violent means by encouraging dialogue between the South African government and its opponents" (Davies *et al*, 1988:3).

"In the United Nations and other international bodies such as the Organisation of African Unity (OAU), the Commonwealth and the Non-Aligned Movement, opposition to South Africa's apartheid grew. Numerous calls were made for international economic sanctions against South

Africa" (Pampallis, 1991:278). "After that, several South African groups became involved with the ANC in discussions about a possible negotiated solution. In 1987, a South African delegation under the leadership of Frederick van Zyl Slabbert and Dr Alex Boraine held discussions with the ANC in Dakar, Senegal" (Terreblanche, 2012:14). These were followed by other groups including Afrikaner think-tanks and academia who came to realise that apartheid had reached its sell-by date and was not sustainable given the internal and external pressure.

The ANC in recognition and appreciation of the situation in the country, had convened in 1985 a "conference in Kabwe, Zambia to discuss the situation created by the new mass movement and the first attempt by the government to investigate the possibility of negotiations" (Johnson, 2004:188). At this conference, the ANC decided against negotiating with the government but changed course without rescinding its earlier decision when it began discussions with white business and Afrikaner academia whom it knew were close to the NP government. This sudden change in approach played a role in how the ANC approached future negotiations with the government and feeds the notion that the ANC went into future negotiations with the government, specifically during the Convention for a Democratic South Africa (CODESA), weakened and willing to concede to the maintenance of the *status quo*. How can the organisation explain its sudden change if the intention was not to maintain the *status quo* at the expense of the people it purports to represent?

The economic and political situation took a toll on President Botha; in 1989, his health suffered and resigned from his leadership position of NP. As Johnson, (2004:198) put it, "Botha then decided, absurdly, to stay on as [the country's] President.…In July 1989, just a month before F.W. de Klerk finally forced Botha from office". During this period, another crucial development took place. On one hand, the SACP convened its seventh congress in 1989 at Havana, Cuba, which culminated into its programme of action - 'The Path to Power', which "stressed the party's intention to continue the armed struggle" (Johnson, 2004:199). On the other, the views on apartheid globally had worsened, with growing pressures on capital (MNC) to divest. Appreciating these changes and in the global balance of forces, President de Klerk began freeing from jail noticeable political prisoners such as Govan Mbeki, Walter Sisulu and Denis Goldberg amongst others. "De Klerk also declared that he intended releasing Nelson Mandela in the near future. Nine days later, on 11 February 1990, Mandela, who had become the most potent symbol of the South African freedom struggle, was released after 27 years of captivity" (Pampallis, 1991:305).

Pampallis (1991:305) further opines that "in February 1990, South Africa stood at the beginning of a new stage in its history. Although the apartheid system was still in place and wealth and power remained overwhelmingly in white hands, the writing was on the wall: the new balance of forces in the country ensured that change would take place and a different type of political dispensation would be built". This signalled a new dawn for South Africa, the neighbouring countries and Africa. "A wave of optimism was unleashed, the signal for symbolic reclaiming of the country. Blacks were able to move into spaces and institutions which had been barred to them" (Beinart, 1994:252).

South Africa was on the cusp of ending the racial economic and political domination that had characterised its political history for more than three hundred years. As a result, it needed to construct a new way forward based on the fight "to undo the economic vestiges of the system of racial exclusivity" (Bhorat and Kanbur, 2005:1). The new fight was dependent in most part upon all those political actors who converged on Kempton Park in the early 1990s, finding each other as they negotiated the founding of a truly non-racial, united, non-sexist, and democratic South Africa based on the will of the of people including the supremacy of the Constitution and respect for the rule of law. This is a South Africa where race, gender and political affiliation plays no role in determining a person's access to government services. It implied a country focused on narrowing the widening gap between the poor and the working class on the one side and the powerful and rich on the other.

4.5 South Africa's Transition to Democracy and The CODESA Negotiations

The work of dismantling apartheid and its racial legislation was to commence on 20 December 1991, one year seven months after the last whites-only President had announced to South Africa and the world his government's epoch-making decision to unban all political parties and free from jail all freedom fighters, including Nelson Mandela. According to Johnson (2004:202) a "constituent assembly, the Convention for a Democratic South Africa (CODESA), was set up to work out a transitional constitution thereby and for the first time in the country's political history commencing an important transition towards a united democratic South Africa based on the will of the people". CODESA comprised nearly 300 delegates, most of them Africans, many of them women. There were delegations from apartheid government, from eight political parties, and from the ten Homelands. AZAPO and PAC, both strong African political organisations, declined to the invitation to participate – demanding an elected constituent assembly to manage the constitutional change (Welsh, 1992:18). Conservative Party – a right-wing white party – too rejected CODESA, claiming that it has ruled out "the right for self-determination" (Welsh, 1992:18).

Indeed, the negotiations proceeded against a backdrop of a most polarised political environment including distrust amongst those attending. Racial and institutionalised inequality, unemployment owing to disinvestments and endemic poverty characterised most black African, coloured and Indian communities. Even though at the time South Africa was the most developed economy on the continent, it had a "serious long-term economic problem, and the need for that economy to provide sufficient new jobs for the growing black population …" (Beinart, 1994:130). Beinart (1994:130) continues to opine that "unemployment and poverty are often the breeding grounds for discontent that in due course can be channelled into political opposition". It was also evident that the "root of the economic problems were …, quite clearly political in origin: the structure of the apartheid economy, political instability with the government unable to impose its will on the people despite enormous expenditure, and international economic sanctions" (Pampallis, 1991:299-300).

In recognition of this reality, the apartheid government had to concede to "a paced" transition towards constitutional democracy. De Klerk's government "knew that there was no possibility

of a negotiated constitutional settlement that would hold out any hope of it retaining power. That power would go to the ANC was a foregone conclusion …" (Heunis, 2007:155). Thompson (2000:245) captures the prevailing development in the following:

> "in the plenary session on the first day, 17 of the delegations endorsed a crucially important document – a Declaration of Intent setting out the basic components of the interim constitution. It was to provide for universal suffrage, a Bill of Rights including civil and political rights, an independent judiciary with the power to declare legislation invalid and elimination of Homelands".

The possibility of the ANC gaining power brought a sense of uneasiness among the white population while the majority of South Africans – black Africans, coloured and Indians were more welcoming of the transition towards a democratic state. The Conservative Party - a right-wing Afrikaner party which broke away from the NP - began "grasping that what was really being negotiated was the surrender of white power", and it "campaigned furiously against CODESA and won a crucial by-election on the issue" (Johnson, 2004:202). Their discomfort was in the main motivated by the fact that "in the past [they] worked hard to link race, culture and politics – justifying their dominance by the need to protect what they saw as a distinctive identity and civilization" (Beinart, 1994: 258).

On 17 March 1992, De Klerk initiated a whites-only referendum "on the question of continued negotiation – which he won with a two-thirds majority" (Johnson 2004:202). Buoyed by the overwhelming victory of the referendum the "Nationalists as well as homeland representatives have supported a strong regional tier of government … Regions would include both formerly white and black areas but might mean that the Nationalists and their allies could retain more influence at local level in some areas. Guarantees over private property have been central to government concerns" (Beinart, 1994:254).

The ANC for its part had "aimed for a representative national convention and unitary democratic state. They nevertheless [had] to compromise on key issues" (Ibid) even against internal opposition. Radicals within its ranks were pushing rather for a revolution in order to ensure complete overhaul of the political economy. In attempt to give negotiated settlement a chance, ANC acted to "restrain its own radicals who viewed negotiations as unnecessary or even a betrayal, and who clung to the vision of mass action leading to the seizure of power and revolutionary rule" (Johnson, 2004:202).

Similarly, NP's unity during CODESA I was threatened by several issues –mainly by mistrust over the process, white voters' disenchantment and anxiety over the impending change (Welsh 1992). In part, this was remedied through the referendum NP government carried out. The ANC-led alliance had its fair share of divisions, motivated in large part by the dramatic ideological shift ANC displayed in the first half of 1990s. As Terreblanche (2012:63) put it: "The ideological shifts from an explicitly socialist and redistributive approach towards embracing the American ideologies of neoliberal globalism and market fundamentalism were so radical that all kinds of unholiness must have taken place behind the scenes". Beinart (1994:254) concurs and argues that "the language of democracy rather than socialism has been more strongly emphasised. Both the collapse of communist systems and the realities of a

weakened South African economy influenced ANC economic thinking. Ideas such as nationalisation of mines have been put in abeyance."

The lack of a coherent Tripartite economic policy also meant that the ANC had to weigh national interests against those of the party. There is a myriad of reasons why this was the case. First, the overthrow of minority rule was more urgent than the development of an overarching economic policy and secondly, it does not appear that the ANC and its alliance partners were ready for these negotiations. This further strengthens the point that the ANC paid very limited attention to socio-economic challenges affecting South Africa during both its discussions with big business and Afrikaner academics that laid the foundations for the talks with the government and in the informal negotiations held with the ANC and Nelson Mandela before his release from prison and at CODESA I, the first stage of formal negotiations after the unbanning of all political parties. This was worrying given that the ANC, the SACP and COSATU were established primarily to relentlessly pursue the struggle to end all forms of political and racial economic domination.

By all measures, CODESA I made very good progress and despite the difficult and delicate processes a broad set of consensuses has emerged out of it (Welsh, 1992). However, ANC and NP-led government came to a stalemate in May 1992. Johnson (2004:204) point out, "deadlock occurred over the proposed two-thirds parliamentary majority required to amend the constitution, with the NP demanding a 75 per cent majority. The ANC offered a 75 per cent figure for amendment of the Bill of Rights and a 70 per cent majority for everything else" (Johnson 2004:204). This affected the negotiations and in "July 1992 a massacre of residents at the ANC stronghold of Boipatong, south of Johannesburg, led the ANC to withdraw from CODESA I" (Beinart, 1994:256-7) which led to the collapse of the negotiations. The violence that followed the massacre affected Mandela and de Klerk's relations and consequently affected the continuation of the negotiations.

According to Thompson (2000:247) "by that time, South Africa verged on anarchy. As bloodshed mounted, the economy slumped, Western governments pressured all parties to co-operate in finding a peaceful solution, and de Klerk and Mandela both came to the conclusion that it was essential to get negotiations back on track." Given the heightened violence and the failure of the government to quell it, Mandela became a de facto President. When negotiations commenced later that year, the authority of the government had been greatly eroded.

Although, there was great enthusiasm in moving with the necessary speed in democratising all state institutions, the same cannot be said of fast-tracking discussions on socio-economic rights. It was only after the Working Group on Constitutional Reform had decided of its own accord to insert these rights that it became a matter for intense debate. Many political organisations present at the negotiations, apart from the NP, conceded that fundamental socio-economic rights had to find expression in the interim Constitution. The NP, "having abandoned apartheid, were left with no real ideological principles but a far more realistic sense that the minorities would need every protection they could get from the hegemonic ANC majority" (Johnson, 2004:206).

It is for this reason that "guarantees over private property have been central to government concerns. During the 1980s privatisation resulted in some contraction of the state sector. Parastatals such as ISCOR (iron and steel), SATS (railways), and SASOL were wholly or partly privatised" (Beinart, 1994:255). The decision to place these state-owned institutions in private hands was a calculated move which was aimed at redistribution by future governments - it wanted to guarantee that "the future government had limited control of the economic levers of the country" (ibid). The plan was to guarantee the retention of economic power that would enable white business to determine the country's economic policy and political trajectory. The intention was to frustrate the ANC government's ability to deliver basic services and economic redress, so retaining power by deepening divisions among the majority black Africans.

The main aim for de Klerk and his lieutenants was "to protect the interests of the white population by setting up constitutional obstacles to prevent white domination from being followed by black domination" (Thompson, 2000:245). The NP had resigned itself to being reduced to a minority party with no prospects hence the need to protect as much as possible. This was evident in the way de Klerk's government tried to delay the negotiations. What also troubled them was that "de Klerk realised that there would never be peace in South Africa while blacks did not have the same political rights as whites" (Liebenberg, 1993:525). A long-term political solution appeared to be the only avenue left for guaranteeing permanent peace.

4.6 Negotiated Transition and the New Dispensation

Despite the challenges preceding CODESA I and II, by late 1992 it appeared that "many of the major issues of conflict had been defined and some progress made towards a settlement" (Beinart, 1994:257). It was not surprising when finally, delegates reached a ground-breaking agreement around the interim Constitution. The great "oddity and irony of the constitution" was that it was "a liberal document written by parties which were both opponents of the liberalism" (Johnson, 2004:206). "The document contained several peculiar features. First, there was an elaborate Bill of Rights, including economic rights as well as the classic civil and political rights" (Thompson, 2001:249-250). These economic rights provided for "access to adequate housing, food, health care, education, social security and water" (Raligilia, 2017:14) to mention but a few.

Given this new reality, the incoming democratic government was obliged to enact laws that were to give effect to these economic, civil and political rights. In addition, those new laws were to direct the democratic government to utilise all resources at its disposal to ensure that these fundamental rights were promoted, protected and realised. Institutions supporting Constitutional democracy and the judiciary were enjoined to enforce the implementation of these laws rigorously and vigorously with a view to ensuring that democracy was deepened. South Africa's constitutional democracy seemed to equip these institutions with the necessary tools to promoting and protecting the country's democratic gains.

At this point it was evident that "a democratic settlement will no doubt involve costs and not only for whites" (Beinart, 1994:258). Black Africans, too, had to compromise for South Africa to move forward. Anything other than that would derail progress and plunge the country into further chaos. Joe Slovo (SACP General Secretary at the time) "suggested in an article in the

1992 issue of the African Communist that the constitution should contain 'sunset clauses'". These were compromises designed to retain apartheid civil servants for the first five years of the new administration. After heated debates the ANC executive committee agreed that the interim constitution should honour the contracts of civil servants, judges, police, and military personnel and provide for compulsory power-sharing in the cabinet" (Thompson, 2001:247).

The only catch was that this arrangement covered the transitional period (the first five years) only. The "Nats happily accepted this deal but had to watch as all their other proposals – for federalism, permanent power sharing and constraints on the power of the simple majority single chamber – were rejected" (Johnson, 2004:206). Post the power sharing agreement, any political party that won elections would and should enjoy the political and legal power to carry out its own political programme without any interference from the losers. According to Beinart (1994:259-60) "decisions about anthems and flags, symbols which have been divisive in the past, must await a new government. They are not surely irresolvable issues".

Other critical agreements, specifically those that relate to economic transformation, were reached. Terreblanche (2012:70) summed this up correctly:

> "the ideas about BEE and AA were important components of the elite compromise. It was decided … that all black people – 91 per cent of the population – would be classified as 'previously disadvantaged individuals' (PDIs). Consequently, all BEE and AA transactions could thus be presented as 'redistributive' in nature and as part of rectifying the wrongdoings of apartheid".

Another important decision reached concerned the protection of property rights and the independency of South African Reserve Bank (SARB). Both these decisions were to be included in the final Constitution. The SARB would remain independent from state interference regardless of the fact that its Governor would be appointed by national Cabinet. Whereas section 25 (private property rights) of the Constitution - clearly spells out the democratic government's role and responsibility in guaranteeing reasonable and even-handed restoration of the land which in South Africa's situation was central in creating political and economic disparity.

The settlements reached at CODESA could be attributed in the main to the reality that negotiations in South Africa were held in the context of major developments in both the domestic and global balance of forces. On the global front both East Germany and the USSR – an ally to many liberation forces on the continent of Africa - had ceased to exist. Ideological orientations such as nationalisation of mines (minerals), banks and factories associated with and supported by the USSR were perceived by United States and other Western nations – which were at the centre of facilitating South African negotiations – as backward. The "collapse of communism had robbed the ANC of its programme, though for a considerable time it clung to the doctrine of nationalisation of industry" (Johnson, 2004:212). But "by 1991 Congress [ANC alliance] tended to stress growth and redistribution and a mixed economy rather than nationalisation" (Beinart, 1991:254). Locally, the struggle, the resultant violence and disinvestments had exacerbated the country's economic crisis which could be traced back to the early 1970s. The economic recession and other factors prevented the ANC and its allies

from adopting socialist policies that had a potential to plunge the country into chaos or war. This is probably one of the reasons why the attainment of formal democracy as opposed to socioeconomic rights was first central to the country's formal multiparty negotiations.

The parties finally resolved on 27 April 1994 as the date upon which the country's first democratic election were to be held. The interim Constitution provided for the establishment of an elections agency that was to be tasked with conducting free and fair elections. According to Lodge (2002:73) "a special task group drafted an Independent Electoral Commission (IEC) Act, which became law in September 1993, and which established a commission to supervise two directorates, administration and monitoring, as well as a hierarchy of electoral courts" (ibid, 2002: 73). Most importantly, "the 1994 election was [to be] held under the terms of the Interim Constitution and accompanying transitional arrangements". Public representatives were to be elected based on "a [closed] list-based system of proportional representation … (which) is a constitutional requirement" (Lodge, 2002:71-2).

According to Johnson (2004:210) "the 1994 election was a moment of great celebration, signalling the arrival of full political equality in a single South African nation". In keeping with the decisions made at CODESA I and II Mandela became President of the Government of National Unity (GNU), Thabo Mvuyelwa Mbeki and FW de Klerk became first and second Deputy Presidents respectively. "De Klerk secured his position in the new dispensation through Section 84 of the Constitution of Republic of South Africa Act, No. 200 of 1993, which provided that every party holding at least eighty seats in the National Assembly was entitled to designate an executive deputy president from among the members of the National Assembly" (Heunis, 2007:159). In addition, other senior members of the National Party and Inkatha Freedom Party (IFP) also formed part of the post-1994 Cabinet under Nelson Mandela. The legislature "was to enact a final constitution in 1996. The interim document [also] included a set of basic constitutional principles and made them binding on the new legislature. It therefore became a precedent that the final constitution would follow in most respects" (Thompson, 2000:249).

4.7 New Democratic Order, Constitution and Policy as Instruments of Redress and Democratisation

According to Masipa (2018:2) the "dawn of democracy in 1994 envisaged a notion that 'South Africa belongs to all who live in it'. This meant that black and white populations had to live hand in hand to build a new society enshrined by democratic principles". Therefore, the democratic parliament, legally constituted as the constitutional assembly, was given an enormous task of drafting the South Africa final Constitution which was to concretise all the undertakings of the two conventions including ensuring that all offensive and discriminatory laws, institutions and practices were abolished in favour of a democratic order. The commitment to change South Africa into a united democratic country without homelands and centred on the will of the people was, in principle, important in creating democratic institutions that were capable of withstanding internal and external pressures. They were to derive their existence, powers and functions from the Constitution – which was to be the supreme law of

the land. The Constitution also provided how each citizen would enjoy their rights and freedoms including civil, political and economic rights.

The 10th of May 1996 will forever be marked as an historic day in South Africa's political calendar because on this day the Constitution that set the democratic government on a new political course was adopted. It obligated the government to promote, protect and advance civil, political and other human rights. From then on, the government moved ahead with plans to deracialise state institutions so that they would reflect the nation's demographics. The Constitution in Chapter 1 provides that "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, and finally (d) universal adult suffrage, a national common voters roll, regular election and a multiparty system of government to ensure accountability, responsiveness and openness".

More importantly, it provides in Chapter 2; section 7(1) that "this Bill of Rights is a cornerstone of democracy in South Africa. It enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom. (2) the state must respect, protect, promote and fulfil the rights in the Bill of Rights". It also makes provision for "labour rights, an environment that is not harmful to health or wellbeing" which are protected through "reasonable measures to secure sustainable development; equitable access to land; security of tenure; and restitution of property or equitable redress of property that was dispossessed after 1913 as a result of past racially discriminatory laws or practices" (sections 23-25).

The insertion of these important sections reflects decisions made at CODESA I and II that the final Constitution would provide for political rights – to vote and other freedoms which will help deepen democracy and social and economic rights which could empower the democratic government to use these rights to change the country's social and economic outlook. The success of this task would rest not only with the government, but will require the continued involvement of citizens because, "democracy is a form of government in which people rule" (Sorensen, 1993:3). Held (1987:271) characterises it as a system wherein "individuals should be free and equal in the determination of the conditions of their own lives; that is, they should enjoy equal rights (and accordingly equal obligations) in the specification of the framework which generates and limits the opportunities available to them, so long as they do not deploy this framework to negate the rights of others". This framework also requires the respect and protection of all democratic institutions by both the state and individual citizens.

The democratic government had to begin an immediate task of 'building dams against eventual reverse waves' including ending the stubborn social and economic inequality that characterised South Africa. According to Johnson (2004:212) "from the early 1990s on an enormous effort was put into developing the ANC's Reconstruction and Development Programme (RDP). The SACP had long had the habit of developing the ANC's programme for it but this time it worked primarily through COSATU, the idea being to write a comprehensive programme covering every aspect of life in South Africa". The RDP was approved as a government blueprint in 1995 and was to guide its response to social and economic development.

"The RDP was initiated by the union movement which, with other left components of the alliance, was concerned that the ANC in government would abandon redistribution" (Gotz, 2000:160). "That it (RDP) became the alliance's manifesto indicates that these sections [union movement and other left components] wielded influence" (Friedman, 2002:40). Subsequent to the ANC winning elections, "the RDP became the official policy of the government of national unity. Government and the private sector were to co-operate in creating jobs through public works; 300 000 houses were to be built each year; all South Africans were to have access to clean water, sanitation and electricity; health, education and welfare services were to be improved" (Thompson, 2001:271). According to Johnson (2004:212) the "assumption [was] that the central state would be the key driver of social change and economic development" that the country desperately needed if it was to turn the corner.

Furthermore, the ANC-led democratic government initially showed a commitment to using the RDP as a tool to bring about the necessary economic and social changes that favoured all South Africans and which, it hoped would place the country on a new trajectory which would eventually strengthen the democratic dispensation. This point is affirmed by the government's TY (2014:84) which argues that "since its inception in 1994, the main economic objectives of government have been job creation, the elimination of poverty and the reduction of inequality". This review states that "this has been a focus … - as underscored in the Ready to Govern and Reconstruction and Development documents… These objectives have been reiterated in subsequent policy documents, from the Growth, Employment and Redistribution (GEAR) strategy… through to the Accelerated and Shared Growth Initiative for South Africa (Asgi-SA)" (ibid).

Yet, "no attempts [were] made to evaluate, cost or budget the RDP" (Johnson, 2004:213) and this subsequently pushed the ANC government to rethink its commitment to this ambitious programme. Rapoo (1996) affirms this point by arguing that "after the 1994 election, the influence of the economic policymakers grew, partly as the RPD faced severe implementation blocks". The growth in influence of the economic policymakers "ensured a fall in social spending in the first year of the administration" (Kabemba, 2000:5). "The result was not a renewed effort to implement the RDP but the introduction of GEAR" (Friedman, 2002:40). South Africa faced major economic challenges owing to its immediate past and the Transitional Executive Council which preceded the GNU decided to approach the International Monetary Fund (IMF). According to Terreblanche (2012:64) "before the IMF granted the loan to South Africa it required the TEC to sign a document about the economic policy of the future government. If the statement on economic policies is read carefully, it becomes clear that it was the GEAR policy of 1996 in embryo form".

The adoption of GEAR was therefore a necessity that was occasion by the need to get a loan. "Major economic players saw this as a necessary balancing act and an important intervention in appealing to international markets whilst also dispersing government funding to those areas of the country that had higher poverty prevalence" (ibid). The situation in the country was dire. Not later than 1998, "about 19 million people (just under half of the population) lived below the official poverty line of R353 (US $60) per month; 72 per cent of the poor lived in rural areas; and although poverty was not confined to one racial group, it was concentrated among

Africans, of whom 61 percent were poor" (Thompson, 2001:275). It was hoped that GEAR would help the government turn this around.

4.8 Conclusion

The men and women who initiated the struggle for democracy had to decide what pattern of economic, cultural, social and other conditions they desired. The brutality that was unleashed by successive apartheid governments did not deter them from relentlessly pursuing the battle for a united democratic South Africa underpinned by the absence of group areas, homeland, and the indignity imposed on other races. They fought hopeful that once achieved; "democracy can provide a solution. For example, democracy can help … provide an open and regularised system of decision-making that can result in a better environment for conducting business" (Sorensen, 1993:29-30). The decision by former President de Klerk to realise from jail all freedom fighters did not necessarily mean that a regularised system of decision-making had been achieved. It meant rather that the work of democratising every facet of the South African polity had to commence in earnest.

What de Klerk's decision signalled was not the end of struggle but the change of terrain – fighting moved to airconditioned boardrooms far removed from ordinary people. The importance of de Klerk's announcement for the rest of society also, according to Wieczorek and Pirouz (2013) "brought hope, aspirations, and opportunity to the historically oppressed, excluded, and disadvantaged black South Africans to practice their democratic right for the first time in their lives. This presented an opportunity for the majority of South Africans to vote for the leader of their choice...".

The newly found hope of the historically oppressed helped to de-escalate violence that had made the country a theatre of strikes and stayaways. Negotiations produced an outcome that could only be described as historic. They resulted in the swearing-in on May 10, 1994, of Mr. NR Mandela as the first black African democratically elected President of the Republic of South Africa – a country founded on the values of human dignity, the achievement of equality and the advancement of human rights and freedoms, non-racialism and non-sexism, the supremacy of the constitution and the rule of law. These outcomes also led to the adoption of a world-acclaimed Constitution two years later. In the country's more than 300 years history of conquest, colonialism and apartheid, the historic moments of May 1994 and 1996 will always be recorded as major milestones for South Africa and its people.

These events set the foundation for the creation of all the country's democratic institutions, the re-admission of South Africa into regional, continental, and international organisations such as the International Labour Organisation, the United Nations, and some other major organisations. The country began welcoming to its shores various role-players who were eager to assist in the rebuilding of the nation. New laws that deracialised all state institutions were promulgated.

All of this pointed to a country that was on its way to democratisation. The constitution, and institutions-making, and the chosen policy instruments appeared to point to a new dawn and serious departure from the past. There were early signs that a democratic South Africa was well endowed with the essential tools she required to strengthen and advance her democracy. It was

clear to all and sundry that democracy will provide a solution to the country's problem and that during a short period it "had created institutions of representative governance which would be most accessible to the poor" (Friedman, 2002:51). However, there can be no doubt that those who stood behind apartheid were completely defeated. Instead, what democracy did was to seek to create conditions conducive to its consolidation. Whether it succeeded is a question this study investigates.

CHAPTER FIVE

5. South Africa's Democratic Experiment: Continuities and Dis-continuities (Pre- and Post-1994)

5.1 Introduction

This section undertakes a comparative assessment of the policy interventions of the period 1948-1990 to those of the post-1994 democratic era specifically how the two systems intervened to strengthen or weaken South Africa's democracy. These periods constitute the two phases of the South African democratic experiment; that is, the consolidation of apartheid or the whites-only democracy (1948-1990) and the period 1990 to date, commonly known as the constitutional democratic era. The intention is to examine democratic continuities and discontinuities – institutional values, cultures and norms that could have been passed over from the whites-only democracy to the present constitutional democratic era.

The comparison first gauges whether the strengthening or weakening of democracy and its institutions began coming together during apartheid or is a current occurrence. Accordingly, this chapter assess the NP's "three-pronged strategy designed to further the interests of Afrikaner nationalism" (Terreblanche and Nattrass, 1990:12) particularly the bureaucratic and parastatal enlargement, the passage of new discriminatory laws including the enactment of a variety of welfare programmes that were designed to uplift poor white Afrikaners. The assessment focus broadly on the consolidation of the whites-only democracy including during its reform – even though the reform was scrutinised in the preceding chapter. By the strengthening of apartheid, the study means a period when "white support [was co-opted] through rewards and black compliance [enforced] through [the apartheid] security system" (Luiz, 1998:49). Black compliance was achieved through the contraction of controls on black African living conditions. Its reform entails easing some of these measures in order to get black African support specifically from the 'urbanised'.

The rationale for comparing the whites-only democratic dispensation's policy positions in strengthening and or weakening South Africa's democracy in contrast to those of the post-1994 constitutional democratic era are twofold; firstly, the former appears to have bequeathed to the latter recognisable and well-established institutional values, norms and culture typified by the perpetuation of inequality in all facets of human life especially in society and in the economy; and secondly, it would be difficult to adequately understand the interventions of the constitutional democratic era without a thorough interrogation of the impact and influence of the consolidation and reform of apartheid on South Africa's democratic consolidation or reversal. The argument is that a proper diagnosis of South Africa's challenges; pre- and post-1994 is dependent on first understanding the country's democratic prognosis.

After the conclusion of the detailed interrogation of apartheid's interventions, the chapter interrogates the post-1994 democratic constitutional era's policy choices and how these are helping the democratic experiment consolidate or retreat. Thereafter, an examination of the efficacy of the democratic government's policy choices, especially, the role of democratic institutions in shaping the state's action in how it responds to racial and gender disparity, unequal access to skills training and educational needs, uneven spatial planning, including access to basic services such as water and electricity, housing, social welfare, justice and safety and security. These are as previously mentioned, at the centre of the values underpinning South Africa's constitutional democracy.

5.2 Apartheid Democracy and Legislating Racial Inequality in South Africa

According to Johnson (2004:140) "apartheid doctrine had originated in discussions within the Broederbond in the 1930s, had been further developed by the South African League of Racial Studies and then by a policy commission the Nats had set up during the war. In theory apartheid meant neither discrimination nor the domination of any particular race". The different races, adds Johnson (2004:140-141), "would simply follow their separate paths in all spheres of life in accordance with (what the Nats defined as) their own traditions and cultures. The Indians – the only exception – were to be excluded from the new dispensation, for they were considered an alien element, not really belonging to South Africa at all". The achievement of this plan was, however, dependent on the National Party winning elections and forming a government. Luiz (1998:49), in affirming this, opines that "the grand plan of apartheid required enormous supremacy by the central agent, the state. The state fashioned almost every facet of South African life".

The preceding paragraph confirms the earlier point that apartheid and therefore racial inequality in South Africa intersected with every aspect of human life including access to social services and infrastructure. Economic and social inequalities were created and sustained through apartheid spatial and social planning (Christopher, 1990, 1994, 2000). These were reflected in the inequality and poverty that are structured along geography and race. Inequalities in access to social welfare services, educational and skills training, economic opportunities are organised through apartheid racial geography. These are structured inequalities constituted in and through social and spatial planning of the apartheid state (Christopher, 2000; Madlalate, 2019).

By reconsidering the relationship between law and geography, Madlalate (2019) argues that legal instruments and policy were crucial to producing and reproducing these overlapping racial-class based spatial forms. These had to be supported by and through complete control of political power – which white, particularly Afrikaner's dominance could be established. NP was at the forefront of this. Pampallis (1991:179) writes, "Having gained a narrow parliamentary majority, consolidating their hold on power was as much a priority for the Nationalists in the early years as their desire to restructure South African society".

The plan to restructure society had, according to Terreblanche (2002:302) "three main items. The first was to restructure the economy so as to free Afrikaners from foreign capitalism, and adapt it to the needs of the Afrikaner *volk* … The second was to implement the policy of apartheid as a solution to the 'native problem' … The third was to solve the problem of poor white Afrikaners …" The NP had hoped that its ascendancy to state power through (white) majoritarian rule would enable it to resolve many of the problems bedevilling the country. According Terreblanche (2002:302), NP was driven by past grievances of Afrikaners and thus, it promised to use it ascendance to power to "remedy [these] alleged injustices of the past by implementing a comprehensive welfare policy for uplifting Afrikaners". This mentality is, in Fayemi's (2010:1) view, "the popular predominant assumption in our political sphere that with full enthronement of majoritarian democracy together with its institutions in the African state, the problems bedevilling the continent, violation of human rights inclusive, will be effectively challenged and perhaps solved".

Whether these benefits were substantially achieved is one focus of this study. Put differently, did these modifications help South Africa consolidate or reverse its whites-only democracy? Or did this not trigger the "nonprivileged, who were barred from political influence during [apartheid] rule, to struggle for a democratic polity that will give them access to political influence"? (Sorensen, 1993:29). South Africa's history is awash with examples of how apartheid's continued existence was "accompanied by an intricate set of racial legislation, and sprawling bureaucratic and security organs, which in the final analysis have been cemented by the courts and prison system" (Luiz, 1998:50; see also Madlalate, 2019).

The impact of racial legislation on the whites-only democratic consolidation or retreat must be critically appraised. Fuelled by the inherent anxiety of desire to maintain dominance, the apartheid state has over-exploited legal instruments to consolidate white monopoly over politics and economy. These had indeed helped mobilise and galvanise the support for the system's overthrow. "South Africa has a long and infamous [legal] history of inequality with an overbearing racial footprint …" (Leibbrandt *et al*, 2007:1). Such legalisation of social and political inequality in South Africa was established under the auspices of white-only democratic institutions.

The country's "democratic institutions" oversaw these legislations and institutionalising racial inequality in the country. We can attain a decent perspective if we focus on the 1913 and 1936 Native Land Act, 1954 Black Resettlement Act, the 1950 Group Areas Act, the Promotion of Bantu Self-Government Act (1959), Separate Representation of Voters Act of 1951, Suppression of Communism Act (1950), The Reservation of Separate Amenities Act of 1953 and The Abolition of Passes and Consolidation of Documents Act (1952), The Native Laws Amendment Act (1952), the Prohibition of Mixed Marriages Act (1949), Immorality Act (1950) amongst other laws. These were legislations promulgated through, what one would call, a democratic process – yet exclusively controlled and executed by white political actors. Strangely, all of these speak to and decide on social, economic and political lives of non-whites.

A broad consensus exists on the fact that the 1913 and 1936 Native Land Act, Group Areas Act of 1950 and The Natives Law Amendment Act of 1952 and the 1954 Natives Resettlement

Act have lasting consequences on socioeconomic and political inequality in this country. These were the foundations of colonial and apartheid social and spatial planning and control. These are rooted in colonial/apartheid political economy. The year 1652 marks the beginning of the regularisation and the legalisation of social, racial and political inequality in South Africa. 1652 is also historically recorded as the year in which the Dutch led by Jan van Riebeek first set foot on South African shores. Their arrival coincided with the beginning of the land dispossessions and the resultant conflict that lasted for more than two and a half centuries. Almost three hundred years later or in 1910 South Africa became a Union and its "first major cornerstone was the Native Land Act of 1913 which set aside about 7% (extended to 13% in 1936) of the country for African ownership and precluded them from ownership in the remaining 93% of the land" (Luiz, 1998:51).

It appears that the regularisation of political, racial and economic white supremacy predates both colonialism and apartheid: "following the mid-1650 warfare between Dutch settlers and the indigenous Khoikhoi population, the latter were dispossessed of their land and forced to work for the settlers who had been allotted farms in the arable regions around the Cape" (TYR South Africa, 2014:2). The legalisation appears to have begun at the beginning of the 1900s. The dispossessions of the 1650s however, fundamentally changed Khoikhoi and later black African living conditions, condemning them to slavery. This was according to Terreblanche (2002:155) "the beginning of a colonial process of land deprivation that continued for more than 250 years and sparked many violent conflicts".

This culminated in the passage of one of the most discriminatory laws – the Native Land Act of 1913. This was because the "white-controlled state that emerged after Union [1910] proved to be a resilient instrument in entrenching white domination by modernising structures of control and peripheralizing black political demands away from the control of echelons of policy making" (Rich, 1996:157). The Native Land Act of 1913 "set aside about 7% (extended to 13% in 1936) of the country for African ownership … The result was the increasing impoverishment of the African peasantry and their growing dependency on urban work. African farming gradually collapsed" (Luiz, 1998:51). The unintended consequence of this was that it mobilised the recently dispossessed and led to the formation in January of 1912 of the African National Congress (ANC); an organisation that was to play an important role in the fight for democracy.

The 1913 Native Land Act was succeeded by a myriad of other draconian laws that further deepened racial, political and economic inequality. Viewed from this angle, it was clear that black Africans, Coloured and Indians posed a serious challenge to continued white domination. Terreblanche (2002:314) opines that "the growing urbanisation of Africans was probably the most contentious issue during the 1948 election. In the run-up to the election the NP regarded growing African urbanisation with horror and presented it as a diabolical formula for the swamping of white civilisation". According to Thompson (2000:184) "at the heart of the apartheid system were four ideas. First, the population of South Africa comprised four racial groups – white, coloured, Indian and African – each with its own inherent culture. Second, whites, as the civilised race, were entitled to have absolute control over the state". Thompson (2000:184) proceeds to argue that "third, white interest should prevail over black interests; the state was not obliged to provide equal facilities for subordinate races. Fourth, the white racial

group formed a single nation, with Afrikaans- and English-speaking components, while Africans belonged to several distinct nation or potential nations – a formula that made the white nation the largest in the country".

As odd as this was, the NP ensured that immediately after coming into power, it gave effect to these ideas and consequently gave them legal effect. The 1950 Group Areas Act "designated specific urban areas for occupation by particular racial groups. When any area was set aside for a particular group, all non-members of that group could be forced to move. The Group Areas Act was used to remove hundreds of thousands of black people from their homes and businesses to various townships in their own group areas" (Pampallis, 1991:183). Johnson (2004:142) affirms this by asserting that the Group Areas Act "gave authorities the right to resettle or evict Coloureds or Indians who lived in or close to white areas and forcibly resettle them into their group area. This act was used both against individuals and whole communities, causing enormous suffering and bitterness". Areas such as District Six in Cape Town were destroyed because of this heinous law.

