

GETTING TO CODESA

AN ANALYSIS ON WHY MULTIPARTY NEGOTIATIONS IN SOUTH
AFRICA BEGAN, 1984-1991

BY

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Declaration

I declare that this thesis is my own unaided work, both in concept and execution, and that apart from the normal guidance from my supervisor, I have received no assistance. It is being submitted in fulfilment of the requirements for the degree of Doctor of Philosophy, at the University of Cape Town. Neither the substance nor any part of the thesis has been submitted in the past, or is being submitted for a degree at this University or at any other university.

Zwelethu Jolobe

May 2014

ABSTRACT

This dissertation examines the pre-negotiation stage of the negotiation process in South Africa leading to the first plenary session of the Convention for a Democratic of South Africa on 20 December 1991. The pre-negotiation stage was that period in the South African conflict when negotiated solutions were considered, and negotiation towards a political settlement was adopted as an option by the major parties, namely the National Party South African government and the African National Congress.

The central question this dissertation asks is why did the South African multiparty negotiations begin? This question is important; De Klerk's seminal address to the Tricameral Parliament on 2 February 1990, and the subsequent release of Nelson Mandela on 11 February 1990, is often considered as the beginning of the negotiation process in South Africa. This however is not true. Negotiations did take place before this date and they were crucial in shaping the path towards multiparty negotiations. The important question therefore is what prepared the ground for 2 February 1990, and the resulting political process that led to multiparty negotiations. The dissertation thus has two sub-questions: (1) why negotiations in South Africa occurred at all; and (2) why the South African government ended up negotiating with the ANC. To answer these questions, the dissertation will use I. William Zartman's theory of ripeness as a guide, and Brian Tomlin's five-staged model of pre-negotiation as an analytical framework. In this respect, the dissertation is a theoretical single-case study.

The dissertation argues that multiparty negotiations in South Africa began because the South African government and the African National Congress reached a shared understanding that the South African conflict could be solved through a negotiated solution, produced a commitment to a negotiated solution, and in the process, overcame the problem of preconditions as a barrier to the opening of multiparty negotiations.

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LIST OF ABBREVIATIONS

AAM – Anti-Apartheid Movement
APC – All-Party Congress
ANC – African National Congress
AZAPO – Azanian People’s Organisation
BOSS – Bureau of State Security
CODESA – Convention for a Democratic South Africa
COSAS – Congress of South African Students
COSATU – Congress of South African Trade Unions
CPSA – Communist Party of South Africa
CPSU – Communist Party of the Soviet Union
DAF – Defence and Aid Fund
DIA – ANC Department of International Affairs
DIP – ANC Department of Information and Publicity
DPSC – Detainees Parent’s Support Committee
EPG – Commonwealth Eminent Persons Group
FLS – Front Line States
FOSATU – Federation of South African Trade Unions
FRELIMO – Mozambique Liberation Front
IDAF – International Defence and Aid Fund
IFP – Inkatha Freedom Party
JMC – Joint Management Centre
MDM – Mass Democratic Movement
MID – South African Military Intelligence Division
MK – Umkhonto we Sizwe
MPLA – People’s Movement for the Liberation of Angola
MPNP – Multi-Party Negotiating Process
NAT – ANC Department of Intelligence and Security
NEC – ANC National Executive Committee
NIS – National Intelligence Service
NP – National Party

NSMS – National Security Management System
NWC – ANC National Working Committee
OAU – Organisation of African Unity
PAC – Pan Africanist Congress
PEBCO – Port Elizabeth Black Civics Organisation
SACC – South African Council of Churches
SACP – South African Communist Party
SADF – South African Defence Force
SANNC – South African Native National Congress
SAP – South African Police
SATIS – Southern Africa: The Imprisoned Society
SKK – South African Cabinet Constitutional Committee
SSC – State Security Council
TRSC – Transvaal Regional Stay-Away Committee
UCT – University of Cape Town
UDF – United Democratic Front
UN – United Nations
UNHCR – United Nations High Commission for Refugees
UNITA – National Union for the Total Independence of Angola
UOFS – University of the Orange Free State
UP – United Party
VCA – Vaal Civic Association
ZANU – Zimbabwean African National Union
ZSIS – Zambia Security and Intelligence Service

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CHAPTER ONE

Introduction

On 2 February 1990, President Frederik Willem (FW) de Klerk announced a series of immediate, short, and long term initiatives in his annual address to the Tricameral Parliament that profoundly changed the course of South African history.

In the immediate measures, the prohibitions placed on the African National Congress (ANC), the Pan Africanist Congress (PAC), the South African Communist Party (SACP) and a number of subsidiary organisations were rescinded. Political activists who were serving prison sentences for membership of the above resistance organisations, or who had committed offenses because a ban on these organisations was in place, would be identified and released. These decisions, De Klerk argued, were in accordance with the South African government's intention to liberalise the political process in South Africa.

The short-term measures included the unconditional release of Nelson Mandela. Mandela, De Klerk stated, could make a constructive contribution to a peaceful political process in South Africa.

The long-term measures included a request to the South African Law Commission to examine suitable constitutional models for a new South Africa that could safeguard the government's mix of individual and minority rights.¹

Almost two years later, on 20 December 1991, 238 delegates representing 19 political parties and organisations, gathered for the first plenary session of the Convention for a Democratic

¹ F.W. De Klerk's speech at the opening of Parliament 2 February 1990. Document 16 in Hassen Ebrahim, *The Soul of a Nation: Constitution-Making in South Africa* (Cape Town: Oxford University Press, 1998), 470

South Africa (CODESA). Chaired by Justices Ismail Mohamed and Piet Schabort, three important outcomes defined this historic roundtable.

First, through a Declaration of Intent, representatives of all the gathered parties² declared their commitment to “bring about an undivided South Africa with one nation sharing a common citizenship”, to establish “a free and open society based on democratic values”, to ensure “equal opportunities and social justice for all”, to create a climate conducive to peaceful constitutional change, and to set in motion the process of drawing up and establishing a constitution.³

Second, five working groups were formed to negotiate broad sets of issues such as the principles and structures of a new constitution, the creation of a climate conducive for peaceful political participation, the form of transitional or interim government and the future path of the political transition, the constitutional future of the four homeland governments that had accepted nominal independence, and the implementation of agreements.⁴

Third, the National Party (NP) government made an important concession. De Klerk proposed a compromise to bridge the differences between the ANC position that the new constitution be drawn up by an elected constitutional assembly, and the NP government position that it be written by a multiparty constitutional convention.⁵ De Klerk proposed

² All the parties present endorsed the Declaration except for the Inkatha Freedom Party (IFP) and the Homeland governments of Bophuthatswana and Ciskei. The IFP believed that the use of the words ‘undivided South Africa’ precluded them from raising the federal option during the constitution-making process. However, after an amendment was secured confirming that the offending term ‘undivided’ did not commit CODESA to a unitary state, both the IFP and the Ciskei government signed. As for the government of Bophuthatswana, its leader, Lucas Mangope, argued that CODESA could not enter into any agreements affecting its territory without the formal agreement of the government of Bophuthatswana.

³ CODESA 1 – Declaration of Intent, 21 December 1991. Document 22 in Hassen Ebrahim, *The Soul of a Nation: Constitution-Making in South Africa* (Cape Town: Oxford University Press, 1998), 529

⁴ Timothy Sisk, *Democratization in South Africa: The Elusive Social Contract* (Princeton: Princeton University Press, 1995), 205

⁵ Frederik Willem de Klerk, *The Last Trek – A New Beginning: The Autobiography* (London: MacMillan, 1998), 222

“[A] two-phased process of constitutional writing: a new interim constitution would be drafted by the CODESA process, in terms of which the first fully representative Parliament would be elected, which would in turn draft and adopt the final constitution... The negotiating parties would reach agreement on an interim constitution which would be adopted by the Tricameral Parliament, with its National Party majority. A new fully representative Parliament would be elected under the new constitution, which would also act as a constitutional assembly. It would write and adopt a final constitution that would have to comply with pre-agreed immutable constitutional principles. Before the final constitution could come into effect a new Constitutional Court would have to certify that it complied with the constitutional principles. During this period the country would be ruled by an elected transitional multiparty government under the interim constitution.”⁶

The first plenary of CODESA was the first multiparty session of negotiations towards the settlement of the South African conflict.⁷ CODESA signalled the end of the pre-negotiation stage of the negotiation process, where parties established whether negotiations were worthwhile, and the beginning of the formula stage, where parties began to negotiate the basic principles of a negotiated settlement.⁸

1.1. The Research Question

The subject of this dissertation is the pre-negotiation stage of the negotiation process in South Africa i.e. that period in the South African conflict when negotiated solutions were considered, and negotiation towards a political settlement was adopted as an option by the South African government and the ANC. While the CODESA process included other political organisations, the South African government and the ANC were central to the pre-negotiation process leading up to CODESA. During this period, the respective parties explored the possibility of negotiated solutions, reached a common understanding on the important issues in the South African conflict, developed a commitment to a negotiated settlement, and chose to negotiate a formula for a political settlement.

⁶ Ibid.

⁷ Justice Richard Goldstone, “The South African Bill of Rights”, *Texas International Law Journal* 32 (1997), 453

⁸ I. William Zartman and Maureen Berman, *The Practical Negotiator* (New Haven: Yale University Press, 1982)

The research question asks:

Why did the South African multiparty negotiations begin?

This is an important question; De Klerk's seminal address to the Tricameral Parliament in 2 February 1990, and the subsequent release of Mandela on 11 February 1990, is often taken by scholars as the beginning of the first stage of the negotiation process.⁹ This, however, cannot be true. The most reliable scholarship agrees that negotiations did take place before this date and that they were crucial.¹⁰ The importance of 2 February 1990 is that it was a turning point marking the end of confidential pre-negotiations and the beginning of overt or public pre-negotiations. The important question is what prepared the ground for this event, and the resulting political process that led to the first multiparty session of negotiations towards the settlement of the South African conflict?

The research question therefore has two sub-questions:

⁹ Important scholarship in this regard include Hermann Giliomee, "Democratisation in South Africa" *Political Science Quarterly*, Vol.110, No. 1 (Spring 1995), pp. 83-104; Elisabeth Wood, *Forging Democracy from Below: Insurgent Transitions in South Africa and El Salvador*. (Cambridge: Cambridge University Press, 2000); Martin Murray, *The Revolution Deferred: The Painful Birth of Post-Apartheid South Africa*. (London: Verso, 1994); Glenn Adler and Eddie Webster, "Challenging Transition Theory: The Labour Movement, Radical Reform, and Transition to Democracy in South Africa", *Politics and Society*, Vol. 23, No. 1 (March 1995), 75-106; James Barber, *Forging the New South Africa* (London: Royal Institute of International Affairs, 1994); John Daniel, "A Response to Guelke: The Cold War Factor in South Africa's Transition", *Journal of Contemporary African Studies*, Vol. 14, No. 1 (1996), 101-104; Timothy Sisk, *Democratisation in South Africa: The Elusive Social Contract* (Princeton: Princeton University Press, 1995); Frederik Van Zyl Slabbert *The Quest for Democracy: South Africa in Transition* (London: Penguin, 1992); David Ginsburg, "The Democratisation of South Africa: Transition Theory Tested", *Transformation* 29 (1996), pp. 74-102; David Howarth, "Paradigms Gained? A Critique of Theories and Explanations of Democratic Transition in South Africa" in David Howarth and Aletta J. Norval, *South Africa in Transition: New Theoretical Perspectives*. (New York: Macmillan Press, 1998); David Welsh, *The Rise and Fall of Apartheid* (Jeppesstown: Jonathan Ball, 2009). While Sisk and Welsh do refer to this period, they do not attach great importance.

¹⁰ See Vladimir Shubin, *ANC: A View from Moscow*. (Belville: Mayibuye, 1999); Allister Sparks, *Tomorrow is Another Country: The Inside Story of South Africa's Negotiated Revolution* (Sandton: Struik Book Distributors, 1994); Patti Waldmeir, *Anatomy of a Miracle: The End of Apartheid* (New York: Norton, 1997); Willie Esterhuysen, *Endgame: Secret Talks and the End of Apartheid* (Cape Town: Tafelberg, 2012)

- i. Why did the South African government and the ANC negotiate at all?
- ii. Why did the South African government end up negotiating with the ANC?

What can assist in addressing these questions? Theoretically, the period before 2 February 1990, and between 2 February 1990 and 20 December 1991, can be classified as the ‘pre-negotiation’ stage of the negotiation process.

Pre-negotiation theorising has developed into a sophisticated, but by no means entirely unproblematic, body of scholarship. The towering figure of this scholarship is I William Zartman whose seminal work on the negotiation process highlights the importance of the pre-negotiation stage and its appropriate contextual conditions – the notion of ripeness.¹¹

This notion of ripeness argues that negotiations begin when adversaries perceive themselves in a mutually hurting stalemate, wherein both parties realise they cannot escalate their way to victory. Additional preconditions of ripeness are the emergence of a perceived way out, and the emergence of valid spokespersons on both sides.

The concepts of ‘ripeness’ and ‘pre-negotiation’ are central to addressing the research question.

First, given the central question asked, ripeness theory will be used to help answer the research question. But as will be explained in Chapter Three, ripeness theory is also a criticised theory with limitations. I use ripeness theory both because it is the most fitting but also by no means a complete theory. The dissertation thus also wants to improve the most fitting and relevant theory.

¹¹I. William Zartman, *Ripe for Resolution: Conflict and Intervention in Africa* (New York: Oxford University Press, 1989)

Second, in examining the South African pre-negotiation process and the role of ripeness within it, the dissertation will use Brian Tomlin's stage-model on pre-negotiations as an analytical framework.¹² Tomlin uses Daniel Druckman's threshold-adjustment model to describe the pre-negotiation process.¹³ This framework provides for an organising set of concepts for the examination of the pre-negotiation process, highlighting important stages and events indicating behavioural patterns.¹⁴ This will provide for a comprehensive and systematic description of the South African pre-negotiation process.

This theoretical case study intends to make a contribution to negotiation theory's pre-negotiation stage, and the concept of ripeness.

1.2. Research Method

Three conditions determine the most appropriate use of a research method: the type of research question posed; the extent of control an investigator has over actual behavioural events; and the degree of focus on contemporary or historical events.¹⁵ The most important is the research question; the direction and design of a study is derived wholly from research questions and the articulation of the theoretical propositions related to these questions.¹⁶

Research questions can either ask "who", "what", "where", "how", and "why" questions. For research questions asking "what" questions, two possibilities arise.

¹² Brian Tomlin, "The Stages of Pre-negotiation: The Decision to Negotiate North American Free Trade Janice Gross Stein (ed.) *Getting to the Table: The Process of International Prenegotiation* (Baltimore: John Hopkins University Press, 1989)

¹³ Daniel Druckman, "Stages, Turning Points, and Crises: Negotiating Military Base Rights, Spain and the United States," *Journal of Conflict Resolution*, Vol. 30, No. 2 (June 1986), 327-60

¹⁴ Ibid.

¹⁵ Robert Yin, *Case Study Research: Design and Methods Fourth Edition* (Los Angeles: Sage, 2009), 8

¹⁶ Robert Yin, "The Abridged Version of Case Study Research: Design and Method" in Leonard Bickman and Debra Rog (eds.), *Handbook of Applied Social Research Methods* (Thousand Oakes: Sage, 1998), 233

First, either such questions can be exploratory i.e. the goal being “to develop pertinent hypotheses and propositions for further inquiry.”¹⁷ From this sense, any of the major research methods is appropriate i.e. experiments, surveys, archival analyses, histories, or case studies. Alternatively, the research goal can be to describe the incidence or prevalence of a phenomenon or to be predictive about certain outcomes.¹⁸ The investigation of prevalent political attitudes, where a poll would be appropriate, or the spread of a disease, where an epidemiological analysis of statistics would be appropriate, would be examples.¹⁹

By contrast, research questions focusing in “how” and “why” are more explanatory and “likely to lead to the use of case studies, histories, and experiments as the preferred research methods.”²⁰ This is because they deal with operational links that need to be traced over time rather than frequencies or incidence.

The research question in this dissertation is “*why did the South African multiparty negotiations begin?*” Consequently, the method favoured is the case-study method. The case study method is used to understand real-life phenomenon in depth, but such understanding encompasses important contextual conditions because they are pertinent to the phenomenon of study.²¹ The case studies unique strength is its ability to deal with a full variety of evidence i.e. documents, artefacts, interviews, and observations.

Case study research includes both single and multiple case studies. The case study type in this dissertation is the single-case study. The single-case study is an intensive study of one unit “for the purpose of understanding a larger class of (similar) units.”²² A unit “connotes a spatially-bound phenomenon – e.g. a nation-state, revolution, election or person – observed at

¹⁷ Yin, *Case Study Research*, 9

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Robert Yin and Darnella Davis, “Adding New Dimensions to Case Study Evaluations: The Case of Evaluating Comprehensive Reforms” in George Julnes and Debra Rog (eds.) *Informing Federal Policies for Evaluation Methodology* (San Fransisco: Jossey-Bass, 2007)

²² John Gerring, “What Is a Case Study and What Is it Good for? ”, *The American Political Science Review*, Vol. 98, No. 2 (May 2004), 342

a single point in time or over some delimited period of time.”²³ A single-case study can be considered comparative if it uses concepts applicable to other countries, develops concepts applicable to other countries, and/or seeks to make larger inferences.²⁴

Single-case studies are appropriate under several circumstances.

First, a single-case study is appropriate when it represents the critical case in testing a well formulated theory. If a theory has specified a clear set of propositions, as well as the circumstances which such propositions are believed to be true, then a single-case study, meeting the conditions for testing the theory, can either confirm, challenge or extend the theory.²⁵ The single-case can then be used to “determine whether a theory’s propositions are correct or whether some alternative set of explanations might be more relevant.”²⁶

The second rationale is where the case represents a unique case. In this sense, the issues involved may be so rare that the single case is worth documenting and analysing. Third, the case may be representative or typical. The objective here would be to capture the circumstances and conditions of an everyday or common situation.²⁷ Fourth, the case may be revelatory in that the investigator observes and analyses a phenomenon previously inaccessible. And fifth, a case may be longitudinal i.e. studying the same case at two or more different points in time. The aim here would be to specify how certain conditions change over time.

There are some important critiques of the single-case study method. Gary King, Robert Koehane and Sidney Verba’s classic *Designing Social Inquiry* discourages research designs in which there is no variance on the dependent variable, and criticises “single observation”

²³ Ibid.

²⁴ Todd Landman, *Issues and Methods in Comparative Politics: An Introduction Second Edition* (London: Routledge, 2003), 34

²⁵ Robert Yin, *Case Study Research*, 47

²⁶ Ibid.

²⁷ Ibid., 48

research designs.²⁸ They argue that studies involving only a single observation run the risk of indeterminacy in the face of more than one explanation, and they can “lead to incorrect inferences if there is measurement error.”²⁹ However, they also note that a single case can involve many observations and this can greatly reduce these problems.³⁰

Arend Lijphart compiles a useful list of six single-case study approaches: atheoretical, interpretative, hypothesis-generating, theory-confirming, theory-infirming, and deviant.³¹ Atheoretical case studies are traditional single-country analyses, are entirely descriptive, and move in a theoretical vacuum; “they are neither guided by established or hypothesised generalisations nor motivated by a desire to formulate general hypotheses.”³² Interpretative case studies resemble atheoretical case studies in the sense that they are selected for analysis based in the interest of the case as opposed to an interest in the formulation of general theory.³³ Where they differ is that they make an explicit use of established theoretical propositions.³⁴

The final four approaches are used primarily for theory-building and theory-testing. Hypothesis-generating case studies develop theoretical generalisations in areas where no theory exists. Theory-confirming and theory-infirming case studies analyse single cases “within the framework of established generalisations.”³⁵ These case studies are a test of theoretical propositions which may be confirmed or infirmed. Theory-confirming case studies strengthen the theoretical propositions in question and theory-infirming case studies weaken the generalisations marginally. Deviant case studies are studies of single cases that are known to deviate from established generalisations; “they are selected in order to reveal why the cases

²⁸ Gary King, Robert Koehane and Sidney Verba, *Designing Social Inquiry: Scientific Inference in Qualitative Research* (Princeton: Princeton University Press, 1994), 208-211

²⁹ Alexander George and Andrew Bennett, *Case Studies and Theory Development in the Social Sciences* (Cambridge: MIT Press, 2005), 32

³⁰ King et al, 208-211

³¹ Arend Lijphart, “Comparative Politics and the Comparative Method”, *American Political Science Review*, Vol. 65, No. 3 (1971), 682-693

³² *Ibid.*, 691

³³ *Ibid.*, 692

³⁴ *Ibid.*

³⁵ *Ibid.*

are deviant – that is, to uncover relevant additional variables that were not considered previously, or to refine the (operational) definitions or some or all of the variables.”³⁶

The dissertation will use ripeness theory to assist in answering “*why did the South African multiparty negotiations begin?*” In this respect, the dissertation employs a theoretical single-case study method of the theory-confirming type. The dissertation will apply an established theory to a case and examine its utility. It thus seeks to improve ripeness theory on the basis of its application to the South African case, and use the ripeness theoretical guidelines to better understand the South African case. The dissertation is therefore a theory-testing exercise. The goal is to improve ripeness theory by identifying how its properties can be expanded or narrowed (where relevant) using the South African pre-negotiations.

A final matter that must be attended to is the issue of generalizing from a single-case study. Single-case studies can enable researchers to generalize to other cases that represent similar theoretical conditions.³⁷ The importance of single-case studies is in their broad implications or generalizability i.e. “generalizing from case studies is not a matter of statistical generalization (generalizing from a sample to universe) but a matter of analytic generalization (using single or multiple cases to illustrate, represent or generalize to a theory).”³⁸

³⁶ Ibid

³⁷ Yin, “The Abridged Version of Case Study Research”, 239

³⁸ Ibid.

1.3. Basic Concepts and Definitions

Three concepts are at the centre of this dissertation: negotiation, pre-negotiation and ripeness.