Immediately thereafter, the NP government introduced The Native Laws Amendment Act of 1952. This was another law that was intended to tighten territorial separation amongst the 'four racial groups'. According to Johnson (2004:142) the "Native Laws Amendment Act of 1952 restricted the rights of Africans to reside in urban areas to those born there; those who had lived or worked there for the same employer for at least fifteen years; and those who had worked for the same employer for ten years". Johnson (2004:142) further asserts that "rights of residence in a particular town were valid for that town only and were not transferable to any other, thus tying black residence to particular places". Pampallis (1991:185) states that if a person did not stay in a designated area and had visited someone, such a person "needed a permit to stay longer than 72 hours". This law had the potential to break up African families.

Terreblanche (2002:315) states that "as Africans in the reserves increased rapidly from 1950 onwards and deteriorating conditions in those areas drove them to the urban areas in increasing numbers, the NP government regularly redesigned influx control measures to ensure that only enough – but not more – African migrants were available for manufacturing employment". One of the measures introduced to curb this increase was the Native Resettlement Act of 1956. Johnson (2004:142) asserts that "African townships had been uniracial from the time they first emerged. Even so, the NP was determined to consolidate white areas by removing black settlements situated too close to them. The Native Resettlement Act (1956) allowed the authorities to withdraw property rights and remove their owners". He further adds that "several African townships in Johannesburg were removed in this way, most notably Sophiatown, in north-west Johannesburg, razed to the ground as slum clearance" (ibid). Similar slum clearances were carried out in other areas especially where black Africans, Indians and Coloureds were perceived to be living too close to white areas. "Thousands of families were also removed from Alexandra township to Soweto which was rapidly growing into an enormous settlement with hundreds of thousands of people living in small, nearly identical, matchbox houses. Like other African townships, it had no electricity supply and very few social amenities" (Pampallis 1991:183-4).

To add to these draconian laws, the NP had introduced the Reservation of Separate Amenities Act three years before the Native Resettlement was enacted. Johnson (2004:143) argues that "segregation in urban areas was completed by the Reservation of Separate Amenities Act of 1953 requiring any place used by different races to be equipped with separate amenities, including separate toilets, entrances, counters etc. The law stipulated that such amenities did not need to be equal".

These laws signalled the beginning of an era - the consolidation of whites-only democracy. What is also clear is that instead of helping the whites-only democracy consolidate, the peripheralisation of Coloureds, Indians and black Africans away from state power, the unfair and unequal treatment and skewed allocation of land triggered and later intensified the fight to end racial and other forms of segregations and the attainment of a constitutional democracy. The fight was initially occasioned by the struggle for land redress. It later changed into becoming a struggle for the total emancipation of all black Africans, Indians and Coloureds from all forms of racial, economic and political domination. This included the struggle for freedoms that are inherent in most democratic societies, i.e., freedom of movement, press freedom and freedom of association amongst others.

The establishment of self-governing areas through enactment of the Bantu Self-Government Act of 1959 was formed on the back of an unholy alliance between the NP and Bantustan leaders in furtherance of apartheid. Having forcibly removed black Africans from urban centres, the next step was to set up separate self-governed areas. Pampallis (1991:186) states that "in 1959, the Promotion of Bantu Self-Government Act was passed providing for the establishment of eight (later increased to ten) bantustans or Bantu Homelands. … The bantustans which were to occupy roughly the same area as the reserves, were eventually supposed to become independent states". The Act also "ended indirect African representation in the Union parliament and stipulated the development of Territorial Authorities in eight self-governing Bantu homelands which, would eventually become fully independent states" (Johnson 2002:146). According to Thompson (2000:189) "at the time of the 1950 census, 39.7 percent of the African population of South African lived in the areas that became Homelands; in 1980, 52.7 percent was there. The Homeland population increased by 69 percent between 1970 and 1980 …". Thompson (2000:189) further asserts that "one cannot know for sure how many blacks were uprooted by those measures. The number was certainly vast. The Surplus People Project, which made a thorough study of the removals, estimated that 3 548 900 people were removed between 1960 and 1983 …".

The argument that black Africans belonged to various ethnics/national groups helped find favour with some African leaders. Terreblanche (2002:322) asserts that "although this ideological edifice was propagated with evangelical zeal and was accepted by the majority of Afrikaners (and some English speakers) as a morally justifiable solution to the African problem, it impressed only a small number of co-opted and corrupted African leaders and was never accepted in the outside world". Although independent, the NP government was to continue to draw labour from these areas as and when it was required.

Pampallis (1991:186-7) asserts that "in reality, the bantustan scheme was a response to growing resistance in South Africa and international pressure. It was even seen by Dr. Verwoerd as a

means of perpetuating white domination by a 'divide and rule' strategy, while providing justification for not granting real political power to the African majority". Pampallis (1991:187) proceeds to argue that "it was envisaged that white domination would be strengthened by the creation of a group of African collaborators associated with Bantustan governments and small businesses which would develop inside bantustans. The economic interests of this group would be tied to the bantustan system. In time they would become allies of the white regime …" thus perpetuating the oppression of their brothers in pursuit of their selfish business and political interests.

Apartheid state also pursued racial categorisation through the Population Registration Act of 1950, Prohibition of Mixed Marriages Act of 1949, the Immorality Act of 1950 and the Natives (Abolition of Passes and Coordination of Documents) Act of 1952. These were crucial components of the state's desire to control and manage demography of non-whites. Having partially achieved the removal of black African, Indian and Coloured from areas close to white settlements, the NP government began introducing other measures to legalise racial inequality and segregation. In the NP's views these laws were designed to deal with the *swart gevaar* ('black peril'). This attempt at dealing with the 'black peril' became according to Luiz (1998:52) the "backbone for apartheid [and] was laid bare in 1950 with the Population Registration Act, which categorised people according to race".

According to Pampallis (1991:183) the Population Registration Act of 1950 "required every person in South Africa to be classified into one of four racial groups. 'Native' (later changed to Bantu), 'European' (later White), coloured or Indian (later Asian)". Johnson (2004:141) states that at "first classification was done on the basis of visual examination alone; later various pseudo-objective criteria were added (measurement of the skull, the degree of curliness of one's hair, etc)". The oddity of this classification resulted in "members of the same family sometimes being classified differently. Reclassification became a permanent feature of life" (Johnson, 2004:141). Thompson (2000:185) states that "its application led to the breaking up of homes, for example, where one parent was classified white and other was classified as coloured".

Johnson (2004:141) states that those "registered as Africans (Bantu) had to carry passes at all times. The Abolition of Passes and Co-ordination of Documents Act of 1952 replaced the multiple passes Africans had previously carried with a single 'reference book', bearing the photograph of the owner, his full record of his employment, tax payments, criminal offences, etc". The indignity brought about by this law confined black Africans to a particular area. "Every African had to carry a passbook at all times and produce it to any policeman on demand. People who did not have passes, were not carrying their passes or whose passes were not in order, could be fined or imprisoned. The conviction of hundreds of thousands of Africans each year for pass offences became a feature of South African life" (Pampallis, 1991:185). The exact figures were, according to Thompson (2000:188), astronomical: "every year more than 100 000 Africans were arrested under the pass laws; the number peaked at 381 858 in the year 1975-76". The Act further provided for "reference books to be issued (to men and women) to enable the labour bureaux – to control and channel African labour. … Organised industry and commerce – both English- and Afrikaans-speaking – were rhetorically very critical of the

labour bureaux and influx control" (Terreblanche, 2002:318). This opposition meant that the NP government had to assert control without being seen to be oppressive to white business, international organisations, and governments.

The NP's plan of consolidating whites-only democracy was in full swing and received a boost with the promulgation of the Prohibition of Mixed Marriages Act of 1949 [– in terms of which] marriages between whites and members of other groups were prohibited. The intention was to ensure that "all mixing of races now had to stop: the Prohibition of Mixed Marriages Act outlawed marriages between the races" (Johnson, 2004:141-2). Any person found guilty could be sentenced to a lengthy prison term. To further tighten control and prevent social interaction and integration between races the government enacted the Immorality Act in 1950. Pampallis (1991:183) argues that "under the 1950 Immorality Act all extra-marital sexual contact between whites and blacks was made punishable by up to seven years' imprisonment".

5.3 Legitimising and Institutionalising Whites-only Democracy

Luiz (1998:52) opines that the "Nationalists extended racial laws and tightened up administration and enforcement of those laws. They systematically eliminated every vestige of black participation in the national political system". The NP's "first major restriction on democratic political activity was the Suppression of Communism Act of 1950. The Afrikaner movement had long been hostile to the Communist Party of SA (CPSA) because it had some influence over Afrikaner workers and a following among the African working class" (Pampallis 1991:181). Johnson (2004:144) states in support that "the Suppression of Communism Act (1950) outlawed the CPSA and allowed for communists to be deprived of their civil liberties by banning orders. The law "defined communism in sweeping terms and gave the Minister of Justice summary powers over anyone who in his opinion was likely to further the aims of communism. The minister could ban a person and prevent him or her from joining specified organisations, etc" (Thompson, 2000:183). Because the CPSA and other organisations were determined to overthrow whites-only democracy and replace it with a constitutional democracy that was founded on the principles of equality, it went underground and continued to wage its struggle from there.

These controls met continued resistance from other organisations that were still operating inside the country. "The African National Congress (ANC) which had essentially adopted a non-confrontational position in most of its history, became increasingly radicalised in the late 1940s via its Programme of Action, which was endorsed at its conference in 1949" (Luiz, 1998:53). The NP government responded and "the repressive legislation escalated from the mid-1950s onward. The catalogue includes the Riotous Assemblies Act (1956), the Unlawful Organisations Act (1960), the Sabotage Act (1962), the General Law Amendment Act (1966), the Terrorism Act (1967) and the Internal Security Act (1976). That mass of legislation gave the police vast powers to arrest …" (Thompson, 2000:193). These powers meant police could "arrest without trial and hold [people] indefinitely in solitary confinement, without revealing their identities and without giving them access to anyone except government officials" (Thompson, 2000:193).

The government also passed the 1951 Separate Representation of Voters Act. This Act was passed by both houses, and it was aimed at "removing the Coloureds from the common roll and introducing indirect representation for them instead" (Johnson, 2004:144). The failure by both houses to sit together in passing this law drew fierce opposition from the Coloured communities. Johnson (2004:145) states in validating this claim that "a group of Coloured voters challenged the resolution in court and won. The government then decided to force through the High Court of Parliament Act, proclaiming parliament itself a high court – with the ability to override inconvenient lesser courts. However, the High Court of Parliament Act was itself pronounced invalid by the appeal court". Faced with this situation, the government had to retreat and devise another strategy that would enable it to achieve its intended plan. Such a plan came to fruition in 1956 when the government passed "a new Act to revalidate the Act of 1951 and deny the courts the power to inquire into its validity". It "received a two-thirds majority in a joint sitting, and the enlarged Appellate Division agreed that the Act was valid. [Finally], the government had used a blend of legalism and cunning to remove coloured voters from the common roll" (Thompson, 2000:185).

Thompson (2000:185) proceeds to argue that "the government also transformed the administration of the African population. In 1951, it abolished the only official countrywide African institution, the Natives Representative Council". This decision culminated in the "establishment of Bantu Authorities headed by government-appointed chiefs with limited administrative powers, in the reserves" (Pampallis, 1991:183). Black African political formations resisted this new restriction and launched a Defiance Campaign in which they defied racial laws and invited arrests. Pampallis (1991:183) asserts that in "response to the Defiance Campaign, the government passed the Criminal Law Amendment Act, 1953, further restricting political freedom. This law provided for long terms of imprisonment, fines or floggings for persons who broke any regulation by way of protest or in support of any campaign against the law". Pampallis (1991:183) argues that the "1953 Public Safety Act gave the government the powers to declare a State of Emergency accompanied by the ruthless suppression, including detention without trial, of any dissent".

As if that was not enough, the government moved into the labour market and again introduced laws that sought to retain white privileges. According to Godfrey and Collier (2018: 2):

> "[The apartheid state]… created a racially segmented labour market underpinned by differential access to education and skills training. This is reflected in a very wide gap between pay for management and most blue-collar workers as well as a gap between artisans and less skilled workers."

They assert that "at the same time apartheid laws restricted the development of entrepreneurial skills and the growth of the informal economy" – a sector that had a high turnover of black African women (Godfrey and Collier, 2018: 2). The government did this by "adopting a policy of bleeding the black trade unions to death. While not banning African trade unions outright, burdensome restrictions were placed on them. Strikes by Africans were made illegal and many trade unionists were restricted under the Suppression of Communism Act" (Pampallis, 1991:186). In addition, as Johnson (2004:144) put it, "the Native Labour (Settlement of Disputes) made any strike illegal while the Industrial Conciliation Act (1956) excluded

Africans from the definition of employees completely, thus making conciliation and arbitration unavailable for them".

White minority rule was, therefore, a well-thought-out race-based social, political and economic intervention skewed in favour of the interests of the white population to the detriment of the majority. This increased poverty among the Coloureds, Indians and black Africans and it is for this reason that Sen (1973: 1457) opines that in the South African setting "poverty has been identified not merely with inequality but also with unemployment". This was evidenced by the fact that from 1917, white South Africans earned ten times more than black Africans. "The collective restrictions on Africans in the labour market made it possible to force the wages of Africans down to such a low level that poor whites could not compete with them in an open market for unskilled jobs" (Johnstone, 1976:26-49). Terreblanche (2002:313) asserts that "ideologically, the apartheid regime was as segregationist as its predecessors". It "intensified both the repressive and the discriminatory character of segregation. Long-standing state controls over the African labour market were restructured and intensified and made partially applicable to coloureds and Indians as well".

For Rich (1996:157), "[t]here is indeed merit in the claim that segregationism (1910-1948) and apartheid (1948-1994) were the perpetuation of colonialism of a special type. For millions of Africans there was indeed no difference between colonialism, segregation, and apartheid". Throughout these successive systems, the state worked to significantly curtail black Africans civil, economic and political rights. Posel (1991:8) states that "the architects of apartheid were confronted with the same challenge faced by the architects of segregation: how to develop a black labour policy that would encourage white capital accumulation without endangering the legitimacy and stability of white political domination". The suggestion in the above is the link between capital and state, with capital (which is primarily white monopoly capital) having some level of influence over the apartheid state.

Thus, the challenges faced by the NP in 1948 were not dissimilar to those faced by its predecessors – the successful management and control of the black African majority. But the "government's policy of promoting Afrikaner interests was successful" (Terreblanche and Nattrass, 1990:12). Luiz (1998:52) affirms that "in 1946 the per capita income of Afrikaners was less than half that of English-speakers. By 1970, after the many years of government pampering and patronage, it had increased to 70%. The government set about Afrikanerising every state institution by appointing Afrikaners to every level of the civil society, state corporations and security forces". Giliomee (1979:165) states that "by 1968 there were twice as many Afrikaners in government jobs as before the 1948 elections". Pampallis (1991:180) states:

> "in order to establish the Nationalists' power in the army, a number of senior officers were removed and replaced with NP supporters secretly chosen by the Broederbond. Similarly, leading Afrikaner nationalists were appointed into top positions in the judiciary, the civil service and state enterprises such as the South African Broadcasting Corporation (SABC)…" (Ibid).

Thompson (2000:196) asserts that "under apartheid there were huge differentials in the wage rates of white and black workers, and although those began to narrow in the 1970s, they remained high, and black unemployment rose to extraordinary levels. Economic inequality has existed everywhere in the modern world, but nowhere was it as great and as systematic as in apartheid South Africa". The skewed access to labour market opportunities in the whites-only democracy could be directly linked to the low-income levels of black Africans. In addition to being underpaid and less skilled, black African workers had to contend with oppressive laws which adversely impacted on their right to exercise civil and political rights and which by extension affected their right to freely organise and participate in state affairs.

5.4 Legislating Unequal Social and Economic Opportunities

According to Thompson (2000:183) "the government also assisted Afrikaners to close the economic gap between themselves and English-speaking white South Africans. It directed official business to Afrikaners banks and allotted valuable state contract to Afrikaners. Afrikaner businesspeople channelled Afrikaner capital to ethnic banks, investment houses, insurance companies and publishing houses". By 1976, Thompson (2000:183) asserts that, Afrikaner entrepreneurs had obtained a firm foothold in mining, manufacturing, commerce and finance – all previously exclusive preserves of English-speakers.

The government allocated valuable state contracts to Afrikaner owned businesses, because, as already mentioned; it had Afrikanerised every facet of economic activity including state institutions. Government control included but was not limited to "African Metals, Atlantis Diesel Engines, Allied Tar Acid Refiners, Alusaf, Armscor, Atlantis Aluminium, Atlas Aircraft, Avon Wire, Cape Town Iron and Steel Works, Coastal Coal, Consolidated Wire Industries, Council for Scientific and Industrial Research, Dalestone, Development Bank of Southern Africa, Donkerhoek Quartzite" (Luiz, 1998:55). In addition, Luiz (1998:55) opines, the government controlled the "Dunswart Iron and Steel Works, Dumacoal Mine, Fortsif Sandworks, Glen Douglas Dolomite Mine, HWH Beleggings, Heckett SA, Infoplan, Inspan, Naschem, National Petroleum Refiners, Phosphate Development, Pretoria Metals Pressings, SASOL, Sishen Iron Ore Mine, Suprachem, Usco and Vanderbiljpark Estate, among others". Government further set up "the National Finance Corporation and industrial Finance Corporation to help provide funding for the expansion of manufacturing and mining. In addition, tariff protection helped selected industries to establish themselves and grow without the threat of being crushed by foreign competition" (Pampallis, 1991:189).

Nattrass (1981:25) posits that the "political successes of the National Party were due to the rising standard of living of white South Africans of all classes. Except for recessions in the early 1960s and the late 1970s, the South African economy was buoyant". Nattrass proceeds to add that "the value of South African output at 1970 prices grew from R4 434 million in 1950 to R15 474 million in 1979". According to Thompson (2004:183) "whites were the principal beneficiaries. White farmers, most of whom were Afrikaners, received massive state support. They mechanised their farms and trebled their output, while the government assisted them to obtain and keep black wage labourers and to eliminate the vestiges of black occupation of white land as sharecroppers or renters".

Table 1 – Public sector share of fixed capital by sector, 1946-72 (as a percentage of total)

Sector	1946	1950	1960	1972
Manufacturing	8	16	20	25
Electricity, Gas and Water	100	100	100	96
Transport, Storage and Communication	99	99	98	97
Finance, Assurance, Real Estate and Business Service	8	10	9	12
Community, Social and Personal Service	95	93	93	95
Other	1	1	1	1

Source: Adapted from Nattrass, 1981:234

Nattrass (1981:232-245) asserts that "government investment as a percentage of total investment rose and by 1978 it accounted for a massive 53% (including investment in public corporations). Total employment in central government rose from 219 736 in 1960 to 431 932 in 1977". The table below shows data pertaining to the public sector's share of total investment into the South African economy by sector for the period 1946-1972.

Luiz (1998:57) states that "from the table above, it is apparent how the public sector increasingly moved into the manufacturing sector over this period. The predominance of the government in the electricity, gas and water, and transport and storage sectors reflect its commitment to its perceived role as a major source of infrastructural investment". It also confirms its commitment to the Afrikanerising of every facet of the South African economy. These developments were accompanied by increasing marginalisation of non-whites, particularly of black Africans. Feeling of being marginalised, oppressed and left in destitution did heighten among black Africans during this period.

Pampallis (1991:189) states that "as long as black resistance could be contained, there appeared to be few disadvantages to apartheid for any section of the white population; only a small number of left-wing whites supported the liberation movement's fundamental opposition to the system". This opposition began gaining international support and helped shine the spotlight on South Africa's discriminatory and repressive laws thus compelling the Nationalist Party to rethink new strategies to perpetuate the oppression with minimal interference from international organisations and governments. Pampallis (1991:191) states that the "coming to power of Malan's apartheid government stimulated the ANC to shift to the more militant stand advocated by members of the Youth League and the CPSA". Other opposition organisations joined and began putting the NP government on a defensive.

In 1891 Reverend Josiah Tyler, writing in Forty Years Among the Zulus, noted that "in intellect women are inferior to the men, but this is doubtless attributable to the drudgery imposed on them. To feelings of self-respect and sensitiveness under wrongs, characteristic of their more highly favoured sisters in Christian lands, they are strangers. As a rule, they patiently submit to their lot, unless tortured beyond endurance by despotic husbands; but their life at best is a harder one" (Tyler, 1971:119).

These stereotypes subjected women irrespective of colour to a triple pain and oppression. First, systematic oppression, second, oppression in the workplace and finally, oppression by the family and society. Women who were systematically oppressed were to engage in an epoch-making demonstration whose significance is still felt today. Women in the late 1950s organised themselves in opposition to the "decision of the government to extend pass laws to African women. The demonstration culminated on 9 August 1956, when 20 000 African women assembled outside the Union Buildings [where they] delivered a petition to the empty prime minister's office and stood in silence for 30 minutes. Two years later police arrested 2 000 women for refusing to accept passes" (Johnson, 2002:203-4).

Women, like men, were determined to fight for the overthrow of the NP regime even if it meant going to jail. It is for this reason that "in mid-1959 the women of Cato Manor, an African shanty town in Durban, became involved in a campaign against municipal beer halls. The women resented the fact that it was illegal for them to brew liquor at home, while the municipality ran beer halls where sorghum beer was sold to African men". This was a struggle led by women in defence of their own community. Such confrontations were to characterise the relationship between women and the state for decades.

Women, like everyone else at the time, had to fight for their freedom, because as Sorensen (1993:29) asserts, "democracy [with its inherent freedoms] does not fall from heaven. It is brought about by individuals and groups, by social actors, who fight for it". Women too, had to fight for their freedom. At the core of their struggle was the desire to defeat the "linkage between oppression (as a system and legal process) and radicalism (as a response and exercise of choice and agency) and pain (as a private, personal, individual and collective experience)" (Gasa, 2007:131).

A legal system that regarded black African women as inferior to their white counterparts was from the 1950s fought with the radicalism it deserved. Their inequality to men motivated them to mobilise other women to enter and contest the political space which up until then was the preserve of males. From then onwards, women of South Africa became part of the political and feminist struggle and were hopeful that the attainment of democracy would accord them equal rights and status which would represent some development from their triple oppression and pain. "Development [it should be argued] is not only concerned with progress in material terms (food, housing, health service, education…); it also involves a nonmaterial aspect that has to do with human freedom, identity, and security" (Galtung, 1980).

Apartheid state has effectively established unequal access to educational and skills training needs through its spatial planning as well as the two most important legislations: the Black Education Act of 1953 and the 1957 Extension of University Education Act. There is no better way of understanding the promotion of unequal access to educational and skills training in South Africa than reading the explanation of the then Minister of Natives Affairs, Dr H.F. Verwoerd:

> "There is no place [for the Bantu] in European community above the level of certain forms of labour…. Until now he has been subjected to a school system which drew him away from his own community and misled him by showing him

> the green pastures of European society in which he was not allowed to gaze" (Beinart, 1994:78).

This policy position represents the thinking of the whites-only government at the time. It is no accident that it passed the "Bantu Education Act (1953) which barred Africans from acquiring skills or knowledge that could not be used in the native reserves or in the service of the whites in white areas" (Johnson, 2004:143). Before the passage of the 1953 Act African education was mostly ran by missionaries whose lack of finance impacted on their ability to educate as many Africans as possible. The passage of the Bantu Education Act of 1953 meant that "the central government [would] assume control of public African education from provincial administrations, make it virtually impossible for non-governmental schools to continue, and proceed to expand African education while controlling it" (Thompson 2000:191). Education, like every facet of human existence in South Africa was also used to deepen inequality. South Africa's history is full of examples of how the successive apartheid governments used education to subjugate black Africans whilst improving the knowledge and skills of whites. The provision of inferior education and skills training opportunities to black Africans and later to coloureds and Indians was aimed at entrenching the widening educational, training and knowledge gap between the races. Separate education departments were also formed for coloureds and Indians in 1963 and 1976 respectively. Thompson (2000:191) adds that "by 1979, 3 484 329 African children … were officially listed as attending school. Substantial differences remained in the quality of education provided for different races, however".

The unequal access to quality education between the races before 1994 reflected the sad state of South Africa's basic education: "matriculation pass rate [before 1994 stood] at 53,4 per cent, adult literacy rate was below 70 per cent, 7,1 of the country's population had tertiary education, 99 per cent of white teachers, 93 per cent of Indian, 71 per cent of Coloured and 54 per cent of black African teachers were qualified" (Twenty Year Review, 2014:40). Furthermore, "professional staff in the higher education system comprised 80 per cent white, 12 per cent African, 4 per cent Coloured and 4 per cent Indian" (ibid). Verwoerd's policy of making black Africans lesser humans appeared to be on track. Johnson (2004:143) asserts that "Hendrik Verwoerd boasted that there was no point, for example, in Africans doing maths or acquiring other such skills which could only result in inflated expectations and frustration".

Unequal access to education did not only affect black Africans at lower levels. Pampallis (1991:184) asserts that "the 1959 Extension of University Education Act closed white universities to blacks, except with special government permission. Fort Hare University was restricted to Xhosa students only, and new university colleges were opened at Turfloop (for Sotho/Tswana students) Ngoye (for Zulus), Belville (coloureds) and Durban-Westville (Indians)". Thompson (2000:191) affirms that the "Afrikaans-medium universities and English-medium Rhodes University admitted white students only. Twelve percent of the students at the University of Cape Town and six percent of the students at the University of Witwatersrand were black and were taught in integrated classes; 21 percent of the students at the University of Natal in segregated classes". The refusal to admit black African students in many of these university was in keeping with the NP government's long-term plan of keeping black Africans as a source of cheap unskilled labour. According to Thompson (2000:195)

whites had “privileged access to high-level jobs and high wages, white South Africans were as prosperous as the middle and upper classes in Europe and North America”. Although the whites-only democracy was beneficial to white South Africans, it was cruel to black Africans.

Inequality also extended to social assistance: “social pensions were instituted in 1928 for whites and coloureds not covered by occupational retirement insurance, subject to age criteria and a means test to ensure that only the needy were targeted” (van der Berg cited in Leibbrandt, Woolard and Woolard 2007:31). Van der Berg (2007:32) adds that “the white population dependent on social pensions remained small despite an increasingly liberal means test, as occupational retirement insurance covered the more affluent. In 1943, take-up rates amongst the elderly were 40 per cent for whites and 56 per cent for coloureds”. Black Africans and South Africans of Indian descent were excluded regardless of the social and economic conditions they lived under.

Van der Merwe (1996:378) notes that “in 1944 the Smuts government that immediately preceded the first apartheid government extended social old-age pensions to Africans, though benefit levels were less than one tenth of whites and the means test far more stringent”. Van der Berg cited in Leibbrandt et al (2007: 32) accentuates this point further and argues that “by 1958 and well into the apartheid era, Africans already composed 60 per cent of old age pension spending. By 1978, after their number had grown by 5 per cent a year for two decades, Africans made up 70 per cent of the 770 000 pensioners and received 43 per cent of pensions”.

In the period leading up to the 1980s, black African pensions constituted a fraction of those of their white counterparts. It was only in the 1980s, with the reform of apartheid laws, that black African and white pensions were equalised and as result black African rural income increased significantly. A significant impact was only felt much later when the post-1994 democratic government began rolling out social grants to every citizen who qualified, making a substantial impact on inequality. Furthermore, since the dawn of constitutional democracy, there has been an exponential increase in the number of beneficiaries of all races of the government’s social assistance.

Perhaps the most unequal treatment during apartheid was in the provision of public health care. Thompson (2000:197) opines that “under apartheid, there were intense contrasts in the health of the different sections of the South African population. White South Africans, like European and North Americans, had a low infant mortality rate (14.9 per thousand live births in 1978) and a long-life expectancy (64.5 years for males and 72.3 years for females in 1969-71”. Thompson (2000:197) adds that “medical education concentrated on the problems of the white population. The vast majority of the doctors were white, and the medical schools were not substantially changing the balance. At the end of 1980, 657 white, 52 African, 62 Indian and 18 coloured medical students qualified as doctors”. This is further evidence that the health system was skewed in favour of whites, Afrikaners in particular. The inequality in the provision of public health affected government reporting on African mortality and life expectancy. The unequal provision of public health affected Indians, coloured and black Africans whether they were residing in rural or urban areas. This was even further compounded by the fact that the health system was neither integrated nor properly staffed. Some of the health facilities were dysfunctional owing to lack of adequate financial resources.

The living conditions of many black African, Indian and coloured people was way below those of their white counterparts. Pampallis (1991:184) suggests that "hundreds of thousands of people were living in small, nearly identical 'matchbox' houses. Like other African townships, [these places] had no electricity supply and very few social amenities". Thompson (2000:195) paints a grim picture – "the state provided [the white population] with excellent public services: schools and hospitals; parks and playing fields; buses and trains; roads, water, electricity, telephones, drainage and sewerage". The situation was very different in Indian, Coloured and black African areas. "Public services for blacks were characteristically inadequate or non-existent. In the Homelands, women still walked miles every day to fetch water and firewood; in the towns people crowded into single-sex compounds, leaky houses or improvised shacks. Schools, hospitals and public transport for blacks was sharply inferior. Electricity, running water, sewage systems, parks and playing fields were rare" (Thompson, 2000:195). Running water, sewage and electricity supply are basic necessities essential to every human being regardless of their station in life.

5.5 Consolidation and Reform Periods of the Whites-Only "Democracy"

This study evaluates the consolidation and reform periods of apartheid system as White-only "democracy" and institutions built around and their implication to and impact on South Africa's democratic consolidation or retreat. The oppressive and repressive legislation enacted by the National Party government was preceded by British policy hegemony at the beginning of the 20th century. It could therefore be argued that the British as colonisers are responsible for setting the tone for what was to become apartheid by initiating laws and practices whose impact is still felt. Laws such as the "Mines and Works Act of 1911 which reserved 32 types of jobs in the Transvaal and Orange Free State for white workers" and later the 1913 Native Land Act which took more than 90 percent of South Africa's arable land away from the black Africans and Khoi people were enacted during their governance of South Africa.

But laws that introduced stricter control on black living standards were only promulgated post 1948 and were therefore a product of the National Party government. The Urban Areas Act of 1923, 1937 and 1945 – which "put an end to African purchases" of land was implemented with more determination and vigour (Thompson, 2000:188). The Act was central to the NP government's plan of intensifying separate development, curtailing the movement of black Africans into urban centres. These laws did not only intensify inequality but made the living conditions of black Africans much worse. In addition, black Africans had no place where they could raise their discomfort after the Native Representative Council was abolished.

According to Terreblanche (2002:313) the NP government "decided that the contradictions and potential conflicts it inherited from the United Party government required a comprehensive statist approach, with much greater degree of planning and control. In implementing its approach, the NP government was torn by powerful pressure groups in its own constituency …" However, it too came to the realisation that the black problem required a long-term approach and it consequently "embarked on a strategy of urban stabilisation designed to bolster the state's control over the living and economic conditions of predominantly Africans in urban

areas. The shanty towns in larger centres were replaced by neatly laid out locations or townships, comprising well built houses for detribalised Africans with residential rights, and hostels for migrant workers" (Bonner *et al*, 1993:23 - 8). Posel (1991:123) asserts that "government spending on education, health, housing and social security for urban Africans was deliberately minimised, so as not to attract more Africans to the cities".

The employment of these strategies signalled (a) that the government wanted to demonstrate to its constituency that it was dealing with the '*swart gevaar'* problem and (b) that black Africans needed to appreciate that their constant moving into urban centres had no long-term benefit for them and their families. Furthermore, by removing them from urban centres, the NP government hoped to ensure that black Africans were unable to freely mobilise for the attainment of their civil and political liberties. Blacks were, viewed as the only threat to continued white dominance.

The emergence of women's organisations and their opposition to some of the government programmes triggered a harsh response from the government. It included the passage of the Native Laws Amendment Act (1952). The law (a) curtailed the influx of African women into city centres and confined them to bantustans, and (b) made it compulsory for African women to carry and produce passes at the instruction of the police. The NP viewed African women as a potential threat to their domination.

The Native Law Amendment Act triggered a massive backlash from opposition formations across the political spectrum. The calls were premised on the need to boycott and where possible also defy the whites-only democracy's unjust laws. To give effect to these calls; "leaders of the ANC and the South African Indian Congress launched the Defiance Campaign on 26 June 1952. The idea of the campaign was to break apartheid laws and regulations, publicly but peacefully, and be prepared to go to jail for this in the spirit of Gandhi's *satyagraha*" (Johnson, 2004:149). The government, as was to be expected, reacted very harshly to this peaceful campaign by imprisoning all leaders of the Defiance Campaign. It also introduced a myriad of laws to regulate black African lives, including giving labour bureaux powers of directing and channelling black Africans – both men and women, through the Abolition of Passes and Co-ordination of Documents Act of 1953. The law also impacted on the distribution and allocation of black African labour, perpetuating apartheid's grand plan of dominating politics, the society and economy. By enacting laws that affected every facet of black African life's existence, the NP was consolidating its hold.

Unbeknown to the government, opposition from across the racial and political spectrum was also consolidating its struggle for a constitutional democracy based on the will of all the people of irrespective of race, gender or creed. The all-encompassing opposition to the government culminated in the potent and august gathering held on the 25th of June 1955, in Kliptown, Soweto. The Congress of the People as the gathering became known, developed an overly ambitious plan – the Freedom Charter. It was an outcome of a countrywide consultation process undertaken by volunteers who knocked on every door soliciting views about what type of South Africa most citizens envisioned.

The Charter was, upon its adoption, to become a guiding document to the struggle and the democratic country which was being pursued. According to Johnson (2004:150) "the Freedom Charter began: 'We, the people of South Africa, declare for all our country and the world to know: - That South Africa belongs to all who live in it, black and white, and that no government can justly claim authority unless it is based on the will of the people …'". It further called for equal political, educational, social and economic rights, equal sharing of the land among those working it and the nationalisation of monopoly industries and banks.

The broad acceptance of the Charter by South Africans across the colour line triggered an ideological shift on the side of the NP government in the late 1950s and beginning of the 1960s, which could be attributed to changes in both domestic and international balance of forces. On the international front, "the United Nations Security Council intervened in South African affairs for the first time. A resolution was passed (with the abstention of Britain and France) blaming the South African government for … killings and calling on it to initiate measures to bring about racial harmony" (Pampallis, 1991:214). On the domestic front, the 1960s represented a period of intensive opposition to the NP government policies. Of significance is that the opposition was cross-cutting – from black opposition formations to the white captain of industry and workers.

Terreblanche (2002:323) avers that "during the 1960s the demand for and supply of African migrants was so strong that", according to Posel (1991:253) "the expansion of BAD's (Bantu Affairs Department) bureaucracy, and the general hardening of attitudes, were insufficient to deter resistance from large numbers of employers and work-seekers". The reason was, as Terreblanche (2002:323) puts it; "BAD experimented with new measures to combat the illegal employment of migrants and improve influx control. In a desperate attempt to stop the inflow of migrant workers and others, the government introduced two drastic measures that set the scene for the 1970s". Terreblanche (2002:323) adds that "the first was the Physical Planning and Utilisation of Resources Act of 1967, which introduced labour quotas for urban manufacturing. The second was the creation of the BAABs (Bantu Affairs Administration Board) which took over the task of controlling the movements and rights of Africans at the local level …".

"The massacres at Sharpeville and elsewhere, the strikes and demonstrations that followed them, the State of Emergency and the banning of the ANC and PAC focused international attention on South Africa" (Pampallis, 1991:214). It was clear that the government was losing its control of the situation – especially with the increase in strikes. Johnson (2004:156) asserts that "the government reacted toughly, passing the Sabotage Act (1962) aimed at agitators who, the government believed, were mostly white. Protest against the bill was widespread but, with the ANC and PAC banned, mainly white". Whites were targeted because according to Thompson (2000:1999) "there were always members of the enfranchised population of South Africa who sought to arouse the conscience of their fellow whites against apartheid". The arrest of Robert Sobukwe, Nelson Mandela, Walter Sisulu and other freedom fighters and the resultant "Rivonia trial" was "the turning point of the 1960s struggle …" (Johnson, 2004:156).

South Africa's economy performed very well. During the 1960s "white industrial workers benefited from an economic system that gave them a virtual monopoly not only of skilled jobs

and high wages but also of workers' legal participation in the industrial bargaining process". Mohr (1994:46) opines that "the 1960s were one of the most prosperous decades in South Africa's history. On average, the economy grew at 5,5 per cent a year". With a well performing economy and most of its core constituency benefiting, the NP was assured of its plan to consolidate the whites-only democracy. But with the more radicalised opposition, chances of the maintenance of the *status quo* were slowly slipping away because the determination by black opposition formations was on a level never seen before. The 1960s and its turning points set the scene for a tumultuous 1970s – a decade of apartheid reform.

The radicalisation and the intensification of the struggle in the 1970s, culminated in the well catalogued reform of apartheid – which has already been extensively discussed. The omission perhaps, is that the 1970s also helped to revive the ANC and catapult its leaders to international attention. During this time the "ANC's prestige increased, thanks largely to the Soweto rising, and Oliver Tambo was invited to address the United Nations in 1977, a year which also saw a new wave of MK (uMkhonto WeSizwe) bomb blasts, several guerrilla clashes with the police and more terrorism trials" (Johnson, 2004:173). These uncoordinated uprisings and the continued bombing of the country's infrastructure prompted the government to concede to some of the demands and one of its responses was the Wiehahn and Riekert Commissions.

Pampallis (1991:268) asserts that "this represented a major ideological shift in policy and marked a victory for the working class and the national liberation movement, which had fought for decades against racially discriminatory trade union legislation". He adds that "it was also an attempt by the government to draw African workers into a highly centralised and bureaucratic Industrial Council system which had so effectively ended the militancy of white workers after the 1924 Industrial Conciliation Act" (Pampallis, 1991:268-9). The important deduction that could be made here is that the government and white captains of industry began appreciating the importance of black African labour in the country's economy. This is also indicative of the fact that both global and local players were exerting pressure on the government hence its sudden appetite to reconsider black African political, social and economic rights. The 1970s also reignited student resistance which laid the foundation for serious economic and political challenges of the 1980s.

According to Jones and Inggs (1994:1) "the declining growth rate, which had been such a notable feature of the South African economy in the 1970s, continued in the 1980s until, by the end of the decade, slow growth had been replaced by no growth". Many challenges contributed to this state of affairs, but the critical ones had to do with the intensification of a struggle on all fronts. Luiz (1998:61) affirms this by asserting that "apartheid faced increasing challenges in the 1980s, as South African society became increasingly mobilised and radicalised". Du Toit (1995:348-350) states that "the state response to this defiance was initially to embark on reform of apartheid in the 1970s and early 1980s, and later turn a counter-revolutionary total onslaught". The counter-revolutionary 'Total Strategy' culminated in the "constitutional reforms of the former strategy [that] were visible in the Tricameral Parliament (1984) and the Regional Services Councils (1985). The intention was to co-opt sections of the population into the formal political process, but to do so in such a way that they would be unable to determine

the course of decisions" (Luiz, 1998:61). But the plan backfired badly – it helped to mobilise a groundswell of opposition from a cross section of the South African population.

Another challenge facing the NP government related to the methods it employed to implement the Riekert and Wiehahn recommendations. Johnson (2004:176) avers that "the Riekert and Wiehahn reports were, in fact, a death blow to apartheid. Once blacks were accepted as a permanent necessity to white areas and were given the right to permanent residence and collective bargaining, it was difficult to see how they would not use this leverage to acquire full citizenship" (Pampallis, 1991:176). These concessions were central in the reactivation and intensification of the struggle to end the political, economic, and racial domination in favour of a democratic dispensation based on the will of all the people of South Africa. "Whereas in 1960 and 1961 the government had successfully reimposed its version of law and order for the next decade and more by arresting dissidents and banning their organisations, similar actions in 1976 and 1977 failed to have the same effect" (Thompson, 2000:221). This period laid the foundation for what was to become life in urban black townships. Resistance against apartheid became a daily occurrence and international media played its part in shining the spotlight on the country.

Once more it had hoped that this strategy would eventually produce results similar to those of the 1960s. But by this time the country was burning, literally, and there was no end in sight. The NP also had its own internal challenges and Botha's hold on power was finally challenged. He was eventually defeated by FW de Klerk who would succeed Botha as President. Unlike his predecessors, de Klerk had very limited leeway. Jones and Inggs (1994:2) argue that "the extent of the damage to the economy was very considerable. In the 1980s the GDP stopped growing" and multinational corporations began disinvesting. Foreign governments began closing their missions and diplomatic offices. International governments and organisations were persistent that South Africa needed to create racial harmony and end the whites-only democracy. The transition towards a constitutional democratic South Africa was in full swing and there was no turning back.

The assessment of South Africa's constitutional democratic breakthrough, its prospects and challenges could only be understood if two important things are done. First, to locate the genesis of apartheid and its resultant oppressive laws to properly determine whether black Africans began enjoying their political and civil rights during this period. Second, a comparative analysis of the whites-only democracy and constitutional democracy based on the will of all the people forms the basis upon which the study will later prove or disprove that constitutional democratic consolidation could have been achieved during apartheid and that therefore, there was no need for the almost a century long struggle for political and civil liberties. Terreblanche (2002:317) summarises the above two points well when he argues that "a thorough study of the past is also necessary if justice is to be restored, and lasting reconciliation achieved". Having thoroughly examined the whites-only democratic government's policy interventions in first consolidating and later reforming apartheid, the study will now proceed to assess the constitutional democratic South Africa's policy interventions and their influence in strengthening or weakening the country's democracy. According to Mattes (2002:22) "perhaps more than any other democratising country, South

Africa generates widely differing assessment of the present state and likely future prospects of its democracy".

5.6 Legacies and Inertia Framing the New Democratic Dispensation

Kadt and Cupido (2016:14) assert that "the 27th of April 1994 marked the formal end of the apartheid dispensation and ushered in a non-racial and democratic South Africa following centuries of colonisation, exploitation and racial oppression …". The 10th of May 1994 could be described as a poignant moment in South Africa's nascent democracy. It was on this day that former President Nelson Rolihlahla Mandela was sworn-in as the country's first democratically elected president. In keeping with the significance of this day, Mandela spoke these words:

> "The moment to bridge the chasm that divides us has come … We enter into a new covenant that we shall build a society in which all South Africans, both black and white, will be able to walk tall without any fear in their hearts, assured of the inalienable right to human dignity – a rainbow nation which is at last at peace with itself and the world at large … We must therefore act together as a united people for national recovery … Never, never and never again shall it be that this beautiful land will experience the oppression of one by another" (Business Day, 06 Oct. 2004).

But what did former President Mandela mean when he said, 'we enter into a new covenant that we shall build a society in which all South Africans, both black and white, will be able to walk tall without any fear in their hearts, assured of the inalienable right to human dignity'? Did such conditions exist a year or two before Mandela took to the podium? What had changed? The answer lies in understanding that Mandela and the rest of South African society had for the longest of time been pursuing a system that they hoped would "offer those at the bottom of the economic pile a way into the market economy …" (Friedman, 2018:31).

Perhaps the most apt description is offered by Johnson (2004:210) who asserts that 1994 was "a moment of great celebration, signalling the arrival of full political equality in a single South African nation". Mandela and others were adamant that such a covenant would not only help build a society in which all South Africans, both black and white, walked tall without fear in their hearts, but will also afford those who were disenfranchised the right to elect and be elected to positions of authority and power. Mandela, it could be argued, was referring to democracy. Sorensen (1993:40) affirms that "the transition from nondemocracy [apartheid] to democratic rule is a complex process involving several phases. In the typical contemporary case, the beginning of the process is marked by a crisis within and eventually breakdown of the nondemocratic regime".

This study has gone to great lengths to detail the crisis within and the eventual breakdown of apartheid. The crisis had, however, unfortunately rendered the state dysfunctional and therefore, the building of a new South African nation first required a relook at all state institutions, practices, and cultures. Although the NP had come to the realisation that it needed to promote racial harmony, Mandela's presidency came at the time when "South Africa [was]

faced with serious political, social and economic problems. There [was] a new struggle to consolidate the multiracial democratic system and exert its authority in matters of state. The viability of the new democracy [was] threatened by bureaucratic incapacity" (Terreblanche 2002:419). Terreblanche (2002:419) proceeds to argue that "the inability of the state to make meaningful progress in deracialising the economic system, and its failure to alleviate the widespread poverty and social deprivation inherited from apartheid" are threats to constitutional democratic consolidation. Apartheid had entrenched itself in all facets of South Africa's political, social and economic life and its legacy was more serious than initially anticipated.

Worse, the introduction and enforcement of tighter controls on black African political, social, economic rights and the resultant radicalisation of protest in black townships posed a very serious threat to the sustenance of the new democratic order. It is for this reason that Sorensen (1993:25) asks: "what pattern of economic, social, cultural and other conditions is most favourable to the rise of democracy"? Kotze and Loubser (2017:36) in response argue that "countries that transition to liberal democracy will experience value shifts in the political, economic and social spheres. Since values, beliefs, attitudes, and personal preferences are likely to inform political and other expressions, value shifts offer an opportunity to analyse in which direction a changing society may be headed". In South Africa's case, the important question is whether democratic consolidation is occurring?

Having adopted the Freedom Charter as an overarching guiding document, is South Africa's constitutional democracy on its way to consolidating or retreating given the challenges the country inherited from apartheid? How far has post-1994 South Africa ensured that all its laws, practices and cultures permeate every democratic institution including every sphere of public or private life? Is South Africa now a country where all the inhabitants, regardless of race, colour or gender, live and walk tall without fear in their hearts and live in conditions that promote equal rights and equal opportunities? Lipset (1959:75) seems to believe that "the more well-to-do a nation, the greater the chances that it will sustain democracy". That said, it seems that there are different views among some scholars of democracy key amongst them Lipset (1959), Huber *et al* (1993) and Friedman (2002) on the correlation between democracy and the economy. Lipset (1959:72) suggests that "… democracy which survives will do so by facilitating the growth of other conditions conducive to democracy, such as universal literacy, or autonomous private association".

Huber *et al* (1993:71-2), on the other hand, argue that "they [studies] consistently arrived at one major result: the level of economic development correlated positively with democracy". Friedman (2002:31) seem to hold the view that "democracy offer those at the bottom of the economic pile a way into the market economy, …". These views clearly demonstrate a contestation between those who argue that democracy is impossible without sustained economic growth and development and those who firmly believe that democracy enables economic development.

The inclusion of fundamental socio-economic rights in South Africa's 1996 Constitution appears to be affirming the latter argument. Raligilia (2017:14) notes that "socio-economic rights guarantee the right to adequate housing, food, health care, education, social security and

water" and that such rights will help the country advance from being another African failed state in the eyes of the world to being a well-to-do nation which sustains its democracy. Furthermore, the inclusion of fundamental socio-economic, political and civil rights in the final Constitution meant that from then onwards, all legislators, regardless of the sphere of government they operated in, were obliged to give effect to these constitutional provisions by developing laws to promote, protect and advance these rights.

Such laws were to also enjoin all democratic institutions to implement these rights without fear, favour or prejudice. Those institutions supporting constitutional democracy including the courts were accorded constitutional powers of not only safeguarding the implementation of these laws but also of enforcing them thereby strengthening and sustaining the functioning of all the country's democratic institutions. Moore (1966:414) sees the "development of a democracy as a long and certainly incomplete struggle to do three closely related things: 1) to check arbitrary rulers, 2) to replace arbitrary rules with just and rational ones, and 3) to obtain a share for the underlying population in the making of rules".

Schmitter and Karl (1991:75) describe such a system as "a system of governance in which rulers are held accountable for their actions in the public realm by citizens, acting indirectly through competition and cooperation of their elected representatives". Citizens as the most important element in democratic states could through competition and cooperation either through their representatives or as individuals assist in creating or reversing conditions that are conducive for the building of a united single society and national unity which are sometimes the precondition to democratic consolidation. Lipset (1959:71) defines democracy "as a political system which supplies regular constitutional opportunities for changing the governing officials. It is a social mechanism for the resolution of the problem of societal decision-making among conflicting interest groups which permits the largest possible part of the population to influence these decisions through their ability to choose among alternative contenders for political office". According to Schumpeter (1947:232-302) and Weber (1946:226), democracy implies a number of specific conditions: (a) a political formula and a system of beliefs which legitimise the democratic system and specify institutions – parties, a free press, and so forth – which are legitimised, i.e., accepted as proper by all, (b) political leaders in office, and (c) one or more sets of leaders out of office, who act as legitimate opposition attempting to gain office.

These are the conditions which Mandela meant when he said, 'we enter into a new covenant' and which are, according to Moore, 'the replacement of arbitrary rules with just and rational ones and obtaining a share for the underlying population in the making of rules'. What these points do not, however, answer is whether the conditions advance by Schumpeter and Weber will be helpful to South Africa's democratic consolidation or will weaken democratic state institutions, causing a democratic retreat. The study will now assess whether the system of beliefs (policies) legitimising the democratic system and specifying its institutions have impacted positively or negatively on South Africa's democratic consolidation. This will be done by assessing whether the democratic government's policy interventions have been helpful in improving citizens political, economic, and social conditions. Lipset (1959:69) correctly argues that "in dealing with democracy, one must be able to point to a set of conditions that have actually existed … and say: democracy has emerged out of these conditions and has

become stabilised because of certain supporting institutions and values, as well as because of its own internal self-maintaining processes".

Having assessed the impact of the system of beliefs (policies and practices) legitimising the democratic system, the study, will in subsequent chapters, examine the role of democracy in enabling citizens "as the most distinctive element in democracies" (Schmitter and Karl, 1991:77) to create or reverse conditions for South Africa's democratic consolidation. By answering the question posed earlier, i.e., is South Africa's democratic consolidation occurring, the research will equally be answering one of its key questions, what is the general state of democracy in South Africa after almost three decades and whether the improvement in the political, economic and social rights of many South Africans which began prior to the 1994 democratic elections as the whites-only democratic state succumbed to internal and external pressure have helped democratic consolidation or retreat? It is worth mentioning, however, that apartheid was a whites-only democracy and therefore assisted in improving civil, political and economic rights amongst the white population, but could not afford the same rights to black Africans, because as argued earlier, improvements in their political, social and economic conditions were very minimal to non-existent.

Linz and Stepan (1996:14) assert that: "no regime should be called a democracy unless its rulers govern democratically. If freely elected executives infringe the constitution, violate the rights of individuals and minorities, impinge upon the legitimate functions of the legislature, and thus fail to rule within the bounds of a state of law, their regimes are not democratic". South Africa is, for all intense and purposes, called a constitutional democracy because all the conditions put forward by Linz and Stepan obtain. Furthermore, all state institutions function within a legal framework that guides them how to interact with citizens in addressing not only their civil and political rights, but their social and economic rights too. This is in sharp contrast to the whites-only democracy, which relied on discrimination and the oppression of one by another. Furthermore, the Bill of Rights enshrined in the Constitution regards every inhabitant of the democratic state as equal before the law and entitled to all the freedoms and rights inherent to a democratic regime. Linz and Stepan (1996:18) argue that democratic "consolidation requires that the habituation to the norms and procedures of democratic conflict-regulation be developed.

A high degree of institutional routinisation is a key part of such a process. Intermediation between the state and civil society, and structuring of compromise, are likewise legitimate and necessary tasks of political society". In addition, "political society-informed, pressured and periodically renewed by civil society – must somehow achieve a workable agreement on the myriad of ways in which democratic power will be crafted and exercised" (Linz and Stepan, 1996:18). This means that the achievement of democratic consolidation is contingent on a certain degree of independence of both the political and civil society which find their existence in both the Constitution and the rule of law which protects them.

The section that follows assesses the constitutional democratic structures and policy interventions, particularly those that pertain to the strengthening of democracy. The chapter will conclude by assessing the effectiveness of these policy interventions in strengthening or weakening democracy.

5.7 The New Dispensation and Its Struggles Against the Past

The land dispossessions of 1913, 1936 and the 1950s triggered a fight for land restitution that culminated in the adoption by the post-1994 democratic government of the Restitution of Land Rights Act (1994). This Act was solely enacted to "provide for the restitution of rights in land to persons or communities dispossessed of such rights after the 19th of June 1913 as a result of past racially discriminatory laws or practices; to establish a Commission on Restitution of Land Rights and a Land Claims Court; and to provide for matters connected therewith". Each fight for a democratic society has its own characteristic and in South Africa's case, the struggle for democracy was prompted by land dispossession and the need for land restitution.

Land reform and restitution should in this context be understood to mean the restoration of the economic citizenship of the Khoi and black Africans. It is hoped that this will culminate in the improvement of the living conditions of all the previously dispossessed. South Africa's Vision 2030 or the National Development Plan (NDP), refers to land restitution and reform as a tool that is central to altering spatial inequality and which therefore compel the democratic government to "respond systematically, and over time, to entrenched spatial patterns across all geographic scales that exacerbate social inequality and spatial inefficiency" (RSA 2012:1). The democratic government had in 1994 "committed itself to transfer 30 per cent of the 82 million hectares of agricultural land owned by whites to blacks by 2014, a total of 24,5 million hectares, through both land restitution and land redistribution" (Twenty Year Review 2014:64). However, and contrary to popular belief, to date more than 9,4 million hectares of the 1994 target has been transferred to both Khoi and black African farmers. This has resulted in the improvement of the Khoi and black African farmer's economic position while also ensuring food security which is important in fighting and reversing poverty. This would have not been possible during apartheid. Democracy has enabled those who were on the fringes of the mainstream economy to play an important role in the building of an economically stable South Africa.

Terreblanche (2002:441) opines that "South Africa is in the unfortunate position that the dignity and humanity of more than 80 per cent of its population were not sufficiently acknowledged by the white minority during racism and apartheid". This is among the many reasons why South Africa's post-1994 democratic government inherited a failing economy characterised by high levels of inequality, unemployment, and poverty. According to Chibba and Luiz (2011:307) "the interconnectedness of poverty, inequality and unemployment (PIU) is obvious to even the casual observer. But there is also considerable empirical evidence to support such an observation". Sen (1973:1547-67) argues that "poverty has been identified not merely with inequality but also with unemployment. This has occurred recently in many studies across the globe" and South Africa has unfortunately not escaped this very sad situation. "Following the political transformation, and the adoption of the new constitution, the human rights of every South African was now formally acknowledged and protected. This is especially true of first-generation rights, but unfortunately not necessarily true for second generation economic and social rights" (Terreblanche, 2002). The post-1994 government recognised early on that "one of the most important distortions of apartheid for South Africa's long-term development path is skewed access to education by race" (Bhorat et al., 2000: 31-52). But it

also knew of fears that "triple-digit inflation … would accompany a populist economic strategy of redistribution and government intervention" (Mattes, 2002:22).

Masipa (2018:3) writes that "the United Nations Economic Commission for Africa's (2013) reports show that Africa's failure to implement a successful democratic project is undermined mainly by internal and external factors: poor economic management capacity, poor planning, macroeconomic and political instabilities and limited investment in social and economic infrastructure". In recognition of this and to avoid political instability the "ANC-led government drafted a policy framework on how to address poverty through the Reconstruction and Development Programme (RDP). That same year, a White Paper was also prepared to put a business-friendly and fiscally responsible twist to the policy framework" (Bond, 2000; Aliber, 2003 cited in Chibba and Luiz, 2011:308). Over and above the UN's Economic Commission for Africa's report; "there is general consensus among academics, practitioners, politicians and the public in general that South Africa's socio-economic challenges of unemployment, poverty and inequality stem from the structural and systematic disparities that are a legacy of colonialism and apartheid" (Masipa 2018:3). There is also consensus that the erosion of these structural and systematic disparities will continuously require action by all role-players in the economic sector and more specifically organised business.

It is for this reason, that the "RDP underwent a metamorphosis into the Growth, Employment and Redistribution (GEAR) framework. GEAR embodied a conventional neoclassical approach for economic growth and creation employment" (Aliber, 2003; Lundahl and Petersson, 2009 cited in Chibba and Luiz, 2011:308). The ANC government had a difficult choice; stabilise democracy to create economic growth or introduce populist policies that create investor uncertainty. The government opted for the former, because the latter, although resonating with its alliance partners' ideological posture, was not sustainable and could have collapsed the country's economy. According to Diamond and Linz (1989:177-207) "economic crisis represents one of the most common threats to democratic stability". "Conversely, economic growth is conducive to the survival of democracy. Indeed, the faster the economy grows, the more likely democracy is to survive" (Przeworski *et al*, 2009:89).

Although there was a deafening chorus of opposition from the ANC's Tripartite Alliance, led by a labour movement as massive as COSATU was then, GEAR was adopted. There are number of possible reasons but the most important was that "labour influence has declined as changes in the workplace have reduced employer reliance on it. …Changes in production processes, and the increasing mismatch between labour market's requirements and the skills profiles of the economically active citizens, …, will ensure that, for the foreseeable future, the bulk of the workforce will be engaged in informal economic activity" (Friedman, 2018:32). This appears to be affirming the argument advanced by academics, politicians and investors that "economic performance, …, is crucially important for the survival of democracy in less affluent countries. When the economy grows rapidly with a moderate rate of inflation, democracy was likely to last …" (Przeworski *et al*, 2009:89).

The fight between COSATU, SACP and the ANC on economic policy constitutes what Friedman (2018:32) calls a pursuit of "redistributive politics [which] in democratic conditions were historically the consequence of an alliance between organised labour and other strata, a

coalition which labour, by virtue of its numbers and organisation, invariably led". The fact that the RDP – a plan put together by COSATU - was replaced as government policy in favour of GEAR, a neoliberal economic policy that called for privatisation of certain state-owned enterprises, did not augur well to COSATU and the SACP. The government stance that GEAR was non-negotiable made COSATU and the SACP realise that South Africa's nascent democracy could not, after all, translate into better social conditions for the working class. Friedman (2018:32) affirms that "citizens have come to realise that there is no alternative to inequality, or that democratic systems have lost that ability to translate public preferences into social policy …".

Democratic systems can translate public preferences into social policy, adds Friedman (2018:32) if "they are expressed in organisation: citizens must combine if their preferences are to become policy". It is the combination of strengths by various organisations representing different interest groups that could help democratic systems create favourable conditions for economic growth and consequently the stabilisation of democracy. In South Africa's case the National Economic Development and Labour Council (NEDLAC) brings together government, labour, community organisations and business who debate economic, development and labour issues. Through NEDLAC, much work has been done over the years to create favourable conditions for economic growth that will not only help democracy stabilise, but also create better living conditions for South Africans.

NEDLAC can also be credited for enabling South Africa to register serious employment gains. According to Poswell (2002:4) "the biggest percentage increases in employment between 1995 and 1999 were recorded among professionals (72.6 per cent) and managers (37.8 per cent)". Terreblanche (2002:458-9) disagrees with this view and argues that "the agreement of 1993 and the GEAR strategy of 1996 laid the foundation for the systematic exclusion of the poor half of the population". The disagreements by scholars, politicians and others, could not, and did not, scupper South Africa's forward movement towards changing all discriminatory legislation in favour of new laws aimed at reducing income inequality among workers. It was hoped that these changes would also translate into improved living conditions for the majority. Therefore, the enactment of the Labour Relations Act of 1995, the Constitution (1996), the Employment Equity Act of 1998, Basic Conditions of Employment Act of 1997, Restitution of Land Rights Act of 1994, the Social Assistance Act of 2004 and the 1995 Black Economic Empowerment policy were designed to help bolster the democratic government's plans to improve living conditions, redress income inequality, and stabilising democracy.

Przeworski *et al* (2009:90) affirm that "democracy is more likely to survive in countries where income inequality is declining over time". They "found that the expected life of democracy in countries with shrinking inequality is 84 years, while the expected life of democracies with rising income inequality is about 22 years (these numbers are based on 599 democratic years, with inequality increasing during 262 and declining during 337)" (ibid). A declining economy that does not create jobs and reverse poverty is a danger to democracy. As Przeworski *et al* (2009:96) put it; "poverty breeds … dictatorship".

However, "many scholars see an incompatibility between democracy and economic growth for both economic and political reasons. The economic reasons relate to the fact that growth

requires an economic surplus available for investment. Such surplus can either be invested or consumed. Hence, the only way to increase investable surplus is to reduce consumption" (Sorensen, 1993:54). Sorensen (1993:64) adds that the "argument is that a democratic regime will not be able to pursue policies of curbing consumption (holding down wages) because the consumers are also voters, and they will punish the politicians next time they get to the ballot box". Huntington (1968) argues that "those with political reservations about democracy take as their starting point the fact that economic development is best promoted when there is a high degree of political order". Apter writes:

> "Democracy is counterproductive in this regard because it opens the already weak institutions of the developing countries to all kinds of pressures from different groups in society. Instability and disorder are the result, especially in countries in which there is a massive potential conflict stemming from numerous religious, ethnic, regional and class divisions" (Apter 1965).

Apter (1965) adds that "in other words, the policies for change that have the objective of long-run national development can best be promoted by government insulated from the … political pressures of a democratic polity. In that sense, authoritarianism is best suited for the promotion of change". What these arguments do not recognise, is that democracy and economic development have some correlation, and the survival of democracy cannot be guaranteed in a poverty-stricken country, because the elite will forever be fighting one another to lay their hands on the country's limited resources, hence Przeworski's *et al* (2009:96) argument that "poverty breeds dictatorship".

The following section assesses the purpose and impact of each of the laws mentioned above in addressing income inequality while contributing to democratic stabilisation. It is necessary to help us assess whether South Africa's democracy is consolidating or retreating. Earlier the study went to great lengths in demonstrating that the whites-only democracy enacted racially discriminatory labour laws. The Labour Relations Act (LRA) 1995, was therefore enacted as a response to the discriminatory laws and with a sole purpose of "promoting economic development, social justice, labour peace and democracy in the workplace". Terreblanche (2002:445) affirms that "distributing income, power, property and opportunities more equally for the sake of greater social justice is a value in its own right and ought to enjoy a very high priority". He adds: "but a more equal distribution of income, power, and property between the upper and lower classes also has an important monumental value: to create the social preconditions for deepening our nascent democracy, and for giving credibility – or human face …" to the argument that democracy correlates well with economic development.

The Act seeks to guarantee equal pay for equal work regardless of race gender, or sexual orientation. The aim is to ensure that no one is again a victim of discrimination. Female workers have, since this law has been in force, enjoyed the same benefits as their male counterparts including for maternity leave amongst other benefits. The Act further affords employers and employees rights and powers which are designed to advance workplace peace and democracy.

Although job reservation laws of the whites-only democracy were scrapped after Wiehahn, the incoming into effect of the Employment Equity Act (EEA) 1998 legalised equality in the

workplace. Whites-only democracy made it law that all well-paying and senior management positions in the private and public sectors were reserved for whites. The EEA was enacted "to promote equity in the workplace by promoting equal opportunity and fair treatment in employment though elimination of unfair discrimination and implementing affirmative action measures to redress the disadvantages in employment experienced in the past by designated groups". The Act further seeks to guarantee that all workers; regardless of their sexual orientation, skin colour or station in life get fair and equal treatment and that the private and public sector does not discriminate in filling management positions. Finally, it further outlaws race as a determining factor in employment.

Fair labour practices law can be traced back to National Party government labour reform of the 1980s. But it was only after the country joined the International Labour Organisation (ILO) at the attainment of democracy in 1994, that fair labour practices could find constitutional recognition. By joining the ILO, South Africa was obliged to ensure that the country's workers enjoy the rights espoused by the Basic Conditions of Employment Act (1998). The Act, however, derives its existence from Section 23(1) of the Constitution which provides that: "(1) everyone has the right to fair labour practices, and (2) every worker has the right – (a) to form and join a trade union".

The BCEA also regulates overtime working hours and pay. By providing for fair labour practices in both the Constitution and Basic Conditions of Employment Act (1998), South Africa was ensuring that income equality and access to labour market opportunities become legally provided for and, accordingly, enforceable. Terreblanche (2002:302) opines that "the NP's agenda before the 1948 election was to create a new socio-economic order. This agenda had three main items. The first was to restructure the economy so as to free Afrikaners from 'foreign' capitalism and adapt it to the needs of the Afrikaner volkskapitalisme ('national capitalism')". The second was "to implement the policy of apartheid as a solution to the native problem, in order to ensure purity of the Afrikaner volk and defuse the conflict inherent in a process of racial integration". The third was "to solve the problem of poor white Afrikaners and remedy the alleged injustices of the past by implementing a comprehensive welfare policy for uplifting Afrikaners" (ibid). This was expressed in active support for white Afrikaner businesses through legislation designed to uplift them. The plan included financial assistance and "generous types of favouritism, … Examples of Afrikaner favouritism were the allocations of fishing quotas, mining and liquor concessions, government contracts, and all sorts of valuable inside information" (Terreblanche, 2002:304).

As a response to this and in an attempt to advance economic participation of black businesses in the post-1994 era, the democratic government drew up "a series of industry charters … with the aim of transferring at least a quarter of all South Africa's corporate assets into black hands by 2010-13" (Johnson, 2004:224). To achieve this ambitious plan the government introduced the Broad-Based Black Economic Empowerment in 1994. Its purpose was to fundamentally "advance economic transformation and enhance the economic participation of black people in the South African economy". Accordingly, the BEE Act categorised Indians, Coloureds, black Africans and (later) Chinese as black people.

The unintended consequence was the creation of a black bourgeoisie which benefited from the system because of its proximity to state power. For instance, "the BEE deals announced in 2003 alone amounted to R30 billion – but two thirds of these derived from companies owned by just two men – Patrice Motsepe and Tokyo Sexwale. Both men had a history of involvement in the struggle against apartheid and were aligned to the ruling African National Congress" (Johnson, 2004:225). This triggered a chorus of opposition and forced the democratic government to develop plans and policies that could assist and include black businesses into the mainstream South African economy. It is for this reason that in the year 2012, the democratic government established "the various national business finance agencies which were consolidated into the Small Enterprise Financing Agency (Sefa)" (Twenty Year Review, 2014:98). These policy interventions have helped promote the participation of black business in the economy and thereby improving their economic standing which augurs well for democracy.

South African black African women faced the worst form of oppression of any section of the population. This found expression in African customs and religious beliefs which do not recognise women as equal to men. Colonialism and apartheid added to their suffering. Black African women faced 'triple oppression' –they were oppressed within their immediate families, in their homes, secondly; society does not, for cultural and other reasons, recognise them as equal to men and thirdly, the colonial and apartheid system regarded women as beneath men.

Because women had since the 1940s became part of the struggle against apartheid, it was to be expected that the constitutional democratic state could, as it should, create conditions favourable for women's emancipation. First, the democratic Constitution recognised them as equal to their male counterparts, enjoying every right extended to men. Secondly, legislation giving effect to constitutional provisions of equality before the law was enacted. It removed all forms of discrimination against women. This meant that they could no longer be subjected to any form of oppression in their homes, workplace and in society. Furthermore, women could, after 1994, conclude legally binding contracts without being assisted by their spouse or family members, buy and own property, and more importantly they could decide whether to wed and bear children. African women could for the first time also decide to become educated if they so choose. The post-1994 democratic era saw a surge in women, regardless of age, entering the education sector as learners or educators. Many black African women complete tertiary education, becoming professionals and assuming leadership roles in the corporate sector. Women have also entered previously male dominated fields such as the army, police and private security services.

Additionally, "the building of institutional machinery to promote gender equality began with the establishment of the Office on the Status of Women (OSW) in 1997" (Twenty Year Review, 2014:73) that is at the core of advancing women's issues. This has led to the establishment of the Commission for Gender Equality and the enactment of the Gender Equality Act (1996). The role of the GCE is to consolidate women gains and to develop and lead programmes and projects aimed at educating women on their rights and freedoms. By doing this, the democratic government, is empowering women to be drivers of their own change that would ultimately enable them to determine their economic, political, and social destiny.

Education is, according to Lipset (1959:72), one of the "social conditions which serve to support a democratic political system". The more educated a nation, the better are its chances of democracy surviving, because "a society divided between a large impoverished [and illiterate] mass and a small, favoured elite would result either in oligarchy or in tyranny" (Lipset, 1959:75). Many nations that overcame dictatorship and democratised but later reverted to a tyranny largely because large sections of its population were impoverished and illiterate. South Africa's new democratic state had to decide whether to prioritise education or build a strong army capable of suppressing any insurrection, given its recent past. The ANC government opted for the former because it appreciated the role education plays in the political life of any nation. Furthermore, the reversal of apartheid's inequalities could not be realised without creating a functional education system that put at its centre the equalisation of access to skills training opportunities.

South Africa's income or earnings inequality have their roots in the poor performance of the education system pre- and post-1994. This, in the post-1994 democratic era, "can be ascribed to a school system that is bimodal". The distribution of test scores at every level exhibit sharp dualism between schools that served whites and Indians, which perform similarly to schools in developed countries" and "the bigger parts of the system, historically serving mainly black and coloured children, which performs extremely weakly, also in comparison to most much poorer African countries. A fundamental concern is thus that the learning that takes place in school is highly unequal with respect to the socio-economic status of children and their race group". (van der Berg, 2018:1). Thompson (2000:277) agrees that "although the [education] system was formally desegregated, there continued to be vast disparity in quality, and despite many overlaps, the quality of education corresponded closely with race."

This poses a serious a threat to South Africa's democratic trajectory. Lipset (1959:72) argues that "Germany is an example of a nation in which the structural changes – growing industrialisation, urbanisation, wealth and education – all favoured the establishment [and consolidation] of a democratic system, but in which a series of adverse historical events prevented democracy from securing legitimacy in the eyes of many segments of society, and thus weakened German democracy …" South Africa's nascent democracy could be weakened by its own historical events because the inequality that endures in the education system could be an indicator of a broader occurrence: "socio-economic status is correlated with cognitive outcomes in education, implying that it is difficult to overcome a poor background through educational interventions alone" (van der Berg, 2018:2). In a nutshell, a child's background in most instances determines their academic performance including whether such a child will finish her schooling.

South Africa's constitutional democratic dispensation has over time developed a comprehensive response to these challenges including crafting a new funding model aimed at replacing dualism in the basic education system. Since 1994 "public funding per learner increased to about R11 000 per year by 2011" (TYR, 2014:47). The only persisting challenge to public schools across the board appears to be resource allocation and improvements in infrastructure, largely due to the backlog inherited from apartheid which continues to define South Africa's education system.

Thompson (2000:278) asserts that "although erstwhile all-white [universities] continued to receive the bulk of state funds for higher education, the government cut their subsidies quite deeply, prodded them to admit more and more black students and encouraged them to emphasise such practical subjects as accounting. These universities had to lower their entrance qualifications and shrink their humanities departments …".

The constitutional democratic government also introduced the National Qualifications Framework whose purpose was to "provide an organising matrix to direct the upward accumulation of educational awards, with multiple entry and exit points. It aimed to facilitate progression between the three phases of education and training – general, further, and higher education – as well as provide articulation between academic education and skills training" (Twenty Year Review, 2014:47). To connect skills development with the needs of the country's economy, the South African post-1994 democratic government has also established a variety of Sector Education and Training Authorities (Seta) catering for almost every sector of the economy.

The enactment in 1992 of the Social Assistance Act and the repeal of the 1944 Social Pension policy by the Transitional Executive Council brought with it many changes in the provision of social and welfare services in South Africa. The stringent means tests introduced by the 1944 Social Pension policy were abandoned in favour of non-discriminatory provisions which recognised South Africans as equals and consequently distributed social assistance benefits to qualifying recipients on an equal basis. The law had some serious defects. For example, it excluded child headed homes and their caregivers from accessing social assistance. Many of these children were either abandoned or orphaned by their parents.

To remedy these defects, the "democratic government established the Lund Committee [in December 1995] in order to evaluate the existing system of state support and to explore new alternative policy targeting children and families. The report of the Committee recommended a new strategy to replace the existing state maintenance grant. This strategy included a child-linked grant with a lower monetary value …" (Leibbrandt *et al*, 2007:33). Following these recommendations, in 1998 the Child Support Grant was introduced by the democratic government. Soon thereafter, it added the Care Dependency Grant (CDG) and the Foster Child Grant (FCG) to cushion vulnerable children and their caregivers against poverty. The care dependency grant assists caregivers in catering for children who need full-time care owing to their disability whereas the child foster grant caters for orphaned children.

There is widespread acknowledgement within and outside government "that social assistance through grants is one of its most effective poverty alleviation tools. [As such] The social Assistance Programme has been expanding at an unprecedented rate, with the number of beneficiaries increasing from 2,7 million people in 1994 to 16 million by 2016" (Twenty Year Review, 2014: 45). Additionally, "South Africa now spends close to 3,4 per cent of the gross domestic product (GDP) on social grants at a total of cost of about R120 billion to the national budget" (ibid). This is extra evidence that the democratic government is better than the whites-only government in how the latter has responded to social inequality.

Perhaps the biggest highlight of the post-1994 democratic government was the ratification, after widespread consultations, of the greatly lauded Constitution (a detailed discussion of which will follow in subsequent chapters). On the 10th of May 1996, the Constituent Assembly adopted what could be described as the document that finally entrenched democratic cultures, practices, values and institutions in South Africa. It is on this day that the new or final Constitution came into operation. Of significance is the fact that some sections and specifically its Preamble reflect the aspirations of the Freedom Charter which was adopted at the Congress of the People some forty years later. Like the Freedom Charter, there is a section in the Constitution that reads: "…. South Africa belongs to all who live in it, united in our diversity". The founding fathers were clearly endorsing a view expressed by President Mandela on the occasion of his inauguration - that South Africa will never again experience the oppression of one racial group by another. This expression is further succinctly provided for in Chapter 1, particularly section 1 of the Founding Provisions, which provide that "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.
d) Universal adult suffrage, a national common voter's roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness" (Constitution of South Africa, 1996:3).

As a constitutional democratic state, South Africa advocates for all the provisions spelt out in section 1 paragraph "(a) human dignity, the achievement of equality and advancement of human rights and freedoms, (b) non-racialism and non-sexism, (c) supremacy of the constitution and the rule of law and finally, (d) universal adult suffrage (the right to vote), regular democratic, free and fair elections" (ibid) "which supplies regular constitutional opportunities for changing governing officials" (Lipset, 1959:71). These are democracy's key features and are particularly important to appraising whether it is consolidating or retreating. These principles are also important because they elevate the constitution above every institution or individual. This signifies that the democratic "Constitution is the supreme/highest law of the Republic; law or conduct inconsistent with it is invalid, and the obligations imposed by it must be fulfilled" (Section 2).