1.3.1. Negotiation

There is no universally utilized definition of negotiation. Rather, four ways of thinking about the concept have become the dominant frameworks in the literature: negotiation as *puzzle-solving*; negotiation as *bargaining*; negotiation as a *two-level* game; and negotiation as *diplomacy*.³⁹

Theorists who view negotiation as *puzzle-solving* investigate how people make optimal choices when these choices are contingent on what other people do.⁴⁰ The most prominent puzzle for game theorists is the prisoner's dilemma game that is used to model behavior in a variety of strategic situations.⁴¹

A second approach views negotiation as a *bargaining game* in which opponents exchange concessions influenced by the situation in which it takes place. Negotiation is thus a process where parties gradually move from their own positions towards the position of others.⁴²

Theorists who view negotiation as a *two-level game* view it as a process of building consensus among diverse constituencies with stakes in the outcome i.e. a dynamic process

³⁹ For a good survey of the negotiation theory literature see Daniel Druckman, "Negotiating in the International Context" in I. William Zartman (ed.) *Peacemaking in International Conflict: Methods and Techniques* (Washington: United States Institute for Peace, 2007)

⁴⁰ John von Neumann and Oskar Morgenstern, *The Theory of Games and Economic Behaviour* (Princeton: Princeton University Press, 1944)

⁴¹ Druckman, "Negotiating in the International Context", 116

⁴² Sydney Siegel and Lawrence Fouraker, *Bargaining and Group Decision Making: Experiments in Bilateral Monopoly* (New York: McGraw-Hill, 1960)

that consists of multi-way communication among negotiators, constituents and principals, where intra-party and inter-party negotiation occur simultaneously.⁴³

Negotiation as *diplomatic politics* views the process as a microcosm of international relations where parallel interactions among many types of diplomatic activities occur, each influencing each other.⁴⁴

These approaches have developed into distinct frameworks, whose researchers have developed specialties in the fields of game theory, social psychology, and international relations.⁴⁵

Drawing on these approaches, the dissertation defines negotiation:

*Negotiation is a process involving discussions between officially designated representatives that are designed to achieve the formal agreement of their governments or organizations on an issue or a problem in their relations.*⁴⁶

The literature on negotiation divides the negotiation process into three distinct stages: the pre-negotiation (or diagnostic) stage, the formula stage, and the details stage. The first stage (pre-negotiation) is the process where parties define their situation and decide on negotiated solutions. In the second stage (formula stage), parties negotiate a formula for the resolution of

⁴³ Robert Putnam, "Diplomacy and Domestic Politics: The Logic of Two-Level Games", *International Organisation*, Vol. 42, No. 3 (1988), 427-460

⁴⁴ Druckman, "Negotiating in the International Context", 119

⁴⁵ I. William Zartman, *Negotiation and Conflict Management: Essays on Theory and Practice* (New York: Routledge, 2008), 14

⁴⁶ A similar definition is used by Geoff Berridge, *Diplomacy: Theory and Practice, Fourth Edition* (New York: Palgrave MacMillan, 2010), 25

the conflict. In the third stage (details stage), parties negotiate the details to implement the formula.⁴⁷

It is important to point out that the notion of sequential ‘stages’ of the negotiation process is more conceptual than real; in real negotiations these stages are rarely isolated and often have shady and overlapping borders.

1.3.2. Pre-negotiation

The most prominent definition of pre-negotiation was developed in 1989 by Zartman and served the basis of what has since been the most authoritative book on the topic.⁴⁸ According to Zartman, pre-negotiation begins when “one or more parties considers negotiation as a policy option and communicates this intention to other parties. It ends when the parties agree to formal negotiations [i.e. negotiations over formula] ... or when one party abandons the consideration of negotiation as an option.”⁴⁹

Theorists have expanded on Zartman’s definition, focusing on the structure, and the functions of pre-negotiation.⁵⁰

⁴⁷ I. William Zartman and Maureen Berman, *The Practical Negotiator* (New Haven: Yale University Press, 1982)

⁴⁸ Janice Gross Stein (ed.) *Getting to the Table: The Process of International Prenegotiation* (John Hopkins University Press, 1989)

⁴⁹ I. William Zartman, “Pre-negotiation: Phases and Functions”, in Janice Gross Stein (ed.) *Getting to the Table: The Process of International Prenegotiation* (John Hopkins University Press, 1989), 4

⁵⁰ Brian Tomlin, “The Stages of Pre-negotiation: The Decision to Negotiate North American Free Trade Janice Gross Stein (Ed.) *Getting to the Table: The Process of International Prenegotiation* (Baltimore: John Hopkins University Press, 1989), 21; Jay Rothman, *A Prenegotiation Model: Theory and Training: Project on Prenegotiation Summary* (Jerusalem: Leonard Davis Institute for International Relations, Hebrew University of Jerusalem, 1990), 4

The dissertation defines pre-negotiation:

Pre-negotiation begins with changes in at least one of the parties' perception of the conflict where negotiation is considered as an option and an alternative to the unilateral track. Parties subsequently convey the messages of their intentions to each other. The pre-negotiation stage ends when parties agree to begin negotiating a formula for the resolution of their conflict, or when one party abandons this option altogether.

In the process, parties establish whether negotiations are worthwhile and if so, agree on the agenda and the necessary procedure for negotiating a formula for the resolution of their conflict. Pre-negotiations can either be informal and confidential, or they can be formal and well-advertised. However, whether they are formal or informal, public or confidential, pre-negotiations are often more important and far more difficult than is usually supposed.

1.3.3. Ripeness

The concept of ripeness explains why parties to a conflict transform the conflict toward resolution through negotiation. A conflict is held to be ripe for a negotiated resolution only when the appropriate set of circumstances arrives i.e. when the adversaries jointly confront a costly impasse.

The condition of ripeness has three components:

- Perception of a *mutually hurting stalemate* (deadlock) or an imminent catastrophe (deadline), wherein parties realize they can no longer escalate their way to victory;
- The emergence of a *perceived way-out*; and
- *Valid spokespersons* emerge on both sides.

1.3.3.1. Mutually Hurting Stalemate

The mutually hurting stalemate suggests that extended pain is the most effective thing that will make belligerent parties consider alternative ways of achieving goals in conflict. It implies that political leaders and their supporters change their perceptions towards negotiated solutions only through experiencing the pain of loss and damage. Zartman points out that it is not just a stalemate i.e. a situation in which neither side can win, but neither side wants to back down or accept loss either. Rather, it is a *hurting* stalemate i.e. parties *will* seek alternative ways of achieving their goals.⁵¹

The dissertation defines mutually hurting stalemate as:

That period in a conflict when one side perceives that it is unable to achieve its aims, to resolve the problem, or to win the conflict by itself, and the other side arrives at a similar perception. Each party recognizes its opponent's strength and its own inability to overcome it. Each party's unilateral policy option is perceived as a more expensive and less likely way of achieving a possible, acceptable outcome than the policy of negotiation.

The hurting stalemate is as a matter of perception.

1.3.3.2. Perceived Way-Out

The other element necessary for a ripe moment is a perceived way out. The importance is that without a sense of a way out, the push associated with a mutually hurting stalemate leaves the parties with nowhere to go. Zartman points out that “if parties’ subjective expressions of pain

⁵¹Christopher Mitchell, “Cutting Losses”, *Working Paper 9*, Institute for Conflict Analysis and Resolution (George Mason University, 1995), 3

related to objective evidence of stalemate can be found, along with expressions of a sense of a way out, ripeness exists.”⁵²

A perceived way-out is defined as:

That period in a conflict where one side perceives that a negotiated solution (but not necessarily a specific outcome) is possible for the searching, and the other party shares that perception and the willingness to search.

If two parties perceive themselves in a hurting stalemate and perceived way out, the conflict is ripe for resolution.

1.3.3.3. Valid Spokespersons

The question of whose perception is relevant consequently emerges. ‘Valid spokespersons’ are crucial for the initiation of negotiations, and the ripeness literature acknowledges this. A key assumption of ripeness is leaders’ perceptions of conditions and the decision-making process that determine whether a ripe moment will be seized.

Valid spokespersons are defined as:

People with the ability to commit enough segments of the political spectrum on their side so as to make the search for negotiated possibilities will be possible.

⁵² I. William Zartman, “The Hurting Stalemate and Beyond”, in Paul Stern and Daniel Druckman (Eds.) *International Conflict Resolution after the Cold War* (Washington: National Academies Press, 2000), 104-105

This agency component is crucial as the belief of one side that it is dealing with valid representatives of the other side imbues the process with legitimacy, and is indeed a prerequisite for productive or successful negotiations.

1.4. Sources of Evidence

An important element for doing case studies is the ability to handle a variety of evidence derived from diverse data collection techniques. Six types of evidence are most commonly used in case study research: documentation, archival records, interviews, direct observation, participant observation and physical artifacts. Given that the dissertation analyses a political process historic in nature, the dissertation uses books, journal articles, official documentation, policy analyses and statements, minutes of meetings, speeches, unpublished papers, a variety of archival records, transcripts of interviews and newspaper articles.

This dissertation used primary documentation (official documents, minutes of meetings, transcripts of interviews, and other archival records) both as background research material and directly in the construction of the argument. The main difficulty with the primary documentation on the case study is that the records are scattered nationally, with the main locations being the University of Cape Town, the University of Fort Hare, the University of the Free State, the University of the Western Cape, and the University of the Witwatersrand.

Consequently, the dissertation was strategic in its use of these records. For research on the period up to 1990, evidence on the ANC was sourced from the South African Political Materials at the Historical Papers Archive at the University of the Witwatersrand, the Historical Papers Archive at the University of the Western Cape, the Manuscripts and Archives Department at the University of Cape Town, and the Padraig O'Malley Archival Collection located in a website sourced by the Nelson Mandela Centre for Memory.

At the South African Political Materials archival repository at the University of the Witwatersrand, the dissertation primarily relied on the Karis-Gerhart Collection. These historic materials were assembled in the process of writing volumes 5, 6, and 7 of *From Protest to Challenge: a Documentary History of African Politics in South Africa 1882-1990*, published by Indiana University Press in the United States and the University of South Africa Press in South Africa. With several hundred primary source documents, the greatest strength of the collection is that it draws together in one place a wealth of materials on certain centrally important political organizations in the 1964-1990 periods such as the ANC, the PAC, Inkatha, the black consciousness organizations, and the UDF.

The dissertation corroborated this evidence with materials from the Jack Simons Papers (African National Congress) at the Manuscripts and Archives Department at the University of Cape Town. This invaluable and extensive repository contains official and unofficial correspondence between ANC exile functionaries, memoranda, official statements and speeches, minutes of meetings and notes taken in meetings, and reports of meetings with various individuals. The dissertation also consulted the Historical Papers archive at the Mayibuye Centre at the University of the Western Cape for research on this period. This archive includes more than three hundred collections of personal and organizational documents.

Evidence on the South African government during this period was primarily sourced from the Hermann Giliomee Papers at the Manuscripts and Archives Department at the University of Cape Town. These papers contain important transcripts of interviews conducted by Patti Waldmeir in the process of writing her book, *Anatomy of a Miracle* published by Penguin Books. The dissertation also used the Padraig O'Malley Archival Collection which is an extensive collection of Padraig O'Malley's interviews conducted between 1985 and 2005 with many key personalities, who influenced South Africa's transition to democracy.

The use of transcripts of interviews was not without its problems. In the later ex post-facto interviews i.e. interviews conducted after a considerable amount of time had lapsed from the pre-negotiations, actors were usually deterministic in their recollection of events and in their

thoughts, motives and strategies. This determinism was absent in earlier interviews conducted during and immediately after pre-negotiations. In these earlier transcripts, actors were openly anxious about pre-negotiations, and were less certain about the outcome. Further, political events, processes, strategies and allies that were identified as important in the earlier interviews were downplayed in later interviews, and vice versa. This highlights the problematic status of ex post-facto interviews, especially if the actors in question are still actively involved politically. It also highlights the importance of the O'Malley Archives as it interviews the same principal actors over a specified length of time.

Despite these challenges, actors' accounts were invaluable and the dissertation was able to corroborate views expressed with other types of evidence, particularly other primary documentation found in the abovementioned archival repositories and academic analyses.

For research on the period between 1990 and 1991, in addition to archival material sourced from the repositories above, the dissertation used the extensive secondary literature available on the South African transition to democracy, which includes books, journal articles, newspaper articles, policy analyses, newsletters, unpublished papers, doctoral dissertations, and autobiographies, authorized and unauthorized biographies. The dissertation also used additional primary material not sourced from the abovementioned archival repositories such as internal organizational discussion documents, official papers, official reports and statements, official agreements, speeches, and memoranda.

1.5. Chapter Outline

The dissertation is organized into ten chapters. Chapter Two locates this study within the general secondary literature on the beginning of multiparty negotiations in South Africa. This chapter will argue that the existing literature on the subject does not provide a good explanation of why negotiations begin. The dissertation intends to fill this gap.

Chapter Three provides an illustration of Zartman's explanation of ripeness. The chapter reviews the literature, and the different interpretations, of ripeness, particularly from the perspectives of practitioners and diplomats directly involved in conflict resolution, and from scholars who have critiqued the concept for some of its limitations. The chapter then suggests ways in which the concept can be refined in such a way that it deals with some of these limitations.

The chapter also introduces the concept of pre-negotiation, introducing the analytical framework within which the concept of ripeness and South African case study will be examined. The dissertation will use Brian Tomlin's model on the stages of pre-negotiations in order to gain a clear understanding of the process, and the role that the ripeness concept plays in it. Tomlin uses Daniel Druckman's threshold-adjustment model to describe the pre-negotiation process. This model conceives negotiation in terms of patterns of responsiveness between parties. The actual process is described as an unfolding set of stages in which turning points and crises mark passage from one stage to another. The process is described in terms of four concepts: stages, turning points, crises and activities.

Chapter Four is a background to the case study and provides a historical analysis of the central issues in the South African conflict up until the beginning of the pre-negotiation process. The chapter pays attention to the history of the NP government and the ANC.

Chapters Five, Six, Seven and Eight provide a detailed examination of the pre-negotiation process in South Africa. The chapters use Brian Tomlin's five-stage model of pre-negotiation.

Chapter Five discusses the process by which the ANC added negotiation to their range of policy options, and chose negotiation as their preferred and necessary policy alternative. The chapter discusses the conditions within which the ANC's policy shift should be understood, the ANC's public and official diplomatic activity, and the secret semi-official diplomacy conducted by ANC diplomats and academics with links to the government.

Chapter Six discusses the process by which the government added negotiation to their range of policy options, and chose negotiation as their preferred and necessary policy alternative. The chapter discusses the government's motivations in seeking accommodation with the ANC, the central issues involved in the secret talks between Nelson Mandela and the government in prison, and the final section discusses the first official-level meeting between the government and the ANC.

Chapter Seven discusses the third and public stage of pre-negotiation. During this stage, the parties focused on the security dimensions of the conflict that posed a threat to their interests, specifically the preconditions for substantive talks. The progression and sustainability of this public phase of pre-negotiation occurred through a series of interim procedural arrangements. This process of pact-making established important rules of interaction, defined the incentive structure for violence and peace, and locked the parties into an interdependent bargaining relationship. This process was designed to identify and eliminate preconditions to settlement negotiations.

Chapter Eight discusses how the problem of preconditions were overcome, leading to the fourth and fifth stages of pre-negotiation. The chapter examines the conditions that led to the turning point that facilitated the process of overcoming the problem of preconditions, and how the government's crisis of legitimacy led to a process of convergence between the government and the ANC. The chapter concludes by discussing the issues and politics involved in the preparations for the CODESA process.

Chapter Nine explores the implications of the ripeness concept in light of the South African pre-negotiation process, and Chapter Ten concludes the dissertation.

CHAPTER TWO

Literature Review

Explaining Negotiations in South Africa

The aim of this chapter is to review the scholarship about why multiparty negotiations began in South Africa. This consists of literature about (a) why the parties negotiated at all, and (b) why the NP government ended up negotiating with the ANC.

The chapter will organise this literature into four broad categories⁵³: multivariable explanations, dominant variable explanations, single-variable explanations and theoretical explanations. The chapter will show that while the literature has provided invaluable insights on the complex process ending apartheid, it has not adequately addressed why negotiations began in South Africa, particularly why the NP government ended up negotiating with the ANC.

2.1. Multivariable Explanations

Multivariable explanations are multi-causal explanations and hold that a combination of factors brought about negotiations in South Africa. The argument is that multiple pressures, internal and external, of great intensity were brought to bear on the apartheid state until such time that the pressures became too great, leading to the beginning of negotiations. Multi-causal explanations vary in their selection of pressures, usually listing broad headings and highlighting different factors. A key distinction in this approach is whether the beginning of negotiations was an *elite*

⁵³ These categories are derived from Jonathan Melunsky's categorization of existing explanations on South Africa's political transition. See Jonathan Melunsky, *The Rejection of Silence and Desolation: Explaining Political Transition in South Africa. Doctoral Dissertation* (London: School of Oriental and African Studies, 2002)

response to pressure, or an *elite initiative* in anticipation of changing circumstances. Three seminal texts are important in this regard: Robert Price's *The Apartheid State in Crisis*⁵⁴, Herman Giliomee's *Democratisation in South Africa*⁵⁵, and Elisabeth Wood's *Forging Democracy from Below*⁵⁶.

Robert Price writes that the policy of apartheid was at the centre of the South African conflict. Apartheid has its origins as an ideology of race relations that took hold within the Afrikaner intellectual and political elite in the mid-1940s. Price identifies the NP as the most important organisation for the development of apartheid; after its 1948 electoral victory, apartheid ideology evolved and was implemented through an elaborate system of laws and administrative regulations.

Through the introduction of apartheid, the NP sought three objectives. The first was to create a completely segregated society. The second was to secure white political supremacy and its resultant economic privileges from potential internal (primarily from the black African majority) and external (from the international community) threats. The third was to move the Afrikaner community into a position of social and economic parity with the English-speaking community "which had dominated the modern economy and urban sector since the dawn of capitalist economic development in South Africa."⁵⁷

Price identifies the South African Communist Party (SACP) and the ANC as the important resistance organisations to apartheid during the early years. The SACP attracted an important group of professionals, intellectuals and trade union leaders. The ANC underwent a transformation from a small African middle class oriented organisation, working within the

⁵⁴ Robert Price, *The Apartheid State in Crisis: Political Transformation in South Africa 1975 – 1990*. (New York: Oxford University Press, 1991)

⁵⁵ Hermann Giliomee, "Democratisation in South Africa" *Political Science Quarterly*, Vol.110, No. 1 (Spring 1995), pp. 83-104

⁵⁶ Elisabeth Wood, *Forging Democracy from Below: Insurgent Transitions in South Africa and El Salvador*. (Cambridge: Cambridge University Press, 2000)

⁵⁷ Price, 23

restrictive South African legal order, into a mass organisation dedicated to militant collective action. Their resistance to apartheid policies in the 1940s and 1950s strengthened their political alliance to the extent that they jointly formed and shared a military organisation, Umkhonto we Sizwe (MK).

Price identifies political change in South Africa as beginning in 1970. Three factors are important. First, the growth and maturity of the South African economy created structural constraints for apartheid. By the mid-1960s, the manufacturing sector's contribution to gross domestic product (GDP) exceeded that of mining and agriculture combined, making manufacturing the dominant sector of the economy. By 1970, manufacturing "employed more people than any other sector."⁵⁸ The emergence of manufacturing had important implications; "it undermined the apartheid goal of preventing the development of a large and permanent population of African city dwellers."⁵⁹ The pull of job in the urban manufacturing sector and the push of poverty in the Homelands more than tripled the size of the black African population living in urban areas.

Second, a military coup in Portugal on 25 April 1974 precipitated a series of events that profoundly changed the political landscape of southern Africa. Before the coup, the four territories of Angola, Mozambique, Rhodesia and Namibia were each ruled by a white minority government, had a longstanding working relationship with the South African government, and constituted a buffer zone between South Africa and the forces of African nationalism across the Zambezi River. When the Armed Forces Movement overthrew the Portuguese dictatorship, this buffer zone collapsed. The new Marxist government in Portugal dismantled its African colonial empire. By the end of 1975, Mozambique and Angola had been granted independence and were controlled by political parties that professed a commitment to Marxist-Leninism, had a history of

⁵⁸ Ibid., 29

⁵⁹ Ibid.

opposition to apartheid, had close fraternal ties with the ANC, and received substantial assistance from the Soviet Union.⁶⁰

The third was the revival of black popular protest. This happened in two waves. The first wave begins in 1973 when a wave of strikes by African workers swept across South Africa. Although legally constrained from forming trade unions and organising strikes, “tens of thousands of black workers put down their tools in a disciplined and ultimately successful effort to improve their wages.”⁶¹ The second wave begins on 16 June 1976 in Soweto when school children protested the introduction of Afrikaans as the medium of instruction in secondary school courses. Students were met by a detachment of police who opened fire killing several. This series of events touched off a revolt against the apartheid system “that was unprecedented in its scope and endurance.”⁶² The revolt, and its suppression, galvanised the attention of the international public and “emphasised anew the pariah status that South Africa’s domestic arrangements conferred upon it within the international community.”⁶³ It revived the issue of the international acceptability of apartheid and subjected South Africa to international pressure.

These three “shocks” can be thought of as “producing fissures in the Apartheid edifice”, had a synergising effect and reinforced each other.⁶⁴

For Price the beginning of negotiations was an elite response to economic change, a fragmenting regional security framework, and black popular struggles which from the early 1970s eroded the foundations on which the apartheid political order rested. By the late 1980s these “shocks” had produced such a political transformation that the government was forced to embark on a path towards negotiations with the anti-apartheid organisations in order to replace minority rule with a more representative form of government.

⁶⁰ Ibid., 40

⁶¹ Ibid., 46

⁶² Ibid., 46-47

⁶³ Ibid., 62

⁶⁴ Ibid., 71

Price uses Theda Skocpol's analytical framework⁶⁵ to advance two theses.

First, since the mid-1970s, the dialectic of government reform and growing black resistance undermined the "substructure of domination" i.e. the "social interactions, cultural norms, economic activities, and informal power relationships that create the basis for compliance with the prescriptions of the ruling group."⁶⁶

Second, the stagnant economy and political insurrection of the 1980s set the stage for a negotiated resolution of the South African conflict. International pressure together with internal resistance led to the breakdown of the regime, and the ruling elite began to see negotiation as a viable alternative.