Accordingly, all legislative and policy interventions of the democratic government mentioned above intend to give meaning and effect to the democratic Constitution. Every democratic institution or individual exercising authority must always do so in keeping with its spirit and letter. To this end, the democratic Constitution could be described as a working document whose purpose is to promote, advance and protect all that which will enable South Africa's democracy to endure. Finally, the Constitutional Court and other higher courts have been accorded constitutional powers to interpret and enforce human, political and civil rights inherent to a democratic society.

5.8 Reflection on Continuities and Dis-continuities: The Post-1994 Democratic Government's Interventions

The constitutional democratic state has introduced and advanced practices, values and institutions that are designed to strengthening democracy. The ruling ANC government's attempt at transforming the state institutions and the discourse associated with these abound. While we notice some progress in some areas, and we still have many lagging behind. Consolidating democracy and democratic gains, and transformation and redress have been central to the post-apartheid discourses. Mechanics, policy and legal instruments have been put in place based on such discourses. Three decades later, how impactful have these policy and legislative interventions been in strengthening the country's democratic trajectory? Importantly, how effective have democratic institutions, practices and values been in shaping the democratic government's response to promoting equal access to social assistance, better health care, housing, skills training and quality educational opportunities, clean drinkable clean water and proper sanitation to state just a few?

Most importantly, the majority in this country has effectively conjoined democratic dispensation to mean state institutions being reformed, and their working for the benefit of the masses. This has to be framed within the frame that this study views democracy as institutional mechanism to be appropriated, more broadly, as a political process through which public interests are promoted, respected and protected. The predominant view the new democratic dispensation should come with material, social and political well-being is thus palpable. Indeed, democracy should mean just more than having to take part in elections every few years. Such assertion emanates from the very production of privilege for white minorities through active role of the state structures and institutions. Hence, if the right political will exists and the necessary reforms are instituted, this country should enable all citizens to enjoy these benefits. Despite the constitutional reform (adoption of new constitutions), the state structure and institutional forms remained unchanged.

We should consider the various institutions of the state for this purpose. Increasingly, we have noticed that the legal institution of this state, through which the new democratic rights are to be dispensed, and through which the white-only democracy established and reproduced white privilege, has continued to reproduce the same outcome (see Madlalate 2019). Madlalate (2019) points out how the judiciary has continued to make use of the old legal framework and praxis to adjudicate matters in "the new democracy". Madlalate's (2019) work critically examines the continuities and discontinuities in produced and reproduced inequalities and segregation along racial and class lines. His central argument is that few have come to appreciate how the law was instrumental in creating apartheid geography, and this practice is carried over in post-apartheid South Africa to reproduce the same outcomes – the production of unequal and racialised geography.

This is evident in the persistent residential segregation, which is often dismissed as a legacy, and carried over into the post-apartheid South Africa through "market mechanism". However, what is apparent in these is that institutional forms and structures are at play, that were created by and to reproduce white-only democracy, yet the new dispensation unable to effectively

repeal or address. These have far-reaching implication, particularly entrenching inequalities in access to education and two-tier service provision (Gruijters *et al,* 2024). For example, the impact of the whites-only democratic government's discriminatory laws still reflect South Africa's basic education system and, more specifically, the school infrastructure. These effectively determine how the state is made visible and felt at the local level, and through this, the denizens taste the essence of the new dispensation. Social structures of inequality and exclusion are effectively institutionalised, ensuring continuities. The volume and frequency of public protests in the country are evidence to the general public discontent with current conditions that feature as continuation of the old. South Africa is estimated to host more than 13500 public protests (SA Human Rights Commission, 2018), and the bulk of these are service delivery protests. This suggests that citizens are clamouring for the presence of, and a new relationship with, the state.

To improve the social, economic and living conditions of the country's inhabitants, the new democratic government in collaboration with its social partners has adopted progressive labour laws, the largest social grants in the continent, and access to credit for small businesses. Additionally, the post-1994 democratic government has provided "through the popular Extended Public Works Programme (EPWP) more than 4 million work opportunities" (TYR 2014:41) targeting in the main unemployed youth, women, and people with disabilities.

The Institute of Race Relations (2016:4) asserts that "disposable income is defined as income that households receive after taxes have been paid. It is income that households can use to spend on whatever items they choose". The period between 1994 and 2015, according to the figures presented below, shows some positive change in disposable household income per capita. These statistics take "inflation into account, meaning that any increases in disposable income per capita of households reflect a real improvement in the income levels of South African households. In 2015, such income levels were 42% higher than they were in 1994" (ibid). The ANC-led government, with its social partners at NEDLAC, in attempt to improve social wages, recommended in 2017 to Cabinet, the idea of a National Minimum Wage (NMW) based on the Basic Conditions of Employment Act of 1997 and Labour Relations Act (LRA) of 1996. On the 1st of July 2018, the R3500 National Minimum Wage came into operation and has assisted in improving wages "of about 6.2 million workers, or 47,3 per cent of the workforce, including 90 per cent of domestic workers and 84,5 per cent of agricultural workers. Furthermore, 54,6 per cent of construction workers, and 48,2 per cent of wholesale and retail workers who earn less than R3500 per month" (Francis *et al*, 2018:3).

How well all citizens faired in this country shall remain an important measure of this change. Let us consider a few for the purpose of examining the changes and continuities. To begin with, this study worked on socioeconomic well-being as measured through access to employment. This is particularly chosen because it is through labour market participation that individuals and households attain income, which significantly, but not completely, determines their ability to command goods and services. Table 2 shows data for the unemployment rate (official measure) by population group, for five-year intervals from 1996-2021, plus 2024. The data here are consistent. Africans as a group continue to experience the highest unemployment rate, which is also above the national average, while whites have the lowest unemployment rate.

This gap worsens when we use an expanded definition of unemployment. Coloureds too experience the second highest unemployment rate. The most noticeable drop in the unemployment rate is registered for Indians.

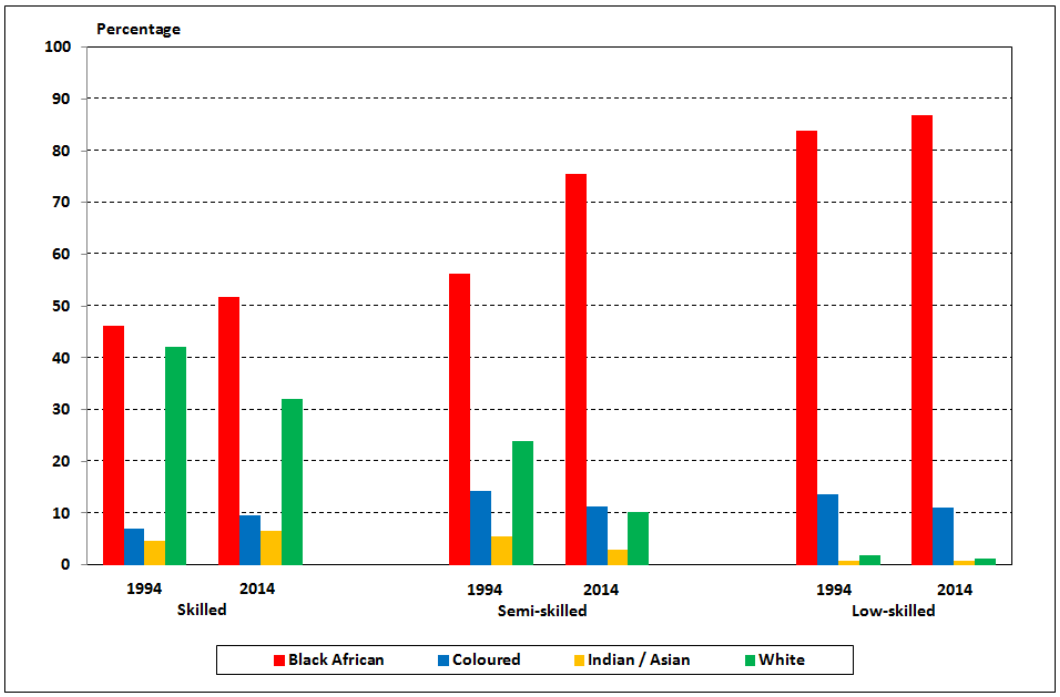
Table 2: Unemployment rate (official) by population group

Population Group	1996	2001	2006	2011	2016	2021	2024
African	27.4	35.5	30.1	29	30	37.8	37.6
Coloured	19.6	21.8	19.4	22.6	22	27.4	23
Indian	14.8%	18.2	9.6	11.7	11.1	15.5	12.6
White	4.8	5.9	4.4	5.9	6.6	8.6	9.2
National Average	26.6	29.2	25.2	25.7	26.5	44.4	36.9

Source: Stats SA, Stats in brief, Labour Force Survey

Indeed, the sheer number of people employed has risen, which is proportional to the increase in population size. Another good indicator of a shift in quality is the proportion of employment and the conditions of their employment. A close enough metric for this is employment based on skill level. The data below (for 1994 and 2014) shows that black Africans are disproportionally involved in the labour market as unskilled and semi-skilled workers. Over 80% of the low-skilled workforce in 1994 was composed of black Africans, and in 2014, this composition increased to close to 90%. By contrast, Indians and whites constituted less than 3% of the unskilled labour participating in the labour market in 1996 and, this hardly changed in 2014. Participation of white skilled and semi-skilled workers in the labour force is the highest compared to their population size.

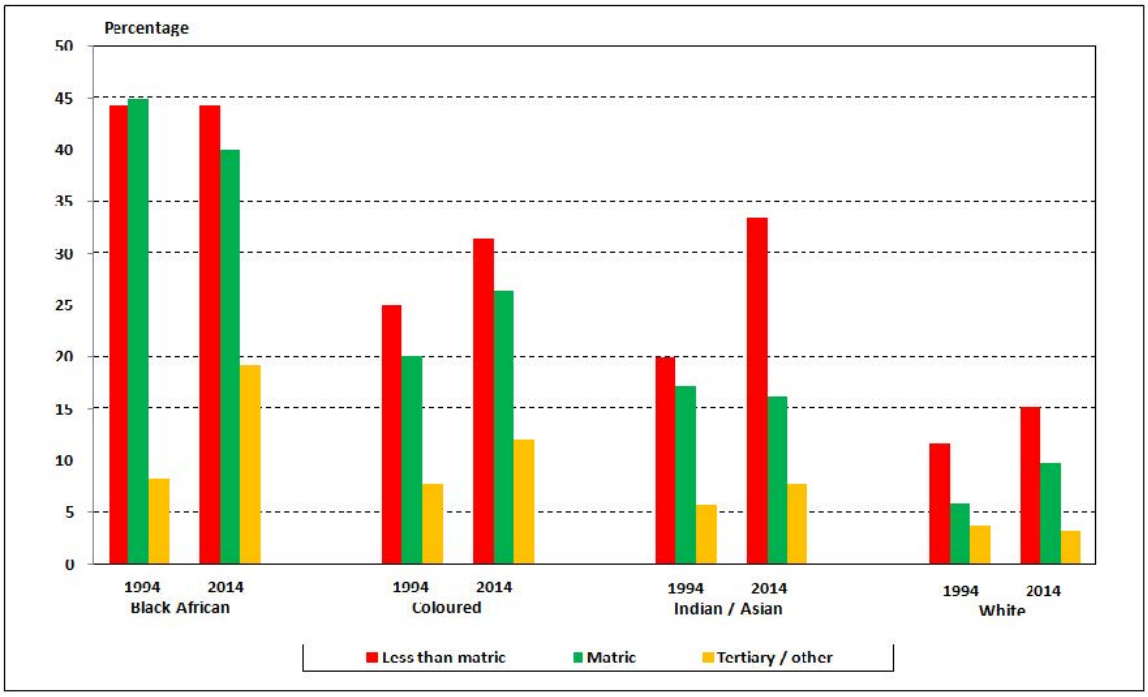
Figure 1: Employment composition by race and skill-level



Source: StatsSA (2014) Youth employment, unemployment, skills and economic growth, 1994–2014

This data is disappointing, and the shows the magnitude of the challenge we face, considering that the political economy of apartheid state was organised around reproducing cheap black labour – turning them into unskilled and semi-skilled labourers for its industries. The data from the StatsSA for 1994-2014 (reviewing 10 year), unemployment is the highest for black Africans, and the lowest for whites (educated or uneducated). What is troubling here is during this period the unemployment rate for Africans and Coloureds with post-matric education significantly increased from 1994 to 2014.

Figure 2: Unemployment rates (expanded definition) by population group and educational level



Source: StatsSA (2014) Youth employment, unemployment, skills and economic growth, 1994–2014

Reviewing the labour market absorption rate for 2011 and 2021, it is notable that Africans and coloured are the least likely to get employment, while their white counterparts enjoy a higher absorption rate. This is a crucial indicator of access to employment. These data have to be considered within the context of several interventions the post-apartheid state have instituted to address these. Multiple policy and legislative interventions are in place to address these legacies of apartheid. BEE and employment equity are crucial among these interventions. Thus, the question is, why do these challenges persist?

Table 3: Labour Market Absorption Rate

Population Group	**2011**	**2021**
African	34.6	32.6

Coloured	46.9	42.9
Indian	54.6	48.3
White	69	61.6
National Average	39.7	35

Source: StatsSA Census and LFS

There has also been an increase in the middle class. The SAIRR reports "that the number of registered motor cars (excluding commercial vehicles) has increased from 3 851 048 in 1999 to 6 905 939 in 2016 or by 79,3%" (IRR 2016: 12). Motor car registration is used by the IRR research as an estimate of the growth and size of the middle class.

The most important policy instrument of the state has been one of state supported housing project – which is colloquially called RDP. Indeed, this is a legacy of the 1996 Reconstruction and Development Programme (RDP) was expected to be the biggest game changer, ushering a new dawn and hope for South Africa. This was developed as a comprehensive social and economic policy, with the desire to chart a new path for the country. While the bulk of this policy is folded, to give way for a neo-liberal policy (GEAR), its state housing project managed to latch on. RDP is thus reduced to the provision of low-income housing subsidies for the poor and the working class. According to the Department of Human Settlement mentioned in the TYR (2014:105) since 1994 "some 3,7 million subsidised housing opportunities (including houses and service sites) have been provided to the very poor, providing a home to about 12,5 million people".

StatsSA's community study (2016:19, 59, 61, 66, 70, 74, 79 and 81) found "that the number of households with access to formal housing has increased by 131,3% since 1996. That translates to 1 042 formal houses built every day. For every shack erected after 1994, approximately ten formal houses have been built". Stats SA's community survey asserts that "the number of households with access to piped water has [also] increased by 110,4% since 1996…translating to a daily increase of 1 094 [households with piped water]. The number of households with access to electricity for cooking has increased by 228,5%...translating to an average daily change of 1 335" (ibid).

Table 4: Change in living conditions.

LIVING CONDITIONS BY HOUSING TYPE, 1996 AND 2016					
Indicator	1996	2016	Change (number)	Change (proportion)	Average daily change
Total number of dwellings/households	9 059 606	16 921 183	7 861 577	86, 8%	1 077
Formal[a]	5 794 399	13 404 199	7 609 800	131,3%	1 042
Informal[b]	1 453 018	2 193 968	740 950	51,0%	102
Access to piped water[c]	7 234 023	15 218 753	7 984 730	110,4%	1 094

Access to flush or chemical lavatories[d]	4 552 854	11 436 619	6 883 765	151,2%	943
Use of electricity for lighting	5 220 826	15 262 235	10 041 409	192,2%	1 376
Use of electricity for cooking	4 265 305	14 012 036	9 765 731	228,5%	1 335
Use of electricity for heating	4 030 850	6 370 000	2 339 150	58,0%	320

Source: Stats SA, Community Survey 2016:19, 59, 61, 66, 70, 74, 79, 81; Census 2001: Primary tables South Africa, Census 1996 and 2001 compared, 2004:79-98

While RDP housing projects are touted as a major success, there is a distinct criticism against it. The project has been unable to reverse apartheid racial/class geography and, instead it reproduces this. The democratic government's policies and legislative interventions have since 1994 have managed to repeal apartheid laws but are unable to repeal its outcomes. RDP housing project has managed to somehow help in tackling housing shortages, it has continued to recreate social structures of inequality along racial and class lines. As a result of these interventions more than 12,5 million South Africans have accessed to low-cost housing; however, it is questionable whether these houses could be accepted by banks as collateral – determining their access to credit and treating this as an asset. This is despite the fact that programme transfers rights/title of the piece of land on which these subsidised houses have been constructed to the recipients of the scheme and issues them with title deeds with the hope that they could use this in financial transactions between them and financial institutions.

Although widespread, these problems have not adversely impacted the learning outcomes of the whole basic education structure because according to the Institute for Future Research's Performance of the South African Education System report released in 2005 "black Africans passing Grade 12 have increased from just 259 in 1955 to 369 903 in 2015" (2005:3). Those improvements have impacted positively on higher education results because "in 2002, just 3,7% of South Africans had a [post-school] qualification. This proportion more than doubled to reach 8,3% in 2015" (StatSA General Household Survey, 2003:4). It could be argued that access to free tertiary education for the working class, the poor and the previously disadvantaged provided by the democratic government has helped to bolster these numbers.

The dawn of democracy also brought with it much-needed changes in the healthcare sector. For the first time in South Africa's history primary healthcare was extended to all citizens irrespective of their locality or station in life. The 14 health departments that existed during the whites-only democracy were collapsed into a single national department under the stewardship of one national Minister working with nine provincial Members of the Executive Council (MEC) responsible for health with a view to reversing the injustices of the past by formulating policies and laws that made healthcare accessible to all. The Constitution enjoined every state institution involved in its provision to ensure that the right to healthcare for all citizens as provided for in the Bill of Rights was progressively realised.

Medication for chronic illnesses such as Tuberculosis (TB), HIV/Aids and other illnesses were rolled out on a scale never seen before. The supply of life saving antiretrovirals were a world-

acclaimed success of the democratic government under former President Jacob Zuma, successor to Thabo Mbeki. Mbeki was viewed as an Aids denialist because of his unorthodox attitude to treatment. Many people, whose lives could have been saved succumbed to this virus. The "Minister of Health stopped government clinics and hospitals from using reasonably priced drugs that had seemed to be successful in Uganda and elsewhere in reducing the risk of HIV infections from pregnant women to their unborn children" (Thompson 2000:286). But Zuma's election to the Presidency prompted a change in policy which helped to increase the life expectancy of people living with HIV/Aids in South Africa.

The changes to life expectancy by gender between 2002 and 2017 are shown in Table 6 below. They should be viewed in the context of the damage caused by HIV/Aids in the decade following the democratic breakthrough. This period coincides with President Mbeki's term of office and demonstrates the policy uncertainties of his administration. Had it not been to civil society organisations, the situation could have been much worse. The intervention of the Constitutional Court in forcing the government to roll-out life-saving medication also contributed to changes demonstrated by Table 5 below.

Table 5: Life expectancy

LIFE EXPECTANCY AT BIRTH BY SEX, 2002-17			
YEAR	MALE	FEMALE	TOTAL
2002	52,9	56,6	54,9
2003	52,5	55,8	54,2
2004	52,2	55,3	53,8
2005	52,1	54,8	53,5
2006	52,3	54,7	53,5
2007	53,3	56,1	54,7
2008	54,3	60,6	58,5
2009	55,0	58,7	56,9
2010	56,4	60,6	58,5
2011	57,6	62,7	60,2
2012	58,5	63,6	61,1
2013	59,2	64,6	61,9
2014	59,7	65,1	62,5
2015	60,0	65,5	62,8
2016	60,6	66,1	63,4
2017	61,2	66,7	64,0
2002-17	15,7%	17,8%	16,6%

Source: Stats SA

Citizen's involvement in using democratic institutions to bring about policy changes, led directly to life expectancy improving and reaching 64 years in 2017. It could be argued that democracy enabled citizens led by Treatment Action Campaign (TAC) and the Congress of South African Trade Unions (COSATU) amongst others to force the democratic government to ensure the adoption of policies that positively impacted on the health of many South

Africans, especially the poor and the working class. Combined and consistent action – "an outcome of democracy, without which mobilisation and policy influence would not have possible" (Friedman cited in Gaventa and McGee 2010:13) resulted in changes to government policy and therefore the improvement of life expectancy.

The post-1994 democratic era could also be credited with introducing a successful social assistance intervention South Africa had ever seen. Vulnerable groups, mostly children, the aged and people with disabilities were for the first-time guaranteed government social support in an attempt to cushion them against poverty and hunger. The 2004 report by Samson et al.'s, authorised by the National Department of Social Development, confirms this. Samson et al. were commissioned to thoroughly examine the effect of the democratic state's social assistance intervention on "reducing poverty and promoting health, education, housing and vital services…...the impact on labour market participation and labour productivity, and the resultant impact on savings, consumption and composition of aggregate demand. The study found that SA's system of social security successfully reduces poverty... "(Leibbrandt et al., 2007:37). Democracy is therefore beneficial to South Africa's vulnerable groups and the 2004 and 2005 data in Samson et al.'s report confirms this.

Leibbrandt et al. add that (2007:37) …" the greatest further poverty reduction potential lies with the progressive extension of the Child Support Grant (CSG) to older age groups". The democratic government had in reaction to Samson et al.'s findings reviewed this grant and had 'gradually' raised the age limit to 18 years. The review further asserted that the "Old Age Grant was normalised so that blacks would also get a monthly income like their white counterparts, unlike pre-1994, when they received it bi-monthly. The age limit for men was gradually lowered from 65 to 60 to match the limit for women. The Disability Grant, Foster Care Grant, Care Dependency Grant, and the War Veteran's Grant were extended to all South Africans" (TYR 2014:54). The information offered here signifies the positive impact of social assistance intervention – and, by extension, democracy - on the most vulnerable in society especially children, women and people with disability.

A country's democratic institutions – particularly their strength or weakness are measured by how other countries respond to the country's economic needs. During apartheid, many foreign governments and multinational institutions began disinvesting because of South Africa's discriminatory laws. But "in just over a decade of transition from pariah to legitimate player, South Africa has asserted its presence on the continent through corporate and parastatal investments, which in turn generate trade. In doing so, South Africa has become pivotal to the flow of capital, goods and people on the continent" (Hudson 2007:129). Hudson (2007:132) proceeds to assert that "the trade imbalance between South Africa and the rest of the continent is further illuminated in the table below, comparing South Africa's trading partners by region".

Table 6: South Africa's top regional trading partners: figures for the first quarter of 2004, R Billions

REGION	TOTAL EXPORTS	TOTAL IMPORTS
European Union	20,50	26,82
East Asia	10,96	12,16

North America	7,02	6,22
Whole of Africa	7,01	1,90
Middle East	1,96	2,43

Source: Trade and Industry Policy Strategies June 2004

South Africa was in urgent need of direct foreign investment (FDI) especially from Western countries. South Africa, like many developing countries of the South, relies on foreign direct investment to boost their economies with a view to stabilising their democracies. By attracting FDI South Africa hoped to reduce inequality which could threaten democratic consolidation. The success of the country's push back against inequality, poverty, and unemployment could only be achieved through sustained financial investment from both foreign and domestic sources. According to Rodrik and Hariri (1999) "countries do not attract substantial foreign investment if they do not first attract domestic investment which stimulates growth and makes it attractive for foreign capital to invest".

In 1994, when South Africa became a constitutional democracy, she adopted economic policies that were seen as means to make international and domestic capital comfortable to invest in the country. The international environment has sometimes not been favourable as was seen between 2006 and 2008 when the world experienced an economic crisis. This had a direct impact on South Africa in that "foreign direct investment into the economy declined, but this trend was reversed in 2018, for FDI inflows totalled R70,7 billion, compared to R26,8 billion in 2017. FDI inflows in 2018 were the highest since 2013, mainly propelled by considerable inflows during the second and third quarters of the year" (IDC 2019:23). The UN Conference on Trade and Development (UNCTAD) Global Investment Trends Monitor (2019) attributes these developments to amongst others "investments [which] were predominantly devoted to mining, petroleum refinery, food processing, information communications technologies and renewable energy".

Denisia (2010:53-56) asserts that this is positive because "FDIs can increase productivity and competitiveness in the host country. … encouraging more FDI can also increase GDP (gross domestic product) by increasing output produced, especially in the manufacturing sector, which will help increase exports". Denisia appears to be affirming that foreign direct investment is essential to boosting economic growth, employment and development which are important for democracy to endure beyond the short-term.

Whereas Mpanju (2012:126-139) – a proponent of the export-led development assumption – asserts "that the basic idea of increasing exports is that it increases the total factors of production because of its impact on economies of scale and other positive externalities such as transfer of technology, improving skills of local workers, managerial skills and productive capacity of the economy". South Africa's investment into the rest of Africa has increased exponentially since 1994 – a development that would not have been realised had apartheid not been overthrown.

Both the export-led and foreign direct investment-led growth assumptions are in this context very important in helping stimulate employment creation, development and economic growth. In the South African context, these assumptions have helped attract international companies.

As a result, there has been increased investment which contributes to economic growth, development and employment creation. Increases in employment since 1994 and the advancement in the living conditions of many South Africans shows an important link between FDI and democracy. In a nutshell this signifies that the current South Africa state is an desirable destination for foreign direct investment than apartheid South Africa was.

5.9 Conclusion

The post-1994 democratic state's legislative and policy interventions have shown some positive outcomes. However, by no means these are at the rate required to tackle the three most formidable challenges of the country – unemployment, inequality and poverty. Przeworski et al, (2009:86) ask: "if a country, any randomly selected country, is to have a democratic regime next year, what conditions should be present in that country and around the world this year?" They answer: "democracy, affluence, growth with moderate inflation, declining inequality, a favourable international climate, and parliamentary institutions" (ibid). In South Africa, before the 1948 elections, there was a whites-only democracy, white South Africans were living in affluence and the world, having emerged from a second World War was relatively calm, which enabled the perpetuation of whites only democracy. This chapter has demonstrated that during the 1940s white South Africans were empowered whilst black Africans were oppressed and exploited. White South Africans were empowered because, unlike other racial groups; they could elect and be elected to positions of authority which gave them the right to determine the country's policy direction. Consequently, they were enabled to change their living conditions resulting in declining inequality amongst the white population. Examples include the NP government's interventions in the economy in favour of Afrikaans speaking South Africans, who were poor owing to tight British control of all the levers of the state including the economy.

The NP government also introduced and then tightened discriminatory laws which included but were not limited to influx control, suppression of political activity, the incarceration of black freedom fighters, the enforcement of pass laws and the unfair and unequal access to educational opportunities. This triggered opposition from black Africans and other progressive South Africans leading to the adoption of the Freedom Charter. The Charter became a blueprint that informed the struggle for the total emancipation of South Africans from oppression and repression. In response, the government reformed some discriminatory laws, values and practices. This gave coloureds, Indians and black Africans limited freedoms. This chapter has also shown that these reforms were a strategy by the NP government to prolong its stay in state power.

Having realised that the NP government was not serious about democratising the state, South Africans across the colour line intensified their struggle and mobilised international support which culminated in economic sanctions. These pressures caused divisions within the NP and Afrikaner academics and businesses began reaching out to liberation movements with a view to initiating negotiations between parties. These endeavours resulted in the Convention for a Democratic South Africa (CODESA) which culminated in South Africa's first democratic elections held on the 27th of April 1994. The ANC won the elections, and Nelson Mandela

became South Africa's first black President with FW de Klerk and Thabo Mbeki as first and second deputy President respectively.

Mandela's government began deracialising South Africa by repealing all discriminatory laws in favour of practices, values and laws that reflected all the country's demographics. Many laws were introduced with a view to helping the government strengthen democratic institutions, improve economic growth, and reverse inequality. These interventions focused on a range of spheres which included social and healthcare reforms, access to electricity, water and proper sanitation, spatial planning, and the provision of houses for the working class and the poor. These interventions are designed to help South Africa consolidate the democratic dividend and consolidate democracy.

Nonetheless, the country is still facing growing discontent, expressed through mass protests. These protests are, for large part, service delivery protests – which are equivalent to a demand for the state to make its presence felt. South Africa remains one of the most unequal and struggling with high levels of poverty and unemployment. We have also seen how structures, institutional forms and momentums continue to shape structures of social inequality in the country.

CHAPTER SIX

6. The Constitution and Democratic Institutions in Strengthening or Weakening South Africa's Constitutional Democracy

6.1 Introduction

Arguably, much institutions are incorporated into the new democratic state are inherited from the apartheid state formation. The challenge for the ANC-led government is thus how to retain these institutions, while reforming them under and through the new constitutional order. The 1996 constitution is central to establishing the break from the past, enabling new political space for inclusive politics. This chapter attempts to assesses whether the 1996 Constitution which established the South African constitutional democratic era has generated values, institutions and practices which help to strengthen or weaken South Africa's nascent constitutional democracy. It assesses whether the almost three-decade-old South African democratic experiment is consolidating or retreating. This is useful to understanding the South African democratic trajectory, as a political process through which public and societal interests are not only respected but protected and promoted.

Democratic consolidation, as was explained earlier, should be understood to mean "making new democracies secure, extending their life expectancy beyond the short term, making them immune against the threat of authoritarian regression, of building dams against eventual reverse waves" (Schedler 1998:91). Schedler (1998:91-92) asserts that democratic consolidation "has come to include such divergent items as popular legitimation, the diffusion of democratic values, the neutralisation of antisystem actors, civilian supremacy over the military, the elimination of authoritarian enclaves, party building, … the stabilisation of the electoral rules …". More importantly it includes "the routinisation of politics, the decentralisation of state power, the introduction of mechanisms of direct democracy, judicial reform, the alleviation of poverty, and economic stabilisation" (Schedler 1998:92).

The mechanism for direct or representative democracy must satisfy the seven prerequisites for election in a majority rule advanced by Dahl (1989:221) which are "(1) elected officials; (2) free and fair elections; (3) inclusive suffrage; (4) the right to run for office; (5) freedom of expression; (6) alternative information; and (7) associational autonomy". O'Donnell (1996:35) clarifies that "attributes 1 to 4 tell us that a basic aspect of a polyarchy is that elections are inclusive, fair and competitive. Attributes 5 to 7 refer to political and social freedoms that are minimally necessary not only during but also between elections as a condition for elections to be fair and competitive".

Much of the discussion in this chapter, thus, uses these persuasions as its starting point. That said, some scholars are critical of the usefulness of the term democratic consolidation. They

criticise consolidation as a way of understanding democratic prospects. O'Donnell (1996:34) in his analyses some two decades and half ago, traced the development of democracy in the preceding "two decades [to] many countries [that] have rid themselves of authoritarian regimes. [He rightly argued that] there are many variations among these countries. Some of them have reverted to new brands of authoritarianism, while others have clearly embraced democracy". He adds: "still others seem to inhabit a grey area; they bear a family resemblance to the old established democracies, but either lack or only precariously possess some of their key attributes. The bulk of the contemporary scholarly literature tells us that these "incomplete" democracies are failing to become consolidated or institutionalised" (ibid).

O'Donnell appears to be arguing that the absence of a universally acceptable definition of democracy makes it impossible to properly locate democracies in either the "complete" or consolidating or the "incomplete" or retreating paradigm. He (1996:38), asserts that "democracy and consolidation are terms too polysemic to make a good pair". He (1996:37) adds that "… this mode of reasoning carries a strong teleological flavour. Cases that have not arrived at full institutionalisation, or that do not seem be moving in this direction are seen as stunted, frozen, protractedly unconsolidated, and the like. Such a view presupposes that are, or should be, factors working in favour of increased consolidation, but that countervailing obstacles stymie a process of change that otherwise would operate unfettered". Although O'Donnell (1996:46) is a proponent of democracy, he contends that there is a "need to improve our conceptual tools in the complex task of studying and comparing the full set of existing polyarchies. It is through a nonteleological, and indeed, nonethnocentric, positive analysis of the main traits of these polyarchies that we as scholars can contribute to their much-needed improvement". In a nutshell, he calls on scholars to avoid mischaracterising certain democracies based on their dislike for such systems.

Friedman (2011:35) asserts that "consolidation literature lacks a specified theory of how democracies may be sustained and of how we could tell a 'completed' democracy from one which is not". Friedman (2011:28), like O'Donnell, asserts that "an examination of the consolidation approach shows that it does not enable us to tell a certain from an uncertain democracy. It cannot provide sure guides for democracies' survival prospects, while its attempts to sort out the finished product from the aspirant democracy is vague, teleological and ethnocentric, concerned less with trying to understand new democracies with testing whether they are progressing towards an idealised representation of the democracies …" of the West.

This study is fundamentally opposed to the reasoning put forward by the sceptics of democratic consolidation, because their argument seems to unwittingly infer that democracy cannot evolve or reach a stage beyond 'incomplete'. Their inability to see that democracy, like all other systems, can evolve appears to be predicated on the assumption that societal advances and scholarly contributions to conceptual improvement of democratic consolidation have stagnated or have reached a cul de sac. That beyond 'complete' democracies there is no other alternative but an undefined situation where citizens and other political actors will, because of uncertainties, lose their right and freedoms to determine their own destiny. Proponents of consolidation do not argue that democracy will reach a "natural endpoint" (Friedman 2011:36) but that consolidation is a phase towards "a state of political being in which none of the major

political actors consider that there is any alternative to democratic processes to gain power" (Linz 1990:156) or as Linz and Stepan (1996:21) puts it the "only game in town". According to Przeworski (1991:26) this is a circumstance in which "no one can imagine acting outside democratic institutions, or in the language of game theory, democracy is consolidated when compliance …constitutes the equilibrium of the decentralised strategies of all the relevant forces". What sceptics are failing to appreciate is that the inability by proponents of democratic consolidation to critically examine and define the term does not negate the fact that democracy and therefore its consolidation remains the most popular form of a political practise in nearly all the nations of the globe and that its evolution is and remains a matter of great interest to democratic students and scholars.

The preceding chapter posed the question; "what pattern of economic, social, cultural and other conditions is most favourable to the rise of democracy" (Sorensen, 1993:25) and were these conditions present in the South African situation. South Africa, unlike other countries, had seen political instability, frequent and intense strikes in all sectors of the economy since the 1970s, de-investment, economic sanctions, and an economy near collapse. Regardless of these challenges, the country did not lose her standing as the most industrialised and modernised nation on the African continent. "Modernisation and wealth will always be accompanied by a number of factors conducive to democracy: high rates of literacy and education, urbanisation, the development of mass media. Moreover, wealth will also provide the resources needed to mitigate tensions produced by political conflict" (Sorensen, 1993:26).

6.2 Democratic Constitutionalism: Forging the New Dawn

In South Africa's context, April 1994 signifies "an official end to the country's segregationist and authoritarian past. In its place was born a mix of constitutional, participatory and representative democracy delivering universal franchise, formal equality before the law, avenues for citizen participation in governance, and statutory institutions supporting democracy" (Graham, 2020:28) which are a focus of this chapter. What is political participation and are South African citizens actively involved in this process? Morlino (2011:202) defines it as; "the entire set of behaviours, be they conventional or unconventional, legal or borderline vis-à-vis legality, that allows women and men, as individuals or groups to create, revive or strengthen group identification or try to influence the recruitment of, and decisions by political authorities in order to maintain or change the allocation of existing values". According to Morlino and Carli (2014:15) "conventional participation electoral participation; membership in political organisation, interest associations and social movements; and attendance at public forums. Non-conventional forms of participation refer to direct political action through legal and illegal protests, strikes, demonstrations, riots and boycotts". In South Africa, since 1994, the most form of popular political participation has been voting for public representatives. The table below shows that electoral participation remains one of the most popular forms of political participation.

Table 7: Republic of South Africa General Elections Results, 1994 – 2019

Election year	1994	1999	2004	2009	2014	2019
Registered voters	No voters roll	18 172 752	20 674 926	23 181 997	25 388 082	26 756 649
Voter turnout	19 726 610 (86.7%)	16 228 462 (89.3%)	15 863 558 (76.7)	17 919 966 (77.3%)	18 654 771 (73.5%)	17 672 767 (65.99%)
Valid votes cast	19 533 498	15 977 142	15 612 671	17 680 729	18 402 497	17 436 143

Information obtained from the Electoral Commission of South Africa website.

Schulz-Herzenberg (2019:49) contends that "South Africa's voting population has grown by 13 million from 22.7 million in 1994 to 35.8 million in 2019". Graham (2020:32) asserts that "despite this significant growth, the number of actual registered voters has declined relative to it. Of the 35.8 million people eligible to vote in 2019, only 74.5% registered to do so, leaving 9.8 million who chose not to register". These numbers should, however, not be taken to mean that voter participation has lost its popular form of political participation among South Africans. Rather, this points to a disengaged citizen, owing to several challenges including failure to deliver on electoral promises by the governing party. However, public representatives across the political spectrum can still point to this continued participation as giving them the necessary legitimacy and the authority over the South African state. Enjoying legitimacy allows political actors in government to pass and enforce laws, pass the budget, and appoint heads of various democratic state institutions. Those appointed to democratic state institutions are expected to ensure that those institutions are not only reactive to the aspirations of the country's inhabitants, but that they also "bear the major responsibility to ensure the progressive realisation of socioeconomic rights" (Ngang, 2014:658). All these democratic state institutions are compelled by the Bill of Rights enshrined in the Constitution to ensure the realisation of all rights – the first-, second- and third-generation rights. All these rights enjoy "constitutional protection and judicial enforcement …" (Mubangizi, 2006:3) and are meant to help the democratic government change the political, social, civil, and economic conditions of the most defenceless in society. It "[is perhaps] … one of the few national constitutions that expressly recognises socio-economic rights as justiciable rights" (Moyo, 2016:2) "which should at the very minimum … be … protected from invasion" (Mubangizi, 2006:3).

The constitution has also created democratic institutions such as the National Assembly, Committees of the National Assembly, the National Council of Provinces, procedures of the National Council of Provinces, Committees of the National Council of Provinces, legislative authority and the national legislative process, the President and the legislature, Provinces, the management of conflicts between Act of Parliament and provincial laws, local government, the Judiciary, and its role, plus the Chapter 9 institutions. Each of these institutions will be examined to enable the reader to form their opinion on whether these institutions are indeed helpful or not in the democratisation of South Africa.

6.3 The Parliament, Judiciary, The Executive and Promotion of Democracy

As already mentioned, the final Constitution (1996) which succeeded the 1993 Interim Constitution established the parliament of the Republic giving it a distinct law-making function. Parliament is one of the three arms of the state and according to Taljaard and Venter (2001:25) it "consists of two Houses, the first House being the National Assembly and the second House the National Council of Provinces. Together these two Houses participate in the legislative process as set out in the Constitution". They add that "the National Assembly is elected to ensure government by the people under the Constitution. It provides a national forum for public consideration of issues via the elected representatives of the people. Members of the Assembly are responsible for passing legislation and for scrutinising the actions of the Executive (Section 42(3))" (2001:25).

The NCOP's purpose is to "represent the interests of the nine provinces and to ensure that they are taken into account in the national sphere of government. The NCOP does this mainly by participating in the national legislative process and providing a national forum for public consideration of issues that affect the provinces (Section 42(4))" (2001:25). These two houses make laws that govern South Africa and its people. The ANC has since 1994 been a governing party in both these houses since it has enjoyed a sizeable majority. According to Taljaard and Venter (2001:26) "of the 400 members of the National Assembly, 200 are elected using party lists. The remaining 200 members are elected on the basis of provincial party lists; each province is entitled to a fraction of the 200 members in accordance with its relative population size". They add that "the present 200 composition of the National Assembly is as follows: Eastern Cape 27, Free State 14, Gauteng 46, KwaZulu-Natal 38, Mpumalanga 14, Northern Cape 4, Limpopo 20, North-West 17 and Western Cape 20". According to Faure and Venter (2000) "several leading academics and practising politicians have called for reform of the electoral system in South Africa. They argue that the proportional system of electoral representation does not hold members of the National Assembly accountable to their constituencies …". As such "the electoral system that is proposed is similar to the German model in a number of ways. The dual First Past Post (FPTP) single member constituency and proportional representation list system should be seen as a proportional system of representation with a geographic element" (Taljaard and Venter 2001:29). It is for this reason amongst others that at the time of completing this study, the Minister of Home Affairs as the political head responsible for the Electoral Commission of South Africa, was preparing a piece of law to allow independent candidates to contest elections based on a hybrid model of both party lists and constituency based electoral system. There are attempts to ensure that this system of electing members of the National Assembly and provincial legislatures is implemented in time for the 2024 national and provincial elections.

Section 49(1) of the Constitution provides that the National Assembly is elected for a term of five years. According to Taljaard and Venter (2001:29) "the President must dissolve the National Assembly if it has adopted a resolution to dissolve with the majority vote of its members and three years have passed since the election of the Assembly (see also Section 50(1)

of the Constitution)". Accordingly, "if the National Assembly is dissolved under the circumstances highlighted above, or when its five-year term expires, the President must call and set dates for an election by proclamation in the Government Gazette" (Taljaard and Venter, 2001:29).

The National Assembly enjoys inherent powers to initiate legislation affecting every part of human life within and outside of the boundaries of the republic. It has the authority to "consider, pass, amend or reject any legislation before it and must provide for mechanisms to ensure that all executive organs of state at the national level are accountable to it" (Taljaard and Venter, 2001:29). All laws that were found to be offensive, discriminatory, or not in keeping with the country's democratic ideals have since 1994 been scrapped, repealed or changed.

The Speaker and Deputy Speaker are responsible for the functioning of the National Assembly and its committees. They are assisted by the Whips of all parties represented in the National Assembly to maintain discipline and determine the programme of the Assembly. The National Council of Provinces falls under the joint leadership of the Chairperson and Deputy Chairperson who perform similar functions to the Speaker and Deputy Speaker of the Assembly. They are also supported in maintaining discipline by the Whips of political parties represented in the NCOP.

These are "specialised groupings of MPs and NCOP delegates to which much of the work of Parliament is delegated. Since there are too many issues to be debated in Parliament, it is in the committees that issues are more fully debated" (Taljaard and Venter, 2001:43). These committees do permit the public to make submission on any issue affecting them. They also undertake public participation programmes on critical policy issues or proposals for Constitutional amendment before voting in parliament. This promotes participatory democracy and ensures that public representatives are held accountable for their actions or failure to take action.

(a) Portfolio Committees

The National Assembly has a myriad of committees covering almost all the departments and Ministries of government. The National Council of Provinces has selected committees, with similar functions. These committees have the powers to summon any Minister, Departmental Head, head of State-Owned Enterprises, Premier, Chapter 9 institutions or any institution that derives its existence from the Constitution. Portfolio Committees cannot summon members of the judiciary, because it is another arm of the state that is independent from both the executive and the legislative arms of the state. Judges and judicial conduct are immune from parliamentary scrutiny. Judicial conduct in this country is monitored by the Judicial Service Commission made up of members appointed by the President, political parties in the National Assembly and the judiciary.

(b) Ad hoc committees

Ad hoc committees as the term suggests, "are appointed to deal with special matters and assignments, after which they are dissolved. … A committee may meet and function while Parliament is not in session" (Taljaard and Venter 2001:35).

(c) Constitutionally prescribed committees

These are creatures of the Constitution, and their roles and responsibilities are governed by it. The following constitutional committees are currently in existence: the Joint Committee on Finance; the Joint Committee on Human Rights Commission; and the Joint Committee on the Public Protector. As such the National Assembly, the President or the National Executive (Cabinet) cannot tinker with their powers and functions unless with a Constitutional amendment.

(d) Statutory committees

South Africa currently has two committees created by an Act of Parliament. The Act further explains their powers and functions. The two committees are the Joint Standing Committee on Defence and the Joint Standing Committee on Intelligence.

(e) Joint Committees

Joint committees as the name suggests, consists of members of the National Assembly (NA) and the National Council of Provinces (NCOP). In South Africa there are only two such committees that are fully operational and they are the Joint Committee on Members Interests and the Standing Committee on Public Accounts.

Almost all Bills that become Acts of Parliament require the signature (assent) of the President before they become law. The President as Head of State and of the Government is enjoined to ensure that all laws, executive conduct, and the NA and NCOP conform with the values underpinning the country's 1996 Constitution. This is very important in a constitutional democracy as it enables citizens to challenge the conduct or actions of the President if they feel that executive action tramples on their rights and freedoms.

It should be noted that South Africa has three-ties of government (local, provincial and national), each with its own legislative and executive body. This has often led to an overlap in decisions and conflict between Acts of Parliament and Provincial Laws. According to Taljaard and Venter (2001:47) "the Constitution rules that if a court cannot resolve a conflict [between an Act of Parliament and provincial laws], the national legislation prevails over the provincial legislation … It further instructs courts to prefer reasonable interpretation of the legislation or constitution that avoids a conflict over any alternative interpretation that may result in a conflict". Finally, "a decision by a court that legislation prevail over other legislation does not automatically invalidate the other legislation, but it does become inoperative for as long as the conflict remains" Section 148, 149, and 150 of the Constitution). In South Africa's situation there are very limited instances wherein the provincial laws or constitution conflicted with an Act of Parliament or the national Constitution.

Section 84 and 85 of the Constitution confers executive powers on the President who is both the head of state and the government. The President should first be a member of the National Assembly who, upon assuming the responsibilities of President, relinquishes membership of the Assembly. Venter (2001:59) asserts that "the President may serve only two five-year terms of office, except when he or she fills a vacancy left by a previous incumbent. The President can be removed from office (impeached) on the grounds of serious misconduct or incapacity

by a vote supported by two-thirds of the members of the National Assembly (see also section 89)". Since 2014, members of the National Assembly have used this constitutional provision but failed to remove a sitting President. Opposition political parties have failed in their attempts because the ANC is the majority and all presidents without exception since 1994 are members of the organisation.

The President, as the Head of the national Executive; appoints members of the executive, chairs the cabinet and appoints heads of the national departments (Directors-General and Deputy Directors-General), State-owned Enterprises, Chapter 9 institutions, Ambassadors, Envoys, heads of the Courts, Boards of the State-Owned Enterprises as well as the Chiefs of the Army (air force, military and navy), Police and Intelligence Services. The Constitution enjoins the President and the National Executive to appoint men and women who are fit and proper for these positions.

The Cabinet or the National Executive "consists of the President, the Deputy President, and Ministers. The President appoints [the Deputy President and] Ministers from members of the National Assembly. [In addition] the President may appoint up to two members from outside the National Assembly to Cabinet". The President, may, in addition to Ministers, appoint Deputy Minister to help members of Cabinet perform their duties. Currently, deputy ministers are not members of the national executive or Cabinet. Members of the national executive including the President are precluded by law from taking any other paid employment as they are fulltime functionaries of the state (see sections 91-96). All democratic constitutional creatures do not enjoy unlimited powers. Each of the three arms of the state have a duty to ensure that none of the other arms encroaches on its functions by usurping powers that do not belong to it. Section 2 provides that any conduct or law that conflicts with the Constitution is invalid. This makes the Constitution, not parliament, the executive or judiciary, the supreme law of the land.

Currently, the President is facing allegations that he exposed himself to situations that compromised his office and therefore violated the Constitution. The allegations relate to the theft of undisclosed foreign currency at his private residence; PhalaPhala, which the President allegedly failed to report to law enforcement. Various state agencies including the Public Protector are investigating the conduct of the President, before, during and after the incident. This is a matter that will test the endurance and independence of the country's democratic institutions. The test will be whether they can withstand political pressure and, regardless of the outcome of their investigations, discharge their responsibilities without fear, favour or prejudice.

Successive Cabinets since 1994 have established various subcommittees whose responsibilities is to ensure that there is proper coordination of the work of government. The following are Cabinet committees that are known to exist:

- Economic Affairs (Finance, Trade, Labour, and Water Affairs)
- Social Services (Education, Health, Housing and Welfare)
- International Relations (International Relations and Cooperation and Defence)
- Intergovernmental Relations (Provincial and Local Government), [and]

- Criminal Justice and Crime Prevention (Home Affairs, Police, Justice, and Correctional Services).

In addition, "the Cabinet has a formal Secretariat to draw up and circulate agendas, keep, and circulate minutes and attend to general administrative affairs. The cabinet meets regularly throughout the year, usually on Wednesday. In the interest of open governance, the Cabinet Secretariat regularly issues press statements of Cabinet decisions and gives the electorate a glimpse of the President's schedule of activities" (Venter, 2001:79). Knowing the schedule of activities of the President enables the public to hold the incumbent accountable.

6.4 The Role, Powers, and Functions of Provincial Governments

According to Welsh (1994:226) "almost every aspect of South Africa's current nine-province dispensation has its origins in the constitutional negotiations that preceded the first post-apartheid election in April 1994. However, a conception of the current configuration predates deliberations of the constitutional negotiators. The DBSA has been giving currency to a nine-region configuration since 1982". The current composition of the country's nine provincial legislatures is as follows: Eastern Cape has 72 Members of the Provincial Legislature (MPLs), Free State has 30, Gauteng 80, KwaZulu-Natal 80, Mpumalanga 51, Northern Cape 30, Limpopo 64, North West 38 and Western Cape has 42. The fact that the current nine-province dispensation has its origins in apartheid confirms that not everything that apartheid created was discontinued by the post-1994 democratic government. Those practices and institutions, especially those that helped enhance the delivery of services, were maintained and strengthened.

According to Besdziek (2001:172) "the legislative authority of the province is vested in that province's legislature by the Constitution. A provincial legislature has the power to legislate on any matter listed in Schedules 4 and 5, or on those matters assigned to it by national legislation, and on any matter that is reasonably necessary or incidental to the effective exercise of the powers accorded in Schedule 4(section 104(1)(b) and (4))". Furthermore, the provincial legislature through its standing committee's exercises oversight over the provincial executive and its administration. "Specifically, a provincial legislature must develop mechanisms for:

- Ensuring that all provincial executive organs of state in the province are accountable to it.
- Maintaining oversight of:
  - The exercise of provincial executive authority in the province, including the implementation of legislation
  - Any provincial organ of state (section 114(2))" (Besdziek 2001:176).

Provincial legislatures have in the past failed to exercise their responsibilities over the executive leading to serious incidents such as the 'Life Esidimeni' scandal in Gauteng in which hundreds of disabled people lost their lives due to the negligence of the contractors appointed by the Department of Health. In Limpopo, the failure to provide oversight over the provincial executive led to the late delivery of stationery in public schools during 2015/16. In

Mpumalanga, a school child fell into a pit latrine and lost his life due to the failure of the government to provide proper sanitation.

A variety of sectors including political parties have expressed concern about the role of these Standing Committees and "… by late 1997, a debate had begun to simmer in the party [ANC] and government circles on the role of standing committees in provincial legislatures throughout the country. The broad thrust of the debate seems to be that, in the absence of an extensive primary policy and legislative role like that of their national counterparts, provincial standing committees would do well to focus on their oversight function …" (Senay & Besdziek 1999:13).

The Constitution vests the executive authority of the province in the Premier and the Executive Council. Section 125(2) provides that "the Executive Council is responsible for:

- Implementing the legislation that is passed in a province.
- Implementing national legislation that applies to the competencies listed in Schedule 4 and 5
- Administering in the province national legislation outside of Schedules but for which administration has been assigned to the province.
- Developing provincial policy
- Coordinating and overseeing the functioning of the province's administrative departments".

Each Provincial Executive is led by a Premier who may appoint up to ten Members of the Executive Council (MECs) from among members of the provincial legislatures (MPLs). The Premier assigns and delegate powers and authority to each of these MECs as provided for by the Constitution. The Premier and MECs are accountable to the provincial legislature through provincial standing committees which consist of all parties represented in the legislature. Members of the public who are affected by the executive function may be invited to the standing committee to give advice.

6.5 Local Government Structures and Functions

Zybrands (2001:201) defines local government as "that sphere of government closest to its constituencies and involved in rendering a wide range of services that materially affect the lives of the inhabitants residing within its area of jurisdiction". Local government in South Africa is another creature of the 1996 Constitution and plays an important role in promoting participatory democracy at local level. The table below illustrates the contact that South Africans have made with a variety of stakeholders including local government for the period under review.

Table 8: Promotion of participatory democracy at local level

During the past year, how often have you contacted any of the following persons about some important problem or to give them your view? ('once or more than once')					
	2006 %	2008 %	2011 %	2015 %	2018 %
A local government councillor	23	27	26	32	33
A local representative of the National Assembly	5	12	5	5	9
An official of the government ministry/agency	6	13	7	8	15
A political party official	15		12	13	17
A religious leader	32	25		32	29
A traditional leader	16	13		16	15
Some other influential persons	12	13			

Afrobarometer survey results: 2006; 2008; 2011; 2015; 2018

According to Afrobarometer (2015:42) "less than a third of those interviewed have contracted a local government councillor to give them their view on an issue. This is, however, considerably higher than the average 7% and 10% of people who have contacted a representative to the National Assembly or a government official respectively. In addition, at local government level, a large majority (77%) believe that local councillors 'never' or only 'sometimes' try their best to listen …". Whereas "a 2018 survey found that 65% of the respondents trust local government councillors just a little or not at all" (Afrobarometer, 2018:33) and, adds Graham (2020:38), "88% believe that local government councillors are involved in corruption. These low levels of contact and trust between people and their local councillor is a cause for major concern, especially as local government is the sphere perceived as closest to the people and is therefore potentially more capable of facilitating participation". People's concerns about their councillors are born of the fact that "local government has been plagued by serious problems in the last two decades, including a lack of appropriate financial and management skills, political interference and infighting" (Paradza, Mokwena & Richards 2010:91). According to a report from the Department of Cooperative Governance and Traditional Affairs (2009:11) "a culture of patronage and nepotism is now widespread in many municipalities… the formal municipal accountability system is ineffective and inaccessible to many citizens".

Post the 2021 November local elections, the situation has become even become more serious, especially in most metropolitan areas. In six, out of the eight metropolitan areas, the 2021 local government elections did not produce an outright winner, forcing political parties to form coalitions– a new phenomenon in South Africa's politics. The result has been unstable coalitions which have made municipal accountability almost impossible for citizens. Since local government is the sphere closest to the people; these instabilities pose a serious threat to the country's democratic trajectory. Local politicians, it appears, have put their interests above those of the people who elected them to office. They rush, it seems, to occupy an office to pursue party political interests rather than serving residents. The current struggle amongst many

political parties has been about who occupies the mayoral seat and not about whether residents have water, electricity and other basic services required for daily living.

6.6 The Judiciary: Law-making and Interpretation in an Inclusive Democratic State

This section focuses on the make-up of the country's courts, whose role in enforcing democratic and socioeconomic rights will be assessed later. Democracy can only consolidate in an environment where there is respect for the rule of law, an independent judiciary, and a gradual decrease of social inequality, free and unrestricted participation of individuals and political parties in state affairs including in elections.

Every country, South Africa included, has "a legal system comprising the rules of law that apply in that state. Everybody, from the different organs of state to the individuals, is engaged daily in the application of law to the relationships into which they enter" (Malherbe 2001:85). The enforcers of these rules, although one of the three branches of the state, are independent and subject only to the Constitution. Malherbe (2001:85) affirms that "the notion of an independent judiciary that applies the law impartially and without fear, favour or prejudice is generally accepted as a cornerstone of democracy". Rautenbach and Malherbe (1996:2) define law as "consisting of rules prescribing the way we must act as members of society". Whereas "judicial function refers to the function of the courts as impartial referees to resolve legal disputes by determining which rule of law applies and what it means, and by applying it in an authoritative way to the facts of the particular legal dispute" (Malherbe 2001:87). In South Africa since 1994 "the power to test parliamentary legislation against the provisions of the Constitution was conferred on the courts" (Klug 1997:185). Malherbe (2001:89) asserts that "for many years, the South African political system was dominated by parliamentary sovereignty, the principle inherited from the Westminster system brought here by the British". However, from 1993 onwards the Constitution became the supreme law of the land and subjected parliament, the executive and judiciary to it. Meaning that any law or any action by another organ of state is invalid if it is inconsistent with the Constitution. South Africa courts, specifically higher courts, decide whether laws or state actions are constitutional.

The 1996 Constitution also established the hierarchy of courts in the country:

- Magistrates' courts

According to Du Plessis and Du Plessis (1990:89-90) there "are two types of magistrates' courts, namely the district courts and regional courts. District courts function within a particular magisterial district into which the country has been demarcated and they have limited jurisdiction in civil and criminal cases". Malherbe (2001:94) states that this "means that they may not adjudicate in certain civil cases, such as divorce cases or in cases where damages claimed exceed an amount of R100 000. They may not try serious cases such as murder, rape and armed robbery, and there are limitations to the sentences that they may impose". Regional courts can try serious cases and impose heavier sentences on those found guilty. Judgements of regional courts can be reviewed by the High Court. Section 170 of the Constitution provides that regional courts do not have any jurisdiction on constitutional matters.

District and regional courts were established during apartheid and the post-democratic dispensation modified them and ensured that they serve all South Africans regardless of gender, race, and social standing.

- High Courts

Malherbe (2001:94) states that "the High Court consists of the provincial and local divisions established in different parts of the country. Every division of the High Court has its own seat and consists of a judge president and a number of judges". The Constitution in section 174(6) provides that the President of the Republic appoints all judges on the advice of the Judicial Service Commission (JSC). Section 174(2) provides that these must be fit and proper persons, reflecting the country's demographics. High Courts "have jurisdiction within their respective areas and, in principle, their jurisdiction is unlimited so that they may adjudicate on any case, except where a law provides otherwise. They may hear appeals from lower and special courts, and they automatically review all judgements of magistrates' courts". Section 169 of the Constitution provides that High Courts have jurisdiction in all constitutional matters, except matters under the exclusive jurisdiction of the Constitutional Court. According to section 172(2) when a High Court declares a parliamentary or provincial Act or any conduct of the President unconstitutional, the Constitutional Court must confirm the order.

- Supreme Court of Appeal

The Supreme Court of Appeal, headquartered in Bloemfontein, consists, in terms of section 168(1), the President, a Deputy President and a number of judges of appeal determined by an Act of Parliament. According to Malherbe (2001:95) "the Supreme Court of Appeal is the highest court of appeal in all matters except constitutional matters. As a matter of fact, it hears appeals only as argued on the basis of papers before the Court by the counsels for the parties involved. An aggrieved party does not have an automatic right of appeal to the Supreme Court of Appeal and requires leave to appeal from the Court ..." of first instance. Malherbe (2001:95) proceeds to assert that the "Supreme Court of Appeal may hear appeals on constitutional matters, but when it declares a parliamentary or provincial Act or any conduct of the President unconstitutional, the Constitutional Court must confirm the order".

There is a major dissimilarity between the Supreme Court of Appeal and the Appeals Court during apartheid. The apartheid Appellate Division could not pronounce on the constitutionality of a parliamentary Act or on the conduct of the President as that responsibility was vested with Parliament through the system known as parliamentary supremacy. Only parliament had the powers now vested in the Constitution.

- Constitutional Court

According to Brewer-Carias (1989) and Asmal (1991:315) "by establishing a special Constitutional Court, South Africa opted for the approach widely followed on the European continent. In this so-called *concentrated system,* all or certain constitutional disputes are reserved for adjudication by a special court". Klug (1997:185) on the other hand argues that "a diffused system, would be one in which all courts have authority over all constitutional disputes. The Constitutional Court was first established by the 1993 Constitution and is the

highest court in all constitutional matters. [These] include interpretation, protection, and enforcement of the Constitution". It is headquartered at the Constitutional Hill in Johannesburg and consists of the Chief Justice, a Deputy Chief Justice and nine other justices (section 167(1)).

The Constitution prescribes that justices, judges, magistrates, and other officers of the courts must be fit and proper persons. Justices of the Constitutional Court are appointed by the President of the Republic working with members of the Cabinet after consulting leaders of the other political parties represented in the National Assembly. Classen (1994: 438) and Klaaren (1997:208) write that "as the highest court in all constitutional matters, the Constitutional Court is also the highest court of appeal on such matters. It hears appeals on constitutional matters from High Courts, as well as from the Supreme Court of Appeal. In exceptional cases, direct access to the Court may be allowed". Since its establishment in the early 1990s the Constitutional Court has been instrumental in enforcing democratic and socioeconomic rights.

According to Roux (2013:33) since its inception "the Constitutional Court of South Africa (CCSA) enforced a series of what may be broadly termed democratic rights – rights, that is, to a well-functioning, competitive, multiparty democratic system, the operation of which is safeguarded by independent institutions staffed by persons of integrity". "In a constitutional democracy, courts are equally mandated and have practically demonstrated potential to the achievement of the envisaged social change. [This, however, does not mean that] … courts [should become] crusaders of democracy, but [designers of social policy] in the political game between government and the governed [and therefore] the role of the courts cannot be ignored" (Ngang, 2014:656). Because South Africa's Constitution provides for all rights and freedoms including democratic and socioeconomic rights, the expectation has always been that the country's independent and impartial courts would become a significant weapon in helping the country entrench its democracy. This will assist in ensuring that democracy "becomes internalised behaviourally, attitudinally, and constitutionally" (Mottiar 2002:1). Mottiar (2002:1) adds that "behaviourally, a democracy is consolidated when no significant national, social, economic, political or institutional actors spend significant resources attempting to achieve their objectives by creating a non-democratic regime or by seceding from the state". "Attitudinally, a democracy is consolidated when a strong majority of public opinion, even in the midst of major economic problems and deep dissatisfaction with the incumbents, holds the belief that democratic procedures and institutions are most appropriate way to govern collective life, and when support for anti-system alternatives is small or isolated from pro-democratic forces" (Mottiar, 2002:1). And finally, "constitutionally, a democracy is consolidated when government and non-governmental forces alike become subject to, and habituated to, the resolution of conflict within the bounds of the specific laws, procedures and institutions sanctioned by the new democratic process" (ibid).

In *Glenister v President of Republic of South Africa & Others* [2011] the Court was called upon to intervene in the decision of the National Assembly to disband the Scorpions – a state agency involved in fighting corruption. The "Court struck down legislation that had dissolved …" (Roux, 2013:1) this corruption fighting unit. Here the Constitutional Court demonstrated that both the National Assembly and the Cabinet did not have unlimited powers in terms of the new

Constitution. In the *Justice Alliance of South Africa v President of Republic of South Africa & Others* [2011], former President Jacob Zuma had extended the term of office of former Chief Justice Andile Ngcobo without consulting political parties serving in the national parliament. The Constitutional Court "held that Parliament had improperly delegated its power to the President to extend the Chief Justice's term" (Roux, 2013:1) and such conduct was in the Court's view unconstitutional and invalid. In the *Democratic Alliance v President of the Republic of South Africa & Others* [2012], former President Zuma had appointed Advocate Menzi Simelane as the National Director of Public Prosecutions (NDPP). The decision was met with outcry from a variety of sectors and the DA took the matter to Court. Its argument was that the office of the NDPP needed to be staffed by individuals of high morals and integrity. It further argued that the incumbent fell short of satisfying the constitutional requirement of a proper and fit person. The Court agreed with the DA and "it overturned a presidential decision of appointing a new National Director of Public Prosecutions for disregarding findings made by a commission of inquiry about the appointee's reliability as a witness" (Roux, 2013:1). The commission had found Advocate Simelane to be evasive, untruthful, and lacking credibility. In the fourth instance, a Member of Parliament; Oriani Ambrossini of the IFP, had introduced a bill in Parliament about the use of cannabis for medicinal purposes. Parliament refused to consider the bill and Ambrossini approached the Court for direction. The Constitutional Court in *Oriani Ambrossini, MP v Sisulu, MP Speaker of the National Assembly* [2012] "held that certain parliamentary rules preventing minority parties from introducing bills in the lower house were unconstitutional" (Roux, 2013:1). Finally, the Court considered a matter that was brought before it by members of the African National Congress (ANC) from the Free State who felt that the party had denied them the right to participate in a provincial conference. The Court in *Ramakatsa & Others v Magashule & Others* [2012] "set aside all the decisions taken at the provincial conference of the ruling African National Congress (ANC) on the grounds that the delegates to the conference had been improperly selected" (Roux, 2013:1). The Court showed through these cases that it could use its constitutional powers to enforce the entrenchment of democratic rights.

The Constitutional Court has also delivered judgements enforcing and interpreting "socio-economic rights, including rights to health care, housing, social assistance, water, electricity, sanitation rights and education" (Moyo, 2016:2). The most reported is the 1997 Soobramoney case. Kaufman (2010) asserts that it was concerned with the "right of access to health care services and particularly the right not to be refused emergency medical treatment", as provided for in section 27(3) of the Constitution. The complainant had approached the court because the KwaZulu-Natal Department of Health had refused him treatment for a chronic illness. He suffered from an irreversible condition of renal chronic failure resulting from diabetes. The court although concurring with him on the right not to be denied urgent 'emergency medical' treatment, "held that there was no breach of section 27(1)(a) read with (2)" (Moyo, 2016:3). The court felt that the state's refusal to pay for his dialysis was justified under the 1996 Constitution. This represented a serious setback to those who had hoped the court would find in favour of Soobramoney, extending the right to emergency medical care to South Africans who could not afford to pay for medical treatment. In subsequent cases the courts have handed down judgments which enforce the right to medical care for those who cannot afford it.

Following on the heels of Soobramoney, the Constitutional Court was called upon to decide on the right to housing in the *Grootboom* case. The case was brought to court "on behalf of homeless people living on a field from which the authorities wished to evict them" (Friedman, 2016:21). The Court held that "the South African government had acted unreasonably in not providing shelter for people in immediate and desperate need" (Wesson, 2004:284-308). This seminal ruling represented a breakthrough in how the government was expected to respond to people in immediate and desperate need of assistance. It also signified the role the Constitutional Court was prepared to play in becoming the guardian of the implementation of socioeconomic rights, helping to reduce social and economic inequality. This judgement also "led to a line of decisions in which poor people have successfully resisted evictions potentially leading to their homelessness and consequently claimed alternative shelter from state organs" (Moyo, 2016:4). The judgement also empowered others to use Courts to protect the poor from arbitrary action by both government and private individuals.

Another important case was brought by a civil society organisation which fought for access to antiretroviral drugs for people living with HIV/Aids. The Treatment Action Campaign demanded that the government roll out life-prolonging drugs to those living with the virus. It also demanded that the government make these drugs available to HIV positive pregnant women to prevent mother to child transmission (PMTCT). It lobbied vociferously for the rollout which it hoped would greatly minimise and, in some instances, prevent unborn babies from acquiring the virus. The Court applied the 'reasonableness standard' in "assess[ing] whether a social programme unreasonably excludes the segment of society to which the plaintiff belongs" (Roux 2003:97) and "ordered the government to make anti-retroviral medication available in public health facilities to pregnant women to prevent mother to child transmission of HIV" (Friedman, 2016:21). This judgement, unlike others compelled the government to immediately take a course of action. Usually the Court, would rule on procedural issues, affording the government an opportunity to fix those procedures, but in this case the lives of unborn children were at stake hence the unusual stance. The government has since complied with the judgement and began rolling out antiretrovirals in all its public health facilities. Similarly, the private health care sector in some cases collaborated with the government to deliver medicine to far flung areas where public facilities may not be available. The action brought about by the TAC is indicative of the fact that in a democracy, citizens can influence government policy through pressure from below. The role played by it and other civil society organisations (CSOs) remains one of the most important citizen actions South Africa has ever seen.

Another test of the Court's ability to enforce socioeconomic rights came in 2004 when it was called upon to adjudicate on the socioeconomic rights of a permanent resident. In 2004, an action was brought to the Constitutional Court on behalf of a permanent resident; Mr. Khosa (a Mozambiquan expatriate) to help him and others access the country's social security assistance. After careful consideration "the government was ordered by the court to adopt a specific policy … to extend social security benefits, until then available to South Africans …. While this could well have become a controversial ruling in a political climate resistant to extending entitlements to foreigners, the number of people affected was relatively small and so the court's ruling went almost unnoticed" (Friedman and Maiorano, 2017:10)

Same years later, in 2009 Abahlali base Mjondolo, a civil society organisation representing informal settlement dwellers in KwaZulu-Natal, brought a case against the KwaZulu-Natal provincial government in which "the court declared section 16 of the KwaZulu-Natal Elimination and Prevention of Re-emergence of Slums Act 6 of 2007 to be inconsistent with section 26(2) of the Constitution" (Moyo, 2016:7). "In reaching this conclusion, the Court suggested that eviction must normally be a measure of last resort after all reasonable alternatives have been explored through engagement. It also suggested that where it is possible to upgrade informal settlement in situ, this must be done" (ibid). Court rulings in the TAC and Abahlali cases empowered citizens to act by ensuring that their action was given legal force. This strengthens the power of ordinary citizens in a democracy.

These are not the only cases involving socio-economic rights that were brought before the courts. ''… courts, particularly the Constitutional Court, can and have played an important role in the judicial enforcement of socio-economic rights in South Africa" (Mubangizi, 2006:7). These judgements serve as a precedent for how future administrations should respond to issues affecting the most vulnerable in society. The "Constitutional Court has also established that the enforcement of socio-economic rights is context-specific" (Ngang, 2014:671). Ngang (2014:672) adds that "the socio-economic rights enshrined in the South African Constitution impose obligations on the state to take reasonable legislative and other measures within its available resources to ensure their progressive realisation" In the Mazibuko case, "the Court was asked to determine whether the City of Johannesburg's policy with regard to the supply of free basic water of six kilolitres per household per month (Free Basic Water Policy) was in conflict with the Water Services Act and the right to access to sufficient water in section 27 of Constitution" (Moyo, 2016:9). Moyo (2016:9) adds that "the applicants argued that the City's Free Basic Water policy was unreasonable because it was insufficient to meet the basic needs of poor households". According to Friedman (2016:22) the court in the Mazibuko case "rejected the argument that it should force the state to provide the poor with a minimum core of services".

Legal scholars in assessing the Mazibuko judgement, opined that courts have sometimes shown great reluctance in going too far in ordering the government to act lest they be accused of trampling on the constitutional mandate of the government. Nonetheless, as Friedman (2016:22) asserts, "the court has handed down significant rulings, of which the best known is the 2009 decision striking down provincial legislation permitting the eviction of shack dwellers [Abahlali base Mjondolo], ruling that the authorities had a duty to ensure that housing rights are not violated without proper notice and consideration of other alternatives". Furthermore, "the court … also instructed local governments to engage with residents threatened with eviction" (Wilson 2011). Friedman (2016:22-23) further notes that in 2013 "[the court] overruled a decision of the governing body of a suburban school to exclude a pupil because it said it had reached its capacity. This challenges the power of suburban schools to exclude poor black learners. It also struck down discrimination against women in customary marriages and inheritance". These rulings have impacted on the ability of both the government and private sector to take decisions that exclude people on the basis of their income or social standing.

South Africa's apex court, the Constitutional Court has since 1996 been "remarkably successful, with a reputation among constitutional courts in new democracies …" (Roux, 2009: 07) in enforcing and entrenching the economic and social rights of all citizens. These judgements have helped support organised citizens' action in their fight for equal socioeconomic rights.

6.7 Chapter 9 Institutions and The South Africa's Constitutional Democracy

In an attempt to ensure that South Africa's democratic trajectory survives any possible reversals or regression, other important support mechanisms (independent state institutions) were created. They derive their existence and powers from Chapter 9 of the Constitution.

Studying democracy enhancing institutions in the context of the country's democratic trajectory will help the study show how the branches of the state relate to each other and the implications for the health of democracy. South Africa is replete with literature of how inflexible, hostile, and secretive apartheid state institutions were to black South Africans. The Chapter 9 institutions were meant to change this whilst also "(a) [contributing] to creating an accountable government through monitoring and investigating government action; and (b) contribute to the transformation of South Africa into a country in which freedom, dignity and equality prevail" (Konstant, 2016:3). The change from apartheid into a constitutional democracy was to ensure that human dignity and human rights were protected, promoted, and advanced.

These state institutions are essential in helping democracy endure by helping poor citizens enforce their rights since courts are not always accessible to the poor. If they were not available to the poor, South Africa's democracy, like that of other countries on the continent and in other parts of the world, could face serious reversal.

Konstant (2016:1) asserts that "the Constitution describes these institutions as state institutions supporting constitutional democracy. [They] include the Public Protector; South African Human Rights Commission (SAHRC); the Commission for the Promotion and Protection of Cultural, Religious and Linguistic Rights (CRL Commission); the Gender Commission; the Auditor-General; and the Independent Electoral Commission". As already mentioned, the Constitution created these democracy enhancing institutions - they did not exist prior to 1994. South Africa is one of the few, if not the only democratic, to constitutionalise them.

Each of the state institutions supporting constitutional democracy was established to achieve a certain mandate. The SAHRC was created to "promote respect for human rights and a culture of human rights; [and] the protection, development and attainment of human rights" (Constitution, section 184(1)). The Commission for Gender Equality is constitutionally enjoined to "promote respect for gender equality and the protection, development and attainment of gender equality" (section 187(1)). The IEC's constitutional mandate is to "(a) manage elections of the national, provincial and municipal legislative bodies in accordance with national legislation; (b) ensure that those elections are free and fair…" (section 190(1)). Konstant (2016:8) notes that "section 182 of the Constitution delineates the purpose of the

Public Protector to be the investigation of any conduct in state affairs, or in the conduct of public administration in any sphere of government that is alleged to have been improper, or to result in any impropriety or prejudice".

6.7.1 The Public Protector (PP South Africa)

Since its inception, the Public Protector has investigated several public officials, entities and departments. Until recently, the recommendations of this important democratic enhancing body were regarded as not binding. But the Constitutional Court ruled in the matter between the *President of South Africa v Public Protector and Others* that the recommendations could not be ignored, because they are binding.

Lundvik (1983:179) asserts that "the Public Protector is modelled on the ombudsman, with its roots in what was the *justitieombudsmum* (ombudsman for justice) in Sweden in 1809". "Thereafter, the institution spread and appeared in a variety of forms in a number of countries" (Reif 2000:8). Reif (1999) states that "the classical ombudsman is a mechanism that monitors the conduct of public administration to ensure that it is conducted legally and fairly".

Konstant (2016:9) notes that the Supreme Court of Appeal (SCA) clarified the role of the Public Protector in "*Public Protector v Mail & Guardian* where the court stated that [t]he Constitution … is a grave and solemn promise to all its citizens. It includes the promise of representative and accountable government functioning within the framework of pockets of independence that are provided by various independent institutions. One of those of institutions is the office of the Public Protector".