While Herman Giliomee agrees on the importance of political changes in the 1970s, he disagrees with Price's argument on the beginning of negotiations, making the point that "no convincing case can be made that the regime at the end of the 1980s was forced to embark on substantial negotiations with leaders of the extra-parliamentary movement for an inclusive democracy."⁶⁷ While conceding that the government was under pressure, Giliomee states that the government of President Pieter Willem (PW) Botha remained stable, the coercive organisations remained coherent and effective, there was no serious division within the ruling elite, and that De Klerk was a centrist in the party who "easily managed to straddle the not too serious divisions between reformists and stand-patters in his party."⁶⁸

⁶⁵ See Theda Skocpol, *States and Social Revolutions: A Comparative Analysis of France, Russia and China*. (Cambridge: Cambridge University Press, 1979)

⁶⁶ Price, *The Apartheid State in Crisis*

⁶⁷ Giliomee, "Democratization in South Africa", 85

⁶⁸ *Ibid.*, 86

Giliomee identifies De Klerk as the central actor arguing that his initiative to unban the resistance organisations on 2 February 1990 was made possible by the context within which he operated:

“De Klerk’s fundamental shift to unban the liberation organisations and negotiate an inclusive democracy was the product of Afrikaner group debate of the late 1980s in which political, bureaucratic, cultural, and economic elites considered the forces impacting upon the projects for survival of Afrikaner and the larger white community in the 1990s and beyond.”⁶⁹

For Giliomee, three issues deserve special attention: a weakening white demographic base that necessitated the development of a new political strategy to ensure stability and Afrikaner and larger white survival; a dramatically different internal and external environment that witnessed the resolution of the Angolan war, collapse of the Soviet Union and Eastern Europe, and changes in the Dutch Reformed Church over apartheid⁷⁰; and economic stagnation with the consequences of disinvestment, trade restrictions, and bans on long-term loans.

Giliomee discusses a variety of factors with regard to the changing external environment. He argues that the weakening of the Soviet Union played an important part:

“... De Klerk would not have moved toward negotiations with the ANC as long as it was strongly backed by the Soviet Union. As late as September 1989, de Klerk sent word to his brother to stop talking to the ANC. In his view, this movement could never have a role in negotiations... In the last months of 1989, the external environment improved dramatically from the government’s point of view. For the first time it considered negotiations a viable option. The crucial development was the severe internal troubles experienced by the Soviet Union. Moscow told the

⁶⁹ Ibid.

⁷⁰ In 1986, the Dutch Reformed Church declared that apartheid was incompatible with Christian ethics and distanced itself from the old close identification with the state and with Afrikaner people. Giliomee, “Democratization in South Africa”, 90

ANC that it was up to the South Africans themselves to reach a political accommodation. At the same time Pretoria believed that without Soviet backing it had a much better chance to contain a legalised ANC.”⁷¹

Giliomee further argued that this changing international environment was decisive for the ANC:

“For the ANC the late 1980s also represented a watershed. It had long favoured the nationalisation of large sectors of the economy, but it was now confronted with mounting evidence of the malperformance of economies under centralised control in Eastern Europe and Africa. With the South African economy already in trouble, the leadership saw the need for negotiating functional political and economic structures that could deliver on the greatly raised expectations of its followers. Even more important in its decision to begin negotiations were two major setbacks it received in the form of the New York Accords of 1988 (i.e. the resolution of the Angolan Civil War) and the collapse of the Soviet Union.”⁷²

For De Klerk, the choice lay between “being driven back into a corner over the next ten or fifteen years, and staging an outflanking movement that could yield to him and his party a strategic position in a democratic government.”⁷³ De Klerk knew that “the Afrikaners and the larger white group had a much better chance of striking a bargain now than if they waited a further ten years.”⁷⁴ As de Klerk put it shortly after legalising the ANC, SACP and other liberation movements:

“We have not waited until the position of power dominance turned against us before we decided to negotiate a peaceful settlement. The initiative is in our hands. We have the means to ensure that the process develops peacefully and in an orderly way.”⁷⁵

⁷¹ Giliomee, “Democratization in South Africa”, 91

⁷² Ibid.

⁷³ Ibid., 88

⁷⁴ Ibid.

⁷⁵ Cited in *ibid.*

For Giliomee, the negotiations were an elite initiative from a position of strength, in anticipation of changing political circumstances.

Elisabeth Wood places emphasis on the agency of the alliance of militant workers and the urban poor, but like Price, maintains that the negotiations were a response to crises. According to Wood, the South African conflict was a class-based conflict where race and class coincided to a remarkable degree. Apartheid South Africa is described as an oligarchic society where economic elites relied on extra-economic coercion, or political rather than market forms, of labour control for the realisation of their income.⁷⁶ This led to an alliance where economic elites supported authoritarian political structures that secured the extra-economic coercion of labour on which their economic position depends.⁷⁷ As a result, they were able to generate much higher profits than would have been possible under liberal market forms. It also led them “to oppose with particular virulence and brutality attempts to liberalise and democratise as these would have challenged the labour-repressive system on which they relied and which created an economic interdependence between them and the workers and urban poor they exploited.”⁷⁸

It is only when the workers and urban poor mobilised politically to challenge to this economic interdependence were economic elites able to force regime elites to negotiate. Wood stresses this point:

“Along the insurgent path to democracy, popular mobilisation is sustained long enough to create the structural conditions for the resolution of conflict: insurgency reshapes the economic interests and opportunities of the economic elites (and perhaps some of the regime elites) sufficiently for them to judge the foreseeable returns to continued recalcitrance as less than the returns to compromise with the insurgents. In oligarchic societies, this

⁷⁶ By extra-economic coercion she means direct coercive labour relations such as slavery; coercive restrictions on the mobility of labour such as serfdom, debt peonage, criminal vagrancy laws, and laws that prohibit residency in some areas without a state-issued pass; and coercive practices in the workplace that repress nascent attempts by labourers to organise. This also entails violations of liberal rights of speech, association, free movement, due process and equality before the law.

⁷⁷ Wood, 7

⁷⁸ Ibid., 7-8

eventual willingness of economic elites to compromise is particularly consequential: the unprecedented break in oligarchic alliance makes possible the split within the regime between regime hardliners and reformists that culminates eventually in a negotiated transition to an inclusive regime.”⁷⁹

In explaining the beginning of negotiations, Wood argues that decades-long political mobilisation by black workers and the unemployed demanding political rights and economic resources forced economic and regime elites to negotiations in order to end civil strife.

Wood also identifies political change as beginning in the 1970s: “A wave of unprecedented strikes by black workers in the early 1970s and the spread of protest by township residents after the shooting of schoolchildren in Soweto 1976 had been met with repression as well as measures to reform Apartheid without extending universal suffrage.”⁸⁰ Trade unionists exploited the reform process and built a trade union movement that would lead to the formation of the militant Congress of South African Trade Unions (COSATU) in 1985, demanding political emancipation and economic concessions.

After the formation of an alliance of anti-apartheid urban-based civic organisations in 1983, the United Democratic Front (UDF), the townships again erupted in a wave of protest beginning in late 1984. Only the imposition of a state of emergency in 1986 and the arrest of tens of thousands of UDF activists quelled the protests. Unable to adequately address the crisis, “growing numbers of business executives and Afrikaner intellectuals initiated contact with the ANC to discuss transition scenarios.”⁸¹

Therefore, it was not that the apartheid model had become costly, as suggested by Price, or undesirable, as suggested by Giliomee; mass rebellion by the exploited ruptured it and made it

⁷⁹ Ibid., 14

⁸⁰ Ibid., 4

⁸¹ Ibid.

unworkable. Wood places COSATU and the UDF in the centre of the South African drama and locates their success in the structural features of the social relations of production under apartheid. She emphasises the role of class actors, the nature of the antecedent regime, and the potential for cross-class opposition coalitions, and addresses how political mobilisation brought about negotiations. She stresses how working class unrest destabilised the apartheid regime, initiating processes eventually leading to negotiations.

2.2. Dominant-Variable Explanations

Dominant-variable approaches agree with some of the main points raised by multivariable explanations, particularly regarding the importance of political changes in the 1970s. Dominant variable approaches however acknowledge many factors as important subsidiary pressures, yet highlight one variable as crucial.

The approach in Martin Murray's interrelated books⁸² is a good example of this. It is important to consider both books as offering an explanation. *Time of Agony, Time of Destiny* explains the 1984-1986 insurrection. This is a contemporary political history of black civic and labour struggles, which are seen as bringing South African society to a virtually undeclared civil war by May 1985. Building on various arguments made by John Saul and Stephen Gelb⁸³, the book points out that the apartheid system in the 1980s entered into a period of 'organic crises' as the post-war 'regime of accumulation' came to an end. A revolutionary situation was created as the state appeared in danger of losing control of events, with violence being routinized into the South African system.

⁸² Martin Murray, *South Africa: Time of Agony, Time of Destiny: The Upsurge of Popular Protests*. (London: Verso, 1987) and *The Revolution Deferred: The Painful Birth of Post-Apartheid South Africa*. (London: Verso, 1994)

⁸³ John Saul and Stephen Gelb, *The Crisis in South Africa: Class Defence, Class Revolution*. (New York: Monthly Review Press, 1981)

Murray provides a rich account of the popular resistance that had qualitatively changed from the era of student-led radicalism following the June 16 uprisings. By the mid-1980s the uprising drew in “broader layers of the oppressed black masses with a wider spectrum of ideological perspectives.”⁸⁴ It also led to a much harsher state response, though fewer people were detained than in the 1960 State of Emergency.

The Revolution Deferred is a powerful sequel to *Time of Agony, Time of Destiny* and Murray builds on this analysis to develop an analytical approach to the study of negotiation in South Africa. Murray provides a detailed account of the social movement dynamics during the terminal years of apartheid. Beginning on 2 February 1990, Murray’s portrait is a messy negotiation process, where the state used and provoked political violence, funding rogue clients and then finding new allies when earlier dealings were revealed.⁸⁵ Murray also reminds the reader of the excesses and brutality of the ANC, despite the image of its leadership⁸⁶, and concludes that there was nothing pretty, neat or miraculous about the years of negotiation, notwithstanding its romantic images.

Glenn Adler and Eddie Webster also point out that civil society and social movements, especially trade unions, were at the heart of political change.⁸⁷ Adler and Webster however move further and challenge the contemporary literature on democratic transitions which argues that negotiations are simply the result of pacts between the reformers in the ruling regime and moderates in the opposition. These emphases on elites, they point out, misunderstand the role of popular movements and struggle in the origin of negotiated transitions⁸⁸:

⁸⁴ Murray, *Time of Agony, Time of Destiny*, 256

⁸⁵ Murray, *The Revolution Deferred*, 70 and 108

⁸⁶ *Ibid.*, 122

⁸⁷ Glenn Adler and Eddie Webster, “Challenging Transition Theory: The Labour Movement, Radical Reform, and Transition to Democracy in South Africa”, *Politics and Society*, Vol. 23, No. 1 (March 1995), 75-106

⁸⁸ *Ibid.*, 76

“By undervaluing the capacity for innovation and the strategic use of power by social movements, the literature overlooks actors with extremely important influence over the transition. The crucial consequence of this approach is an inappropriate narrowing of possible outcomes.”⁸⁹

The argument is that the South African labour movement played a central role in the beginning of negotiations through a variety of interventions driven by ‘the strategy of radical reform.’⁹⁰ It is this centrality in pre-negotiations that alerts them to a gap in contemporary analyses of transition:

“Not only have writers such as Przeworski generally ignored the role played by labour movements, but where they have given consideration to labour, its role has been misunderstood as little more than one of mobilising or restraining its members as dictated by the pace of negotiations over an elite pact. This is not merely an empirical lapse or failure to pay attention to particular facts but suggests problems in the conceptualisation of transitions themselves, which have prescriptive implications. Such arguments may have the practical effects of delegitimizing political projects with the potential to realise a fuller measure of democracy.”⁹¹

For the authors, the South African case encourages advocates of progressive transition not only to reassess transitions to account more fully for the role of popular movements but “to explore current cases to identify progressive potentials that have been either overlooked or declared impossible by transitional theorists.”⁹²

2.3. Single-Variable Explanations

Single-variable approaches analyse a particular factor; but that factor is not necessarily claimed to be the most important. These approaches analyse the role of one factor for the beginning of negotiations in South Africa, and seek not to replace other explanations but rather to complement

⁸⁹ Ibid.

⁹⁰ Ibid., 99

⁹¹ Ibid.

⁹² Ibid., 100

them by giving proper weight to a particular factor. In the literature, such accounts have examined a variety of factors, such as military⁹³ and secret talks⁹⁴, and have also included narrative approaches.⁹⁵ Single-variable explanations that examine the beginning of negotiations tend to highlight the role of international political forces, in particular the impact of the end of the cold war, and the role of secret talks.

Kathryn Manzo argues that the demise of communism in Eastern Europe had profound global implications.⁹⁶ For South Africa, the consequences that came with the fall of the Soviet empire led to a drying up of the ANC's military support:

“Pressure for the ANC for a negotiated settlement has been reinforced by the revolutions in Eastern Europe, from whence a good deal of support came. East Germany, once the major military supplier of Umkhonto (the armed wing of the ANC), ceased supplying aid even before the reunification of East and West Germany; since then all military aid has come to a halt.”⁹⁷

These international political developments weakened the ANC's position:

“The ANC will almost certainly figure largely at the negotiating table, but unless it can harness the enormous stock of support that it still enjoys at the grass roots level, it will be forced to enter negotiations from an enviable position – that of a junior and weak partner to the National Party.”⁹⁸

⁹³ Annette Seegers, *The Military in the Making of Modern South Africa*. (London: Taurus, 1996)

⁹⁴ Richard Rosenthal, *Mission Improbable: A Piece of the South African Story*. (David Philip: Cape Town, 1998)

⁹⁵ Nelson Mandela, *Long Walk to Freedom: The Autobiography of Nelson Mandela*. (London: Little, Brown and Co., 1994); FW De Klerk, *The Last Great Trek – A New Beginning: The Autobiography*. (London: Macmillan, 1998)

⁹⁶ Kathryn Manzo, *Domination, Resistance, and Social Change in South Africa: The Local Effects of Global Power*. (Westport: Praeger, 1992)

⁹⁷ *Ibid.*, 251

⁹⁸ *Ibid.*, 253

Other authors have also taken up this line of argument. In his 1994 Chatham House discussion paper, *Forging the New South Africa*, James Barber made the point that the collapse of Communism in Eastern Europe was one of the three factors that determined the timing of De Klerk's 2 February announcements that began the process of liberalisation.⁹⁹ Giliomee's multi-causal explanation (discussed above) also makes this point:

"Yet De Klerk would not have moved toward negotiations with the ANC as long as it was strongly backed by the Soviet Union. As late as September 1989, De Klerk sent word to his brother to stop talking to the ANC. In his view, this movement could never have a role in negotiations... In the last months of 1989, the external environment improved dramatically from the government's point of view. For the first time it considered negotiations a viable option. The crucial development was the severe internal troubles experienced by the Soviet Union. Moscow told the ANC that it was up to the South Africans themselves to reach a political accommodation. At the same time, Pretoria believed that without Soviet backing it had a much better chance to contain a legalised ANC."¹⁰⁰

John Daniel disputes this argument pointing out that it attaches too great a significance to the fall of the Berlin Wall itself and in so doing, "neglect[s] the role of the United States in the events leading up to the transition."¹⁰¹ Daniel argues that "it was the US response to the changing international realities of the late 1980s – and the very specific impact that had on its strategic thinking on South and southern Africa – that was the decisive international factor in the South African transition."¹⁰² While not completely discounting the accession to power of Mikhail Gorbachev, Daniel identifies the Reykjavik summit between Reagan and Gorbachev in October 1986 as the beginning of the end:

"While the primary focus of that meeting was an arms control agreement, the key bargain struck amounted to a redefinition of spheres of interest in the world, including southern Africa. At Reykjavik, the United States agreed to

⁹⁹ James Barber, *Forging the New South Africa* (London: Royal Institute of International Affairs, 1994), 6

¹⁰⁰ Giliomee, "Democratization in South Africa", 91

¹⁰¹ John Daniel, "A Response to Guelke: The Cold War Factor in South Africa's Transition", *Journal of Contemporary African Studies*, Vol. 14, No. 1 (1996), 101

¹⁰² Ibid.

a non-interventionist role in Eastern Europe, Nicaragua and Afghanistan in return for which the Soviet Union ceded Africa to the United States – specifically the Horn of Africa and southern Africa.”¹⁰³

From late 1986, the US was given *carte blanche* to shape events in southern Africa, which included getting the Cubans out of Angola, the South Africans out of Namibia¹⁰⁴ and the launch of a negotiation process involving the ANC and a freed Nelson Mandela in South Africa. Thus, the signing of the New York Accords on Namibia and Angola in 1988 “cleared the way for the heat to be turned on Pretoria.”¹⁰⁵ In addition to this, developments within Namibia, where elements of South African intelligence realised the counter-productivity of a military solution, and events in Cuito Cuanavale, which discredited the hard-line thinking of the cold war warriors in Botha’s cabinet, produced a power shift in the NP political establishment and a realisation that a solution to the South African crisis could only be obtained through negotiations involving the ANC. All these events occurred prior to the collapse of the Berlin Wall.

Three important books highlight the significance of secret talks for the beginning of negotiations: *Tomorrow is Another Country* by Allister Sparks¹⁰⁶, *Anatomy of a Miracle* by Patti Waldmeir¹⁰⁷, and *Endgame* by Willie Esterhuysen¹⁰⁸. These accounts of the negotiations present the process as bilateral deal-making between the NP government and the ANC. Their selling point is their privilege access to significant behind the scenes exchanges between the ANC and government officials or individuals with access to the NP government.

Sparks does not set out to write an academic treatise, but one which would appeal to a general readership. Sparks documents the secret pre-negotiations between ANC officials and NP

¹⁰³ Ibid., 102

¹⁰⁴ See Chester Crocker, *High Noon in Southern Africa: Making Peace in a Rough Neighbourhood*. (New York: W.W Norton and Company, 1992)

¹⁰⁵ Daniel, 102

¹⁰⁶ Allister Sparks, *Tomorrow is Another Country: The Inside Story of South Africa’s Negotiated Revolution* (Sandton: Struik Book Distributors, 1994)

¹⁰⁷ Patti Waldmeir, *Anatomy of a Miracle: The End of Apartheid* (New York: Norton, 1997)

¹⁰⁸ Willie Esterhuysen, *Endgame: Secret Talks and the End of Apartheid* (Cape Town: Tafelberg, 2012)

government officials and individuals with access to the government that began in Cape Town prisons and hospitals, Swiss hotels, African venues and English corporate estates until open negotiations after 1990. Sparks writes that these secret talks were driven by the mutual interests of ANC and NP elites; NP government reforms had failed to provide the legitimacy the government needed and the armed struggle had always been one among many sources of pressure on the government. Sparks argues that chance encounters and nascent bonds between the ANC and NP elites facilitated the beginning of negotiations and saved and sustained the process at critical moments.

Waldmeir writes a similar book to Sparks and also highlights the importance of pre-negotiation. She interviews more key players than Sparks and thus has a wider research base and focus. She covers much of the same ground as Sparks i.e. anecdotes of encounters between members of the ANC in exile and intermediaries and officials of the South African government beginning in the mid-1980s. She identifies the most important meetings as being the encounters between ANC officials headed by Thabo Mbeki and members of the Afrikaner elite, headed by Professor Willie Esterhuyse, at Mells Park House, a Consolidated Gold Fields estate in England. These took place between November 1987 and May 1990.

Waldmeir's key question on the negotiations is why the NP government "gave it all away"?¹⁰⁹ She sees her book as "a study in the psychology of capitulation."¹¹⁰ Christopher Saunders, however, writes that Waldmeir takes it for granted that there was a capitulation – the apartheid state was far from being defeated by the end of 1989. Her key questions are why De Klerk began the process of negotiation, and why he allowed it to continue until the NP lost political power?¹¹¹ On the one hand, Waldmeir admires De Klerk's courage, and on the other, she suggests that he and his government were "seduced by men of great charm."¹¹²

¹⁰⁹ See p. x, the title of chapter 6 and p. 233

¹¹⁰ Waldmeir, 2

¹¹¹ Christopher Saunders, "Why did 'The Boers Give it All Away'?" *South African Historical Journal* Vol. 38, No. 1 (1998), 214-221

¹¹² Saunders, 219

Endgame is Esterhuysen's first-hand account of the full story of the secret meetings between ANC leaders and a select few Afrikaners in the 1980s (the subject of Sparks and Waldmeir's books). Esterhuysen's involvement in these talks began in 1987 when contacted by Fleur de Villiers, who asked him to talk to the ANC in exile. Esterhuysen states that the idea of informal and unofficial talks between the ANC and influential Afrikaners arose from what became known as the Consgold project. De Villiers initiated the first contact with the Afrikaners, while Michael Young approached the ANC. Having accepted the challenge to become part of these talks, Esterhuysen was regularly and intensively briefed by the South African intelligence services, the National Intelligence Service (NIS).

Esterhuysen also acknowledges the importance of pre-negotiation and argues that significant political change towards negotiation began after PW Botha's infamous Rubicon Speech in 1985:

"It had two consequences: on the one hand, the paradigm shift in international circles and among many verligte [i.e. reformist] Afrikaners that the [reform] from-within strategy was no longer adequate or even untenable; on the other hand, the view among those associated with the United Democratic Front (UDF)... that pressure on the Botha government had to be intensified, and also *could* be intensified in light of the international reaction to the Rubicon debacle."¹¹³

Thus key Afrikaner leaders withdrew their support for the notion that apartheid could be changed from within and began to explore options with the ANC.

Esterhuysen identifies Thabo Mbeki as the central actor in the evolution of the secret talks and the close friendship that developed with him gives Esterhuysen important insights into the issues involved. Esterhuysen provides a rich anecdotal account of the secret talks, and acknowledges the

¹¹³ Esterhuysen, 38

importance of the UDF for the political changes in the 1980s. Esterhuysen's explanation is also an important improvement and addition to the work of Sparks and Waldmeir.

2.4. Theoretical Explanations

Theoretical explanations use sociological and political theories to explain the beginning of negotiations. The important accounts use institutional rational choice theory¹¹⁴; draw on comparative studies of democratisation in Latin America and Southern Europe in search of a coherent South African model of democratic transition¹¹⁵; and use Marxist approaches¹¹⁶ to explain the beginning of negotiations.

Timothy Sisk's institutional rational choice model places emphasis on the changing interests and preferences of rational actors involved in the process of negotiating new, institutional structures. In explaining the beginning of negotiations, Sisk's account consists of two interrelated arguments.