It is, according to Konstant (2016:9), a "supporting institution for the judiciary, legislature, as well as an oversight mechanism for the executive. With the respect to the courts, the Public Protector is able to investigate matters that would not fall within their jurisdiction". By enjoying this constitutional power, the Public Protector plays an important role in enhancing democracy.

6.7.2 The South African Human Rights Commission (SAHRC) and socioeconomic rights

The principal mandate of the Commission is the development, promotion, respect, and fulfilment of civil and socioeconomic rights. According to Friedman and Maiorano (2017:3) "in principle there is no difference between these two categories of rights, as, according to section 7 of the Constitution, the state must respect, protect, promote and fulfil the rights in the Bill of Rights – including SERs". Mubangizi (2006:7) writes that "in the context of socio-economic rights, section 184(3) is of particular importance, [because] it obliges relevant organs of State to provide the Human Rights Commission with information on an annual basis, on the measures that they have taken towards the realisation of socio-economic rights in the Bill of Rights concerning housing, health care, food, water, social security, education and the environment". The Commission's reliance on state departments to fulfil its oversight role has hampered its ability to provide the necessary oversight as state departments do not submit reports timeously. "This method of carrying out its mandate has been the subject of some debate" (Klaaren, 2005a) particularly because it is "ineffective at adequately monitoring the fulfilment by the state of its obligation with respect to rights…" (Brand and Liebenberg, 2000).

It is also argued that such a method "lacks the analytical rigor necessary to uncover the reality of socioeconomic rights realisation" (Brand and Liebenberg, 2000). For the Human Rights Commission to contribute to "democracy, affluence … [and] the declining inequality …" (Przeworski et al. 2009:86) it must heed Brand and Liebenberg's criticism.

However, the role of the HRC strengthened in 2007 after it brokered a stalemate dating back to the 1990s, between civil society organisations such as the Age-in-Action (formerly the South African Council for the Aged), the South African Council of Churches (SACC), the South African Association of Homes for the Aged and the Minister of Social Welfare. The dispute concerned the Older Persons Act No. 81 of 1967, an apartheid era law that discriminated against black South Africans based on race. The Older Persons Act regulated use of old-age home facilities. After receiving complaints from the three CSOs, the commission "put together an investigative committee made up of a variety of stakeholders including CSOs and experts. … [the investigation], result[ed] in a frank and eye-opening report on the status of the aged, entitled *Mothers and Fathers of the Nation: The Forgotten People*? The report revealed the abuse and neglect in old-age residential facilities, hospitals, within families, communities, pension queues and government offices" (DoSD, 2001). The investigations and consultations also "inspired certain new clauses in the existing legislation on the aged, formulated as the Older Persons Amendment Act (No. 100 of 1998), and partly led to the minister's initiative in 1999 called the New Deal for Older Persons" (Eckley, 2006). The report of the Democracy and Governance Research Programme of the HSRC (2007:33) further stated that the "commission formed the Rights of Older Persons Working Group (made up of academics, CSOs, individuals interested in issues of older persons, government departments, experts in the field of gerontology, etc)" to prepare advice on the Older Persons bill (No. 68 of 2003).

Citizen action through the three CSOs led to the scrapping of the Older Persons Act and improved, unbiased and fair access to all government old-age homes. Race was no longer the determining factor for accessing an old age home. Senior citizens were also no longer subjected to queuing at public hospitals. Their consultations with health care workers were shortened compared to the period prior to the SAHRC's intervention. Senior citizens also received priority when accessing grants. This meant that they no longer queued with beneficiaries of the child dependency, foster care or child support grant. These arrangements have been extended to all other departments and entities that interface with senior citizens. The new law also scrapped all fees paid by senior citizens when applying for the smart Identity Card.

Consequently, senior citizens now also receive first preference in the allocation of low-cost state subsidised houses. They are exempted from paying municipal rates and taxes. Government's policy enjoins all municipalities to register senior citizens on the database of indigents, qualifying them for 6kl of water a month, 100kw/h of electricity and monthly refuse collection free of change. This confirms the role of the Human Rights Commission in promoting democracy and contributing to declining inequality. The study focused on the role of the SAHRC in advancing senior citizens' rights in attempt to show that the country's democratic institutions do not discriminate. Senior citizens now, like the rest of the population, enjoy a variety of democratic and socioeconomic rights including access to social assistance, quality health care and housing. This is confirmation that democratic institutions could play a

vital and sometimes central role in advancing the democratic, socioeconomic and civil rights of all South Africans.

6.7.3 The Commission for Gender Equality (CGE) and socioeconomic rights

"The advent of democracy in 1994 presented the South African government with the opportunity to change the life trajectory of women and the most vulnerable members of society" (20YR, Women's Empowerment and Gender Equality, 2014:10). The report asserts that "the emphasis was placed on an equitable society meeting the socioeconomic rights of citizens particularly those who had been historically excluded from participating in the mainstream of society" (20YR, 2014:10).

The yearning to transform the life trajectory of South Africans in general and women in particular, has its roots in the struggle for democracy but it became more pronounced during the negotiations for a constitutional democratic South Africa. "During national negotiations in the early 1990s, leading activists within the anti-apartheid movement pushed for feminist ideas to be incorporated into the democratic national project" (Seidman, 2003:541-563). Their persistency "culminated in the formation of an elaborate National Gender Machinery (NGM) … whose function is to promote state feminism partially through gender mainstreaming" (Gouws, 2005:76). Gouws (2005:76) contends that gender mainstreaming can be defined as "the integration of gender equality concerns into the analysis and formulation of all policies, programmes and projects".

The Commission for Gender Equality (CGE) is responsible for coordinating the National Gender Machinery (GNM). This coordination has facilitated the work of the Women's Empowerment Unit, the Gender Focal Points, the Joint Monitoring Committee on the Improvement of the Quality of Life and the Status of Women (JMC), the Women's Caucus in Parliament and the Office of the Status of Women (OSW) in addressing challenges that arise from gender disparities. The NGM has been directly involved in addressing challenges related to gender-based violence (GBV), HIV/Aids, rape, domestic and homophobic violence, feminisation of poverty and the involvement of women in democratic public processes.

The work of the NGM has helped catapult the rights of women to a national focus both in the private and public sectors. The country celebrates National Women's Day on the 9th of August and participates in the 16 Days of Activism on no violence against women and children between November and December of each year. During these momentous events, the spotlight is shone on GBV, rape, femicide and other forms of violence against women and girl children. Issues such as child maintenance have been sharply raised and in 2003 the CGE acting as an *amicus curiae* (friend of the court) helped a mother bring a court action against a maintenance debtor who had defaulted. In *Bannatyne v Bannatyne*, 2003 "the constitutional court held that contempt proceedings in the high court to secure the enforcement of a maintenance debt are appropriate constitutional relief for the enforcement of a claim for the maintenance of children" (Cronje and Heaton, 2004:63). Cronje and Heaton, 2004:63) further assert that "apart from the civil sanctions which may ensue, a maintenance debtor who fails to comply with a maintenance order, can also be charged with the crime of failing to make a payment in accordance with the

order''. The significance of this court ruling in protecting the right to human dignity, human, social and economic rights of a child cannot be overemphasised.

The progress made by the CGE came under serious scrutiny some years ago when some women's rights group began arguing that it and its work were not accessible to every woman in the country, specifically those in informal settlements and rural areas. This stems from the belief that the Commission has not been able on its own to develop strategies and programmes that respond to women challenges outside of state institutions including government departments. Women's rights have, these groups believe, not fundamentally changed. "The fact that South Africa's approach [including that of the CGE] to eradicating extreme poverty and hunger is comprehensive, seeking to address the monetary aspects, while also applying its multidimensional nature'' (Moletsane et al., 2010:163) should not be taken to indicate that the Commission for Gender Equality has been successful in achieving its goals.

These perceived shortcomings, should, however, not negate the fact that the CGE could in the not-so-distant future realised the goals for which it was established. Its involvement in women's issues has helped to ensure that "the South African basket of socioeconomic development interventions [are] more comprehensive than the minimum standards suggested by the United Nation's Millennium Developmental Goals (MDGs)" (20YR, 2014:31). Through its collaborative work with other state institutions and departments the CGE has developed, implemented and advocated programmes and projects aimed at improving women's rights, so improving their quality of life. Working with the Eastern Cape government, the CGE has helped shine the spotlight on *ukuthwala,* which is rampant in that part of the country. *Ukuthwala* (a Nguni word meaning that an old man can forcibly marry a young woman against her wishes) is one of the worst forms of oppression suffered by women in rural areas. It violated women's right to human dignity, freedoms and the right to choose who to marry. As a result of shining the spotlight, South African courts now do jail perpetrators of these crimes. The CGE working with government departments have also ensured that the United Nations' Millennium Developmental Goal (MDG) of equality in basic education is achieved as more girl children are attending and completing basic and tertiary education.

Lastly, annual programmes such as Women's Month (celebrated in August) and the 16 Days of Activism under the stewardship of the Ministry of Women are now a permanent element of the South African calendar. Women's democratic and socioeconomic rights receive more attention and the Ministries of Economic Development, Social Development, Trade and Industry, Police, and Justice and Correctional Services provide detailed feedback on the work carried out in the previous year whilst also committing resources for the year ahead.

6.7.4 The role of the Electoral Commission in enhancing democracy

Konstant (2016:17) asserts that a "fundamental feature of the Constitution is its commitment to multi-party democracy. [To] achieve this, the Constitution provides that South Africa is founded on the principles of universal adult suffrage and a national common voter's roll. It goes on to state in section 19(3)(a) that every adult citizen has the right … to vote in elections for any legislative body … and to do so in secret". Konstant (2016:17) argues that "the Constitution establishes the IEC to safeguard the legitimacy of the new democratic order and

ensure that the right to vote of every citizen is fulfilled. To achieve this role, constitutional drafters felt it necessary to have the commission institutionally independent from any arm of the government as opposed to located within a government ministry or parliament".

The IEC is thus the guarantor of citizens' right to choose a government of their choice – an important democratic right. Citizens can use these rights to install a government that advances all the rights and freedoms provided for in the Constitution. For close to three decades, South Africans have rightly used these constitutionally enshrined and protected rights to hold public representatives accountable for their actions or failure to act – an important feature of democracy that promotes political participation in state affairs. According to Norris (2002) "political participation is often held as a measure of the quality of democracy but is often viewed through the narrow conceptual lens dominated by concerns of the Global North, focusing upon electoral support and membership of trade unions and political parties".

The best example of promoting political participation in South Africa is the role of the Treatment Action Campaign in influencing the ruling ANC to change government policy on the roll-out of lifesaving drugs for individuals infected with HIV/Aids including the prevention of mother to child transmission. Democracy has created political opportunities and, as Gamson and Meyer (1996:276), assert "opportunities open the way for political action, but movements make opportunities". Gaventa and McGee (citing Friedman 2010:13) argue that the "TAC, benefited greatly from democracy, without which mobilisation and policy influence would not have been possible". Gaventa and McGee (2010:14) further opine that "the declining influence of President Mbeki and increased political competition were important in opening up the possibility of new alliances and concessions for the TAC". This meant that the "change in the internal environment of [the governing] African National Congress was very directly a result of collective action" (Friedman cited in Gaventa and McGee 2010:14).

For the first time since 1994, ANC dominance was threatened by collective action by the COSATU, the TAC and other civil society organisation (CSOs) which was motivated in part by the AIDS denialism of President Thabo Mbeki's government. "ANC members are numerically dominant" (Mthathi interview cited in Friedman and Mottiar) in both COSATU and the TAC and this brought with it some form of un-comfortability on the part of the ruling party as most CSOs involved in this campaign threatened not to vote for the ANC in subsequent elections unless the government made antiretroviral treatment available to HIV positive pregnant women and those infected with HIV/Aids. Once the Constitutional Court compelled the government to roll-out antiretrovirals, it had limited opportunities and duly complied. However, it could also be argued that the fear of losing elections weighed more heavily on the ruling ANC than the court ruling.

President Jacob Zuma, who succeeded Thabo Mbeki, began what became known as the largest rollout of ARV treatment in the world. The poor, through democracy, used their right to vote, to rightly claim their right to human dignity, health and, by extension, the right to life. Democracy is meant to enable those on the fringes of economy to elect public representatives who will champion their interests. Democratic politics have ensured that the human rights, dignity and socioeconomic interests of the country's citizens are protected.

6.8 Conclusion

South African democracy is founded on the principle of separation of powers. The Constitution provides for an executive, judiciary and legislative arm of the state. Their independence from the other is mandated by the Constitution. While the executive arm is accountable to parliament, the judiciary is accountable only to the Constitution.

In addition, Konstant (2016:2) asserts that the democracy-enhancing institutions "are a relatively new phenomenon in constitutional design. They have typically come in the form of national human rights institutions or other similar independent oversight bodies such as ombudsmen. However, as legal entities outside the traditional structures, these institutions have increasingly been called upon to demonstrate their legitimacy or overall success" in strengthening South African democracy. These new phenomena have since the dawn of democracy made serious strides in promoting and protecting democracy. Their role remains a subject for debate amongst political actors and academics. What is, however, undisputed is that the Public Protector (PP), Humans Right Commission (SAHRC), Independent Electoral Commission (IEC), Commission for Gender Equality (CGE) and others are very important institutions in promoting and strengthening democracy. Their shortcomings cannot negate this important fact. The post-1994 democratic era is much better at respecting democratic and socioeconomic rights than apartheid and its secretive, highly politicised, and discriminatory institutions.

Finally, the judiciary and particularly the high courts remain the interpreters, protectors, and enforcers of democratic and socioeconomic rights. They have on several occasions compelled the government to develop policy or take to enhance citizens' democratic and socioeconomic rights. Through their judgements and conduct these institutions have demonstrated that they are not only independent but are impartial and owe their allegiance to the Constitution and no one else. These are promising signs for South Africa's democratic experiment.

CHAPTER SEVEN

7. Civil Society Organisations (CSOs)'s Role on Democracy, Governance and Democratic Institutions

7.1 Introduction

This chapter investigates the role of organised citizens' formations – 'civil society organisations' - in appropriating "political opportunity structures" (Gaventa and McGee 2010:12) presented by constitutional democracy to influence government action and by extension policies geared towards improving the functioning of the post 1994 democratic institutions including changing practices, values and beliefs.

According to Tarrow (1996:54) "political opportunity structures [are] consistent – but not necessarily formal, permanent or national – signals to social and political actors which either encourage or discourage them to use them to form social movements". Other scholars "use the concepts of political space or policy space to analyse under what conditions citizen action contributes to change on policy issues" (Gaventa and McGee 2010:12). Grindle and Thomas (cited in Brock et al. 2004:22) infer that "policy spaces mean moments in which interventions or events throw up new opportunities, reconfiguring relationships between actors or bringing in new ones, and opening the possibilities for a shift in direction". The democratisation and transformation of South Africa's economic conditions is one example of the political opportunity structures created by democracy which civil society movements have rightly exploited. By the democratisation of economic conditions, the study means attempts to move people on the borders of economic opportunities into the mainstream economy.

The success of South Africa's democratic consolidation route will in large part be contingent on ensuring that those on the fringes of the economy are brought into the mainstream, ultimately resulting in declining social inequality. It for this reason that this study assesses civil society organisations (CSOs) and their role in helping the country's democratic institutions become more responsive to social inequalities. According to Ballard et al (2004:2) "unlike many other transitional societies where the political honeymoon tended to drag on for decades, new social struggles in South Africa emerged surprisingly quickly. …Three overlapping but distinct types of struggles emerged. Some were directed against various government policies". They add that the "classic case here is the Congress of South African Trade Unions' (COSATU) opposition to the Growth, Employment and Redistribution (GEAR) strategy. "Other struggles focused on government's failures in meeting basic needs and addressing socio-economic rights" (Ballard et al. 2004:2).

The rights of citizens to influence government action and policies is perhaps the most important feature of democracy. Most democracies, South Africa included, recognise citizens' rights to collective action in pursuit of their rights. Przeworski et al (2009:91) observe: "democracies are not all the same. Systems of representation, arrangements for the division and supervision of powers, and methods of organising interests, as well as legal doctrines and rights and duties associated with citizenship, can and do vary widely among regimes that are generally recognised as democratic". Gaventa and McGee (2010:1) note that "the challenge of building responsive and accountable states which in turn will work to alleviate poverty, protect rights and tackle social inequalities has been a focus of attention in recent years. Much of these debates centre on improving institutions of government – state bureaucracies, parliaments and justice systems" and not much attention has been paid to the role played by organised citizens exercising their rights. This chapter therefore focuses on how citizens acting individually or in groups have contributed to strengthening democratic institutions and influencing how these institutions realise the rights of all South Africans. Building resilient democratic state institutions is not the purview of the state only; it also requires the involvement of citizens. In a democracy, "citizen participation and citizen mobilisation [help] to strengthen the voice of civil society actors in governance and development programmes" (Gaventa and McGee, 2010:1). Atkinson (1992:1) asserts that "the concept of civil society has always been inextricably linked with the concept of the state. Since the emergence of modern European political philosophy in the 18th century, it has been accepted that the power of the state often varies inversely with that of civil society".

Scholars, here and elsewhere, have questioned Atkinson's view that a stronger civil society creates a weaker state. How beneficial is a strong civil society to a weak state or can a strong civil society help strengthen the state? The answer is that stronger civil society organisations tend to be very helpful in strengthening the state. They become the voice of citizens, helping the state to better respond to citizens' needs. Gramsci (1971:12) describes civil society as "that sector in society in which the struggle for hegemony between the two fundamental classes takes place". Kaldor (2003:82) describes social movements as "organisations, groups of people and individuals, who act together to bring about transformation in society. They are contrasted with, for example, more tightly organised NGOs or political parties". Shubane (1992:34) defines civil society as "that realm in society which comprises all those formations outside of the state, namely, the realm that is market-regulated, privately-control and voluntarily organised". Jelin (1986 quoted in Escobar and Alvarez 1992:15) defines social movements "as forms of collective action with a high degree of popular participation, which use non-institutional channels, and formulate their demands while simultaneously finding forms of action to express them, thus establishing themselves as collective subjects, that is, as a group or social category". Ballard et al (2004:3) define social movements as "politically and/or socially directed collectives, often involving multiple organisations and networks, focused on changing one or more elements of the social, political and economic system within which they are located". All the explanations except Shubane's stress organisations of citizens who legally and openly strive to influence government action or policy.

Post-apartheid South Africa has seen a myriad of these organisations; many of whom play an important role in strengthening democratic institutions as they fight for better democratic and socio-economic conditions. Most, if not all, of these movements, openly pursue programmes and policies that promote and guarantee access to political and civil rights, access to life-prolonging medication and quality health care; access to housing opportunities and better municipal services for the poor; access to land; state social security assistance for the poor, especially children, women and people with disabilities. Whether democracy has enabled them to achieve change is critical to this study because it offers greater prospects for collective citizen action than non-democratic systems.

The study will, after examining the background and definitions of CSOs, examine their role in fighting for socioeconomic and democratic rights. This includes assessing their role in influencing the democratic government's actions and policy trajectory, and whether and how these have been helpful in strengthening or weakening democratic institutions. Ballard et al (2004:14) argue that "one of the striking features of social movements in post-apartheid South Africa is that many of them are new, and a number of them emerged from the late 1990s. This is striking, in particular, because South Africa's recent political history is integrally tied to social movements". This makes their examination not only important, but helpful in answering the study's key research question – what is South Africa's democratic trajectory, almost three decades later?

7.2 Post-apartheid South Africa's Fight for Access to Lifesaving Medication

Highly visible "citizen participation and citizen mobilisation to strengthen the voice of civil society actors in governance and development programmes" (Gaventa and McGee 2010:1) in post-apartheid South Africa could be traced back to the latter parts of the 1990s. At the core of citizen mobilisation for a voice in health governance was the Treatment Action Campaign (TAC). Friedman and Mottiar (2004:23) note that the "TAC is a movement that campaigns for affordable treatment for people living with HIV and Aids. It was launched on 10 December 1998, International Human Rights Day, to campaign for greater access to treatment of all South Africans, by raising public awareness and understanding about issues surrounding the availability, affordability and use of HIV treatments". TAC's role in leading campaigns for lifesaving medication for HIV positive South Africans is well catalogued and inspires hope to other civil society organisations, locally and internationally. The success of its campaigns led to changes in government policy despite the Mbeki government's initial resistance.

The formation of this social movement on 10th of December 1998 was a calculated move, partly because this day is commemorated yearly, in South Africa and in the rest of the world as International Human Rights Day. For the TAC it had a dual purpose; firstly, the organisation was attempting to demonstrate to policy makers that socio-economic issues are fundamental human rights issues. Secondly, it wanted to show that "shared socioeconomic deprivations

often have shared political roots" (Heywood, 2009:29) – suggesting that the government's reluctance to roll-out antiretrovirals (ARVs) could be traced back to the power of multi-national pharmaceutical companies, to lower or raise the costs of drugs. This became obvious "in 2001, when multi-national corporations were meant to be invincible, demonstrators [rightly] pressured international pharmaceutical firms into abandoning court action seeking to prevent the government from importing cheaper generic medicines" (TAC 2001).

The foremost aim of the Treatment Action Campaign was to contest the "excessive pricing of essential medicines by multi-national pharmaceutical companies" (Heywood 2009:16) as a serious violation of the right to health care as provided in the Bill of Rights. This is confirmed by Friedman and Mottiar (2004:2): "TAC campaigns for affordable treatment for people living with HIV and Aids. Other goals are to prevent and eliminate new HIV infections and to improve the affordability and quality of health-care access for all". While democracy created political opportunities for citizens' collective action; it also generated serious strategic obstacles for the TAC. Friedman and Mottiar (2004:25) assert that "democratisation has also created new strategic challenges for social movements. Winning and retaining public opinion is of greater concern now than during the anti-apartheid struggle when support could often be assumed. The legitimacy of the government and popularity of the ruling party activists forget at their peril". TAC and others had to work to retain support among the working class and poor, particularly those who could not afford the private health care system.

These political opportunities and constraints compelled the TAC to develop a multifaceted strategy and approach to campaigning which included civil disobedience, litigation and street protests and demonstrations. The TAC engaged in litigation because "social movements can and should use the law to achieve human rights", (Heywood, 2009:30) civil and political rights (CPR) as well as socioeconomic rights (SER). Since its formation the TAC has appropriated the political opportunities presented by the democracy to position itself as probably the foremost social movement globally. It rightly became an instrument in the hands of the voiceless and the poor to shape and change government practices, attitudes, policies and values.

This includes successfully litigating against the government at the Constitutional Court and undertaking campaigns like the "2001-2002, national programme to prevent PMTCT (prevention of mother-to-child transmission) (Heywood 2003b:278-315), and the 2004 implementation plan for the ARV (antiretroviral) roll out (known as the Operational Plan on Comprehensive Treatment Care and Support)" (TAC, 2004). In 2006-2007 it also litigated for access to ARV treatment for prisoners at Westville prison in KwaZulu-Natal province. The TAC has also sought on an "ongoing basis to challenge the profiteering by multi-national pharmaceuticals, notably GSK, Boehringer Ingelheim (AIDS Law Project, 2003; TAC, 2003b), and Merk Sharp and Dohme" (TAC, 2008) and has "defend[ed] the Medicines Act against individuals such as Mathias Rath, a wealthy German industrialist, who denounced ARV treatment and instead marketed his vitamin pills as therapy for HIV/AIDS" (TAC, 2008).

"The TAC is unusual among social movements in its appreciation of the need to change strategic calculations to accommodate formal democracy" (Friedman and Mottiar 2004:25). It

is for this reason that the TAC has undertaken campaigns and street protests. On Human Rights Day, 21 March 1999, it led thousands living with HIV and Aids in demonstrations demanding a rollout of a national PMTCT programme in three cities; on the 5th of March 2000, it marched to the North Gauteng High Court in Pretoria during the much publicised first day of the Pharmaceutical Manufactures' Associations (PMA) court case. The case was a response to the PMA decision to challenge the Medicines Act. "In July 2000 [the TAC] participated in a global march for treatment at the start of the International AIDS Conference in Durban" (Heywood, 2009:32). Additionally, in "July 2001 – the TAC launched a Christopher Moraka Defiance Campaign to challenge the pricing of the anti-fungal medicine, Fluconazole" and lastly "in October 2001 the Bredell Consensus Statement on Access to ARV treatment was launched by TAC and international scientists after a conference that brought scientists and activists together" (ibid).

"A key function of social movements [TAC included] is said to be the vehicle they offer the poor for exercising powers, albeit in a limited sphere" (Desai 2002). Did the TAC, through these struggles, deepen or weaken democracy? Friedman and Mottiar (2004:29) opine that through these struggles the TAC gave people living with HIV/Aids "a sense of efficacy, [an important] contribution to changing roles in society. And basic information on the virus and how to cope with it helps participants take control of a vital aspect of their lives". Grassroots participation also helped to empower the organisation and its members to bring to the attention of state actors valuable information that was useful in the development of government policies and action plans. The campaigns also had a powerful impact on those infected and affected by HIV/AIDS. Its interventions helped save children from becoming orphans, as their parents timeously accessed lifesaving drugs. The mother to child Constitutional Court ruling also meant that government and the private sector were obliged to ensure that drugs were made available to HIV infected pregnant women so that their children were not infected by HIV. Through such action, the TAC influenced government action resulting in increased spending on HIV/Aids programmes which led to the Thabo Mbeki administration's endorsement of the "National Strategic Plan on HIV, AIDS and STIs (2007-2011) – known as the NSP – which contain[ed] a preliminary costing of R45 billion" (Heywood, 2009: 27) in 2007. "The TAC was closely involved in the writing of the NSP" (ibid).

The success of the TAC in deepening democracy "lies in the reality that the TAC …, engages with the post-apartheid system and accepts that rights can be won within it. To use the law implies that it is not inherently biased against the poor. To lobby politicians implies that those who demand equity can find allies in mainstream politics. To help the roll out, albeit in a way which may require confrontation, implies that the government can, with prodding, meet the needs of poor people living with HIV/Aids" (Friedman and Mottiar 2004:39). "The TAC's strategy of engaging with and winning incremental gains from the state sets it apart from many other social movements, even if it is not unique" (Habib 2003:18). Chazan (1993:14) categorises civil society associations as organisations ''that interact with the state but (do not) want to take it over". Friedman and Mottiar (2004:39) assert that "this describes a form of engagement with the democratic state that is held to enrich democracy since citizens claim the right to be heard through their associations. It also describes the TAC's approach to democratic

government". The TAC's struggle for affordable and accessible HIV lifesaving medication, which was enabled by democracy, owes its success largely to the grassroot participation of its members. This approach was both empowering and influential – it influences the democratic state from the bottom up, not the top down. According to Friedman and Mottiar (2004:41) "the TAC's experience has much to teach about how social movements or civil society organisations can win single-issue battles". Democracy, it could be argued, enabled the TAC to realise some of its objectives which would not have been possible during apartheid, partly because the post 1994 constitutional democratic era guarantees freedoms of the press, expression, movement and association. These rights could have contributed to positioning the TAC as the most successful civil society organisation in South Africa.

Friedman (cited in Gaventa and McGee, 2010:13) asserts that in "South Africa, not only did democracy bring political space for action, it also brought constitutional processes, …, without which mobilisation and policy influence would not have been possible." This would not have been doable "under apartheid" (ibid) as that system did not provide for checks on authorities in their exercise of public power, nor did it permit individual or collective participation in policy formulation and implementation. Importantly, millions of South Africans infected by HIV and AIDS would have perished if it were not for this campaign which was made possible by South Africa's constitutional democracy. Democracy should be credited for saving millions of lives, especially those of the poor who are mostly Africans.

7.3 The Post-apartheid Fights for Better Living Conditions

Escobar (1992:396) opines that "today's social movements are seen as playing a central role in producing the world in which we live, its social structures and practices, its meanings and cultural orientations, its possibilities for change. Social movements emerged out of the crisis of modernity; they oriented themselves towards the construction of new orders and embody a new understanding of politics and social life itself". These, Escobar (1992:396) asserts "result in the formation of novel collective identities which foster social and cultural forms of relating and solidarity as a response to the crises of meanings and economies that the world faces today".

In South Africa during and post-apartheid "the crises of meanings and economies are most visibly evident in the slums in most parts of …" (Davis 2004) of the country. In South Africa's context the crises of meanings and economies "attest simultaneously to the capricious effects of the [apartheid] system of uneven development …" (Khan and Pieterse 2006:155) a reality that still characterises the post-apartheid era.

Uneven development, land dispossession and racism put the fight for decent living conditions at the core of the struggle for South Africa's liberation. These struggles birthed the Homeless People's Alliance (HPA). "It was established inside the transitional moment from apartheid to political freedom, but consciously defined itself outside of the dominant imagination of the anti-apartheid movement. Furthermore, with the birth of democracy in 1994, the HPA defined

itself in complex relation to the state: neither too close nor too far, but rather on its own terms" (Khan and Pieterse 2006:156). The HPA has played a vital role in mobilising grassroots support especially from slum dwellers across the country. Through this approach it "ended up exercising a profound influence over the state and its urban development ambitions and programmes. Thus, by the late 1990s the South African state mainstreamed the substantial attributes of the community mobilisation methodologies of the HPA – the People's Housing Process (PHP) – into government policy. This opened the door for the HPA to become a key political actor in development policy debates about urban poverty reduction" (ibid).

The opening of doors meant that the HPA had to prioritise the interests of its key constituency to remain relevant. "Building capacities and capabilities of the urban poor constituted the main thrust of the HPA's work in the first three years of its existence (1991-1994). Its priority was to become an institution in which the poor and homeless people could find a safe passage to decent and affordable shelter" (People's Dialogue 1996). Wilson and Lowery (2003:51) assert that "to achieve this, a space/site was created for poor men and women of slums – regardless of their political persuasion – to share their experiences and strengthen their positions. The space/site – a 1991 housing conference for slum and shack dweller organisations – was configured to enable the poor to learn from each other through dialogue among themselves about what does and doesn't work". This helped inform the programme of action and policy position of the Homeless People's Alliance. More importantly, the dialogue exemplified "the institutional architecture of the HPA [which] is deliberately designed to support… people-led, people-centred and people-controlled development strategy, termed in the literature as asset-based community development (ABCD)" (see Mathie and Cunningham 2003:6).

Through this strategy the HPA showed the need for communities to be involved in their own development. This view was affirmed by the People's Dialogue (1996:21) where it was asserted that government programmes "need to be redesigned and redeveloped by the poor so that they work for them, followed by negotiation with the state to obtain support for the implementation of their solution". This will enable the poor to claim and own their development as opposed to government implementing programmes that 'its claims' are designed for the poor when the poor had no say in their conceptualisation or funding. Democracy, like development, should afford people irrespective of their station in life, the right to determine their own destiny by making choices.

According to Khan and Pieterse (2006:163) "the HPA model became increasingly attractive to government. Following the promotion of the model as sustainable at the Habitat II Conference in 1996, global funders provided direct support for the adoption of a housing approach based on self-help construction through the formation of a People's Housing Partnership Trust within the Department of Housing in 1998". Its purpose adds Huchzermeyer (2001:322), "was the institutional capacitation and empowerment at provincial and local spheres of government and among NGOs to support the people's process". According to Huchzermeyer (2001:323) "in May 1998, the Ministry of Housing introduced a version of the People's Housing Process (PHP) as a means of accessing that portion of the capital subsidy allocated to the top structure. Government placed considerable emphasis on community/beneficiary contribution to the

process of house construction". Democracy could be credited for enabling civil society organisations like the People's Housing Alliance to influence government policy and as a result "for the HPA and many progressive development practitioners, the adoption of the PHP by the state is trumpeted as an important victory for those committed to people-centred development" (Wilson and Lowery 2003:54).

Although the HPA made serious strides in using democratic institutions to fight for and realise its goal of providing decent and proper housing for the poor; the same cannot be said of Abahlali base Mjondolo. Shack dwellers in and around Durban, KwaZulu-Natal, established in 2005. It was established to fight for decent living conditions as a response to victimisation, harassment, and the lack of urgency on the part of the democratic state to realise the right to shelter in the 1996 Constitution. This sub-section assesses the role played by AbM in mobilising grassroots support for better living conditions for all shack dwellers irrespective of their political persuasion.

Pithouse (2009: 255) attributes the establishment of Abahlali base Mjondolo to the "more than five hundred shack settlements [around Durban] that were a unique development …. and a sense of deep betrayal on the part of the local ANC councillor … after he sided with middle class residents in their push to have shack settlements cleared from the area". It is "based around a living politics. Simply put, this refers to a politics that comes from the lived experiences and struggles of people in the movement, rather than external theory or analysis" (Gill, 2014:211). This sentiment is supported by AbM President; Zikode (2009a:22-47) who defines his organisation's approach and politics as "a living politics; a politics which does not require a formal education and begins not with external theories, but rather emerges from, and is shaped by, the everyday experiences of the poor, and can easily be understood as the demand for needs such as electricity and toilets, because these are essential to life".

This civil society movement organised outside existing political formations because it defined itself as the only voice of shack dwellers who rightly or wrongly felt left out of the nascent democratic system. Gill (2014:14) asserts that Zikode's view does not necessarily mean that the AbM is non-political: "the movement does not only fight against the conditions shack dwellers endure. It also, in its grassroots and radically democratic nature, constitutes a rebellion against the technocratic and coercive logic that is behind their condition". Avoiding party politics is according to Zikode (2009a: 35), itself a political decision: "the movement endeavours to be autonomous from party politics, claiming that politics is a politics of the rich" that cannot extricate those on fringes of economic activity from the yoke of poverty, unemployment and underdevelopment that characterises their everyday lives. But the AbM's non-partisan approach appeared to have been based on emotions rather than principle because in 2014, the organisation endorsed the Democratic Alliance (DA) and five years later, during the 2019 provincial and national elections, it endorsed Irvin Jim's Socialist Workers Revolutionary Party (SWRP). This approach has put it on a collision cause with the leading parties in KwaZulu-Natal – the African National Congress (ANC) and Inkatha Freedom Party (IFP).

Apart from fighting for decent living conditions, Abahlali has taken over the struggle against relocations and evictions because these negatively impact its members. AbM's opposition to relocations and evictions was informed by the fact that most if not all shack dwellers earn less and relocating them to other areas could affect them and their families especially children, as it will be practically impossible to meet relocation costs associated with transport to and from work and education costs for children. Regardless of this sad reality, the KwaZulu-Natal Department of Human Settlement in collaboration with the city of eThekwini Metropolitan Municipality enacted into law the Elimination and Prevention of Re-emergence of Slums Act, in 2007. It proscribed the reconstruction of new shacks once those who illegally occupied the land were relocated. The AbM brought a court challenge against this Act in the Constitutional Court resulting in a ruling on the 14th of October 2009 in favour of AbM. The court declared that "section 16 of the Slums Act was unconstitutional and invalid" (CASL, 2009). "Section 16 mandated landowners to evict illegal occupants irrespective of their desperation" (KZN Legislature 2007:13). The 2009 ground-breaking judgement; helped to put a stop to both relocations and evictions and obliged both the eThekwini municipality and the KwaZulu-Natal government to deliver proper and decent housing as provided for in section 26(2) of the Constitution.

As a result of this judgement, a new policy called Breaking New Ground was developed for implementation from 2004 by the National Department of Human Settlement. BNG, as the policy became, known, is another example of the opportunities created by democracy. It could be argued that democracy enabled Abahlali to influence government policy thereby ensuring that the rights of shack dwellers were protected and at the same time ensuring "that settlements are urgently integrated into the broader urban fabric" (Wilcockson 2010:46), altering apartheid spatial planning. But the success of these struggles could be why some leaders of AbM were victimised. Some were forced to leave their homes out of fear of arrests or violence, because they happen to differ from the dominant view. Another view is that its successes threatened the hegemony of the ruling elite, hence the arrests, sometimes murder and victimisation of AbM leaders and activists. This, it could be argued, is an antithesis of democratic ideals – the right to free speech, movement and association. Democracy must protect and encourage the holding of divergent views.

In a democracy, according to Held (1987:271), "individuals should be free in the determination of the conditions of their own lives; that is, they should enjoy equal rights (and accordingly equal obligations) in the specification of the framework which generates and limits opportunities available to them, so long as they do not deploy this framework to negate the right of others". Sorensen (1993:10) states that "the enactment of this principle, which Held called democratic autonomy, requires both a high degree of accountability of the state and a democratic reordering of civil society. It foresees substantial direct participation in local community institutions as well as self-management of cooperatively owned enterprises". This principle, adds Sorensen, (1993:10) "calls for the bill of rights that goes beyond the right to cast a vote to include equal opportunity for participation and for discovering individual preferences as well as citizens final control of the political agenda. Also included are social and economic rights to ensure adequate resources for democratic autonomy". Abahlali like all

other formations, should be allowed to freely organise and participate in setting and determining their own agenda, because our system of government does permit it. Over time AbM has, despite these challenges, been able through its grassroots support to give a voice to its members and to register gains. These successes are a result of South Africa's democratic dispensation that has enabled Abahlali base Mjondolo to operate, albeit under difficult conditions.

7.4 The Fight for Access to Land in Post-apartheid South Africa

"Despite the historically significant process of political democratisation, marked by the first universal democratic elections in South Africa in 1994, economic restructuring has favoured the owners of economic power…. The ANC provides the political leadership for an alliance that groups large-scale capital with the organised working class to pursue seemingly common interests based on a developmental platform" (Greenberg 2004:133). Greenberg (2004:133) adds that the resulting corporatist arrangement, "exemplified by the tripartite National Economic Development and Labour Council (NEDLAC), ties a redistributive project to capitalist economic growth based on an export-led strategy. While inward-looking apartheid economic institutions and regulations that facilitated them are dismantled in favour of outward-looking institutions … that facilitate globally competitive economic activity, social policies are designed to play a welfarist role to ameliorate the fallout …".

The unintended consequence of the 'marketization of social services', a product of a capitalist export-led economic growth path, was the conversion of citizens from 'potential beneficiaries' into consumers who had to pay to receive services. To add to the challenge, the post-apartheid state inherited a large population of marginalised and poor rural and urban dwellers who were black and African in the main. The reintroduction of South Africa into the competitive global economy negatively affected white landowners as they needed to reorganise their workforce and production. This resulted in mass evictions and retrenchments. White landowners were also uncertain of the country's political trajectory and so many sold their farms. Policies such as GEAR appeared to be increasingly skewed to the interests of the capitalist class, exacerbating the economic situation.

On the global front "the shift away from government-led redistributive land reform to a land market reform in the 1980s (Ria El-Ghonemy 1999:1) catapulted the World Bank's 'willing-seller, willing-buyer' model of land redistribution into prominence triggering a renewed international struggle for land restoration. In South Africa the situation was even more precarious, because "the majority of… [the} population … do not have ownership of, or legally secure access to, land in their own name. In most cases, whether urban or rural, the majority are living on land that legally belongs to someone else. Their tenure rights are insecure and constantly open to threat, be it from the state or private landowners" (Greenberg 2004:135).

During apartheid the struggle against land dispossession was subsumed under the broader struggle for South Africa's liberation. It could not, regardless of how one tried, be viewed

outside of racial politics and lack of civil and political rights. When democracy opened up political space for action; citizens who felt disillusioned with the pace of the post-apartheid government's land redistribution programme began mobilising and organising to influence government policy on this matter. Their efforts culminated in the emergence in July 2001 of the Landless People's Movement (LPM) "… a nationally co-ordinated movement which … arose from the base of community-based organisations (CBOs) formed over the preceding decade to gain access to land" (Greenberg 2004:26). The LPM, like Abahlali base Mjondolo, was able to organise groups who feared victimisation, threats and sufferings caused by evictions and relocations, mostly black Africans from the rural and urban areas. From its inception it was very robust in confronting the compartmentalisation of urban and rural struggles by asserting that landlessness, insecure tenure, lack of legally secure access to land and removals are experiences for both rural and urban dwellers.

The LPM, like other post-apartheid civil society organisations, employed legal and constitutional means created by the democratic dispensation to vigorously fight for its members and affiliates. It did so, by waging its sometimes confrontational fights with the government through democratic institutions including the law, specifically the Bill of Rights. Its aspirations and demands are also in a sense an outcome of South Africa's democratic commitments. The democratic dispensation brought with it freedom of movement, – a constitutionally provided right, which meant that those in need of better economic opportunities can move from rural to urban areas - urbanisation. The apartheid government's forced restructuring of the rural political economy as a result of changes in the global economy began gathering speed in the 1980s. It profoundly impacted many rural dwellers who moved to cities in search of better economic opportunities. Rapid urbanisation had unintended consequences not only for the government, but also for those who relocated to urban centres as access to land became a serious challenge for those families resulting in overcrowding and unhealthy living conditions for many. The constitutional democratic state, attempting to safeguard market imperatives (specifically private property) has, as Daniel Botha points out (18 August 2003 interview cited in Greenberg 2004:12) "[wanted] to move people, not upgrade. They want to keep people outside of Johannesburg, we don't know why, what the reason is". The LPM through the National Land Committee successfully responded to government action through the Extension of Land Tenure Act (ESTA), the Labour Tenants Act and Prevention of Illegal Evictions and Unlawful Occupation of Land Act of 1998 (PIE). It brought a court case against the government including private landowners who tried to evict or relocate families that were "illegally" occupying certain pieces of land.

In response to the struggles led mainly by the LPM and other NGOs and in keeping with the provision of the Bill of Rights, the government has since amended the laws to make them more responsive to the economic and social needs of South African citizens. These changes validate the critical role performed by LPM, which would not have been possible without democracy. Democracy should be credited for enabling LPM and other NGOs involved in the struggle for land redistribution, to achieve some of their goals, albeit not all of them. Furthermore, the scrapping of the laws such as the Native Land Act and the Suppression of Communism Act enabled the Landless People's Movement to organiser citizens. Through grassroots

mobilisation and participation, the LPM was able to influence for changes in government land policies.

7.5 Working-class's Struggle for Free Basic Services (FBS) in the Post-Apartheid South Africa

The 1994 democratic breakthrough brought with it many opportunities including creating political space for organisations operating outside of former liberation movements. These social movements or organisations have styled themselves as the voice of those whose conditions have not seen any improvements since the advent of democracy. Discontent was compounded by the 'perceived abandonment' by the ANC and its allies, COSATU and the SACP of the Freedom Charter and the Reconstruction and Development Programme (RDP) in favour of GEAR, which favoured the 'marketization of social services' in advancement of capitalist economic growth based on an export-led strategy that regarded the poor as consumers or customers. Buhlungu (2004:69) asserts that "…in South Africa there is a tradition of independent mobilisation that emerges to contest with the dominant liberation movements for hegemony. This is often achieved by mobilising around those issues that liberation movements seem incapable of addressing". Thus, the establishment of many civil society organisations in South Africa should be understood as a perpetuation of a form of mobilisation because the ANC and its alliance were perceived to be failing to pursue issues that faced its support base.

Policy aimed at addressing the living conditions of rural and urban black South Africans created advantages and disadvantages for the working class and the poor. The post-apartheid advantages included the fact that blacks and Africans in particular, now have unhindered access to clean water, electricity for lighting and cooking, proper sanitation, government subsidised houses and regular refuse removal. The disadvantages included the fact many black Africans remain poor, those who are employed earn less than others and the majority, especially young people, are unemployed. This created a sense of dependency, especially for social grants recipients. For the working-class it triggered a sense of uneasiness. "In 1998, two years after the adoption of GEAR by the ANC government, many activists in South Africa still believed trade unions would lead the struggle against neo-liberal globalisation. A labour support organisation exhorted workers to join the struggle against globalisation (ILRIG 1998:39). But unions and specifically COSATU "failed to provide the necessary leadership". Even when the City of Johannesburg threatened to privatise water and other services as part of the 'marketization of social services' COSATU and its affiliate the South African Municipal Workers Union remained nonchalant leading Appolis (2003) to assert that there was a "symbiotic relationship between the trade union bureaucracy and the ANC leadership which …. is related to self-preservation by the elite".

Egan and Wafer (2006:46) assert that events leading up to the "launch of Igoli 2002, the policy package launched by the Mayor of Johannesburg in 1999 aimed at making Johannesburg Metro Council financially viable" catapulted many social movements into the spotlight, including the

Anti-Privatisation Forum (APF). The APF emerged out of failure by the liberation movement to prioritise the RDP which "emphasised a relatively progressive set of welfare-oriented policies, and against apartheid created infrastructure disparities. In the extension of electricity and water services, the RDP proposed freeline tariffs, cross-subsidisation from areas with higher rate base, and a National Electricity Fund underwritten by government" (see RDP 1995 cited in Egan and Wafer 2006:46). The RDP (1995) further called for the "democratisation of the state and society" with local government strategically and deliberately placed at the coalface of community engagement and participation. This, according to Bond (2000:92-3), would require "the depoliticising of civil society, [which] was begun even in the RDP, with the assumption that local government is the most effective tool of delivery". The City of Johannesburg's intentions to outsource water and electricity supply to private companies, helped to galvanise support for the formation of the Anti-Privatisation Forum (APF) on the 6th of July 2001. The APF believed that privatisation would further burden the poor, who already could not afford municipal services. It viewed this action as incongruent with the social and economic rights clauses of the Constitution. The APF viewed Igoli 2002 as a threat to job security for all municipal employees in the water and electricity sector. Johannesburg's plan to install prepaid water meters to generate more revenue, even in the midst of widespread opposition, typified the arrogance of the Gauteng Provincial government and city officials and confirmed Appolis' criticism. The fact that most poor residents could hardly afford to feed their families appeared unimportant to city and provincial government officials.

Several networks and organisations consequently met to devise a plan against these measures which were to be implemented throughout Gauteng province. According to McKinley (2005:7) "in its founding statement, the APF set out the key reason for its existence. Namely, to bring together the collective struggles of poor and working-class communities against the devastating effects of capitalist neo-liberalism … (so as) to effect fundamental shifts in the basic service/needs policies of the state so that the majority of South Africans can enjoy the full realisation of their basic human needs and rights". He added that "the longer-term vision of the APF is to bring about radical changes in the character and content of democracy … so that ordinary poor and working people can have popular and effective control over their lives" (2005:7).

Organisations making up the APF hoped to achieve fundamental changes in the provision of basic services through "campaigns and struggles … driven by a focus on basic needs, principally water, electricity, housing and education" (Buhlungu, 2004:7). But the presence of organisations such as COSATU Wits Region, the South African Municipal Workers Union (SAMWU), the South African Student's Congress (SASCO), the Johannesburg district of the SACP in the ranks of the APF was always going to be a serious challenge as many of these organisations were allies of the governing ANC. Buhlungu (2004:72) confirms this: "in 2001 the COSATU Regional Executive Committee decided to withdraw from the forum … From around that time several other organisations faded out without making a formal announcement". Loyalty to the governing alliance appears to have won the day, because the APF was perceived by the ANC as an anti-ANC alliance. COSATU, which had hosted APF at its headquarters, was lobbied to evict it. "Trevor Ngwane was expelled from the party and

therefore lost his position as an ANC … councillor for Pimville in Soweto. McKinley was expelled from the SA Communist Party (SACP) and Appolis was dismissed from his job as the regional secretary of CEPPWAWU" (Buhlungu 2004:71).

The expulsion of these individuals from their political formations did not affect campaigns such as 'Operation Khanyisa' (restore electricity) that were carried out in several major townships in Gauteng. 'Operation Vulamanzi' (restore water to all) was carried out in all areas where water had been disconnected. Urban dwellers who had defaulted on rent or mortgage payments were dissuaded from accepting summons from the sheriff or responding to eviction or court notices. As a result, all municipal credit control and payment enforcement measures were ignored by residents in various Gauteng communities. The APF's strategies were reminiscent of those of the United Democratic Front during the 1980s. "The boycott of government institutions and the use of militant action to achieve its objectives [became] an influential approach within the APF" (Buhlungu, 2004:8). The advent of constitutional democracy enabled the APF to conduct itself in the manner it did, because, when South Africa was not a democracy, this would not have been permitted - its activists and leaders would have been violently crushed or worse imprisoned.

The discontent caused by the decision of the City of Johannesburg to roll out prepaid water meters compelled the governing ANC/SACP/COSATU and SANCO alliance to make changes to the provision of basic municipal services. In conformity with the APF's demand for access to water and electricity for the working-class and the poor, the democratic government began gradually implementing a Free Basic Service (FBS) policy for all qualifying residents. The ANC adopted FBS as its policy for local government, resulting in the discontinuation of prepaid water metre installation projects across the country. The FBS package included an allocation per month to residents of 6kls of water and up to 100kw/s of electricity free of charge. Additionally, the democratic government also introduced the indigent relief programme – a social relief package targeting the working-class, poor, child-headed and aged households. The indigent social relief package offered rebates or a waiver for municipal services for the working-class, poor, aged and child-headed households that earn R3500 or less per month. It was hoped that they would spend the money on necessities including food, helping the democratic government reduce poverty.

It could be argued that the dawn of democracy has helped create favourable political opportunities for civil society organisations such as the APF. These include the availability of various platforms that enabled it to pressure elected public representative to respond to citizen's needs. Other political spaces created by democracy would include the creation of avenues for civil society organisations to influence and sometimes direct the democratic government's action and policy trajectory on the provision of basic services. Local government legislation now enjoins municipalities to promote participatory democracy by holding annual consultative meetings where the Integrated Development Plan (IDP), a municipal planning tool that informs the budget, is discussed. The IDP empowers communities to make suggestions about service delivery needs and priorities, a process that promotes bottom-up planning. But democracy also created challenges including the failure by the APF and its affiliates to appreciate that South

Africa is a democracy. The APF's use of inappropriate tactics which are not in keeping with democracy, has helped create an awareness amongst many citizens whilst at the same forcing municipalities to listen to the APF's demands as exemplified by the changes in local government policies leading to the adoption of the FBS policy by the ANC government.

7.6 The Fight for Social Protection for the Poor

A democratic regime must adopt a programme that is focused on accelerating a fight for declining inequality if democracy is to endure. For this reason, this section assesses the role of democracy in improving social protection for the poor, specifically women, the aged and people with disabilities.

The South African social protection plan was first "developed under apartheid as a welfare state for whites and was then expanded under social and political pressure to incorporate other groups" (Van der Berg, 1997:481-503). Black Sash, an organisation fighting for equal social protection, was central to the fight for the incorporation of other races into the social protection plan. In 1955, white women from across South Africa met to form Black Sash as a platform to contest the violations of the human rights of black Africans, Indians and Coloureds. It also played a significant role in the struggle for a transparent, accountable and open government. Koskimaki et al (2016:2-3) note that "in the late 1950s Black Sash members offered legal advice to women who had been arrested for violations of the unjust pass laws during apartheid, setting up their first advice office in Athlone, Cape Town". Its support for black African, Coloured and Indian South Africans was directed at "racialised under-development" (Neves and Du Toit 2012:133). Koskimaki et al (2016: 3) quoting from the Black Sash official website, assert that in its endeavour to oppose racialised under-development it used the "advice offices … as a free resource for those who sought paralegal services for issues such as housing, unemployment, pension, influx control, detention without trial and so on". This conduct reveals that from its inception, Black Sash has always been concerned with the civil, political and socioeconomic rights of every South African.

When democracy was achieved in 1994, Black Sash used opportunities or spaces presented by the democratic breakthrough to vigorously pursue socioeconomic struggles with a particular focus on vulnerable groups – women and children. Its focus was more on social protection specifically the extension of social security assistance for women, children, the aged and people living with disabilities. To achieve this goal, it developed a project called Community Based Monitoring (BCM). The primary purpose of the project was to work closely with the affected communities in developing interventions aimed at responding to their social and economic challenges. The organisation has also entered into a partnership with various local municipalities and provincial and national government departments. This has enabled it to track and evaluate services rendered to communities in need. This partnership with municipalities and government departments would not have been possible if South Africa was not a democracy.

The CBM project has also enabled Black Sash to acquire extensive knowledge and appreciation of how municipalities and government department's function. Democratic conditions have made this possible: "the notion behind CBM has gained credibility in various contexts and has been used in similar ways by civil organisations even if they employ different terms. The World Bank presented a similar concept in a 2002 report that recommended Community Based Monitoring and Evaluation as an approach for training community members to monitor their own local development activities" (Toledano et al 2002: 138).

Black Sash has been advancing active citizenship through the CBM project which Clarke and Missingham (2009:955-6) define as "especially bottom-up participation in the domain of civil society rights-based development and good governance". This has given citizens the power to freely express their views and get results directed at their own welfare in the political debates that surround wealth and welfare in their own surroundings. Black Sash has through this programme been able to "highlight the everyday issues women face that may go unnoticed, such as the fact that often women had to, in the absence of alternative childcare, stand in long lines all day to receive grants with their small children, without having proper access to food, drink, or toilet facilities" (Koskimaki et al, 2016:29). "Voice is vital for inclusion in democracy. It is also a way in which the disadvantaged groups can ensure positive recognition by those in power" (Appadurai, 2013:186). CBM does more than fit greater accountability and transparency into an observation and proficiency paradigm. "This is because key to the methodology is the alteration of power relations by empowering ordinary citizens to play a more central role in facility governance. Thus, participation requires citizen empowerment, and citizen empowerment improves responsive and responsible local governance" (Koskimaki et al. 2016:29). In South Africa CBM has empowered women, specifically black African. Many service users and beneficiaries at health and SASSA facilities are women, as are most of the community monitors. Accordingly, it is typically women who benefit from social protection and other services.

Black Sash has also managed to influence government action and by extension some policies. "In 2012, [for instance], Black Sash made a submission to the Presidency to help shape the framework document for citizen monitoring of service delivery which was also presented to Cabinet. In August 2013, Cabinet adopted the Framework for Strengthening Citizen-Government Partnerships for Monitoring Front-line Service Delivery …." (Koskimaki et al, 2016:5). Furthermore, "in May 2013, the Black Sash launched the Reducing Maternal and Child Mortality through Strengthening Primary Health Care (RMCH) programme. …The main objective was to provide support for the National Department of Health (NDoH) to improve the quality of, and access to, reproductive, maternal and child health services for women and children living in poorer and underserviced regions of SA" (Black Sash Annual Report, 2013).

Lastly, Black Sash became an *amicus curiae* (friend of the court) in 2016. The case responded to the failure by the national Department of Social Development to develop a concrete plan for the disbursement of social grants owing to the termination of a costly contract. In 2017 the Constitutional Court directed the department to use the Post Office in disbursing social grants within six months from the date of the judgment or from the 1st of April 2018, whichever came

first. This decision had far-reaching implications for social grant beneficiaries. The most important was that they could no longer be pressured into permitting stop-order deductions from their grants.

So far, Black Sash is the only case study of a social movement that existed during both apartheid and democracy. The successes it registered during democracy are in stark contrast to the uphill battle to get protection for the poor it fought under apartheid. This illustrates the role democracy has played in creating political spaces and opportunities for social movements like the Black Sash.

7.7 The Fight for Inclusion in Post-apartheid Decision-making in the Informal Economy

Rapid urbanisation in South Africa, as in other parts of the world, has brought the informalisation of work for those unable to find formal work. The economy, pre- and post-apartheid remains heavily skewed in favour of white males – who happen to be in charge of the commanding heights of the country's economy. Most of them still control the banking sector, mining, agriculture and industry. Broad Black-Based Economic Empowerment (BBBEE) a creation of the democratic state, has unfortunately not created a bigger pool of black-controlled industries which could be among the reason the most women have opted to work in the informal sector.

This section assesses the role of the "unemployed and informal workers" who "as a result of their dissatisfaction with the formal trade union movement" have "begun to organise themselves. These new informal economy unions are an interesting component of new social movements in South Africa" (Devenish and Skinner 2006:255) and are worth examining. The Self-Employed Women's Union "(SEWU) was launched in 1994, at the time of the political transition. Its constituency was self-employed women working in the survivalist end of the economy – largely street traders and home-based workers" (ibid). According to the International Monetary Fund (2021) "the International Labour Organisation (ILO) estimates that about 2 billion workers, or over 60 percent of the world's adult labour force, operate in the informal sector – at least part time. The informal economy is a global phenomenon, but there is great variation within and across countries". Cowling (2023) suggests that "the number of people employed in the informal sector in South Africa amounted to 4,8 million in 2020. In the period under review, the number of people with jobs outside of formal institutions increased generally, peaking in 2018 at 5,79 million. However, [there was] a significant drop of around one million people … in 2020" owing in large part to the global pandemic – Covid 19. These numbers are astronomical. They beg the question; why did COSATU fail to organise this very important sector of the economy? "Given the national trend towards the informalisation of work, formal economy workers belonging to trade unions are becoming a smaller and smaller proportion of the workforce" (Devenish and Skinner 2006:255). SEWU thus became the only voice of workers in the informal economy and was central in advancing issues that benefited its members. Membership of SEWU "was open to all adult women involved in an economic

activity and who earn their living by their own effort, without regular or salaried employment and who do not employ more than three persons on a permanent basis" (SEWU 1994:1). The focus of SEWU was on women who were operating on the fringes of the mainstream economy. The decision to organise black African women was deliberate and strategically aimed at confronting the gendered nature of the informal economy whilst also fighting the patriarchal stereotypes that characterises the society.

To achieve some of its goals, SEWU developed a relationship with the government. This "tended to be framed in terms conventionally employed by unions – collective bargaining, negotiations and lobbying. In a context of worker organising where there is often no employer, the state frequently becomes the negotiation partner. [Where possible] SEWU did not shy away from more adversarial acts like marching" (Devenish and Skinner 2006:265). But the organisation's "negotiations/collective bargaining and policy lobbying activities were partly what distinguish it from many other social movements" (ibid). As a result, SEWU was able to negotiate many agreements with the government, specifically, local municipalities. By-laws and regulation focused on street trading, the provision of infrastructure services such as shelter, water storage facilities and toilets are now a common feature in many areas where SEWU had a presence. Police and metro police departments have been dissuaded from harassing and victimising many informal traders in major city centres. The achievement of these gains should be credited to the ability by SEWU to mobilise grassroots support which was a seen as a threat to major political formations and to the fact that democracy has created political opportunities for it to organise and mobilise.

7.8 Conclusion

The case studies presented above demonstrate that the dawn of democracy in South Africa has given enormous power to citizens to ensure that the state adequately responds to their civil, political and socioeconomic rights. Citizens acting as individuals or through collective effort have rightly appropriated political opportunities and spaces created by democracy and are continuously working towards the achievement of constitutionally enshrined rights. The social movements or civil society organisations cited in this chapter are at the centre of continuous grassroots mobilisation and some should be credited for redirecting government action and policies in furtherance of democratic, political, civil and socioeconomic rights.

This chapter has showed that civil society organisations like the Treatment Action Campaign have, through lobbying, demonstrations and litigation, played a critical role in achieving the national rollout of life-prolonging medication for HIV/Aids infected persons including the mother to child prevention programme that is designed to save the lives of unborn children. Civil society organisations such as the Self-Employed Women's Union, Abahlali base Mjondolo, Black Sash, the Anti-Privatisation Forum and the Landless People's Movement used the courts, grassroots mobilisation and lobbying to advance socioeconomic, civil and political rights' struggle leading to changes in government policies. The 1996 Constitution guarantees the many rights that these organisations have been pursuing. Their success could in large part be credited to the dawn of democracy and the opening of the political opportunities

and spaces that allowed them to organise. It could be argued that South Africa's democracy has good prospects of enduring if it protects the multiplicity of views.

CHAPTER EIGHT
8.1 Democratic Experiment, Consolidating or Retreating: Concluding Remark

The positive conclusion it reaches should not be taken to mean that the constitutional democratic South African state has fully consolidated. Rather it should be understood that the transition from apartheid to the democratic era was fraught with many complex challenges and that the process involved several important phases. The challenges included the fact that, during the 1970s towards the latter parts of the 1980s, the National Party government experienced internal and external pressures that culminated in a crisis that compelled some within and outside the party to start advocating an inclusive democratic state based on free and democratic elections. Afrikaner academics and businesspeople were not only instrumental in identifying this crisis but began holding informal consultations with certain leaders of the ANC who were exiled in various parts of the globe. These consultations culminated in the convening in 1991 of the Convention for a Democratic South Africa (CODESA) which resolved to hold the inaugural inclusive general elections in 1994. In South Africa's case, the process towards democratic consolidation did not begin or end with the holding of elections in 1994.

The fact that the 1994 elections produced a government based on the will of all the eligible voters, should not be taken to mean that South Africa's democracy is fully democratic. For a country to reach a state of full democracy, certain phases of democratic deepening must first be realised. It is only once these phases have been realised that South Africa's democracy can be described as consolidated. Democratic consolidation does not occur overnight; the process is tedious and very long, often taking decades or centuries as was the case with Great Britain which took in excess of two hundred years. The following illustration developed by Dankwart Rustow (1970) offers a simplified version of the phases enunciated here.

The phases, however, do not factor in that in South Africa's case, there was almost a century-long struggle against the whites-only democracy. The section below assesses the role of whites-only democracy in helping democracy consolidate or retreat. The thesis has already highlighted how the whites-only democratic experiment continues to cast its shadow and momentum into the new experiment and shape South Africa's democratic trajectory. South Africa's situation is unique because "the preparatory phase for democracy began long before national unity and independence had been achieved" (Sorensen 1993:43). The study has in previous chapters demonstrated that the whites-only democracy enabled a particular section of the population to vote to elect a government that promoted that section's rights. The resultant government prioritised the interests of those who voted it into power and relegated the rest - black Africans in particular – to second-class citizens, leaving them without any voice or representation in the country's political decision-making processes.

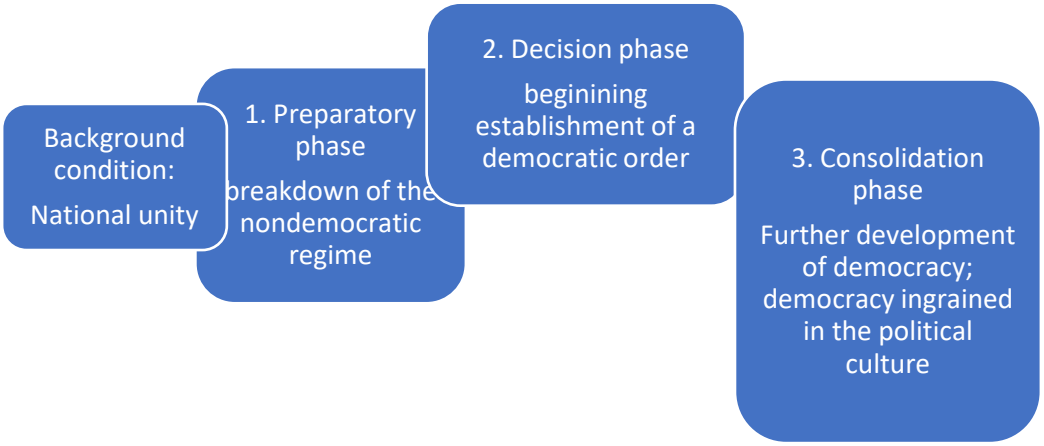


Figure 3: Transition towards democracy: A model

Source: Based on Dankwart Rustow, "Transitions to Democracy," Comparative Politics 2 no. 3 (1970).

But the 1973 oil crisis and the resultant economic decline of the 1980s caused some turmoil within and among members of the ruling elite which led reformists to call for a relook at apartheid as a system. According to Inggs (1994:4) "economically in the 1980s, under the leadership of P.W. Botha, South Africa moved out of the ranks of the West and into the club of failing African economies. Especially serious was the collapse in savings. It was the natural consequence of the decline in per capita disposable incomes that was taking place – a consequence that posed a long-term threat to the economy". The "growing convergence of views among capitalists about the rising costs and inconvenience of apartheid" (Lipton 1985:277) was perhaps the clearest sign that there was major discomfort across the political and business spectrum. This and the many other unfavourable conditions triggered a cacophony of calls within and outside the National Party (NP) for the reform of apartheid.

Du Toit (1995:348-350) argues that, as a response, the minority government embarked on "reform apartheid in the 1970s and early 1980s". This opened political opportunities and spaces that led to the creation of Regional Services Council and the Tricameral Parliament which were to serve as a platform for other racial groups to contribute to policy formulation. Others argue that "the intention was to co-opt sections of the population into the formal political process but do so in such a way that they would be unable to determine the course of decisions. The inclusion of Asians and coloureds was meant to give a measure of legitimacy to the system and to marginalise the black democratic movements" (Inggs 1994:61). But instead of achieving its desired outcome, this process helped galvanise support for the Congress of South African Trade Unions (COSATU) and the United Democratic Front (UDF). The intensity of their struggle attracted international attention to South Africa and helped expose the fact that the Nationalists could democratise the country if they wanted to. Furthermore, the fact that black Africans who

constituted almost 90% of the population were marginalised meant that the reform of apartheid was neither genuine, nor did it intend to improve the country's political and economic situation. The absence of civil and political rights for blacks also meant that they barred from participating in political decision-making and so were unable to advance policies that would fundamentally alter their economic and social conditions. Without an inclusive "democracy, affluence, growth with moderate inflation, declining inequality, a favourable international climate and [credible] parliamentary institutions" (Przeworski et al. 2009:7), South Africa had no prospects of democratic consolidation.

Even during this climate, the government could not realise the incentives that democracy would bring to the country and by extension its people. Clearly the apartheid government was less interested in creating affluence among the country's citizens which would have contributed to declining inequality. This important task was left to the soon to be installed non-racial constitutional democratic government. It is worth mentioning, however, that apartheid did scrap racial discrimination in the provision of social security. The constitutional democratic state only tweaked certain aspects of the law to ensure that it reached and responded to a larger section of the population. The result was an increase in the number of social grant recipients. The NP government introduced these changes as a response to intensified lobbying from civil society organisation, who were able to register these gains because they had the backing of international organisations and governments.

The relaxation of some barriers by the NP government also meant that it could abolish apartheid if it wanted to. The fact that it did not, resulted in "a prolonged and inconclusive struggle. [With] some individuals, groups and classes [challenging] the nondemocratic rulers. [For some like black business and labour] democracy may not [have been] their main aim; it [was] … a means to another end or a by-product of a struggle for other ends, such as a more equal society, a better distribution of wealth, the extension of rights and freedoms and so forth" (Sorensen 1993:41). This phase constitutes what is referred to as the preparatory phase towards democracy as illustrated in the above model. The next phase in South Africa's setting is national unity and the breakdown of the non-democratic regime. More importantly, what these phases signify, is that whites-only democracy did very little to help democratic consolidation. Rather, it created favourable conditions for the transition towards an inclusive non-racial democracy.

Although the post-1994 democratic era has not led to full democracy (consolidation), it has given citizens the means and opportunities to do so and made it possible for successive governments to help realise democratic consolidation. National unity in South Africa and the breakdown of the non-democratic regime's institutions, values and policies only commenced after the 1994 democratic elections. All those that were essential in entrenching racial inequality were either changed or ended. Since 1994, successive governments have worked towards and are on course to achieving full democracy because they have either enacted laws or developed policies that are focused on ending racial, social and economic inequality. It is anticipated that once democratised and deracialised, the country's economy will be accessible to all thereby promoting affluence which will result in declining inequality. The drafting by the Constituent Assembly of the 1996 Constitution and its subsequent approval by the political

parties representing all South Africans in the National Assembly represented an important chapter in the country's transition towards democratic consolidation, because the Constitution declared all laws and conduct that are inconsistent with it invalid. The Constitution provided for the first time in the country's history, for the protection of all freedoms including the right to freedom of the press, association, movement and the right to elect or be elected to government. These rights are essential not only in helping South Africa becoming fully democratic but also in ensuring that race-based politics and socioeconomic inequality is finally eroded.

The Constitution has also created democracy advancing institutions like the Public Protector South Africa (PPSA), the Independent Electoral Commission (IEC), the Auditor-General (AG), the Commission for Gender Equality (CGE) and the independent judiciary. Citizens now freely have rights, either as individuals or collectives, to raise concerns and in certain instances challenge government action or inaction. More importantly, citizens can now as independent candidates or political party representatives contest for political office in all spheres of the democratic government. For the majority, this was not possible during apartheid. Political decision-making processes were only a purview of the white section of the population.

It also guaranteed citizens access to an impartial judiciary that is enjoined to promote, advance and protect the freedoms and rights of every South African regardless of their station in life. The courts as arbitrators between citizens and the state, use these constitutionally provided powers to safeguard against indiscriminate use of power by the state or individuals acting on its behalf. Citizens, especially those whose rights are violated or trampled upon by the state; its agencies or anyone exercising public power, can approach the court for recourse.

This has enabled civil society organisations to use these opportunities to fight for their member's interests, contributing to the strengthening of democratic institutions, values and practices. Currently, the poor and the working-class receive free primary health care and life prolonging treatment such as AVRs due in part to the role of the courts and the Treatment Action Campaign. Children of the poor and working class now receive state funded basic and higher education and state provided meals at all educational institutions. Households owned by the poor and working-class receive monthly free basic services like electricity, refuse removal and clean water. The unemployed and poor receive a monthly R350 Social Relief of Distress Grant aimed at cushioning them against extreme poverty.

The democratic dispensation has also extended non-discriminatory social security assistance to include foster children, military veterans, people with disabilities, qualifying children who are under the age of eighteen and the elderly. Stringent conditions have been abolished making security social not only non-discriminatory but also catering for non-citizens who qualify for assistance. Currently, social assistance caters for more than eleven million people and is one of the most effective tools contributing to declining inequality. Qualifying South Africans also receive state subsidised housing which helps citizens especially the poor avoid the indignity of living without a proper shelter. South Africans, as demonstrated in chapter 5, are allocated free monthly basic services which include 100kw/h of electricity, free refuse removal, and 6000 litres of water. This intervention was introduced after the end of apartheid.

Other changes include the introduction of important legislation like the Employment Equity Act (EEA) that has essentially altered the character of management in the private and public sectors. This and similar laws have enabled suitably qualified men and women to apply and if successful to be appointed in the jobs of their choosing. Added to this was the introduction of the national minimum wage (NMW) of R3500 per month for all sectors of the economy. It is anticipated that this will enhance the living conditions of "6,2 million workers, or 47,3% of the workforce, including 90,7% of domestic workers, 84% agricultural workers, 54,6% construction workers and 48,2% of wholesale and retail workers [who] earn below R3500 per month" (Francis, Jurgensen and Valodia 2018:3). Rights have enabled an increase in the number of trade unions, political parties, media houses and people relocating from one area to another in search of improved living and economic conditions without fearing state retribution or harassment as was the case during the whites-only democracy.

These successes have unfortunately not translated into social and economic equality as South Africa is considered the most unequal society in the world. There are many reasons for this. First, the tertiary education system is "not producing the skills needed for inclusive economic growth" (Powell, 2018:3). Second, "the informal economy, has remained resistant to [government] policy, programmes" (Godfrey and Colliers, 2018:3) and interventions which have ensured its inability to create the much-needed jobs. The National Economic Development and Labour Council (NEDLAC) is probably the country's only solution because it is, according to Webster and Joynt (2014:1), "distinctive as a peak-level social dialogue institution in that it includes not just labour market issues but also trade and industrial policy, monetary and fiscal as well as developmental issues". "Historically, NEDLAC has had an important impact on economic reform in three broad areas – the restructuring of the labour market, trade liberalisation and competition policy" (ibid). For South Africa to tackle its social and economic problems, this role must be resuscitated. This would help reinforce the role of democracy to deal with poverty and inequality because the rationale for NEDLAC was to enable social partners working in collaboration with government to play an important part in decision making on the country's economic trajectory.

The current phase, which can be termed the beginning of the establishment of a democratic order, is still not yet complete because the country still faces many challenges. It was noted earlier that South Africa still is, almost three decades later, considered as the most unequal society in the globe with massive poverty that poses a serious threat to democratic consolidation. "Policy makers have … avoided dealing with this …, thereby tacitly condoning the low earning and poor working conditions in the informal economy because it is generating livelihoods in a context where the formal economy is not creating enough employment" (Godfrey and Collier 2018). "Public officials [too, and especially those] who interface with residents and businesses on a daily basis [should] reorient their mind-sets to not simply see their role as enforcers of uniform regulations and stands. Instead, they need to appreciate the makeshift and adaptive nature of poor peoples' livelihood strategies" (Harrison, Pieterse, Rubin and Scheba 2018:3). The further development of democracy and its etching into the South African political culture will in large part be contingent on the country's ability to deal with a myriad of challenges.

8.2 Challenges to the Development of Democracy and Ingraining of Democracy as a Political Culture

As already noted, the South African democratic experiment is fraught with challenges. These are despite the signs of progress made thus far. Thus, the progress cannot be treated as cast on a stone, and challenges as insurmountable. Democratic reversal is a likely occurrence when there is a "disenchanted population who may become tired of a democracy that has not delivered, in material terms, much more than economic hardship and social inequality" (Schedler 1998:95). Linz and Stepan (1996:23) assert that "… the most widely cited obstacles to democratic consolidation are the dangers posed by … disappointed popular hopes for economic improvement in states undergoing simultaneous political and economic reform". As South Africa is considered as the most imbalanced society in the globe, there appear to be strong grounds for fearing that the poor, unemployed and the underpaid working-class would one day rise against the democratic state, opening spaces for anti-democratic forces to seize power. But Schedler (1998:95) asserts that "eliminating, neutralising, or converting disloyal players represents the primary task of democratic-breakdown prevention". This means that, to avoid a democratic breakdown, the government must urgently develop plans to overcome unemployment, poverty and inequality. Failure to do this could result in the reversal of all the democratic gains.

Linked to lack of changes to the material conditions of many South Africa is the surge in corrupt activities affecting mostly state departments and public owned entities. Between 2019 and 2022 South Africa spent more than R2 Billion investigating allegations of state capture. It is alleged that more than a trillion Rand of public funds were misappropriated. As a result, senior government and parastatal managers have been hauled before the courts to answer to these serious allegations. Others who were named in the allegations of state capture appear to have switched sides and have subsequently been 'rewarded' either by being appointed into public office or sent to represent South Africa in various embassies. The unfortunate message this appears to send is that of impunity and lack of respect for the country's laws. The study is not accusing anyone of corruption and neither does it say there is no consequence management in the public service. All that is argued is that "behaviourally, a democratic regime in … [South Africa will be] consolidated when no significant national, social, economic, political, or institutional actors spend significant resources [as alleged by the State Capture Commission] attempting to achieving their objectives … (Linz and Stepan, 1996:16)" specifically those that neither advance nor promote state interests. Additionally, the fact that some are charged in court while others are seen, rightly or wrongly, to be 'rewarded' through appointments into senior positions in the public service or posting to foreign lands erodes public confidence in state institutions. This is seen as an antithesis to democratic consolidation. Because "attitudinally, a democratic regime is consolidated when a strong majority of public opinion, even in the midst of major economic problems and deep dissatisfaction with incumbents, holds the belief that democratic procedures and institutions are the most appropriate way to govern collective life …" (Linz and Stepan, 1996:16).