First, he emphasises an important shift in perception among the major political actors in South Africa from a zero-sum to a positive-sum game. This was the consequence of the growing awareness of a 'shared destiny', the 'recognition of interdependence', and a mutually hurting stalemate:

¹¹⁴ Timothy Sisk, *Democratisation in South Africa: The Elusive Social Contract* (Princeton: Princeton University Press, 1995)

¹¹⁵ Frederik Van Zyl Slabbert *The Quest for Democracy: South Africa in Transition* (London: Penguin, 1992); David Ginsburg, "The Democratisation of South Africa: Transition Theory Tested", *Transformation* 29 (1996), pp. 74-102; Andre du Toit, "South Africa as Another Case of Transition from Authoritarian Rule", in Andre du Toit (ed.) *Towards Democracy: Building a Culture of Accountability in South Africa*. (Cape Town: IDASA, 1991)

¹¹⁶ John Saul *Recolonisation and Resistance in Southern Africa in the 1990s* (Trenton: Africa World Press, 1993); John Saul, "South Africa: Between Barbarism and Structural Reform", *New Left Review*, no. 188 (1991), pp3-44; Hein Marais, *South Africa, Limits to Change: The Political Economy of Transition*. (Kenwyn: University of Cape Town Press, 1998)

“As the old order suffered its demise, the realisation set in among the major actors who perceived themselves to be in the condition of a mutually hurting stalemate that the benefits of a positive-sum outcome to the conflict – the creation of a jointly determined set of institutions to govern a future, common society – were greater than the costs of continued confrontation in an environment ungoverned by common rules. Once this realisation was made, convergence on exactly what kinds of rules should replace the old order evolved as a result of the interaction among political parties that sought a negotiated settlement. This evolution was guided by institutional choice.”¹¹⁷

Thus, the South African conflict moved from a zero-sum to a positive-sum perception when the “balance of power between the white minority and the increasingly empowered black majority reached a level of approximate parity.”¹¹⁸ The “recognition of a shared or common destiny is a recognition of interdependence [and] the interdependent relationship is heightened when there is a perceived balance of power among actors.”¹¹⁹

Sisk identifies Nelson Mandela’s memorandum to PW Botha in 1989 as an important precipitating event which provided the opposing groups with an opportunity to seize the moment and break the stalemate. Sisk thus identifies the turning point of seriousness as beginning in late 1989 and early 1990.

Second, Sisk discusses the important period of uncertainty between de Klerk’s 2 February 1990 speech and the first plenary of CODESA. He argues that the formation of pacts between the ANC and the South African government were important in maintaining the negotiation process, reduced uncertainty about a return to zero-sum politics, and provided minority forces with incentives not to exclude themselves from negotiations. Consequently, once multiparty negotiations began, the uncertainty about respective parties’ core interests ceased to be a strain on negotiations.

¹¹⁷ Sisk, *Democratization in South Africa*, 285

¹¹⁸ *Ibid.*

¹¹⁹ *Ibid.*

Frederik Van Zyl Slabbert argues that in order to analyse the beginning of negotiations, there is a need to focus on “the critical role of *key political actors* and their *strategic choices* concerning democracy, democratisation and each other.” The next task, he further states, is to “locate these choices within the context of opportunities and obstacles that have to be exploited or overcome; and then plot a probable outcome to the process.” In this way:

“[S]tructural factors are seen as interacting with strategic choices of key actors rather than predetermining them, which provides a more reliable picture of the dynamics of the transition.”¹²⁰

The explanation of the beginning of negotiations thus hinges on the strategic interactions of four main actors involved: ‘reformers’ and ‘hardliners’ in the regime, and the ‘moderates’ and ‘radicals’ in the pro-democracy camp. If reformers and moderates are able to create and institutionalise founding pacts, in opposition to the other actors, then it is more likely that political democracy can begin.¹²¹

The Marxist perspective widens the scope of analysis further by bringing into play the material conditions and socio-economic factors which shaped the causes and logic of negotiation. John Saul’s account of political transition in the collection of articles in *Recolonisation and Resistance in Southern Africa in the 1990s* continues the materialist analysis of South African politics. Marxist perspectives are concerned with the structured context of constraints within which decisions to negotiate are taken. Saul, and later Hein Marais, for instance argues that the social actors who formulate strategies and take decisions are historical artefacts, and not de-contextualised abstractions, in which case their decisions are constrained by the context in which they function, and by their previous historical and political constitution.¹²² Saul argues that during ‘organic crisis’ of apartheid in the post Soweto uprising period, racial domination and

¹²⁰ Van Zyl Slabbert, 5-6; and for a good summary of the whole argument see Howarth, 186-189.

¹²¹ Also see Samuel Huntington, *The Third Wave: Democratisation in the Late Twentieth Century*. (Norman: University of Oklahoma Press, 1991)

¹²² Saul, *Recolonisation and Resistance*

capitalism were pulling apart in various critical ways.¹²³ This facilitated attempts by business elites and liberal factions of the NP to reform apartheid and deracialise South Africa. From this perspective, De Klerk's 2 February 1990 speech was the attempt to break up this growing political stalemate created by the organic crisis, while simultaneously destabilising the ANC, and preparing a favourable ground upon which to negotiate the end of apartheid.

2.5. Strength and Weaknesses of Existing Literature

The seminal literature that explains the beginning of negotiation in South Africa has important strengths and weaknesses.

The strength of this literature is that it provides invaluable insights on the complexity of the end of apartheid. Multivariable analyses highlight the importance of macro-political and macro-economic factors. The argument is that multiple pressures of great intensity were brought to bear on the apartheid state until such time that the pressures became too great, leading to the beginning of negotiations. The start of negotiations is either seen as an elite response to pressure or an elite initiative in anticipation of changing circumstances.

Dominant-variable approaches acknowledge many factors as important subsidiary pressures, but highlight one variable as crucial. Important works that fall into this category emphasise the role played by the civil society and social movements, especially trade union, arguing that they were at the heart of the political changes that led to the beginning of negotiations.

Single variable approaches analyse a particular factor; but that factor is not necessarily claimed to be the most important. They seek not to replace other explanations but rather compliment

¹²³ Saul, "South Africa: Between Barbarism and Structural Reform", 7

them by giving weight to one factor. For the beginning of negotiations, literature tends to highlight the impact of the end of the cold war, and the role of secret talks.

Theoretical explanations use political and sociological theories to explain the beginning of negotiations. Important accounts use institutional rational choice theory, draw on comparative studies of democratisation in Latin America and Southern Europe, and use Marxist analysis to explain the beginning of negotiation.

The literature has some shortcomings.

First, the literature dates the beginning of negotiation as 2 February 1990 and identifies De Klerk as the central actor for the beginning of the process. While the literature acknowledges the importance of political changes and events in the 1970s and 1980s, the important pre-negotiations that happen during this period are not sufficiently discussed.

Second, the literature on ‘why negotiate at all’ is stronger than the literature on ‘why did the NP government end up negotiating with the ANC’. In answering ‘why negotiate at all’, multivariable approaches highlight the role of macro-processes. Dominant-variable approaches emphasise the role of the trade union movement in applying pressure. Single-variable approaches identify the end of the cold war and the role of secret talks, and theoretical approaches use political and sociological theories.

In order to deal with these shortcomings, the dissertation will draw attention to the nature and importance of pre-negotiation. It will examine the conditions conducive for the beginning of pre-negotiation and outline the different stages and functions. In the process, the dissertation will use

ripeness theory to help answer the central question on why did negotiations begin in South Africa.

2.6. Conclusion

This chapter reviewed the scholarship about why multiparty negotiations began in South Africa. This consists of literature about (a) why the parties negotiated at all, and (b) why the NP government ended up negotiating with the ANC. The chapter showed that while the literature has provided invaluable insights on the complex process ending apartheid, it has not adequately addressed why negotiations began in South Africa, particularly why the NP government ended up negotiating with the ANC. In order to fill the gap in the literature, the dissertation will draw attention to the nature and importance of pre-negotiation. In the process, the dissertation will use ripeness theory to help answer the central question on why did negotiations begin in South Africa.

CHAPTER THREE

The Pre-negotiation Stage: The Issue of Ripeness

This chapter will examine theorising about the pre-negotiation phase. The chapter is divided into four sections. The first section locates the pre-negotiation phase in the general theorising about negotiations. I pay close attention to Zartman's explanation of ripeness, showing the different ways in which the concept has evolved. The second section reviews the literature, and the different interpretations, of ripeness. The third section suggests ways in which the concept can be refined so that it deals with some of its important limitations.

The fourth section introduces the concept of pre-negotiation. The dissertation will use Brian Tomlin's model on stages of pre-negotiation to structure the South African discussion. To get maximum theoretical value from the case study, the chapter will conclude by presenting a set of general questions to ask of each stage of pre-negotiation in South Africa.

3.1. Zartman, Objective Ripeness and the Mutually Hurting Stalemate

3.1.1 Regional Conflicts and Ripe Moments

The concept of ripeness was pioneered by I. William Zartman in his seminal work, *Ripe for Resolution*, to explain how internal and international wars move towards negotiation and as a practical guide to assist mediators in timing their entry into such conflicts. Zartman was concerned with local sources of conflict in Africa, particularly with external powers' interventions for the resolution of these conflicts. In the process, Zartman developed some policy guidelines for positive intervention, and the notion of the 'ripe moment' was central to its success.

Ripeness is a time-oriented view of conflict that posits the idea that at any moment policies are chosen among desirable goals on the basis of comparative costs and benefits. Since these policies may be altered depending on the external context and interaction of parties, some moments are better than others for managing and resolving conflict.¹²⁴

Zartman argued that conflict resolution and the beginning of negotiation depends on the identification of a ripe moment.¹²⁵ Metaphorically, the point when conflict is ripe for resolution is associated with two types of intensity called ‘plateaus’ and ‘precipice’, which produce two types of pressure respectively called ‘deadlocks’ and ‘deadlines’.¹²⁶ A ‘plateau’ and a ‘deadlock’ is a stalemate and begin when “one side is unable to achieve its aims, to resolve the problem, or to win the conflict by itself, and is completed when the other side arrives at a similar perception.” A plateau must be perceived as a hurting stalemate i.e. “a flat, unpleasant terrain stretching into the future, providing no later possibilities for decisive escalation or for graceful escape.”¹²⁷

Zartman views perceptions of an intolerable situation as important for conflict resolution. In this regard, the role of the mediator is essential: “...the conciliator must persuade the parties that escalation to break out of deadlock is impossible. Indeed, the conciliator may even be required to make it impossible, if necessary.”¹²⁸

The deadlock is not a temporary stalemate; “each party must recognise its opponent’s strength and its own inability to overcome it.” Each party’s unilateral policy option “must be seen as a more expensive and less likely way of achieving a possible, acceptable outcome

¹²⁴ I. William Zartman, “Conflict and Resolution: Contest, Cost and Change”, *Annals of the American Academy of Political and Social Science*, Vol. 518, Resolving Regional Conflicts: International Perspectives (November 1991), 16

¹²⁵ I. William Zartman, *Ripe for Resolution: Conflict and Intervention in Africa* (New York: Oxford University Press, 1989), 263

¹²⁶ *Ibid.*, 267

¹²⁷ *Ibid.*, 268

¹²⁸ *Ibid.*

than the policy of negotiation.”¹²⁹ Mediation is critical to the stalemate: “for the conciliator this means emphasising the dangers of deadlock as each party comes to recognise the other’s strength... Successful conciliation produces a shift from a winning mentality to a conciliating mentality on the part of both sides.”¹³⁰ This hurting stalemate is as much a matter of perception as of reality for the warring parties, and as much a subject of persuasion as of timing for the mediator.

A precipice and a deadline represent a catastrophe i.e. a realisation by both sides that matters will get worse if they have not gotten better in ways that negotiation seeks to define. A catastrophe “threatens the mutual checks that parties impose on each other.”¹³¹ The catastrophe can either be impending, narrowly encountered or just avoided. It may also have just occurred or one in which parties is sinking deeper into. The ripe moment frequently comes after a crisis has just occurred, with losses on both sides that has left a conflict unresolved.¹³²

The second dimension of a ripe moment concerns policy tracks and alternatives. The task of the mediator is to deflect the parties from competing attempts to impose unilateral solutions and into a joint search for a bilateral solution.

The proper moment for mediation occurs when the power relations in the parties’ positions become symmetrical i.e. “when the upper hand starts slipping and the underdog starts rising.”¹³³

Zartman’s argument therefore is that the success of mediation in conflict is tied to the perception and creation of a ripe moment. The basic component of a ripe moment is a mutually hurting stalemate. In order to be effective, it needs to be riveted to the parties’

¹²⁹ Ibid.

¹³⁰ Ibid., 263

¹³¹ Ibid., 268

¹³² Ibid., 269

¹³³ Ibid., 272

perception through a recent or looming catastrophe that acts as a deadline, or remembered as a warning, that threatens to impose additional and unacceptable costs of high magnitude. Further, there must be a formula for a way out and an indication that the parties are willing in principle to choose it if it is attractive enough and that they will respond positively to the others moves in that direction.

3.1.2. Civil Wars and Ripe Moments

Zartman subsequently improved the ripeness concept. This is evident in the application of ripeness to the resolution of civil wars. Zartman argues that the nature of civil war works against the component conditions for a ripe moment. The mutually hurting stalemate i.e. the prerequisite for negotiation or mediation is absent, yet neither side has the power to completely dislodge the other.¹³⁴ Rather, fluctuating stalemate becomes the essence of civil war: "...stalemate is stable and supportable, an acceptable alternative to losing for both sides, a compromise already favourable to the rebellion rather than a costly deadlock driving parties to negotiate."¹³⁵

When stalemate does settle it produces polarisation not pacification.¹³⁶ Sunk costs on the government side, and true belief and commitment on the rebellions' side, reinforce each party's source of power and their desire to dig in and hold out.¹³⁷ Rather than seeing a stalemate as an indication of the maximum each side can achieve and then negotiate, "parties retrench on their element of strength and harden their positions."¹³⁸ Therefore, a stalemate in a civil war does not produce a necessary shift in perception that is needed for negotiation; it reinforces the unilateral perspective that makes negotiation impossible. The basic conditions

¹³⁴ I. William Zartman, "The Unfinished Agenda: Negotiating Internal Conflicts", in Roy Licklider (ed.) *Stop the Killing: How Civil Wars End* (New York: New York University Press, 1993), 26

¹³⁵ Ibid. Emphasis added.

¹³⁶ Ibid.

¹³⁷ Ibid.

¹³⁸ Ibid., 27

of insurgency lie at the root of this paradox: “it is possible to take refuge in a winning mentality because the likeliness of losing hides the impossibility of winning.”¹³⁹

The elusiveness of the stalemate is a function of the structure of civil war. The most striking characteristic is its asymmetry: the government is strong and the insurgents are weak.¹⁴⁰ The government has legitimacy, sovereignty, international allies, armies and access to resources while the rebels have to fight for all of these.¹⁴¹ Government strength is also reinforced by other variables:

“[The] government determines and has the right to determine the rules of the game for the rebellion’s struggle. If the rebellion’s cause is one of regional rights, government sets both the conditions for petition and expectation and for its own response. If the rebellion’s cause is a contest for national leadership, government sets the rules for conducting that competition and then runs its own race. It is both participant and empire.”¹⁴²

The rebels are thus totally fixed on the conflict, which involves its very existence whereas the government has many interests; “rebellion is only a worrisome distraction from the pursuit of other goals.”¹⁴³ The rebels address this asymmetry by opposing the government’s capabilities with their own commitment; “to overcome their weakness in means, rebels over invest in their attachment to ends.”¹⁴⁴ The stakes are unequal; “insurgents seek to make the government negotiate (implying recognition) whereas the government seeks to make the insurgents surrender.”¹⁴⁵ The asymmetries in power and commitment become a trap for belligerents, preventing negotiation.

¹³⁹ Ibid.

¹⁴⁰ I. William Zartman, “Dynamic and Constraints in Negotiations in Internal Conflicts”, in I. William Zartman (Ed.) *Elusive Peace: Negotiating an End to Civil Wars* (Washington: Brookings, 1995), 7

¹⁴¹ Ibid., 8

¹⁴² Ibid.

¹⁴³ Ibid., 9

¹⁴⁴ Ibid.

¹⁴⁵ Ibid., 11

For the emergence of a ripe moment, Zartman turns to agency and the parties' internal dynamics: the issue of 'valid spokespersons' becomes a precondition for negotiation.¹⁴⁶ Once valid spokespersons emerge, the important step towards moving to negotiation begins.¹⁴⁷ Civil war negotiations require recognised leaders on each side who are "capable of making and holding an agreement and also capable of taking both forward to each other and backward to their followers."¹⁴⁸ For the rebels, this means that "spokespersons must be in tune with shifts in the evolution of the insurgent movement so that they are not turning right when the movement is turning left."¹⁴⁹

Ripe moments in civil war are thus composed of three elements: a structural element (a soft, stable and supportable stalemate), a party element (the presence of valid spokespersons) and a potential alternative outcome (a formula for a way out). The dynamic of the stalemate is still as relevant as in the original formulation. However, the structural features of internal conflict i.e. power asymmetry, means that agency becomes a significant variable in the determination of the ripe moment.

In summary, ripeness offers a metaphor for understanding disputant motivation to resolve conflict that centres on an image of 'ripe moments' for negotiation. The concept is parsimonious, elegant and grounded in case material. This concept centres on the *construct of ripeness* – a necessary but insufficient condition that is directly linked to the decision to negotiate with an opponent in conflict. This condition is brought about by the perception of two essential elements: a mutually hurting stalemate between the parties, coupled with a formula for a way out.

The concept proposes that when parties find themselves on a 'pain-producing path', they begin to look for negotiated alternatives that are less painful and more advantageous.¹⁵⁰ Ripeness is based on two core motives and elements: pain and opportunities to escape from

¹⁴⁶ Also see Janice Gross Stein (ed.) *Getting to the Table: The Process of International Prenegotiation* (John Hopkins University Press, 1989)

¹⁴⁷ Zartman, "Dynamics and Constraints", 10

¹⁴⁸ Ibid., 19

¹⁴⁹ Ibid.

¹⁵⁰ Zartman, "Ripeness: Hurting Stalemate and Beyond", 229

pain. It is portrayed as a state that may or may not exist objectively, but that must be perceived to mutually exist by parties in order for it to motivate. This can occur either naturally, as the result of external events, or be induced, as by active intervention from parties or third parties.

3.2. Perspectives on Ripeness

A number of studies have used and tested the notion of ripeness in regard to negotiations in Rhodesia-Zimbabwe, Angola and Namibia, Cambodia, Vietnam, Iraq-Iran, the Philippines, Israel-Palestine, El Salvador, Ecuador, Mozambique and so on.¹⁵¹ The reaction to the concept by these studies has been mixed, with some authors finding the concept useful as an explanation, some viewing it as inapplicable, others proposing refinements, and others calling for a complete reconceptualization. One can divide the literature between explanations of ripeness offered by practitioners, and those offered by scholars.

3.2.1 Practitioner Perspectives on Ripeness

Practitioner perspectives on ripeness are located in the diplomatic memoirs of actors with direct involvement in the resolution of conflicts. Such memoirs refer to ripeness by its mutually hurting stalemate, and identify the mediator as the central political actor who produces the ripe moment in the absence of objective conditions, or strategically intervenes in an impasse when all indications are that of a stalemate. These perspectives read like policy

¹⁵¹ Stephen Stedman, *Peacemaking in Civil War*; Richard Haas, *Conflicts Unending*. (New Haven: Yale University Press, 1990); Daniel Druckman and Justin Green, "Playing Two Games: Internal Negotiations in the Philippines" in I. William Zartman (Eds.) *Elusive Peace: Negotiating and End to Civil Wars*. (Washington DC: The Brookings Institution, 1995); Timothy Sisk, *Democratisation in South Africa*; I. William Zartman, "Negotiating the South African Conflict" in I. William Zartman (Eds.) *Elusive Peace: Negotiating and End to Civil Wars*. (Washington DC: The Brookings Institution, 1995); Dean Pruitt, "Ripeness Theory and the Oslo Talks", *International Negotiation*, 2 (1997); Michael Salla, "Creating the 'Ripe Moment' in the East Timor Conflict", *Journal of Peace Research*, Vol. 34, No. 4 (1997), 449-66; Moorad Mooradian and Daniel Druckman, "Hurting Stalemate or Mediation? The Conflict over Nagorno-Karabakh, 1990-95", *Journal of Peace Research*, Vol. 36, No. 6 (1999), 709-27; James Goodby, "When War Won Out: Bosnian Peace Plans Before Dayton", *International Negotiation*, 13 (1996), 501-23

prescriptions that advise potential mediators “to wait until the parties are sufficiently ‘exhausted’ on the battlefield to push for a negotiated settlement.”¹⁵²

Practitioner perspectives argue that ripeness has its greatest utility in “setting up benchmarks and signposts that help mediators calibrate their strategies to ripen the conflict.”¹⁵³ Parties have to be coaxed or cajoled to the negotiating table through a combination of carrots and sticks, and skilled mediators should use a variety of ‘ripening’ agents: “coaching, discrediting, legitimising, become indispensable, leaning and shifting weight, exploiting changes in military balance, exploiting changes in party leadership, as well as promises of resources or threats of withdrawal.”¹⁵⁴

Ripeness is thus as much a cultivated condition as an inherited one and mediators can deploy a variety of techniques and measures to foster the ripening process in order to move parties from a hurting stalemate to a negotiated settlement. Various diplomatic memoirs have used ripeness in their recollection of conflict negotiation and bargaining.¹⁵⁵ Practitioners in general do not have a difficulty identifying the existence or importance of a mutually hurting stalemate for the opening of negotiations. The most prominent illustrations of the practitioner perspectives are provided by Chester Crocker¹⁵⁶ and Alvaro de Soto’s¹⁵⁷ diplomatic memoirs on mediation in the Angolan and El Salvador conflicts respectively.