The political intolerance experienced in many parts of the country does not help its democratic trajectory. Political killings in KwaZulu-Natal, Mpumalanga and Gauteng, and the perceived victimisation of those seen to be holding a different political view, including Abahlali baseMjondolo, does not augur well for democracy. This is because, "constitutionally, a democratic regime is consolidated when governmental and nongovernmental forces alike become subject to, and habituated to, the resolution of conflict within the bounds of the specific laws, procedures, and institutions sanctioned by the new democratic process" (Linz and Stepan, 1996:16). This only happens in a situation where all political and non-political actors regard democracy as the only game in town.

Finally, the South African state is anchored on three independent yet interlinked branches – the legislature (the National Assembly, the nine provincial legislatures and the various municipal councils), the judiciary and the executive (government). The fourth estate – media, business and civil society - complements these three branches of the state. In a democratic state, all these institutions must discharge their responsibilities fairly and in keeping with the Constitution. But the Constitutional Court has repeatedly demonstrated that the health of South Africa's institutions is not that good. Roux (2013:33) asserts that "in the first case, the Court had struck down legislation that had dissolved a state agency centrally involved in the fight against corruption. Second, [the Court] held that Parliament had improperly delegated its power to the President to extend the Chief Justice's term of office". Roux (2013:33) proceed to assert that "in the third [instance], it overturned a presidential decision appointing a new National Director of Public Prosecutions for disregarding findings made by a commission of inquiry about the appointee's reliability as a witness. Fourth, it held that certain parliamentary rules preventing members of minority parties from introducing bills in the lower house were unconstitutional". Other cases include the setting aside of a cabinet decision to appoint the Head of the Hawks, the setting aside of various Public Protector's reports and many other government actions. "In a vibrant democracy, the instruments and technologies of governance are intended and targeted towards achieving equality, promoting the welfare of the people and building a thriving society" (Mnguni 2016:1). The fact that certain state institutions were found to be engaged in deviant behaviour is perhaps the clearest sign that South Africa's democracy has not yet consolidated.

8.3 Summary, Conclusion and Recommendations

Democracy and democratic consolidation in this country have a very long history fraught with serious challenges and complexities. The whites-only democracy during colonialism and apartheid did very little to advance the democratic transition towards full democracy. Its successor – apartheid between 1948 and 1990 - consolidated and deepened democratic, political, and civil right of whites to the detriment of the black African majority. The period 1948 to 1990 was further typified by racial, economic, and social inequality. This shone the spotlight on South Africa and helped foreign governments and international organisations to intensify economic sanctions resulting in limited changes especially in the 1980s which opened political opportunities for organisations like the UDF and COSATU to intensify their struggle for a democratic South Africa underpinned by the rule of law and equality. The minority

government finally gave in and began engaging black liberation movements with a view to finding a lasting solution to South Africa's economic and political challenges.

These engagements led to CODESA which resolved on holding the first inclusive general elections in 1994. The resultant Government of National Unity (GNU) enacted laws that afforded all citizen certain rights and freedoms. The most important were the right to freely express oneself, freedom of movement, association, and the right to vote. Citizens are now empowered by these freedoms and rights to sometimes challenge government action or inaction. By raising their displeasure citizens have helped catalyse government action resulting in policies and laws that help strengthen democratic institutions, values, and practices. It could be argued that these individual and collective citizen's voices are central in enabling the study to reach a conclusion that South Africa's democracy is on course to becoming fully democratic – consolidated.

Although South Africa democracy has not yet become fully democratic, it has afforded citizens the means to work towards realising the goal of democratic consolidation. It is hoped that successive governments working with civil society organisations and other political role players will ensure that all state institutions, practices and values work towards the realisation of a full democratic country underpinned by affluence, economic growth that creates jobs, declining inequality, functioning parliamentary, government and judicial institutions. South African democracy will, therefore, be consolidated if behaviourally, attitudinally, and constitutionally all the country's citizens are in sync with all laws, institutions and procedures sanctioned by the new democratic process. Finally, this study does want to suggest that the argument advanced here above implies that there is only one type of democratic consolidation, rather, what is meant throughout this study is the ability of the country's democratic institutions to respond to economic and social inequality whilst also preventing any democratic breakdown.

Certain conditions ought to prevail if this is to be realised. "First, the conditions must exist for the development of a free and lively civil society. Civil society is defined as an arena of the polity where self-organising and relatively autonomous groups, movements and individuals attempt to articulate values, to create associations and to advance interests" (Mottiar 2002:1-2). This means that organisations such as the TAC, Abahlali, the Association of Mineworkers and Construction Union (AMCU), and many others should be allowed to operate freely. Mottiar (2002:2) argues that "there must an autonomous political society. Political society refers to the arena in which political actors compete for the legitimate right to exercise control over public power and the state apparatus, its core institutions being political parties, legislatures, elections, electoral rules, political leadership, and inter-party alliances". This means that the killing of local government councillors in various parts of the country has to stop if South Africa is to become fully democratic. In the third instance, "throughout the state all major political actors, especially the government and state apparatus, must be subjected to a rule of law that protects individual freedoms.

The rule of law animated by a spirit of constitutionalism is crucial in ensuring that the elected government and the state administration are subject to transparency and accountability" (ibid, 2002:2). Deviant behaviour by those entrusted with state power must attract severe repercussion including imprisonment if it is found that there was a violation of the law. The

law, or justice, must not have eyes. In the fourth instance, "to protect the rights of citizens and to deliver other basic services, a democratic government needs a functioning state bureaucracy" (ibid) comprising of highly qualified, experienced, and ethically upright individuals. The political background or lack thereof of state bureaucrats or wannabe bureaucrats should not serve as a determining factor in whether they should or should not be appointed. Fifth and finally, "there must exist institutionalised economic society. Economic society is defined as a set of norms, regulations, policies, and institutions that sustain a mixed economy" (Mottiar, 2002:2). The fact that South Africa has a mixed economic system augur well for the country's democratic consolidation. Countries with a command economy rarely achieve democratic consolidation as non-state actors have a limited role to play in the development of industry.

Most of the five conditions mentioned here above are present in South Africa even though some have not been fully realised. As soon as these conditions are realised, the South African democracy would be considered consolidated. The potential of this happening will only be determined over time – it could be in five years, a decade or two or worse in a century from now. What is, however, clear, is the fact that South Africa is on course in becoming a full democracy.

Bibliography

Adam, H. and Giliomee, H. 1979. *Ethnic Power Mobilised: Can South Africa change?* (New Haven and London, 1979)

Adler, G. and Webster, E. 1995. 'The Labour Movement, Radical Reform, and Transition to Democracy in South Africa'. *Politics and Society* 23(1): 75-106

Afrobarometer 2015, "The Quality of Democracy and Governance in South Africa: Summary of Results, Round 6 Survey in South Africa'. Available at <https://afrobarometer.org/publications/south-africa-round-6-summary- results> [28 March 2023]

Afrobarometer 2018, "The Quality of Democracy and Governance in South Africa: Summary of Results, Round 7 Survey in South Africa', Available at <https://afrobarometer.org//sites/default/files/publications/Summary%20of%20results/saf_r7_sor_13112018.pdf> [28 March 2023]

Ajei, M.O. 2016. 'Kwasi Wiredu's consensual democracy: Prospects for practice in Africa' *European Journal for Political Theory* 2016, Vol. 15 No. 4

Ajulu, R. 1979. Wiehahn and Riekert: *New Mechanism for Control and Oppression of Black Labour and Trade Unions in South Africa*

Ake, C. 1993. 'The Unique Case of African Democracy' *International Affairs Volume* 69, No. 2, April 1993

ANC Youth League Policy Document, 2 August 1948. https://www.anc1912.org.za/policy-document-1948-anc-youth-league-basic-policy-document/.

Appolis, J. 2003. Talk to Second-Year Sociology Students. University of Witwatersrand, 16 September

Apter, D.E. 1965. *The Politics of Modernisation* (Chicago: University of Chicago Press, 1965)

Asmal, K. 1991. Constitutional courts: a comparative survey, CILSA, 24(2), 315-340

Avritzer, L. 2002. *Democracy and the Public Space* Princeton and Oxford Princeton University Press

Ballard, R., Habib, A. and Valodia, I. 2006. Voices of Protest: Social Movements in Post-Apartheid South Africa. University of KwaZulu-Natal Press.

Baskin, J. 1991. *Striking Back: A History of COSATU*. Johannesburg: Ravan Press

Baylies, C. 1995. 'Political Conditionality' and Democratisation,' *Review of African Political Economy*, 22(65):321-337.

Beinart, W. 1994. Twentieth-century South Africa. Cape Town, Oxford University Press

Besdziek, D. 2001. Provincial government (in Government and politics and the new South Africa, Venter, A (eds))

Bond, P. 2000. *Elite Transition: From Apartheid to Neoliberalism in South Africa*. University of Natal Press, Pietermaritzburg, South Africa

Bonner, P; Delius, P; and Posel, D. 1993. Apartheid genesis: 1932 – 1962. Johannesburg: Ravan Press

Brankovic*, J. 2013. Accountability and National Reconciliation in South Africa, Ediciones InfoJus: Derechos Humanos 2, no. 4

Brewer-Carias, A.R. 1989. *Judicial review in comparative perspective*. New York: Cambridge University Press

Buhlungu, S. 2004. Upstarts or Bearers of Tradition? The Anti-Privatisation Forum of Gauteng

Comaroff, J.L. and Comaroff, J. 1997. 'Postcolonial Politics and Discourses of Democracy in Southern Africa: An Anthropological Reflection on African Political Modernities' *Journal of Anthropological Research*, Vol. 53, No. 2. Summer, 1997

Chazan, N. 1993. 'Discussion: Governability and Compliance during the Transition'. In R. de Villiers (ed.), *Governability during the Transition*. Johannesburg: Centre for Policy Studies

Cherry, J. 1999. Traditions and Transitions. African Political Participation in Port Elizabeth, in J. Hyslop (ed.), African Democracy in the Era of Globalisation (Johannesburg, Witwatersrand University Press, 1999)

Christopher, A.J. 1990. 'Apartheid and urban segregation levels in South Africa,' *Urban Studies*, 27, pp. 328-335

Christopher, A.J. 1994. *The atlas of Apartheid*, Routledge: Routledge.

Christopher, A.J. 2001. 'Urban segregation in post-apartheid South Africa,' Urban Studies, 38(3):449-466. https://doi.org/10.1080/00420980120080031

Clapham, C.1995. 'Political Conditionality and Structures of the African state,' *Africa Insight*, 25(2):91-97.

Classen, C.J. 1994. The functioning and structures of the Constitutional Court. *Tydskrif vir Hedendaagse Romeins-Hollandse Reg (THRHR)*, 57(3)

Creswell, J.W. and Tashakkori, A. 2007. *Journal for Mixed Methods of Research*. SAGE Journals

Constitution of the Republic of South Africa, 1996

Convention for a Democratic South Africa (CODESA) 1- Declaration of Intent, 21 December 1991

Cowling, N. 2023. 'Total informal employment in South Africa 2010 – 2020'. Available at www.statista.com> [23 April 2023]

Dahl, R. 1982. Dilemmas of Pluralist Democracy (New Heaven: New York University Press, 1982)

Dahl, R. 1989. Democracy and Its Critics (New Haven: Yale University Press, 1989)

Dahl, R. 1969b. *Who Governs? Democracy and Power in an American City*. New Heaven, CT: Yale University Press e

Dahl, R.A. 2005. 'What Political Institutions Does Large-Scale Democracy Require?' *Political Science Quarterly*, 120(2); 187-197

Davenport, TRH. 1991. South Africa: a modern history. London: Macmillan

Davies, R., O'Meara, D. and Dlamini, S. 1988. *The Struggle for South Africa* (Volume 1 and 2), London: Zed Books

Davis, M. 2004. 'Planet of Slums'. *New Left Review* 26 (March-April): 1-23

Democratic Alliance v President of the Republic of South Africa & Others [2012] ZACC 24, 2013 (1) SA 248 (CC).

Denisia, V. 2010. Foreign Direct Investment Theory: An overview of the main FDI theories. European Journal of Interdisciplinary Studies, 3

Department of Cooperative Governance and Traditional Affairs, 2009. 'State of Local Government in South Africa – Overview Report: National State of Local Government Assessment', Available at https://pmg-assets.s3-website-eu-west-Lamazonaws.com/docs/091017.pdf>[28 March 2023]

Desai, A. 2002. *We Are the Poor's: Community Struggles in Post-Apartheid South Africa.* New York: Monthly Review Press

Devenish, A. and Skinner, C. 2006. 'Collective Action in the Informal Economy: The Case of the Self-Employed Women's Union, 1994-2004'

Diamond, L. and Linz, J.J. 1989. "Introduction: Politics, Democracy, and Society in Latin America," in Larry Diamond and Juan J. Linz, and Seymour Martin Lipset, eds., *Democracy in Developing Countries: Latin America* (boulder, Colo.: Lynne Rienner, 1989)

Dubow, S. 2000. African National Congress

Du Plessis, L.M. & Du Plessis, A.G. 1990. *Inleiding tot die reg*. Kaapstad: Juta

Du Toit, P. 1995. *State Building and Democracy in Southern Africa: A Comparative Study of Botswana, South Africa and Zimbabwe*. Pretoria: HSRC

Ebrahim, H. 1998. The Soul of a Nation: Constitution-Making in South Africa. Cape Town: Oxford University Press, 1998. Vol 22

Egan, A. and Wafer, A. 2006. 'Dynamics of a Mini-Mass Movement: Origins, Identity and Ideological Pluralism in the Soweto Electricity Crisis Committee'.

El-Khawas, M (2001) 'Democracy in Africa: Problems and Solutions', *Mediterranean Quarterly* 12(3):85-97.

Electoral Commission of South Africa 2019, Available athttp://www.elections.org.za/content/default.aspx [28 March 2023]

Escobar, A. and Alvarez, S (eds). 1992. *The Making of Social Movements in Latin America: Identity, Strategy and Democracy.* Boulder: Westview Press

Escobar, A. 1992. 'Culture, Practice and Politics: Anthropology and the Study of Social Movements' *Critic of Anthropology* 12 (4): 394-432

Escobar, A and Alvarez, S (eds). 1992. *The Making of Social Movements in Latin America: Identity, Strategy and Democracy*. Boulder: Westview Press.

Etuk, AR and LJ Aweting. 2020. 'Democracy and Challenges of Good Governance in Africa,'IGWEBUIKE: *An African Journal of Arts and Humanities*: 6(3): DOI:10.13140/RG.2.2.21005.15840

Faure, A.M. and Venter, A.J. 2000. *Electoral systems and accountability: a proposal for electoral reform in South Africa.* Unpublished paper.

Fayemi, A.K. 2010. 'A Critique of Consensual Democracy and Human Rights in Kwasi Wiredu's Philosophy' *Lumina*, Volume 1, No. 2, March 2010

Fombad, C.M. 2021. 'Reversing the Surging Tide towards Authoritarian Democracy in Africa,' Fombad, C.M. and N. Steytler (Eds.) *Democracy, Elections, and Constitutionalism in Africa*. Oxford. Oxford University Press

Francis, D., Jurgensen, K. and Valodia, I. 2018. Inequality in the South African Labour Market: Navigating the South African Minimum Wage. The Mandela Initiative: Dialogue and action to overcome poverty and inequality. University of Witwatersrand, Johannesburg.

Frederick Willem de Klerk, 1998. The Last Trek – A New Beginning: The Autobiography. London MacMillan, 1998

Freedom Charter, 26 June 1955

Freund, B. 1999. The weight of history: the prospects of democratisation in South Africa. In Hyslop, J (ed). *African democracy in the era of globalisation*. Johannesburg: Witwatersrand University Press

Friedman, S. 1987. Building Tomorrow Today: African Workers in Trade Unions, 1970-1984. Johannesburg: Ravan Press

Friedman, S and Atkinson, D. 1994. 'The Small Miracle'. South African Review 7. Johannesburg: Ravan Press

Friedman, S. 2002. Equity in the Age of Informality: Labour Markets and Redistributive Politics in South Africa

Friedman, S. 2011. “Democratic Consolidation”: An Alternative Understanding of Democratic Progress’ *Theoria*, Volume 58, No 126, Spring 2011

Friedman, S. 2016. ‘Enabling agency: The Constitutional Court and social policy’ *Transformation,* 91

Friedman, S. and Maiorano, D. 2017. ‘The limits of prescription: courts and social policy in India and South Africa’ Commonwealth and Comparative Politics Vol 55, Issue 3,

Friedman, S. and Mottiar, S. 2004. A Moral to the Tale: The Treatment Action Campaign and the Politics of HIV/Aids. Globalisation, Marginalisation and New Social Movements in post-Apartheid South Africa, Centre for Policy Studies, University of KwaZulu-Natal

Galtung, J. 1980. “Why Concern with Ways of Life”? in Council for International Development Studies, *The Western Development Model and Lifestyle* (Oslo: University of Oslo, 1980)

Gasa, N. 2007. They remove boulders and cross rivers. Women in South African History

Gaventa, J and McGee. 2010. Citizen action and national policy reform: making change happen

Giliomee, H. 1979. “*The Afrikaner Economic Advance*”, In Adam, H and H. Giliomee (eds.) *The Rise and Crisis of Afrikaner Power*. Cape Town: David Phillip.

Glenister v President of the Republic of South Africa & Others [2011] ZACC 6, 2011 (3) SA 347 (CC).

Graham, V. 2020. South Africa’s Democracy: The Quality of Political Participation over 25 years

Greenberg, S. 2004. The Landless People’s Movement and the Failure of Post-Apartheid Land Reform

Greenberg, S.B. 1987. *Legitimating the illegitimate*. Berkeley: University of California Press

Gruijters, R.J., b, Elbers, and V. Reddy. 2024. ‘Opportunity Hoarding and Elite Reproduction: School Segregation in Post-Apartheid South Africa,’ *Social Forces*, 103(1): 173 – 201. https://doi.org/10.1093/sf/soae070

Godfrey, S. and Collier, D. 2018. Working Inequality and working poverty: A policy-oriented socio-legal perspective. The Mandela Initiative: Dialogue and action to overcome poverty and inequality. University of Cape Town

Gouws, A. 2005 (ed.). (Un)thinking citizenship: Feminists debates in contemporary South Africa. Cape Town. UCT Press

Gunther, R. and Diamandorous, P.N. and Puhle, H.J. (eds). 1995. The Politics of Democratic Consolidation: Southern Europe in Comparative Perspective. Baltimore, John Hopkins University Press, 1995.

Habib, A. 2003. ‘State-civil Society Relations in Post-Apartheid South Africa’. South African Labour Bulletin 27 (6) December

Habib, A. 2003. State-civil society relations in post-apartheid South Africa. In J Daniels, A Habib & R Southall (Eds) State of the nation 2003-2004. Cape Town: HSRC Press

Habib, A. and Valodia, I. 2006. Reconstructing a Social Movement in an Era of Globalisation. A Case Study of COSATU.

Haffajee, F. 1999. Backroom brigade. *Siyaya*. November, 10-13

Haradhan, M. 2018. Qualitative Research Methodology in Social Sciences and Related Subjects. Munich Personal RePEc Archive (MPRA)

Held, D. 1987. *Models of Democracy*. Cambridge: Polity Press

Holland, H. 2012. 100 Years of Struggle Mandela's ANC. Penguin Book

https://www.anc1912.org.za/50th-national-conference-strategy-and-tactics-of-the-african-national-congress/

Huber, E., Rueschemeyer, D. and Stephens, J.D. 1993. 'The Impact of Economic Development on Democracy' Journal of *Economic Perspectives* Summer 1993, Vol. 7 Issue 3

Huchzermeyer, M. 2001. 'Housing for the Poor: Negotiated housing Policy in South Africa'. *Habitat International* 25: 303-31

Hudson, J. 2007. South Africa's economic expansion into Africa: Neo-colonialism or development? Adebajo, A., Adedeji, A., and Landsberg (eds) South Africa in Africa: The Post-Apartheid Era, 2007. University of KwaZulu-Natal Press

Huntington, S.P. 1968. *Political Order in Changing Societies*. (New Haven: Yale University Press, 1968)

Huntington, S.P. 1991. 'Democracy's Third Wave,' *Journal of democracy*, 2(2): 12-34

Hyslop, J. 1999. African democracy in the era of globalisation. Johannesburg: Witwatersrand University Press

Inggs, J. 1994. An overview of the South African economy in the 1980s.

ILRIG. 1998. An Alternative View of Globalisation. Woodstock: ILRIG.

Johnson, RW. 2004. South Africa: The First Man, The Last Nation

Johnson, RW. 2010. South Africa's Brave New World: The Beloved Country Since the End of Apartheid

Johnstone, F, 1976. Class, race and gold: a study of class relations and racial discrimination in South Africa. London: Routledge and Kegan Paul

Jolobe, Z. 2014. Getting to CODESA: An analysis on why Multiparty negotiations in South Africa began, 1984-1991

Justice Alliance of South Africa v President of the Republic of South Africa & Others, Freedom Under Law v President of the Republic of South Africa & Others, Centre for Applied Legal

Studies & Another v President of the Republic of South Africa & Others [2011] ZACC 23, 2011 (5) SA 388 (CC).

Kadt, R. and Cupido, E. 2016. South Africa's Democracy in a Global Context. The Journal of the Helen Suzman Foundation. Issue 79, December 2016

Kaldor, M. 2003. Global civil society: An answer to war. Cambridge: Polity Press

Keane, J. 2009. Bad Moons, Little Dreams. The Life and Death of Democracy, London, Pocket Books.

Khan, F. and Pieterse, E. 2006. The Homeless People's Alliance: Purposive Creation and Ambiguated Realities

Kiguwa, SNW. 1999. National Reconciliation and Nation Building: Reflections on the TRC in Post-Apartheid South Africa

Klaaren, J. 1997. Constitutional Court statistics from the 1996 term. *South African Journal on Human Rights,* 13(2)

Klug, H. 1997. Introducing the devil: an institutional analysis of the power of constitutional review. South African Journal on Human Rights, 13(2)

Konstant, A. 2016. Assessing the Performance of South Africa's Constitution. The Performance of Chapter 9 Institutions. International Institute for Democracy and Electoral Assistance.

Kotze, H. and Loubser, R. 2017. South Africa's Democratic Consolidation in Perspective. Mapping Socio-Political Changes. Taiwan Journal of Democracy, Vol 13, No. 1

Kuper, A. 1970. *Political Anthropology: Kalahari Village Politics: An African Democracy* (Cambridge Studies in Social and Cultural Anthropology, Series Number 3) 1st Edition. London: Cambridge University Press

Leedy, P., & Ormrod, J. 2001. *Practical Research: Planning and Design* (7th Ed.). Upper Saddle River, NJ: Merrill Prentice Hall. Thousand Oaks: SAGE Publications

Legesse, A. 2000. *Oromo Democracy: An Indigenous African Political System*, Asmara: Red Sea Press

Liebenberg, P. 1993. 'Towards Consolidating Democracy in South Africa, With Specific Reference to the Concept of Self Determination' In Konrad – Adenauer – Stiftung Seminar Papers, Consolidating Democracy in South Africa, 1993

Leibbrandt, M. Woolard, I. and Woolard, C. 2007. Poverty and Inequality Dynamics in South Africa: Post-apartheid Development in the Light of the Long-Run Legacy, Southern Africa Labour & Development Research Unit (SALDRU), University of Cape Town, South Africa

Lewis, P.M. 2019. 'Aspirations and Realities in Africa: Five Reflections,' *Journal of Democracy,* 30(3):76-85. 10.1353/jod.2019.0043

Linz, J.J and Stepan, A. 1996. Toward Consolidated Democracies. Journal of Democracy, Vol. 7, number 2, April 1996.

Lipset, S.M. 1994. 'The Social Requisites of Democracy Revisited: 1993 Presidential Address,' *American Sociological Review*, 59(1): 1-22

Lipset, S.M. 1959. 'Some Social Requisites of Democracy: Economic Development and Political Legitimacy.' *The American Political Science Review*, Vol 53, No 1, (March 1959)

Lodge, T. 2002. How the South African Electoral System Was Negotiated.

Luiz, M.J. 1998. The Evolution and Fall of the South African Apartheid State: A Political Economy Perspective

Lundvik, U. (1983) 'Sweden', in G. Caiden ed.

Mac Maharaj: The ANC and South Africa's Negotiated Transition to Democracy and Peace. Berghof Transitions Series No. 2 © Berghof Research Center for Constructive Conflict Management 2008 https://d-nb.info/1077076207/34

Madlalate, R. 2019. 'Dismantling apartheid geography: transformation and the limits of law,' *Constitutional Court Review*, 9(1): 195-217. https://doi.org/10.2989/CCR.2019.0008

Maguire, K. 1991. Politics in South Africa: From Vorster to De Klerk

Makwandawire, T. 2001. 'Thinking about developmental states in Africa,' *Cambridge Journal of Economics*, 25(3), SPECIAL ISSUE ON AFRICAN ECONOMIC DEVELOPMENT IN A COMPARATIVE, pp. 289-313

Malherbe, R. 2001. The legal system and the judiciary (in Government and Politics in the new South Africa, second edition, Albert Venter)

Mamdani, M. (1996) *Citizen and Subject: Contemporary Africa and the Legacy of the Late Colonialism*. Cape Town: David Phillip.

Mathie, A. and Cunningham, G. 2003. 'Who is Driving Development? Reflections on the Transformative Potential of Asset-Based Community Development'. Paper delivered at the conference 'Participation: From Tyranny to Transformation', 27-28 February, University of Manchester.

Masipa, T. 2018. South Africa's transition to democracy and democratic consolidation: A reflection on socio-economic challenges. University of Limpopo, Sovenga, South Africa.

Meyer, J.W. 2007. *Reflections on Institutional Theories Organisations*

Mnguni, L. 2016. 'South Africa is not a vibrant democracy'. New24voices, 08 November 2016.

Mohamed, I.A.H. 2017. *Some Issues in The Institutional Theory: A Critical Analysis*. International Journal of Scientific & Technology Research, Vol 9.

Morlino, L. 2011. *Changes for Democracy: Actors, Structures, Processes*, Oxford University Press, Oxford

Morlino, L and Carli, LG. 2014. 'How to assess democracy. What alternatives? '*Report for the XV April International Academic Conference on Economic and Social Development,* HSE Publishing House, Moscow

Morobe, M. 1987. 'Towards a People's Democracy: The UDF's View', Review of African Political Economy.

Moore Jr, B. 1966. Social Origins of Dictatorship and Democracy: Lord and Peasant in the Making of the Modern World, USA

Mottiar, S. 2002. 'Democratic Consolidation in South Africa'. EISA, January 2002

Mukandala, R. (2001) 'The State of African Democracy: Status, Prospects, Challenges,' *African Journal of Political Science / Revue Africaine de Science Politique*, 6(2):1-10.

Murray, M. 1994. *The Revolution Deferred: The Painful Birth of Post-Apartheid South Africa*. London: Verso

Mutalipova, A. 2017. *The Consolidation of Democracy in South Africa: A Case Study of South Africa's Democratic Consolidation Between the years* 2005 – 2015.

O'Donnell, G. 1996. 'Illusions About Consolidation' Journal of Democracy Vol 7 No 2, April 1996

O'Malley, Padraig 2007. *Shades of Difference: Mac Maharaj and the Struggle for South Africa.* Viking (Penguin group), New York.

Oriani Ambrossini, MP v Sisulu, MP Speaker of the National Assembly [2012] ZACC 27, 2012 (6) SA 588 (CC).

Oxford Dictionary of Current English, 1986

Pampallis, J. 1991. Foundations of the New South Africa

Paradza, G., Mokwena, L. & Richards, R. 2010. 'Assessing the role of councillors in service delivery at local government level in South Africa', *Report for the Centre for Public Policy Studies*, Report no.125, Johannesburg, SA.

Peters, B.G. 2000. *Institutional Theory: Problems and Prospects*. Institute for Advanced Studies, Vienna

People's Dialogue. 1996. 'What are those Bastards up to Now?' A Review of the Interactions between the South African Homeless People's Federation/People Dialogue Alliance and the South African Government of National Unity'. http://www.dialogue.org.za/pd/bastards.hrm

Promotion of National Unity and Reconciliation Act 34 of 1995

Przeworski, A. 1985. *Capitalism and Social Democracy* Cambridge UK, Cambridge University Press, 1985

Przeworski, A. 1991. *Democracy and the Market: Political and Economic Reforms in Eastern Europe and Latin America*. Cambridge, Cambridge University Press.

Przeworski, A., Alvarez, M.E., Cheibub, J.A., and Limongi, F. 2009. 'What Makes Democracies Endure? In Larry Diamond and Marc F Plattner (eds) Democracy: a reader John Hopkins University Press, 2009

Posel, D. 1991. *The making of apartheid*, 1948 – 1961. Oxford: Clarendon Press

Poswell, L. 2002. *The Post-Apartheid South African Labour Market: a status report*. Cape Town: Development Policy Research Unit, University of Cape Town.

Ramakatsa & Other v Magashule & Others [2012] ZACC 31, 2013 (2) BCLR 202 (CC).

Raligilia, K.H. 2017. The impact of CODESA talks on the socio-economic rights of the majority of South Africans

Rautenbach, I.M. & Malherbe, E.F.J. 1996. *Constitutional law*. Durban: Butterworths.

RDP. 1995. *The Reconstruction and Development Programme*. Pretoria: Government Printers

Reif, L.C. ed (1999) *The international Ombudsman Anthology: Selected Writings from the International Ombudsman Institute*. Kluwer Law International, Dordrecht

Reif, L.C. (2000) 'Building democratic institutions: The role of national human rights institutions in good governance and human rights protection' *Harvard Human Rights Journal* 13, 1-69.

Restitution of Land Rights Act, 1994

Riad El-Ghonemy, M, 1999. 'The Political Economy of Market-based Land Reform'. UN Research Institute for Social Development Discussion Paper No. 104, June. Geneva: UN Research Institute for Social Development

Rich, PH. 1996. State power and black politics in South Africa, 1912 – 1951. London: Macmillan

Riley, J. 2018. Authoritarian institutions and economic growth: the case of Singapore. Lund University: School of Economics and Management.

Roux, T. 2013. The South African Constitutional Court's Democratic Rights Jurisprudence

Russell, A. 2009. After Mandela: The Battle for the Soul of South Africa

Rustow, D. 1970. "Transitions to Democracy".

Saney, C. & Besdziek, D. 1999. Enhancing oversight in South Africa's provinces: institutions and concerns. *African Security Review*, 8(2): 13-30. Midrand: Institute for Security Studies

Saunders, M., Lewis, P. and Thornhill, A. 2003. *Research Methods for Business Students* (3rd ed.) England: Prentice Hall

Schedler, A. 1998. *What is Democratic Consolidation? Journal of Democracy* 9.2

Schedler, A. 2002. '*The Menu of Manipulation'* Journal of Democracy, Vol. 13, No. 2, April 2002.

Schmitter, PC and Karl, TL. 1991. What Democracy Is … and Is Not. John Hopkins University Press

Schoeman, T. 2018. 'The Spatial Influence of Apartheid on the South African City,' The Geography Teacher, 15(1), 29-32. https://doi.org/10.1080/19338341.2017.1413002.

Schottea, S., R. Zizzamiab, and M.L Saldru, 2017. 'Social stratification, life chances and vulnerability to poverty in South Africa,' Working Paper 209 University of Cape Town August 2017

Schulz-Herzenberg, C. 2019. 'Trends in voter participation: registration, turnout and the disengaging electorate', in Schulz-Herzenberg & R Southall (eds). *Election 2019: Change and Stability in South Africa's Democracy*, Jacana Media, Auckland Park.

Schwart, T.A. 2007. The SAGE Dictionary of Qualitative Inquiry (3rd ed.) University of Illinois, Urbana-Champaign

Self-Employed Women's Union (SEWU). 1994. The Constitution (last amended in 2001)

Seidman, G. 1994. *Manufacturing Militance: Workers' Movements in Brazil and South Africa,* 1970 – 1985. Berkley: University of California Press.

Seidman, G.2003. Institutional dilemmas: Representation versus mobilisation in the South African gender commission. Feminist studies 29(3)

Silander, D. 2022. 'Challenges to Democracy: A Framework of Analysis,' Silander, D., Silander, C., van der Elst, H. and Heydenrych, P. (Eds.) *South Africa's democracy at the Crossroads,* Emerald Publishing Limited, Leeds, pp. 11-28. https://doi.org/10.1108/978-1-8262.927-920221002

Sisk, T. 1995. Democratization in South Africa: The Elusive Social Contract. Princeton: Princeton University Press, 1995

Sorensen, G. 1993. Democracy and Democratization. Dilemmas in World Politics. Processes and Prospects in a Changing World. University of Aarhus. Westview Press

South African Institute of Race Relations, *Survey of Race Relations in South Africa*, 1980 (Johannesburg, 1981), 458-500, Makubong Nkomo ed., *Pedagogy of Domination: Toward a Democratic Education in South Africa* (Trenton, NJ, 1990)

South African Labour Bulletin (SALB). 1978 4(4)

Southern Africa Labour & Development Research Unit (SALDRU), University of Cape Town, South Africa

Steimo, S., Thelen, K., and Longstreth, F. 1992. *Structuring Politics: Historical Institutionalism in Comparative Analysis* (Cambridge: Cambridge University Press)

Taljaard, R. and Venter, A. 2001. Government and Politics in the new South Africa, second edition

Tar, U.A. (2010) 'The challenges of democracy and democratisation in Africa and Middle East,' *Information, Society and Justice*, 3(2):81-94.

Teddlie, C. and Tashakkori, A. 2009. *Journal of Mixed Methods Research*, 1, 48-75

Terreblanche, S & Nattrass, N. 1990. "A Periodization of the Political Economy From 1910." In Nattrass, N and E. Ardington, *The Political Economy of South Africa*. Cape Town: Oxford University Press.

Terreblanche, S. 2002. A History of Inequality in South Africa 1652 - 2002

Terreblanche, S. 2012. Lost in Transformation. South Africa's Search for A New Future Since 1986

The Public Protector v Mail & Guardian Ltd and Others 2011 (4) SA 420 (SCA); [2011] ZASCA 108 (Public Protector v Mail & Guardian) para 5

Thompson, L. 2000. A History of South Africa, Jonathan Ball Publishers, Johannesburg and Cape Town

Tilly, C. 2004. Social Movements, 1768-2004, Boulder, London, Paradigm Publishers, 2004

Tyler, J. 1971. Forty Years Among the Zulus. Cape Town: Struik, (Original work published 1892-1919).

United Nations Conference on Trade and Development (UNCTAD) Global Investment Trends Monitor report. 2019

Van der berg, S., Bhorat, H. & Leibbrandt, M. 2001. Introduction in Bhorat, H., Leibbrandt, M., Maziya, M. Van der Berg, S., and Woolard, I. (eds). Fighting Poverty: Labour Market and Inequality in South Africa. Cape Town. University of Cape Town, Press

Van der Berg, S. 2018. The Manifestation of Poverty and Inequality in Education. The Mandela Initiative. Research on Socio-Economic Policy. University of Stellenbosch

Varshney, A. 2013. Battle Half Won: India's Improbable Democracy. Penguin Group

Venter, A. 2001. The Executive (Government and Politics in the new South Africa, second edition)

Walker, C. 1982. Women and Resistance in South Africa, Onyx Press Ltd

Wasserman, H. (2021) T*he ethics of engagement: media, conflict and democracy in Africa*. New York, Oxford University Press.

Webster, E. 1988. 'The Rise of Social Movement Unionism: The Two Faces of the Black Trade Union Movement in South Africa'. In P. Frankel, N. Pines and M. Swilling (eds), *State, Resistance and Change in South Africa*. London: Groom Helm.

Welsh, D. 1992. 'The CODESA Impasse,' *Indicator SA*, 9(4): 15-22.

Welsh, D. 1994. The provincial boundary demarcation process. In De Villiers, B. (Ed.) *Birth of a constitution*. Kenwyn: Juta

Wilcockson, D. 2010. Development, and grassroots struggle to transform politics in urban South Africa

Wilson, P.A. and Lowery, C. 2003. 'Building Deep Democracy: The Story of a Grassroots Learning Organisation in South Africa'. *Planning Forum* 9 (Spring): 47 – 64.

Wiredu, K. 2001. Democracy by consensus: Some conceptual considerations. *Philosophical Papers*, 30

Woo-Cummings, M. (ed.). 1999. *The Developmental State*. Ithaca, NY: Cornell University Press.

Zakaria, F. 1997. 'The Rise of Illiberal Democracy' Foreign Affairs, Vol. 76, No. 6 (Nov – Dec 1997)

Zikode, S. 2009a. Resist all degradations and divisions: S'bu Zikode in interview with Richard Pithouse. *Interface: A Journal for and About Social Movements*, 1(2)