¹⁵² Jeffrey Rubin (ed.) *Dynamics of Third Party Intervention: Kissinger in the Middle East* (New York: Praeger, 1981)

¹⁵³ Chester Crocker, Fen Hampson and Pamela Aall, “Multiparty Mediation and the Conflict Cycle”, in Chester Crocker, Fen Hampson and Pamela Aall (eds.) *Herding Cats: Multiparty Mediation in a Complex World* (Washington DC: United States Institute for Peace, 1999), 21

¹⁵⁴ Crocker et al, “Multiparty Mediation and the Conflict Cycle”, 21

¹⁵⁵ John Campbell, *Successful Negotiation: Trieste 1954, An Appraisal by the Five Participants* (Princeton: Princeton University Press, 1976), 73; George Schultz, “This is the Plan”, *New York Times*, 18 March 1988; Henry Kissinger, *The White House Years* (London: George Weidenfeld and Nicolson, 1979); Murrack Goulding, *Enhancing the United Nations’ Effectiveness in Peace and Security* (New York: United Nations, 1997), 20; Richard Holbrooke, *To End a War* (New York: Random House, 1998), 193

¹⁵⁶ Chester Crocker, *High Noon in Southern Africa: Making Peace in a Rough Neighbourhood* (Johannesburg: Jonathan Ball Publishers, 1992)

¹⁵⁷ Alvaro de Soto, “Ending Violent Conflict in El Salvador”, in Chester Crocker, Fen Osler Hampson and Pamela Aall (eds.) *Herding Cats: Multiparty Mediation in a Complex World* (Washington DC: United States Institute for Peace, 1999)

The most important practitioner critique on ripeness is provided by John Lederach, who has worked extensively in mediation processes in Africa, Latin America and Central Asia. Lederach proposes a “reorientation of the practice of developing negotiated peace processes with particular reference to time periods prior to and following the opening of formal talks.”¹⁵⁸ Lederach’s critique puts forward three limitations of the ripeness concept for practice.

First, ripeness is only useful in retrospect – “as we look back we can account for things in our interpretation of the history” – and therefore lacks a reliable and predictive capacity. As a result, ripeness is more like “a review mirror than a windscreen.” Lederach writes that his experiences of peace building and negotiation “have not entailed a ‘ripeness’ process where [he] has watched the process develop, like the seasonal maturation of an apple moving from blossom to red, juicy and ready-to-eat fruit.”¹⁵⁹ The opposite has been true; the moments with the greatest potential for progress towards negotiation were stagnant and counterproductive. Conflict, he writes, does not move along a linear-like path akin to the predictable development of a fruit; it is more akin to dynamic, nearly amoeba-like spaces.

Second, ripeness is located in the eyes of the beholder, “perceived by outsiders with the luxury of dispassionate facts and factors.” In the midst of day-to-day crises and emergencies, people rarely see their situation as ripe for resolution. Lederach’s argues that in conflicts with long histories, the external attention is fixed on the immediate crisis, and impending disaster. This is accompanied by the understanding that “once the crisis is dealt with we can move onto the deeper and longer-range concerns and needs.”¹⁶⁰ Therefore, the situation is considered not ripe because the immediate situation is not dealt with. As a result, ripeness becomes less about the conflict and more about the crisis, and consequently fails to make the deeper connection with the conflict.

¹⁵⁸ John Paul Lederach, “Cultivating Peace: A Practitioner’s View of Deadly Conflict and Negotiation”, in John Darby and Roger Mac Ginty (eds.) *Contemporary Peacemaking: Conflict, Violence and Peace Processes* (New York: Palgrave Macmillan, 2003), 31

¹⁵⁹ *Ibid.*, 31-32

¹⁶⁰ *Ibid.*, 33

Third, ripeness emphasises the role of mediation as cherry picking. In this context, ripeness presents two key assumptions about mediation that are limiting.

First, ripeness assumes that mediation lies primarily in the person and personality of the mediator “as-the-actor” rather than the mediator “as-process” with “multiple roles, functions, and activities carried out by a wide array of people.”¹⁶¹ Ripeness stresses the idea that the mediator comes from outside the setting and outside the relationships in conflict and is therefore neutral. Ripeness is therefore oriented towards providing terms of reference for these kinds of actions. What the ripeness concept does not provide “is a sense of the long-term nature of the process, the building and sustaining of relationships, nor the multiplicity of roles, activities and functions that may be necessary to make a sustained dialogue and change in the relationships possible.”¹⁶²

Second, ripeness suggests that the cherry i.e. the written negotiated document, is the agreement and that picking the cherry “is like a mediation harvest.” Ripeness is based on the belief that “the success of mediation is primarily judged by whether it produced an agreement rather than whether it helped create a space for constructive change in people, perceptions and relationships that are not always captured in the confines of a written negotiated document.” Ripeness is thus not a metaphor that provides “vision of cultivating the soil, planting the seeds, or nourishing the seedlings in the face of winds, burning sun or icy storms, all of which speak to process, relationships and sustainability rather than a momentary action.”¹⁶³

Therefore, ripeness overemphasises content and agreement in conflict resolution at the expense of the building of relationships and process. It consequently places greater emphasis on the mediators and belligerent’s actions and perceptions rather than on mediation and conflict resolution as a political process with multiple sets of actions and people. It therefore tends to have a “shorter-term view of action in mind aimed at intense action in specific time

¹⁶¹ Ibid.

¹⁶² Ibid., 34

¹⁶³ Ibid., 34

frames ... but not necessarily the slower and painstaking process of preparing and sustaining process.¹⁶⁴

3.2.2. Scholarly Perspectives on Ripeness in Southern Africa

Most scholarly perspectives on ripeness are critical of the concept and use empirical evidence to test the explanatory power of ripeness.¹⁶⁵ The most important refinements of ripeness have sort to investigate the effects of each side's pluralized politics on both the perception and uses of ripeness. Two studies are important: Stephen Stedman's case study on the Rhodesian negotiations for independence as Zimbabwe¹⁶⁶; and Daniel Lieberfeld's comparative analysis on the factors that led to negotiated agreements between the NP government and the ANC in South Africa in 1990, and between Israeli government and the Palestinian Liberation Organisation (PLO) in 1993.¹⁶⁷

Stephen Stedman challenges the ripeness conception of the main antagonists as unitary actors.¹⁶⁸ Stedman argues that shifts in the dominant coalitions in each contending side may be as important to the ultimate success of negotiations as the objective conditions of a particular struggle. Internal conflict may be more susceptible to negotiation because of the lack of consensus among the revolutionary leadership.¹⁶⁹ The factors that are critical to the success of any attempted negotiated settlement include: shifts in the composition of the dominant groups within the government and insurgent movement; the extent to which the interests of these dominant groups coincide with possible outcomes of negotiations; and the

¹⁶⁴ Ibid.

¹⁶⁵ However, analyses by Zartman, Bercovitch Mooradian and Druckman have been less critical of the concept in this regard. See I. William Zartman, "Explaining Oslo", *International Negotiation 2*: (1997), 197; Jacob Bercovitch, "Conflict Management and the Oslo Experience: Assessing the Success of Israeli-Palestinian Peacemaking", *International Negotiation 2*: (1997), 233; and Moorad Mooradian and Daniel Druckman, "Hurting Stalemate or Mediation? The Conflict over Nagorno-Karabakh, 1990-95", *Journal of Peace Research*, Vol. 36, No. 6 (1999).

¹⁶⁶ Stephen Stedman, *Peacemaking in Civil War*

¹⁶⁷ Daniel Lieberfeld, *Talking with the Enemy: Negotiation and Threat Perception in South Africa and Israel/Palestine*. (New York: Praeger, 1999), and Daniel Lieberfeld, "Conflict 'Ripeness' Revisited: The South African and Israeli/Palestinian Cases", *Negotiation Journal*, 1 (January 1999), 63-82

¹⁶⁸ Stedman, 26

¹⁶⁹ Ibid., 12

ability of third party mediators to link up those ‘parts’ of the contending alliances that have the greatest commitment to settlement and to isolate those with the least commitment.¹⁷⁰

Combatants therefore consist of many coalitions, factions and individuals. This polycentric view of actors in conflict leads to a different assumption on ripeness: it becomes a function of internal political changes such as internal political competition between rival factions and coalitions, the rise of new leaders, the emergence of a divided leadership, or a split in a government or insurgent movement previously unified in its war aims.

Stedman improves the concept on the basis of three assumptions: first, parties are not unitary rational actors and therefore the perception of an ‘objective’ mutually hurting stalemate is political and depends on bargaining within parties¹⁷¹; second, it is better for mediators to assist those factions within parties who favour settlement, and strengthen their hand in negotiation; and third, mediators are seldom unitary actors yet it is crucial they speak with one voice.¹⁷²

Stedman’s study has three important differences with Zartman.

First, it is not necessary for the principle actors to simultaneously perceive the hurting stalemate.

Second, ripeness is not a product of actors believing that their most preferred unilateral outcome has been foreclosed. Rather, ripeness can come from the paradoxical situation in which both sides believe that a settlement will produce a victory for them.¹⁷³

¹⁷⁰ Stedman, *Peacemaking in Civil War*

¹⁷¹ This implies that ripeness is a function of internal political changes.

¹⁷² Stedman, *Peacemaking in Civil War*

¹⁷³ *Ibid.*, 237

Third, it is necessary for the military wings of both sides to support negotiation. The military is the swing vote in the negotiation process.

Daniel Lieberfeld develops Stedman's generalizations further by highlighting the role of perceptual shifts regarding the possibility of negotiation.¹⁷⁴ He identifies five such perceptual shifts that led the main adversaries in South Africa and Israel/Palestine to negotiation:

"Each side concluded that *the opponent cannot be coerced* into giving up its national goals; each side assessed that the *status quo was untenable*; each side perceived *enhanced possibilities for negotiation* with the adversary; *leadership change* on the government side brought security-minded pragmatists to power; government leaders found that they had *no alternative patterns* with whom to bypass the primary adversary."¹⁷⁵

These shifts reflected leaders' estimates of the feasibility of different policy options, and each step was necessary but not in itself sufficient to bring about negotiation.¹⁷⁶

Lieberfeld's analysis identifies the centrality of perceptual shifts in relative power in shaping negotiation decision-making, but with important qualifications.

The comparative analysis upholds Stedman's contention that "the mere fact of leadership change or strife adds fluidity to what may have been a log-jammed conflict ... [New] leaders who are confident of support and consolidated in their hold over their movements make compromise more likely."¹⁷⁷ The analysis also suggests that political polarization among the constituents of one or both sides may create incentives to negotiate.¹⁷⁸ This is in agreement with Stedman's proposition that "leadership change can lead to settlement if such a

¹⁷⁴ Lieberfeld, *Talking with the Enemy*

¹⁷⁵ Lieberfeld, "Conflict 'Ripeness' Revisited", 65

¹⁷⁶ Ibid.

¹⁷⁷ Stedman, 241. Lieberfeld, for instance, points out that once elected, de Klerk faced no significant opposition to policy change from within his party. Similarly, Rabin's increasing sense of partnership with his long-time rival, Peres, probably facilitated agreement with the PLO. On the other hand, both de Klerk and Rabin were conscious of the need for rapid progress toward settlement, and of possible challenges from recently defeated rivals for party leadership and from rival political parties.

¹⁷⁸ Lieberfeld, "Conflict 'Ripeness' Revisited", 78

settlement is in the practical political interest of the new leader.”¹⁷⁹ Such practical political interests stem from the centrality of a policy of coercion in domestic political competition and from eroding support of the traditional dominant party. Therefore, in the context of increasing societal support for a settlement, polarization required the governing parties to initiate negotiation in order to retain their dominant positions.¹⁸⁰

Lieberfeld’s cases complicate the notion of domestic unity as a precondition for a negotiated agreement and suggest that “leaderships facing a salient threat from local political rivals may be more motivated to negotiate an end to protracted conflicts than ones without such domestic challenges.”¹⁸¹ This possibility suggests the usefulness of analyses that highlight changes in leaders’ perceptions of threats from both internal and external sources, rather than a cost-benefit model that overlooks internal competition in the decision-making calculus of rational actors.¹⁸²

Each of these authors has placed primary importance upon political conditions, even if explained as perceptual political conditions that frame ripeness as an external and objective condition necessary for negotiations.

Other scholars have sort to enhance ripeness. Richard Haass considers a conflict ripe when four prerequisites are met: “a shared perception of the desirability of a compromise; the ability of political leaders to agree to a desirable accord; formulas or agreements must be based on a sufficiently rich compromise, in order to allow leaders on both sides to persuade their constituencies that the national interest has been protected; disputants must agree on an acceptable procedure to further deal with their conflict.”¹⁸³ Haass, like Zartman and others, believes that ripeness is an essential ingredient for a successful negotiation. However, Haass’s departure from Zartman is based on the same premise as Stedman and Lieberfeld: he identifies ripeness as an internal political issue rather than as an inter-party perception. He

¹⁷⁹ Stedman, 241

¹⁸⁰ Lieberfeld, *Talking with the Enemy*

¹⁸¹ Ibid., “Conflict ‘Ripeness’ Revisited”, 78

¹⁸² Stedman, *Peacemaking in Civil War*

¹⁸³ Richard Haass, *Conflict Unending* (New Haven: Yale University Press, 1990), 27-28

manages to capture an important property in political negotiation i.e. each side is made up of different factions, but implicitly ignores some of the inter-party perceptual dimensions captured by Zartman and others.

From micro-level of analysis, Peter Coleman defines ripeness as an individual level “commitment to change the direction of the normative social processes of the relations towards de-escalation.”¹⁸⁴ Coleman’s develops a more definitive perspective on the “construct of ripeness”, looking at ripeness from a motivational rather than an objective view point. Coleman introduces a multimodal framework for the analysis of conflict processes, where the motivation to achieve ripeness is explained through the use of Pruitt and Olczak’s multimodal MACBE model.¹⁸⁵

Through this model, Coleman puts forward three propositions on the creation of ripeness.

First, in violent protracted conflict, destructive behaviour becomes a normal process. Second, as a result, the reversal of these conflicts towards de-escalation requires a significant change in the individual, and that change in behaviour must be preceded by a change in the individuals’ motivation and view of the conflict. Third, ripeness, in this context, is located “beyond the neighbourhood range of unripeness, at the point where the individual makes a commitment to change the direction of the normative social processes of the relationship towards de-escalation.” The individual’s motivation to make such a commitment may be influenced by various affective, cognitive, behavioural and environmental factors.¹⁸⁶

In contrast, Marieke Kleiboer forgoes the term ripeness and puts forward the idea of willingness. In her view, ripeness appeals to the willingness of the main parties and factions within parties, especially their powerful leaders. Ripeness is equated to willingness:

¹⁸⁴ Peter Coleman, “Redefining Ripeness: A Social-Psychological Perspective”, *Peace and Conflict* 3: 81

¹⁸⁵ *Ibid.*, 82. This model stands for Motivation, Affect, Cognition, Behaviour and Environment.

¹⁸⁶ *Ibid.*, 92-93

“A certain moment when all important parties are willing to search for a peaceful settlement. Willingness is thus a minimal requirement for a settlement or a resolution to come about – however, even when all parties are willing it is not a sine qua non that this indeed will happen.”¹⁸⁷

Dean Pruitt also attempts to enhance the concept.¹⁸⁸ He does this in two ways. First, he investigates the “motives and perceptions that make up ripeness on each side separately rather than focusing attention on joint states of mind such as a mutually hurting stalemate.” Second, he treats those psychological antecedents as variables.¹⁸⁹ The result is ‘readiness theory’ which is a modification of ripeness theory.¹⁹⁰ Readiness is the extent to which an individual disputant is “interested in negotiation” and negotiation, from this perspective, will only start if there is some degree of readiness on both side.¹⁹¹

Readiness theory holds that two psychological variables encourage a party to be ready for negotiation: “the motivation to end conflict and optimism that the success of negotiation, or simply ‘optimism’.”¹⁹² The motivation to end conflict either results from a perception that the conflict is dysfunctional (i.e. a perception that the conflict is not being won or that it is being lost; the perceived costs of the conflicts; and the perceived risk of continuing the conflict) or from third party pressure. Optimism is a sense that it will be possible to locate a mutually acceptable agreement.

Therefore, scholarship that has sought to enhance ripeness have identified ripeness as an internal political issue rather than an inter-party perception; looked at ripeness from a ‘motivational’ rather than an objective view point; added the notions of willingness and readiness to the concept; and located ripeness at the intersection of power and legitimacy.

¹⁸⁷ Marieke Kleiboer, “Review: Ripeness: A Fruitful Notion?”, *Journal of Peace Research* Vol. 31, No. 1 (February 1994), 115

¹⁸⁸ Dean Pruitt, “Ripeness Theory and the Oslo Talks”, *International Negotiation* 2 (1997): 238

¹⁸⁹ Dean Pruitt, “Whither Ripeness Theory?” *Institute for Conflict Analysis and Resolution*, Working Paper No. 25 (2005), 6

¹⁹⁰ Dean Pruitt, “Ripeness Theory and the Oslo Talks”, 237-250

¹⁹¹ Pruitt, “Whither Ripeness Theory?” 7

¹⁹² Ibid.

3.3. Developing Ripeness Theory

For the purposes of the question raised in this dissertation, and the theoretical contribution it intends to make, there are two important limitations of ripeness. Ripeness is not clear about (1) the dependent variable, and (2) the role and significance of the major actors in bringing about negotiations.

3.3.1. The Dependent Variable: The Beginning of Negotiations

Ripeness theory is unclear about the dependent variable. On the one hand, ripeness is implied to be a condition for *successful* negotiation. On the other hand, the literature explains this as a condition for the *initiation* of negotiations. For example, Zartman, Mooradian and Druckman, Haas, Stedman, and Lieberfeld explain ripeness in terms of the beginning of negotiations, and in so doing, conflate the decision to negotiate with the outcome i.e. if negotiations begin, a ripe moment was present by definition; if negotiations did not begin a ripe moment was not present or not perceived. By contrast, Crocker, De Soto and Lederach explain ripeness as key to a settlement with an already established ‘negotiation process’. And Bercovitch explains ripeness in terms of the sustainability of a mediation effort in an already established negotiation process.

This is an important lack of consensus in the literature as the process of bringing about negotiations presents one sets of variables, conditions and strategies, whereas the successful conclusion of a negotiations process presents a different type of endeavour.¹⁹³ In the attempt to improve ripeness theory, the dissertation focuses exclusively on the role of ripeness in the beginning of negotiations; the pre-negotiation stage. Two features characterise this stage: opposing parties agree that they need a negotiated solution, and their decision on a negotiated

¹⁹³ Susan French and Louis Kriesberg, “Strategies for De-escalation”, in Louis Kriesberg and Stuart J Thorson (eds.) *Timing the De-escalation of International Conflicts* (Syracuse: Syracuse University Press, 1991), 120

solution must be unanimous. The two go together: “We had to get together on a new solution,” and “A solution had to be found that we could all accept”.¹⁹⁴

Zartman and Berman write that adversaries explore the possibility of negotiations when they “see that a problem can only be resolved jointly and when they have the will to end an existing situation that they consider unacceptable, while admitting the other party’s or parties’ claim to participate in that solution.”¹⁹⁵ The core variables are perception, will and equality, but will is all important; “without the will to reach agreement there will be none, even if the other party’s claim to participate in a solution is admitted.”¹⁹⁶ Will, perception and equality apply to a number of specific elements “such as the unacceptability of the situation, inability to improve the situation alone, and acceptance of the other party.”¹⁹⁷

These items are related and can be sequential. They also place emphasis on the composition, role, and significance of major actors in the conflict; the second issue that ripeness theory is unclear about.

3.3.2. Major Actors: Parties in the Conflict and Mediators

Since ripeness exists when it is perceived, the important question is ‘who perceives the ripeness process and acts according to this perception’? Kriesberg writes that it is possible for many different actors to be identified in the process: “processes fostering de-escalation occur within each adversary, in the relations between the adversaries, and also among other parties in the social environment.”¹⁹⁸ Thus it is both the parties themselves as well as parties with interests in the conflict i.e. third parties who have the potential to take an effective role. It is important to consider these.

¹⁹⁴ Zartman and Berman, 46

¹⁹⁵ Ibid., 66

¹⁹⁶ Ibid.

¹⁹⁷ Ibid., 67

¹⁹⁸ Louis Kriesberg, *Constructive Conflicts: From Escalation to Resolution* (Lanham: Rowman and Littlefield, 2007), 188

3.3.2.1. Parties in the Conflict

When looking at parties in conflict, two groups can be identified: constituencies and representatives i.e. valid spokespersons. Representatives are those who authoritatively negotiate, make decisions, and secure implementation agreements.

Margaret Hermann provides a useful way of classifying these representatives or valid spokespersons in political decision-making units that can enhance our ability to account for governments' and political organisations' behaviour in diplomacy and negotiation. Hermann's classifications are helpful in understanding the character and composition of major actors involved in bringing about negotiations.

She writes that at the apex of foreign policy decision-making in all governments or ruling parties is a group of actors – the authoritative decision unit – who, if they agree, have both the ability to commit resources of the government or ruling party in diplomacy and the power to prevent other entities in the government or ruling party from overtly reversing their position.¹⁹⁹ The point is that for most diplomacy-related problems and occasions for decision, “some person or collection of persons come together to authorise a decision and constitute for that issue at that point in time the authoritative decision unit.”²⁰⁰

There are three possible types of authoritative decision units: *a predominant leader*, *a single group* or *a coalition of autonomous actors*.

¹⁹⁹ Margaret Hermann, “How Decision Units Shape Foreign Policy: A Theoretical Framework”, *International Studies Review*, Vol. 3, No. 2, *Leaders, Groups and Coalitions: Understanding the People and Processes in Foreign Policymaking* (Summer 2001), 56

²⁰⁰ Ibid.

A *predominant leader* refers to a single individual “who has the ability to stifle all opposition and dissent as well as the power to make a decision alone if necessary.”²⁰¹ The decision unit is likely to be a predominant leader if a government or organisation has one individual within its leadership who is vested with the authority to commit resources to policy issues, or alternatively, if the government or organisation is organisationally structured hierarchically “with one person located at the top of the hierarchy who is ultimately accountable for any decisions that are made.”²⁰²

A *single group* refers to “a set of individuals, all of whom are members of a single body, who collectively select a course of action in consultation with each other.”²⁰³ To be considered a single group, “there need to be two or more people who interact directly with each other and collectively reach a decision. All persons necessary to committing the resources of the government [or organisation] with regard to the particular occasion for decision must be members of the group for us to have a single group as the authoritative decision unit.”²⁰⁴

A *coalition of autonomous actors* consists of actors who are separate individuals, groups, or representatives of institutions who can act for the government [or organisation], but no one of which by itself has the ability to decide and force compliance on others; moreover, no overarching authoritative body exists in which all these actors are members.²⁰⁵ Thus coalitions exist when two or more entities i.e. individual leaders, groups of policymakers, bureaucratic agencies, interest groups “have the power to commit or withhold the resources of the government [or organisation] and none can allocate such resources without the concurrence of others.”²⁰⁶ The entities comprising the multiple independent actors can also be formed outside the government or organisation as well as from within.

²⁰¹ Ibid.

²⁰² Ibid., 58

²⁰³ Ibid., 57

²⁰⁴ Ibid., 61

²⁰⁵ Ibid., 57

²⁰⁶ Ibid., 61

Hermann considers this categorisation both mutually exclusive and exhaustive, and that the actors who make authoritative decisions for governments and political organisations in the foreign policy arena should correspond to one of these three configurations.²⁰⁷

Hermann however points out that experience in determining the nature of the authoritative decision unit poses some classification issues that fall at the boundaries of the definitions.

When the occasion for decision is under purview of a predominant leader, who has brought in a set of advisors, and those advisors are used as consultants to provide him or her with information and expertise, but the leader reserves the right to make the decision, then it is a predominant leader decision unit.²⁰⁸ However, if the leader sees advisors as forming a team with him or her to make decisions, then it is a single group with a dominant leader. On the other hand, a coalition cabinet is a single group “if the dynamics and structures of the parties represented in the coalition do not intrude into the decision-making process.”

A coalition cabinet is functioning as multiple autonomous actors “when members of the cabinet generally participate in a two-level process in which there is interaction with the leadership of the parties as well as with other members in the cabinet.”²⁰⁹

3.3.2.2. Third Parties

Third parties are usually external mediators, and can include a variety of actors such as superpowers, organs of the United Nations, agencies of a regional security regime, regional organisations or leading individuals and neighbours. It is possible to conceive of their activities along a continuum of roles derived from the parties’ needs. Listed in order of the

²⁰⁷ Ibid., 57

²⁰⁸ Ibid.

²⁰⁹ Ibid.

mediator's degree of involvement, they are mediation as communication, as formulation and as manipulation.²¹⁰

The mediator as communicator “addresses the conflict as a breakdown in the ability of the parties to communicate with each other.” In this situation, mediators act as telephone wires, “establishing contacts and carrying messages.” This role is procedural, “with no substantive contribution by the mediator, and completely passive, only involving carrying out the parties’ orders for delivery of messages.” Mediators may be the target of concessions when parties cannot communicate and the receiver of concessions when parties cannot give in to each other. As a result, their importance is that they may “pull concessions together into a package to present to the parties.”²¹¹

The mediator as formulator plays a more substantive role. Such mediators are usually innovative thinkers who work out ways to get around the parties’ constraining commitments. They not only suggest but persuade; “persuasion is a form of power, requiring greater involvement from the mediator than mere communication.”²¹² Formulation helps parties see a way out of their conflict and consequently helps put into place the final elements of the ripe moment. It must therefore be performed by a mediator who “has the confidence of the parties and the imagination to see solutions that they cannot see.”²¹³

The mediator as manipulator is the maximum involvement of a mediator making them a party in the solution if not the dispute. The mediator “is required to use his power to bring the parties to an agreement, pushing and pulling them away from the conflict and into resolution.” The mediator must promote their formula for a solution and take measures to make the solution attractive, “enhancing its value by adding benefits to its outcome and distributing them in order to overcome imbalances that may have prevented one party or

²¹⁰ I. William Zartman, “Bargaining and Conflict Reduction”, in Edward Kolodziej and Roger E. Kanet 9eds.) *Coping With Conflict After the Cold War* (Baltimore: John Hopkins University Press, 1996), 279

²¹¹ Ibid.

²¹² Ibid., 280

²¹³ Ibid.

another from subscribing to it.”²¹⁴ Not only must the mediator help improve the attractiveness of a solution but may even have to increase the unattractiveness of continued conflict, an involvement that may mean “shoring up one side or condemning another and further straining the appearances of neutrality.”²¹⁵

A mediator has four sources of leverage: “the ability to portray an alternative future as more favourable than the continuing conflict; the ability to produce an attractive position from the other side; the availability of resources that the mediator can withhold from one side in the conflict or shift to the other; and the availability of resources that the mediator can add to the outcome.” The first pair relate to formulation, and the second pair to manipulation.²¹⁶

The dissertation will develop ripeness in terms of the process of *pre-negotiation* i.e. the beginning of negotiations. The dissertation will argue that ripeness as a function of pre-negotiation considerably enhances the explanatory power of the concept in explaining the beginning of negotiations. The remainder of the chapter draws attention to the importance of the pre-negotiation process – the framework within which the beginning of negotiations in South Africa will be analysed.

3.4. The Theoretical Contribution: The Pre-negotiation Phase

In the small literature on pre-negotiation, there are two contending definitions of the process.

The first position locates pre-negotiation as part of the whole negotiation process. Harold Saunders, Jay Rothman and I. William Zartman and Maureen Berman view pre-negotiation as the first stage of the negotiation process where opposing parties jointly frame their issues

²¹⁴ Ibid., 281

²¹⁵ Ibid.

²¹⁶ Ibid., 282

of conflict, generate various options for handling them cooperatively, and interactively structure the substance and process for the second stage of negotiations.²¹⁷

The second position, put forward by Janice Gross Stein, makes a distinction between pre-negotiation and ‘official’ negotiation.²¹⁸ Official negotiations are understood as the formula stage of the negotiation process. They are usually marked by limited time frames and pressure for instant decision-making in the process of reaching a negotiated settlement. By contrast, pre-negotiation is understood as a separate process that structures ‘official’ negotiations.

According to Stein, pre-negotiation therefore begins when one or more parties consider negotiation as a policy option and communicate this intention to other parties. Pre-negotiation ends when these parties agree to official negotiation or when one party abandons the consideration of negotiation as a policy option.²¹⁹ Stein points out that pre-negotiation frames official negotiation; it is characterised by important structuring activity, it sets broad boundaries, identifies key participants and specifies the agenda for the negotiation process.

Despite Stein’s attempt to delimit the boundaries between pre-negotiation and official negotiation, it is difficult to distinguish the key functions of pre-negotiation from a broader negotiation process. The functions of pre-negotiation are an integral part of preparations for official negotiation, and thus a necessary prerequisite of an entire negotiation process.

From this perspective, the negotiation process should be understood as a three-staged process involving discussions between designated representatives that are designed to achieve the

²¹⁷ Harold Saunders, “We need a larger theory of negotiation: the importance of pre-negotiation phases,” *Negotiation Journal* 1 (July 1985), 250; Jay Rothman, *A Prenegotiation Model: Theory and Training: Project on Prenegotiation Summary* (Jerusalem: Leonard Davis Institute for International Relations, Hebrew University of Jerusalem, 1990), 4; I. William Zartman and Maureen Berman, *The Practical Negotiator* (New Haven: Yale University Press, 1982)

²¹⁸ Janice Gross Stein, “Preface”, in Janice Gross Stein (Ed.) *Getting to the Table: The Process of International Prenegotiation* (Baltimore: John Hopkins University Press, 1989), x

²¹⁹ Stein, x

formal agreement of their governments and/or organisations on an issue or problem that has come up in their relations.²²⁰

Pre-negotiations are the first stage of the negotiation process. Their job is to establish whether negotiated solutions to a problem are worthwhile, and then to agree the agenda and necessary procedures for tackling them. These discussions can both be informal and well out of the public gaze or they can be formal and well-advertised. However, whether formal or informal, public or confidential, pre-negotiations are often far more important and far more difficult than is usually supposed.²²¹

Once pre-negotiation is concluded and parties agree that negotiated solutions are worthwhile, the negotiation process moves to the second stage where the task is to negotiate the basic principles of a settlement (the formula stage). If the basic principles and a formula are agreed, the final stage involves fleshing out the details (the details stage).

Pre-negotiations should therefore be placed within the negotiation process, while acknowledging Stein's point that it has distinct features. Pre-negotiation is therefore that period in relations between parties when negotiated solutions are considered and adopted. The phase is marked by a turning point in relations between parties. This turning point prompts a reassessment of policy preferences and parties add a negotiated solution to the range of options under consideration. Pre-negotiation is marked by turning points that move the parties through various stages and ends when parties agree to pursue negotiated solutions, and begin to negotiate the basic principles or formula of a settlement.

²²⁰ Berridge, 25

²²¹ Ibid., 27

3.4.1. Framework for Analysis: Stages of Pre-negotiation

Scholarship on negotiation processes has sought to determine whether a distinctive pattern characterises most negotiation processes. This has produced a debate about stages of the negotiation process. Scholars have subsequently analysed transitions from one stage to another in terms of turning points and have been interested in identifying the occurrence of these turning points and the circumstances that bring them about.²²²

The stage concept is a useful device for scholars to chart progress, identify disjuncture in the process, and provide a recognised pattern of expectations and behaviour. The most important scholar in this regard is Daniel Druckman, who in a seminal article developed an analytical framework based on bilateral negotiations between Spain and the United States over military base rights. Druckman conceives negotiation in terms of patterns of delayed mutual responsiveness between parties. The negotiation process is understood as an unfolding set of stages in which turning points and crises mark passage from one stage to another.²²³ Four concepts characterise the process: stages, turning points, crises and activities.

Stages are one element of the framework that “capture an ‘ebb and flow’ marked by key events and depicted as trends.”²²⁴ Turning points are events or processes that mark the passage from one stage to another, signifying progress from earlier to later stages.²²⁵ There are two types of turning points; those that occur after a period of no progress (impasse) and those that occur after a threat to the sustenance of talks (crisis). Both types of turning points are “inflections in a trend, or ‘upturns’ that represent either sudden progress or a return to a period of stability.”²²⁶ The progress that occurs after an impasse “signals passage to a new stage of the negotiation.” And the recovery that follows a crisis or threatened breakdown

²²² For a good survey of this literature see Daniel Druckman, “Negotiating in the International Context” in I. William Zartman (ed.) *Peacemaking in International Conflict: Methods and Techniques* (Washington: United States Institute for Peace, 2007)

²²³ *Ibid.*, 327

²²⁴ *Ibid.*, 329

²²⁵ Daniel Druckman, “Turning Points in International Negotiation,” *Journal of Conflict Resolution*, Vol. 45, No. 4 (August 2001), 520

²²⁶ Druckman, “Negotiating Military Base Rights”, 333

“does not signal a new stage. The new stage occurs during the period of stability after the recovery.”²²⁷

Druckman argues that the concept of turning points is similar to that of ripeness. The similarities are that both refer to changes in the course of a process or relationship, occur as a result of an impasse, and are known better in retrospect through analysis than in prospect during an on-going process.²²⁸ However, there are important differences: turning points are part of negotiations rather than conditions for them; they are indicated by changes that occur during the process rather than conditions that lead to change; they are less dependent on perceiving or seizing the opportunity; and are indicative of downturns as well as upturns in the process.²²⁹

As negotiations proceed through the turning points, negotiators engage in two important types of activities; monitoring and strategizing. Monitoring “consists of determining the extent to which various parties maintain an interest in the negotiation process.”²³⁰ Strategizing involves the use of tactics in moving the negotiations along.²³¹ These consist of actions taken to influence the course, including tabling a position, decomposing and aggregating relevant information, packaging issues, deciding on the order of discussion of issues, and proceeding point by point to reconcile the different positions of the parties.²³²

With regard to the pre-negotiation stage, only two scholars have provided a stage-analysis of the process; Harold Saunders and Brian Tomlin. Saunders identified three stages of pre-negotiation: a shared definition of a problem, a commitment to a negotiated settlement, and the arranging of the negotiation.²³³ Tomlin suggested that there are in fact five stages

²²⁷ Druckman, “Turning Points in International Negotiation”, 520

²²⁸ Ibid.

²²⁹ Ibid.

²³⁰ Druckman, “Negotiating Military Base Rights”, 334

²³¹ Ibid.

²³² Ibid.

²³³ Harold Saunders, “We need a larger theory of negotiation: the importance of pre-negotiation phases,” *Negotiation Journal* 1 (July 1985)

consisting of: problem identification, search for options, commitment to negotiate, agreement to negotiate, and setting the parameters.²³⁴

These two analyses are in content similar. The difference is that Tomlin's model breaks it down into more detail and stages and is thus more useful as an analytical framework. Tomlin also uses Druckman's stage model to describe pre-negotiation. Because of this usefulness, the dissertation will use Tomlin's model as a framework for analysing the South African case.

Tomlin conceives pre-negotiation as that period when negotiation is considered, and then adopted, as a behavioural policy by either some or all of the parties.²³⁵ The onset is "marked by a turning point in relations between the parties, an event or change in conditions that prompts a reassessment of alternatives and adds negotiation to the range of options being considered."²³⁶ The pre-negotiation process is marked by turning points that move the parties through various stages of pre-negotiation, and concludes with the start of negotiations over the principles of a settlement.

Tomlin identifies five stages.

3.4.1.1. Stage 1: Problem Identification

The onset of the first stage is brought about by an event or change in conditions that "causes a restructuring of values attached to alternative outcomes by one or more parties in a relationship and results in the addition of a negotiated solution to the array of outcomes under consideration by at least one of the parties."

²³⁴ Brian Tomlin, "The Stages of Pre-negotiation: The Decision to Negotiate North American Free Trade Janice Gross Stein (Ed.) *Getting to the Table: The Process of International Prenegotiation* (Baltimore: John Hopkins University Press, 1989)

²³⁵ Tomlin, 21

²³⁶ Ibid.

The stage is “characterised by an assessment of the problem produced by changing conditions and a preliminary evaluation of alternative responses that may or may not add negotiation to the range of policy options.”²³⁷ A turning point is reached if the addition does occur, and the process moves to the second stage.

3.4.1.2. Stage 2: Search for Options

In the second stage, parties actively consider a negotiated solution to the problem. If the possibility for negotiation is a subject of controversy, “then this stage might be characterised as ‘thinking the unthinkable’ as some parties attempt to come to terms with the need to negotiate.”²³⁸

Another turning point is reached if negotiation is chosen as the preferred and necessary policy alternative, moving the process to the third stage.

3.4.1.3. Stage 3: Commitment to Negotiate

The third stage is the transition from ‘whether’ to negotiate to ‘what’ will be negotiated. The policy focus is initially inner-directed as parties consider alternative negotiating scenarios, reflecting varying degrees of scope for the potential negotiation, and successive steps towards increasing commitment toward a negotiated solution.

It is in this stage that the focus of policy makers becomes outer-directed “as the preoccupation with internal decision dynamics gives way to increased concern for the other parties to the problem.” Druckman’s framework emphasised the monitoring activity undertaken, involving determining the interests of various parties. Thus, there is a point in

²³⁷ Ibid.

²³⁸ Ibid., 23

stage three when attention shifts to a consideration of the interests of other parties, mainly because the desire to undertake negotiation is likely to be communicated at this stage. Stage three thus also represents a ‘turning point of seriousness’ i.e. “the perception by each side that the other is serious about finding a negotiated solution.”²³⁹

The communication of a desire to negotiate from one party to another is the turning point to stage four.²⁴⁰

3.4.1.4. Stage 4: Agreement to Negotiate

In the fourth stage, the parties agree to pursue a negotiated solution to the problem. The focus is outer-directed as they “come to terms on the desirability of negotiation as an approach to the problem while reserving any commitment as to the scope of the negotiation itself.”²⁴¹

The achievement of an agreement to negotiate a settlement marks the turning point to the final stage of the pre-negotiation process.

3.4.1.5. Stage 5: Setting the Parameters

In the final stage, parties define the scope of negotiating the basic principles of a settlement and establish parameters for these discussions. This stage provides parties with an important opportunity to assess the extent of congruence in their perspective agendas prior to negotiating the principles of a settlement. Even though parties may not reach an agreement on appropriate parameters, their agreement to proceed with settlement talks will mean that this final stage of the pre-negotiation phase imply merges into the formula stage.

²³⁹ Zartman and Berman, 87

²⁴⁰ Tomlin, 24

²⁴¹ Ibid.

An analysis of the pre-negotiation process using stages and turning points permits a reconstruction of the sequence of decisions and interactions that lead parties to negotiate joint solutions on a set of issues.²⁴² This framework provides for an organising set of concepts for the examination of the pre-negotiation process, highlighting important stages and events indicating behavioural patterns.²⁴³ The application of the framework to the South African pre-negotiation process will permit the superimposition of these general concepts on the case-specific details. The result will provide for a comprehensive and systematic description of the processes and behaviour of the government and ANC actors during the pre-negotiation process as well as the pattern of relations between the two.

3.4.2. Structuring Activity: Semi-Official Diplomacy and Pact-Making

In Druckman's model of negotiation, parties engage in patterns of mutual responsiveness to move negotiation through turning points. Tomlin defines this behaviour as 'structuring activity' in which parties "attempt to establish or alter the parameters within which the exchange and convergence process that characterises negotiations will occur."²⁴⁴ In pre-negotiations, parties attempt to position themselves for an advantageous start; they intend to influence the scope and agenda for settlement talks.

Two-dimensional activity characterises the process: semi-official diplomacy and pact-making.

²⁴² Ibid.

²⁴³ Ibid.

²⁴⁴ Ibid., 24-25

3.4.2.1. Semi-Official Diplomacy

‘Semi-official’ diplomacy is related to the idea of ‘unofficial diplomacy’. Unofficial diplomacy refers to the activities of non-state actors or private citizens from adversarial sides which are aimed at “developing strategies, influencing public opinions, and organising human and material resources in ways that might help resolve conflict.”²⁴⁵ David and Montville coined the term ‘track-two diplomacy’ to explain ‘unofficial diplomacy’; it included a broad range of unofficial contacts and activities “from the most apolitical cultural exchanges to psychologically focused political problem-solving meetings.”²⁴⁶

Over time the theory of unofficial diplomacy went through a period of specification and extension in order to contain the diversity of actions taking place in unofficial diplomatic channels.²⁴⁷ Terms such as ‘multi-track diplomacy’²⁴⁸, ‘track one-and-a-half diplomacy’²⁴⁹ and ‘track-three diplomacy’²⁵⁰ developed to describe different aspects of unofficial diplomacy involving different sectors and role players.

Amira Schiff writes that the unofficial diplomacy approach upholds four basic assumptions.

First, unofficial diplomacy focuses on improving relationships between adversaries through communication and understanding, by mitigating anger, anxiety and misunderstanding.²⁵¹

²⁴⁵ Joseph Montville, “Transnationalism and the Role of Track-Two Diplomacy,” in W. Scott Thompson and Kenneth Jensen (eds.) *Approaches to Peace: An Intellectual Map* (Washington DC: United States Institute for Peace, 1991), 262

²⁴⁶ William Davidson and Joseph Montville, “Foreign Policy According to Freud”, *Foreign Policy* 45 (1981), 156

²⁴⁷ Amira Schiff, “Quasi-Track-One Diplomacy: An Analysis of the Geneva Process in the Israeli-Palestinian Conflict,” *International Studies Perspectives* 11 (2010), 95

²⁴⁸ Louise Diamond and John MacDonald, *Multi-Track Diplomacy: A Systems Approach to Peace* (Washington DC: United States Institute for Peace, 1991)

²⁴⁹ Susan Allen Nan, “Track One and a Half Diplomacy: Contributions to Georgian-South Ossetian Peacemaking,” in Ronald Fisher (ed.) *Paving the Way: Contributions of Interactive Conflict Resolution in Peacemaking* (Lanham: Lexington Books, 2005)

²⁵⁰ Diana Chigas, “Capacities and Limits of NGOs as Conflict Managers,” in Chester Crocker, Fen Osler Hampson and Pamela Aall (eds.) *Leashing the Dogs of War: Conflict Management in a Divided World* (Washington DC: United States Institute for Peace, 2007)

²⁵¹ Schiff, 95

The assumption is that “if conflicting parties overcome their psychological obstacles to negotiation, they will conduct such negotiations on the basis of shared interests.”²⁵²

Second, the unofficial nature of the process “allows parties to raise and explore ideas and reactions concerning alternative solutions and approaches in a non-obligatory framework.”

Third, formal and informal diplomatic methods occur alongside each other, in a complementary and integrated manner. And fourth, third parties in these processes are more facilitative and educational in nature.²⁵³

The distinctive feature of this type of diplomacy is the status of the core actors, along with their explicit pre-negotiation agenda.²⁵⁴ Typically, one side consists of officials, whereas the other consists of private citizens. There is a continuous nucleus of participants who report back to their political principals, and provide continuity from one meeting to the next.²⁵⁵

Semi-official diplomacy also contains a pragmatic and problem-solving orientation; “each delegation seeks answers to specific questions that help the political leadership evaluate the conflict-settlement potential of official talks.”²⁵⁶ Lines of transfer i.e. from unofficial talks to official level decision-making are more evident and direct; “because transfer to official policy-makers is the ‘raison d’être’ of semi-official talks, officials or authorised non-officials are included to ensure that the meetings’ contents will be reported to the relevant decision-makers on each side.”²⁵⁷

²⁵² Ibid.

²⁵³ Ibid., 95-96

²⁵⁴ Harold Saunders, “Interactive Conflict Resolution: A View for Policy-Makers on Making and Building Peace,” in Paul Stern and Daniel Druckman (eds.) *International Conflict Resolution After the Cold War* (Washington DC: National Academy Press, 2000)

²⁵⁵ Daniel Lieberfeld, “Promoting Tractability in South Africa and Israel/Palestine: The Role of Semi-Official Meetings,” *American Behavioural Scientist* Vol.50, No. 11 (2007), 1544

²⁵⁶ Ibid.

²⁵⁷ Ibid.

3.4.2.2. Pact-Making

The subject of political pacts occupies a prominent place in the Latin American democratization literature of the 1980s. Terry Karl's studies on the democratization of Venezuela in the late 1950s²⁵⁸ and comparative historical analysis of select Latin American cases²⁵⁹ are the most authoritative accounts of this phenomenon.

Karl writes that the nature of Venezuela's democracy in the late 1950s was profoundly affected by, and depended largely on, "the perceptions formed and political skill exercised in the immediate context of transition – a context still delineated by traditional elites."²⁶⁰ She identified the significance of "explicit agreements forged among elites during 1957-1958 embodying a negotiated compromise, and establishing the future rules of governance."²⁶¹ These agreements permitted key actors to "develop new norms and operational codes of regulating partisan and interest disputes."²⁶²

Karl defined these negotiated agreements as 'pacts' i.e. "agreements between contending actors, which define the rules of governance on the basis of mutual guarantees for the 'vital interests' of those involved."²⁶³ These series of negotiated agreements, exemplified in the Venezuelan case, rested on explicit institutional arrangements:

"The military agreed to leave power and to accept a new role as an 'apolitical, obedient, and [non-deliberative] body' in exchange for an amnesty for abuses committed during authoritarian rule and a guaranteed improvement of the economic situation of officers. Political parties agreed to respect the electoral process and share power in a manner commensurate with voting results. They also accepted a 'prolonged political truce' aimed at depersonalising debate and facilitating consultation and coalitions. Capitalists agreed to accept legal trade

²⁵⁸ Terry Karl, "Petroleum and Political Pacts: The Transition to Democracy in Venezuela" *Latin American Research Review*, Vol. 22, No. 1 (1987), pp. 63-94

²⁵⁹ Terry Karl, "Dilemmas of Democratization in Latin America", *Comparative Politics*, Vol. 23, No. 1 (Oct., 1990), pp. 1-21

²⁶⁰ Karl, "Petroleum and Political Pacts", 80

²⁶¹ *Ibid.*, 64

²⁶² *Ibid.*, 64-65

²⁶³ Karl, "Dilemmas of Democratization", 9

unions and collective bargaining in exchange for significant state subsidies, guarantees against expropriation or socialising property, and promises of labour peace from workers representatives.”²⁶⁴

These pacts contained three essential components.

First, they were comprehensive in nature and were inclusive of all politically significant actors. This was important for the success of political transition: “because pacts are negotiated compromises in which contending forces agree to forego their capacity to harm each other by extending guarantees not to threaten each other’s vital interests, they are successful only when they include all significantly threatening interests.”²⁶⁵ Thus, pacts are series of interlocking and interdependent political agreements.

Second, because pre-negotiation is the first and most important stage in the process of negotiated political compromise, pacts emphasis rule-making. This is important as it is “only after all contending forces have agreed to bargain over their differences can power-sharing, which leads to consensual governance result.”²⁶⁶

Third, pacts ensure survivability as they restrict the scope of representation “in order to reassure traditional dominant classes that their vital interests will be respected.”²⁶⁷

Hartzell and Rothchild write that pacts operate at both procedural and substantive levels.

The procedural rules of pacts may include “mechanisms for enhancing consultation among elites; alternation of political offices among groups that elites represent (at times irrespective of electoral outcomes); formal power-sharing arrangements; and the mutual veto.”²⁶⁸

²⁶⁴ Ibid., 11

²⁶⁵ Ibid.

²⁶⁶ Ibid.

²⁶⁷ Ibid.

Substantively, pacts not only institutionalise certain policy orientations, but may also “eliminate issues from the competitive policy arena that are likely to become a source of conflict.”²⁶⁹ The authors also stress that pacts are temporary arrangements, and that over time they “cannot freeze the balance among the elite interests that they are originally designed to protect.”²⁷⁰ Factors such as political violence, coalitions with other actors (domestic or international), or key events may disproportionately benefit some pact members, leading to changes in bargaining power between opposing leaders, and may produce shifts in bargaining power to groups previously excluded from the pact.²⁷¹

Scholars disagree over the effects of pacts on negotiated processes to democracy. Guillermo O’Donnell and Philippe Schmitter take note of their positive contribution: “Pacts are not always likely or possible, but we are convinced that where they are a feature of the transition, they are desirable – that is, they enhance the probability that the process will lead to a viable political democracy.”²⁷² Their positive statement flows from the perceived capacity of pacts to guarantee the “surest and safest exit out of authoritarian rule. Pacts tend to minimise uncertainty about the democratic transition and its eventual fate, an outcome intimately linked to the substance as well as the political symbolism they convey.”²⁷³

Scholars also warn about the perilous legacies that such pacts leave behind for a new democracy. Frances Hagopian identifies pacts as conservative and corporatist given their essentially elitist and exclusionary nature.²⁷⁴ She cautions that pacts “impinge on democratisation because pacts by design subvert the notion of majority rule.”²⁷⁵ Karl adds

²⁶⁸ Caroline Hartzell, “Political Pacts as Negotiated Agreements: Comparing Ethnic and Non-Ethnic Cases”, *International Negotiation* 2 (1997), 149

²⁶⁹ Ibid.

²⁷⁰ Ibid.

²⁷¹ Ibid.

²⁷² Guillermo O’Donnell and Philippe Schmitter, *Transitions from Authoritarian Rule: Tentative Conclusions about Uncertain Democracies* (Baltimore: John Hopkins University Press, 1986), 39

²⁷³ Omar Encarnación, “The Legacy of Transitions: Pact-Making and Democratic Consolidation in Spain” Working Paper 2003/193, September 2003

²⁷⁴ Frances Hagopian, *Traditional Politics and Regime Change in Brazil* (New York: Cambridge University Press, 1996) 22-23

²⁷⁵ Frances Hagopian, “Democracy by Undemocratic Means? Elite, Political Pacts and Regime Transition in Brazil”, *Comparative Political Studies* 23 (July 1990), 151

that “the very decision to enter into a pact can create a habit of pact-making and an accommodative political style based on a pact to make pacts.”²⁷⁶ Echoing Hagopian, she argues that this leads to a corporatist democracy whose structures are designed to exclude popular participation in politics.²⁷⁷ And Adam Przeworski notes that while pacts “protect embryonic democratic institutions by reducing the level of conflict about policies and personnel, the costs of their success extracts from society may be too high to bear.”²⁷⁸ Pacts inevitable evolve into “cartels of incumbents against contenders, cartels that restrict competition, bar access, and distribute the benefits of political power among insiders. Democracy would then turn into a private project of leaders of some political parties and corporatists associations, an oligopoly in which leaders of some organisations collude to prevent outsiders from entering.”²⁷⁹

3.5. Structuring the Case Study

The remainder of the dissertation will use Tomlin’s five-stage model to explain pre-negotiation in South Africa. To get maximum theoretical value from the South African case study, there are specific theoretical issues the dissertation seeks to address.

First, the dissertation will investigate the extent to which the South African pre-negotiation process is consistent with Tomlin’s five-stage model. In this process, the dissertation will refine and enhance the explanatory power of Tomlin’s analytical framework for explaining pre-negotiation, and contribute to theorising about pre-negotiation. This process is important; it will provide a clear illustration of the point at which ripeness helps us explain why negotiations begin. From this perspective, the dissertation will show that ripeness is a function of pre-negotiation and plays an important role in producing a commitment for a negotiated solution to a problem.

²⁷⁶ Karl, “Dilemmas of Democratization”, 15

²⁷⁷ Ibid.

²⁷⁸ Adam Przeworski, *Democracy and the Market* (New York: Cambridge University Press, 1991), 90

²⁷⁹ Ibid.

Second, the dissertation will investigate how components of ripeness can contribute to the beginning of negotiations. The study starts with the work of Zartman who contends that there is a condition in conflict that approximates ripeness, and in this situation, mediation plays a positive role in resolving crises. Zartman contends that the core components of ripeness involve the belligerent parties' perceptions about the course of the conflict and their alternatives to continuing the conflict.

Third, the dissertation wants to investigate the politics internal to groups and ripeness for the beginning of negotiation. The exploration of negotiation possibilities occurs within each adversary, in the relations between adversaries, and also among other parties in the political environment.

Fourth, the dissertation wants to investigate how mediation can contribute to the beginning of negotiation.

The abovementioned goals demand that in each stage of pre-negotiation in South Africa the following questions are asked:

1. Who are the main actors and what are their goals?
2. Is there a mediator, and if so, does the mediator have a conception of a possible settlement?
3. Do the actors perceive the situation to be a hurting stalemate?

These analytical components will be used to structure the South African discussion.

3.6. Conclusion

Ripeness offers a metaphor for understanding disputant motivation to resolve conflict that centres on an image of ‘ripe moments’ for negotiation. The concept is parsimonious, elegant and grounded in case material. This concept centres on the *construct of ripeness* – a necessary but insufficient condition that is directly linked to the decision to negotiate with an opponent in conflict. This condition is brought about by the perception of two essential elements: a mutually hurting stalemate between the parties, coupled with a mutually enticing opportunity to gain a more favourable outcome in the conflict.

The concept proposes that when parties find themselves on a ‘pain-producing path’, they begin to look for alternatives that are less painful and more advantageous.²⁸⁰ If such an alternative is discovered, they will be moved to seek it out. Ripeness is thus based on two core motives and elements: pain and opportunities to escape from pain. It is portrayed as a state that may or may not exist objectively, but that must be perceived to mutually exist by parties in order for it to motivate. This can occur either naturally, as the result of external events, or be induced, as by active intervention from parties or third parties.

The dissertation will test ripeness in terms of the South African pre-negotiation process. Pre-negotiation has five stages: 1. Problem Identification; 2. Search for Options; 3. Commitment to Negotiate; 4. Agreement to Negotiate; and 5. Setting Parameters. Two-dimensional activity occurs during this process: semi-official diplomacy and pact-making. These analytical components will be used to structure the South African discussion.

²⁸⁰ Zartman, “Ripeness: Hurting Stalemate and Beyond”, 229

CHAPTER FOUR

Background of the South African Conflict

The aim of this chapter is to identify the central issues in the South African conflict. The chapter will argue that the root of the South African conflict in the twentieth century was white minority rule. The basic demand of the ANC and its allied organisations that resisted racial domination during this period was for the universal franchise and the right to be included as equals in society and in political life. At the centre of this conflict was the system of apartheid. Successive NP governments devised various methods to coopt Africans on unequal terms so as to maintain white minority rule. These methods were repeatedly rejected and rendered unworkable.

The chapter is divided into six sections. The first two sections provide a history of apartheid and early resistance. Sections three and four discuss the NP governments of John Vorster and Pieter Willem Botha. Section five discusses the experiences of the ANC in exile up until the mid-1980s. Section six discusses the state of the South African conflict and principle actors on the eve of pre-negotiation in 1983.

4.1. The Foundation of Apartheid

4.1.1. Segregation, 1910 – 1948

The origins of apartheid are located in the segregationist policies of the four colonies and republics which combined to form the Union of South Africa in 1910. The Act of Union restricted the franchise to white men, and excluded Africans from the political system.

After the Act of Union, the building blocks of apartheid evolved through various ad hoc legislative measures in reaction to, and designed to curb, the increased flow of Africans into the towns and cities. In 1922, the Stallard Commission laid down the principle that Africans should only be in urban areas to “minister the needs of the white man and should depart when he ceases to minister.”²⁸¹ African men over 16 years had to carry a reference book, known as a ‘pass’, which recorded their permission to work and live in a white area. These ‘influx controls’ controlled the flow of African labour into urban areas and allocated labour between sectors and regions.

In the spirit of the Stallard Commission, the 1923 Native Urban Areas Act initiated a policy of urban residential segregation to apply the principles of the 1913 Land Act to urban areas.²⁸² The Act, however, left it to the discretion of local authorities to implement this policy. As a result, there was considerable variation in its application. This prevented wholesale segregation as some municipalities lacked the means and incentives to provide for the building of new townships which Africans would have been relocated.²⁸³ Furthermore, official policy discouraged African families and “favoured the mining industry’s system of migrant workers housed in all-male compounds, while their families remained in the reserves thus keeping down African numbers and retaining their links with the tribal areas.”²⁸⁴ These laws hindered Africans wishing to leave white farms or reserves or to enter, or move between, the towns and cities.²⁸⁵

The development of large-scale manufacturing during the second quarter of the century, made possible by the installation of a massive domestic steel-and-electricity industrial infrastructure from the 1930s, upset this segregationist dynamic. Many Africans were attracted to the new

²⁸¹ Cited in Merle Lipton, *Capitalism and Apartheid: South Africa 1910-1986* (Aldershot: Wildwood House, 1985), 18

²⁸² T.R.H Davenport, “The Triumph of Colonel Stallard: The Transformation of the Natives (Urban Areas) Act between 1923 and 1937”, *South African Historical Journal*, Vol. 2, Issue 1 (1970), 77

²⁸³ Paul Maylam, “The Rise and Decline of Urban Apartheid in South Africa”, *African Affairs*, Vol. 89, No. 354 (1990), 63, 66

²⁸⁴ Lipton, 18

²⁸⁵ Ibid.

urban job markets.²⁸⁶ Between 1921 and 1936, the African urban population doubled.²⁸⁷ During this period, the number of urban Africans as a percentage of the total African population doubled from 14 percent to 28 percent.²⁸⁸ According to the 1946 census, “Africans for the first time outnumbered whites in all of South Africa’s major cities.”²⁸⁹ Furthermore, manufacturing “permitted a relatively permanent and residentially stable African labour force, involving not only the workers themselves but also their families: in metropolitan areas, the percentage of urban Africans living with their families rose from only 30 percent in 1936, to 45 percent in 1951, and to 65 percent in 1960.”²⁹⁰

These developments introduced new ideas in South Africa’s liberal intelligentsia and in urban business circles. These were reflected in the publications of important official commissions at the time, such as the van Eck, Smit and Fagan Reports. They argued that “industrialisation, and the poverty of the crowded reserves, meant that increasing and permanent African urbanisation was inevitable, and that industrialisation required that African workers should be stabilised with their families in the towns and provided with improved education, pay and prospects of promotion that would turn them into the committed, motivated workforce required by modern industry, as well as providing an expanding market for consumer goods.”²⁹¹ The job colour bar, pass laws, and migrant labour were criticised as “unjust and inefficient, deterring ambition and competition.” Jan Smuts, the Prime Minister argued that African urbanisation was inevitable: “you might as well try to sweep the ocean back with a broom.”²⁹² Jan Hofmeyr, Smuts’s deputy, went further and called for the “ultimate removal of the colour bar from our constitution.”²⁹³

²⁸⁶ Phil Eidelberg, “South African Apartheid: The Homeland-Township Nexus, 1948-1986”, *South African Historical Journal*, Vol. 36, Issue 1 (1997), 93

²⁸⁷ T.R.H Davenport, “African Townsmen? South African Natives (Urban Areas) Legislation Through the Years”, *African Affairs*, Vol. 68, No. 271 (1969), 101

²⁸⁸ Maylam, 64

²⁸⁹ Deborah Posel, *The Making of Apartheid, 1948-1961: Conflict and Compromise* (Oxford: Oxford University Press, 1991), 23-24

²⁹⁰ Eidelberg, 93-94

²⁹¹ Lipton, 21

²⁹² Jan Smuts, “The Basis of Trusteeship in African Native Policy.” An address delivered under the auspices of the South African Institute of Race Relations in City Hall, Cape Town, 21 January 1942 (Johannesburg: SAIRR, 1942)

²⁹³ Jan Hofmeyr cited in Lipton, 21

As a result, the job colour bar was eased and this was followed by an extension of training facilities for Africans in order to expand the supply of skilled workers. Through the Wage Board, government policy led to the raising of African wages to such an extent that black-white wage ratios narrowed.²⁹⁴ In 1942, the Department of Native Affairs recommended the abolition of pass laws and their implementation was subsequently relaxed resulting in a significant drop in the number of prosecutions.

The ruling United Party (UP) went into the infamous 1948 election firmly committed to these ideas and recommendations, which accepted the principle that African workers were a permanent part of urban South African society and migrant labour was socially and economically undesirable. The Fagan Report had concluded that “urbanisation was an economic phenomenon ... [which] can be guided and regulated” but not prevented, and urged that “the policy should be one for facilitating and encouraging stabilisation.”²⁹⁵ The Fagan Report also advocated that the mining industry be “allowed to provide housing for stabilised labour on the new [Orange Free State] goldmines.”²⁹⁶

4.1.2. Early Apartheid, 1948 – 1960

The National Party (NP) that was elected into power under Prime Minister Daniel F Malan in 1948 reversed the limited reforms of the UP, and proclaimed their belief in segregation, racial inequality and apartheid. The foundation of their electoral platform was a rejection of the Fagan recommendations and an affirmation of the proposals of the Sauer Commission; an NP commission tasked with formulating NP policy on the racial question. In setting out the terms of the investigation, Malan stated that the commission had to “investigate the implementation of apartheid in the political and industrial terrains, and also had to consider the question of

²⁹⁴ Lipton, 21

²⁹⁵ *Report of the Native Laws Commission 1946-48*, Department of Native Affairs, Union of South Africa, Pretoria 1948, UG No. 28 – 1948 (Chair: Fagan) – (Fagan Report), 46-50

²⁹⁶ Lipton, 22

residential segregation; it had to be practical, positive and constructive, rather than negative and divisionary in character.”²⁹⁷

The report listed three main aims of apartheid policy: “first, the maintenance of the white population and a complete eradication of any racial mixing; second, the maintenance of the indigenous non-white racial groups as separate [communities] by working against any influences aiming to undermine those separate identities and by facilitating opportunities to develop each according to its own ... character; third, the maintenance of the traditional principle of trusteeship, which entailed the fostering of national pride and self-respect for each group, and the encouragement of mutual respect between different racial groups.”²⁹⁸ To achieve these aims, each racial group had to “have its own territory in which it would be able to develop its inalienable right to self-maintenance and self-determination.”²⁹⁹

Regarding Africans, the report stated that African ‘ethnic’ groups should each be drawn together territorially so that each could develop as separate tribal/national units, “offering a spiritual, national and economic home to the natives.” This would “encourage ‘talented and progressive Natives’ to move there in order to use their initiatives in the service of their own people.”³⁰⁰

When dealing with Africans on farms and in the cities, the commission advocated the continued use of African labour on farms and that urban-based Africans were only temporary visitors to the towns, and should never be able to claim equal political rights with whites. Cities “had a ‘white character’ to be maintained.”

Consequently, separate African locations had to be developed and steps had to be taken to limit their numbers in cities and reinstate their links with tribal reserves:

²⁹⁷ Cited in Aletta Norval, *Deconstructing Apartheid Discourse* (London: Verso, 1996), 117

²⁹⁸ Norval, 117-118

²⁹⁹ *Ibid.*, 118

³⁰⁰ *Ibid.*

“... The urbanisation of natives is in conflict with the policy of apartheid and the Native can thus never form part of the urban population. The influx into the cities has to be subjected to all possible limitations and the Native has to be informed of the disadvantages of urbanisation and the advantages of an own national home.”

The report also made a crucial distinction between theoretical and practical apartheid:

“We put as final ideal and aim total separation between whites and natives which has to be implemented as far as is practical on a gradual basis, with consideration of the needs of the country and with the necessary prevention of detribalisation of agriculture, industries and general interests.”³⁰¹

The NP did not want to halt industrialisation and modernisation; it wanted to control it so as to make it compatible with a hierarchical racial structure and the preservation of white identity. They believed that this required the “reinforcement of racial divisions against the social forces released by industrialisation and modernisation.”³⁰² As a result, they drew sharper distinctions between whites and non-whites and resorted to legislation to enforce this. The legislative basis for this was laid by the 1950 Population Registration Act, which classified the whole population by race.

The basis for the creation of separate political systems for Africans was laid by the 1951 Bantu Authorities and 1959 Promotion of Bantu Self-Government Acts, legal interventions whose intention was to convert Africans into foreigners in South Africa. Each of the so called ‘eight tribes’ or ‘nations’ could only exercise political rights in designated and ethnically defined homelands. In 1957, the government stopped all trading by Africans outside the reserves and townships. The 1950 Group Areas Act had already restricted the residential and trading rights of all Africans.

³⁰¹ Cited in *ibid.*, 119

³⁰² *Ibid.*

Other existing economic and social controls were tightened. In the public service, hundreds of Africans were dismissed and replaced by whites at higher wages, and job preferences were particularly given to Afrikaners. The Minister of Native Affairs, Hendrik Frensch Verwoerd, spelt out the intention of ensuring job preferences for whites:

“There is no place for [the Bantu] in the European Community above the level of certain forms of labour ... it is of no avail for him to receive a training which drew him away from his own community and misled him by showing him the green pastures of the Europeans but still did not allow him to graze there ... [This led to] the much-discussed frustration of educated natives who can find no employment which is acceptable to them ... it must be replaced by planned Bantu education ... [with] its roots entirely in the Native areas and in the Native environment and community.”³⁰³

Following this, the 1953 Bantu Education Act centralised control of African education and separate ‘ethnic’ universities were set up for each ‘nation’.

Migrant labour became the means for reconciling urban capital’s need for African labour with the NP’s determination to limit African numbers and prevent their permanent urbanisation.³⁰⁴ With regard to Africans already living in urban areas, Verwoerd clearly spelt out the new policy:

“... The Bantu have no claim to permanency in the European areas, they are in these areas as workers, and therefore own no real estate and can claim any political rights outside of the Bantu reserves.”³⁰⁵

The rights of urban Africans were withdrawn and thousands of families were forcibly removed from freehold houses to short-term leasehold houses in newly built townships further away from the main cities and towns.

³⁰³ Cited in *ibid.*, 24

³⁰⁴ *Ibid.*, 25

³⁰⁵ Cited in *ibid.*, 26

Finally, the 1953 Reservation of Separate Amenities Act legalised the provision of unequal facilities for different races. This was followed by the 1957 Native Amendment Act, which extended compulsory segregation into churches, places of entertainment, clubs, buses and sport.

During the early years of NP rule, the pillars of apartheid were enacted. After Verwoerd became prime minister in 1958, apartheid evolved into 'separate development' which served as the structural solution to turn South Africa into a white republic in which Africans would not feature as citizens. Ten homelands would be created to rid South Africa of African citizens. Every African would be assigned a homeland according to their ethnic identity.

4.2. Early Resistance to Segregation and Apartheid, 1912 – 1960

The origins of resistance to white minority rule are located in the politics of African nationalism in South Africa.

On the 28th of January 1912, South Africa's most prominent African citizens assembled in Bloemfontein and resolved to form the South African Native National Congress (SANNC). For this group, Union was a bitter disappointment: "[despite African] expressions of imperial loyalty ... the British government made it clear that its paramount concern was with the question of white unity in South Africa."³⁰⁶ The Act of Union removed the right of enfranchised Africans to be elected to parliamentary seats, and provided for the removal of the franchise from African voters.

The first post-Union administration embarked on a path of consolidating this dynamic: the 1911 Natives Land Bill prohibited rural landownership by Africans or occupation outside the

³⁰⁶ Tom Lodge, *Black Politics in South Africa since 1945* (Johannesburg: Ravan Press, 1983), 1

‘reserves’, effectively dispossessing many landowners and outlawing tenant farming relationships. The 1913 Land Act destroyed a whole class of peasant producers, and forced them into crowded reserves, driving them into new and arduous social relationships.³⁰⁷ The group that assembled at Bloemfontein had a particular concern and fear of a petty bourgeoisie at a time of crisis: “the fear of being thrust back into the ranks of the urban and rural poor.”³⁰⁸

The SANNC represented the concerns and anxieties of an African middle class. It retained close ties with the African aristocracy and the rural chieftaincy, who were conservative constituencies concerned with protecting a moral and social order under attack.³⁰⁹ The SANNC was intended to function as an organised pressure group and planned to agitate for changes through ‘peaceful propaganda’, the election of sympathisers to legislative bodies, protests and enquiries, and passive resistance.³¹⁰ The SANNC was renamed the African National Congress (ANC) in 1923.

The Communist Party of South Africa (CPSA) was founded in 1921 by small left-wing groups in Cape Town and on the Rand. When the Labour Party split over whether or not to support the First World War, members who contended that the war was an anti-working class imperialist struggle broke away to form the International Socialist League.³¹¹ Informed by experiences of eastern European migrants, and the Russian Revolution, the International Socialist League fused together with various Zionist, socialist and Marxist organisations to form the CPSA. Although not a mass-based organisation, it had a well-organised and centralised structure, organised along the lines of a Marxist-Leninist political organisation.

The relationship between the ANC and CPSA dates back to 1924. At its 1924 congress, the CPSA’s Young Communist wing argued successfully that the CPSA should formally recognise

³⁰⁷ Ibid., 2

³⁰⁸ Ibid.

³⁰⁹ Gwendolyn Carter and Thomas Karis, *From Protest to Challenge*, Volume 1 (Hoover: Stanford, 1971), 118

³¹⁰ Ibid., 78

³¹¹ Lodge, 7

the strategic importance of organising African workers.³¹² This brought them into closer contact with other trade unions and political organisations with African members. The most important was the ANC, and the most important leader within the ANC in this regard was Josiah Gumede.³¹³ The CPSA was later named the South African Communist Party (SACP) after it was banned by the passing of the Suppression of Communism Act in 1950.

The important turning point for resistance happens during the Second World War. This global event was associated with far reaching economic and social changes in South Africa; changes that created the conditions for a mass-based African political movement. The growing urbanisation of the African population was the key feature of these changes.

Accompanying this increased flow of Africans from the countryside to the towns was another demographic change. Before the war, the majority of African urban migrants were adult males. During the war years, entire families for the first time constituted significant portions of the African urban population. The great majority of these families confronted harsh conditions in the cities: insufficient wages to meet family subsistence needs, and the lack of housing, resulting in families “squatting” in dwellings made of sacking, wood, corrugated iron and cardboard.

This new, impoverished and urbanising African population became militant, posing a greater challenge to political authority: “large-scale squatter movements involving thousands of homeless people took shape during the mid-1940s; Africans in large numbers engaged in a series of bus boycotts to protest increasing fares; and a wave of strikes erupted during the war despite wartime regulations prohibiting them.”³¹⁴

³¹² Stephen Ellis and Tsepo Sechaba, *Comrades Against Apartheid: The ANC and the South African Communist Party in Exile* (London: James Currey, 1992), 15

³¹³ In 1927 Gumede travelled as a delegate from the ANC to the League Against Imperialism in Brussels. He then travelled to Moscow where he was impressed with the achievements of the Bolshevik government. On his second trip to Moscow, Gumede was warmly received by Joseph Stalin and was impressed with the USSR; Gumede saw the USSR as a model of what could be done in South Africa. Gumede would later join the CPSA after he ceased to be ANC President.

³¹⁴ Sheridan Johns and R. Hunt Davis, Jr. (Eds.), *Mandela, Tambo and the African National Congress: The Struggle Against Apartheid 1948 – 1990, A Documentary Survey* (Oxford: Oxford University Press, 1991), 18

When the NP won the 1948 election and began implementing apartheid policies, the ANC, as part of these changes, became more confrontational and responded with a major program of resistance, the most prominent being the Defiance Campaign of 1952.

The Defiance Campaign began the ANC's transformation from a small to a mass-based organisation. Led by a young and charismatic lawyer, Nelson Mandela, and beginning on 26 June 1952, the campaign was one of civil disobedience to confront apartheid laws.

In 1955, the ANC formed additional alliances with the South African Indian Congress, the Congress of Democrats, and the South African Coloured People's Organisation into an anti-apartheid coalition, the multiracial 'Congress Alliance'. That same year, the Congress Alliance adopted the Freedom Charter which embodied the ideals of non-racism, a common South African nationhood, and equal citizenship, beyond racial exclusivity.

In response to this multiracial position, an important group of Africanist led by Robert Sobukwe and Ashby Peter Mda broke away from the ANC to form the Pan-Africanist Congress (PAC) in 1959.

At a PAC-organised nationwide demonstration against pass laws, in the township of Sharpeville, the police took a particularly heavy handed approach killing 69 protesters and wounding 180. The Sharpeville shootings were a turning point in the South African conflict, "when protest finally hardened into resistance, and when African politicians were forced to begin thinking in terms of a revolutionary strategy."³¹⁵

³¹⁵ Lodge, *Black Politics in South Africa*, 225

Following the events in Sharpeville, the subsequent prohibition of the ANC and PAC, and the state's overall repressive action, both the ANC and PAC produced military offshoots. The ANC formed Umkhonto we Sizwe (MK, 'spear of the nation') on 16 December 1961 with Nelson Mandela as its commander, and the PAC formed Poqo (meaning 'alone') with Potlako Leballo as its commander. MK advocated the "implementation of a carefully controlled campaign of violence which in its initial stages would attempt to avoid bloodshed." Poqo's programme "developed from the same vision of a spontaneous popular uprising which had informed the PAC's conception of their pass campaign."³¹⁶ Poqo was later renamed the Azanian People's Liberation Army (APLA).

Prior to being unbanned in 1960, the ANC had established an external mission headed by its deputy president, Oliver Tambo. Tambo was a Johannesburg lawyer and shared a legal practice with Mandela. After 1960, Tambo set out to organise the ANC internationally and solicit support. By 1962, "many of the top leaders of the ANC were arrested at the Lilliesleaf farm in Rivonia."³¹⁷ The accused, including Nelson Mandela and the entire MK high command were tried, found guilty of treason in 1964, and imprisoned for life in on Robben Island.

The ensuing conflict between the South African government and the ANC lasted from 1961 to the early 1990s.³¹⁸ The conflict did not involve MK and the South African Defence Force (SADF) facing each other on a battlefield; rather, it was an internal conflict where the objective for both sides, Stephen Ellis writes, was "the population itself."³¹⁹ The point, Ellis further points out, was not so much to destroy the enemy as to win political support:

"To be more precise, for more than three decades there was a prolonged confrontation between the apartheid state and a substantial part of the South African population. The ANC, the SACP and some other organisations sought to turn this confrontation into a war that would be fought among the people, by bringing in trained soldiers from outside. They had strictly limited success in this endeavour, but some communities in South Africa were in any event disposed to engage in violent protest on their own initiative, notably in 1976 and after 1984. Furthermore,

³¹⁶ Ibid., 231

³¹⁷ Sisk, *Democratization in South Africa*, 62

³¹⁸ While the PAC was also a recognised liberation movement, its fortunes in exile declined considerably.

³¹⁹ Stephen Ellis, *External Mission: The ANC in Exile, 1960-1990* (Johannesburg: Jonathan Ball, 2012), 278

from 1975, the SADF was simultaneously fighting an old-fashioned conventional war in Angola using all the expensive military equipment required.”³²⁰

The issue of white minority rule was at the centre of the conflict. The basic demand of the ANC was the universal franchise. The government, for its part, devised various methods to include Africans on unequal terms so as to maintain white minority rule.

During the course of this conflict, the ANC was transformed. Before the Defiance Campaign, the ANC was organisationally weak with a membership of around “10,000 subscribers.” By the time of its banning in 1960, the number had climbed to “100,000.” Towards the end of exile, the ANC had evolved into a “centralised party with a code of conduct, enforced by severe sanctions, a distinct ideology and a well-defined programme. The ANC had turned itself into a liberation movement.”³²¹

Nelson Mandela and the SACP played an important role in this process. Mandela emerged as the most decisive ANC leader from the period of the Defiance Campaign up until the Rivonia Trial.

The relationship between the ANC and SACP and between the SACP and MK offered the ANC the financial, military and political support of a superpower, the Soviet Union.³²² This in turn brought with it an impressive global infrastructure of solidarity by way of an international alliance of communist and socialist parties. SACP veteran Ben Turok writes that the extent of the SACP’s influence over the ANC was “a system without precedence in the history of national liberation movements and arguably no [communist] party has managed to insinuate its presence and influence on such a scale.”³²³

³²⁰ Ibid., 278-279

³²¹ Ibid., 279

³²² Ibid., 280

³²³ Ben Turok, *Nothing But the Truth: Behind the ANC’s Struggle Politics* (Johannesburg: Jonathan Ball, 2003), 118

4.3. Pragmatic Apartheid: From Vorster to Botha, 1966 – 1978

After the death of Verwoerd and the ascension of Balthazar Johannes Vorster to the premiership, apartheid, Giliomee and Schlemmer argued, shifted “from a missionary sense of purpose to a pragmatic functionalism.”³²⁴ Whereas Verwoerd projected apartheid as a goal, under Vorster apartheid became perceived as a means to another vaguely defined end. Realising that apartheid was incompatible with winning broad support, “Vorster declared apartheid was not the ultimate goal, but the means to achieve Afrikaner identity in a white sovereign state”³²⁵; if this did not work, other means would have to be explored:

“No, chaps, you have got it all wrong. The cardinal principle of the NP is the retention, maintenance and immortalisation of Afrikaner identity within a white sovereign state. Apartheid and separate development is merely a method of bringing this about and making it permanent. If there are other better methods of achieving this end, then we must find those methods and get on with it.”³²⁶

Vorster’s style was ad hoc, “with no clearly outlined strategic goals, and no certainty about direction.”³²⁷ According to Giliomee, the main goal of government was “*om die fort te hou* – to keep the Afrikaner power base intact.”³²⁸ While slightly modifying Verwoerdian apartheid by moving away from pervasive social segregation, Vorster sought to retain separate development and not compromise principles.³²⁹ He encouraged contact with English-speakers and the outside world.

The turning point came in the early 1970s, when the government came under pressure. This pressure had three important sources.

³²⁴ Hermann Giliomee and Lawrence Schlemmer, *From Apartheid to Nation-Building* (Cape Town: OUP, 1990), 290-291

³²⁵ Jonathan Melunsky, *The Rejection of Silence and Desolation: Explaining Political Transition in South Africa. Doctoral Dissertation* (London: School of Oriental and African Studies, 2002), 72

³²⁶ Vorster cited in David Welsh, “The Executive and the African Population: 1948 to the Present”, in Robert Schrire (ed.) *Malan to De Klerk: Leadership in the Apartheid State* (London: Hurst and Co., 1994), 165

³²⁷ Melunsky, 73

³²⁸ Hermann Giliomee, *The Parting of the Ways: South African Politics 1976-82* (Cape Town: David Philip, 1972),

36

³²⁹ Melunsky, 73

First, in the beginning of the 1970s, the economy began to experience contradictions. The emergence of manufacturing as the leading sector of the South African economy had implications. The rapid growth of manufacturing “undermined the apartheid goal of preventing the development of a large and permanent population of African city dwellers.” The “pull of jobs” in the urban-based manufacturing sector, and the “push of poverty” in the rural and depressing homelands, “combined to vitiate the elaborate government effort at influx control into the white areas.”³³⁰ The African population living in urban areas thus tripled in the first two decades of apartheid.

This inability to slow the pace of African urbanisation constituted a failure of one of apartheid’s core goals and was expensive. While the social demography of South Africa was changing towards a growing and large permanent urban African population, with the forces of economic development shifting toward a technically skilled and permanent urban-based African workforce, apartheid bureaucracy was working to prevent Africans from acquiring the very skills and technical know-how needed by the most dynamic sector of the economy.³³¹ This inevitably contributed to low levels of productivity, increased training costs for employers, and skills shortages, all of which impinged on prospects for future economic growth and development for the manufacturing sector. The system of influx control also led to the instability of the available workforce. South Africa’s new and leading industrialists began to face difficult choices between significant aspects of apartheid and future economic growth and development. Industrialists chose the latter.

The NP’s core Afrikaner constituency also began to change. In 1948, the economic interests of the Afrikaner community had a bias towards agriculture.³³² The majority of parliamentarians at the time were directly elected from rural constituencies, with many Members of Parliament

³³⁰ Robert Price, *The Apartheid State in Crisis: Political Transformation in South Africa 1975-1990* (New York: Oxford University Press, 1991), 29

³³¹ *Ibid.*, 31-32

³³² *Ibid.*, 37

themselves being farmers.³³³ According to Giliomee, in the late 1940s, Afrikaners controlled 11 percent of the private sector economy outside agriculture.³³⁴ However, the economic base of the Afrikaner community changed. From agriculture, it shifted into all sectors of the non-agricultural economy including the state bureaucracy.³³⁵ By the mid-1960s, over “one quarter of the private sector outside agriculture was controlled by Afrikaners, and the proportion of Afrikaners in agricultural occupation dropped below 16 percent from over 30 percent in the 1940s.”³³⁶

As white controlled agriculture underwent modernisation during the 1950s and 1960s i.e. extensive mechanisation and the reduction in reliance on large numbers of African tenant farmers, it began to change its positions on the importance of labour control and repression. Organised agriculture began to relax its insistence that the state exercise more elaborate political control over the African labour market. This reduced the forces pushing for an extension of apartheid, and increased those advocating for the reform of apartheid in light of economic constraints.

The second source of change was external. A military coup in Portugal on 25 April 1974 precipitated a series of events that changed the political landscape of southern Africa. Before the coup, the four territories of Angola, Mozambique, Rhodesia and Namibia were each ruled by a white minority government, had a longstanding working relationship with the South African government, and constituted a buffer zone between South Africa and the forces of African nationalism across the Zambezi River. When the Armed Forces Movement overthrew the Portuguese dictatorship, South Africa's buffer zone collapsed. The new Marxist government in Portugal dismantled its African colonial empire. By the end of 1975, Mozambique and Angola had been granted independence and were controlled by political parties that professed a

³³³ Stanley Greenberg, *Race and State in Capitalist Development* (New Haven: Yale University Press, 1980), 88

³³⁴ Hermann Giliomee, “The Afrikaner Economic Advance,” in Hermann Giliomee and Heribert Adam (eds.) *Ethnic Power Mobilised* (New Haven: Yale University Press, 1979), 171

³³⁵ Price, 37

³³⁶ *Ibid.*, 38

commitment to Marxist-Leninism, had a history of opposition to apartheid, had close fraternal ties with the ANC, and received substantial assistance from the Soviet Union.³³⁷

The third source of change was the revival of black popular protest. This happened in two waves.

The first wave begins in 1973 when a wave of strikes by black workers swept across South Africa. Although legally constrained from forming trade unions and organising strikes, “tens of thousands of black workers put down their tools in a disciplined and ultimately successful effort to improve their wages.”³³⁸

The second wave begins on 16 June 1976 in Soweto when school children protested the introduction of Afrikaans as the medium of instruction in secondary school courses. They were met by a detachment of police who opened fire killing several children.

This series of events touched off a revolt against the apartheid system “that was unprecedented in its scope and endurance.”³³⁹ The revolt, and its suppression, galvanised the attention of international public opinion and “emphasised anew the pariah status that South Africa’s domestic arrangements conferred upon it within the international community.”³⁴⁰ It revived the whole issue of the international acceptability of apartheid and subjected South Africa to a different type of world pressure.

These pressures transformed entrenched attitudes; “they shaped Afrikanerdom’s future leaders, forced a re-think in government policy, and created a generational split.”³⁴¹ By the mid-1970s,

³³⁷ Ibid., 40

³³⁸ Ibid., 46

³³⁹ Ibid., 46-47

³⁴⁰ Ibid., 62

³⁴¹ Melunsky, 73

“some knew that Racial Utopia was unworkable and eroding.”³⁴² Importantly, “traditional associations, beliefs, memberships and organisations no longer led to promised lands. Just as the parents of this generation, economically-empowered by their service in the semi-state in the 1950s and 1960s, could see a world beyond their parent’s devotion to radical nationalist populism in 1930s and 1940s, so the elite born in the 1974-76 furnaces saw a world beyond Racial Utopia.”³⁴³ Leading Afrikaners began to question apartheid’s mission and its ethical basis. The question was no longer whether apartheid was the framework but rather what were its alternatives. Giliomee writes that two factors underpinned this debate; the future security of Afrikaners, and that the new order must have moral underpinnings.³⁴⁴

4.4. Reforming Apartheid: The Rise of P.W. Botha

It is in this context that Defence Minister Pieter Willem (PW) Botha succeeded Vorster as the Prime Minister, and sought to provide a response to the challenges facing the South African government.

Botha, Giliomee writes, was convinced that old-style apartheid had to be discarded. But this realisation did not stem from moral considerations or visions of justice; it stemmed from the stark military, economic and demographic realities of the 1970s.³⁴⁵ Botha believed that “the unrestrained pursuit of white interests was [not] sustainable, and recognised a political formula for urban Africans had to be found.”³⁴⁶ He realised that “Afrikaner political and social isolation could not work, and allies were needed to secure a more broadly based white dominance.”³⁴⁷ He

³⁴² Annette Seegers, *The Military in the Making of Modern South Africa*. (London: Taurus, 1996), 193

³⁴³ Annette Seegers, “The Head of Government and the Executive”, in Robert Schrire (ed.) *Malan to De Klerk: Leadership in the Apartheid State* (London: Hurst and Co., 1994), 71

³⁴⁴ Hermann Giliomee, “Survival in Justice: An Afrikaner Debate over Apartheid”, *Comparative Studies in Society and History* 36 (July 1994), 540-541

³⁴⁵ Giliomee, *The Partying of the Ways*, 111

³⁴⁶ Robert Schrire, *Adapt or Die: The End of White Politics in South Africa* (London: Hurst and Co., 1991), 47

³⁴⁷ Melunsky, 74

concluded that classical apartheid was impracticable.³⁴⁸ He told a provincial congress of the NP in the late 1970s that “apartheid was a recipe for permanent conflict [and that] change is the only alternative to revolution.” He advised Afrikaners that “the moment you start oppressing people... they fight back. We must acknowledge people’s rights.”³⁴⁹

The initial move towards reform came in 1977 through a report of the NP parliamentary committee on the constitution, and the appointment of two government commissions: the Riekert and Wiehan Commissions. The Wiehan Commission was charged with investigating industrial relations and trade union rights. It was instructed to make recommendations regarding the “adjustment of the existing system” in order for it to “provide more effectively for the needs of our times.”³⁵⁰ However, it was the Riekert Commission and the report of the NP parliamentary committee under Botha, while serving as Defence Minister, which had important implications.

4.4.1. The Riekert Commission and the NP Constitutional Committee

The Riekert Commission was instructed to investigate the systems and procedures that controlled the movement of Africans from the rural homelands to industrial cities. The commission was told to make recommendations “with a view to eliminate bottlenecks and other problems experienced by both employees and employers in the utilisation of labour.”³⁵¹ The impetus for reform was less for moral reasons; it was an attempt to resolve the inefficiencies associated with apartheid’s economic contradictions.

The Riekert Commission had two main objectives: to create an environment in respect to labour mobility and African urbanisation that would increase economic efficiency and reduce political

³⁴⁸ Brian Pottinger, *The Imperial Presidency: PW Botha the First 10 Years* (Johannesburg: Southern Book Publishers, 1988), 72

³⁴⁹ *Ibid.*, 50

³⁵⁰ Cited in Price, 81

³⁵¹ *Ibid.*

opposition.³⁵² To achieve these objectives, the commission called for major alterations in the system of influx control, and for new legislation that would “explicitly make provision for the social and economic development of urban Black communities that live in the White area.”³⁵³

The commission distinguished between the “established inhabitants of urban Black residential areas” and urban residents who were considered commuters, migrants and squatters.³⁵⁴ This latter and larger category of black urban inhabitants was not entitled to rights of permanent residence.³⁵⁵ The former category of ‘established residents’ were defined as those who had acquired “residential rights” under Section 10 of the Group Areas Act.³⁵⁶ The Riekert recommendation, accepted and implemented by the government, treated the two categories of black urban dwellers very differently. New means were recommended to keep the commuters and migrants out of the urban residential areas, and for the ‘established residents’, the commission proposed that residential rights be secured, that other rights and privileges be extended, and that living conditions be improved.³⁵⁷

Riekert’s proposals were designed to create an environment conducive for the emergence of a black middle class in the townships. This social strata was in turn expected to support the government’s efforts to limit the size of the black population in urban areas, for the ‘outsiders’ and revolutionaries would be a threat to the black middle class’s newly found stature and lifestyle.³⁵⁸

The report of the parliamentary committee of the NP, issued at the same time as the Riekert commission, also signalled an inclination for political reform. The report introduced a set of constitutional recommendations involving the extension of parliamentary representation to

³⁵² Republic of South Africa, *Report of the Commission of Inquiry into the Legislation Affecting the Utilisation of Manpower* (Riekert Commission Report) (Pretoria: Government Printer, 1979)

³⁵³ Riekert Commission Report, 245

³⁵⁴ *Ibid.*, 250

³⁵⁵ Price, 105

³⁵⁶ Riekert Commission Report, 248-252

³⁵⁷ *Ibid.*

³⁵⁸ Price, 106

Indian and coloured population groups.³⁵⁹ Although excluding the African majority, and placing limits on the nature of Indian and coloured representation, these recommendations constituted a significant reversal of the NP's policy of barring Indian and coloured participation in central government.³⁶⁰

The strengthening of the reformist drive was marked by the ascension of Botha to the premiership. Botha made domestic reform the centrepiece of his political strategy, and defined the purpose of his administration as adaptation and change.

4.4.2. Constitutional Reform

In June 1980, in the spirit of reform, the South African Parliament passed the Republic of South Africa Constitution Amendment Act. The Act abolished the Senate and replaced it with a multiracial President's Council tasked with agreeing on a new constitution. The council proposed a tricameral legislature with respective chambers for white, coloured and Indian members. This proposal was accepted by the South African Parliament when the Republic of South African Constitution Act was passed in late August 1983, and then ratified by a referendum in November 1983.

As for the African majority, the plan was to design separate institutions for them to exercise their rights. Three sets of legislation were drafted in this regard. The 'Orderly Movement and Settlement of Black Persons Bill' and the 'Black Community Development Bill' modified the influx control system by conferring urban status to Africans with stable employment in white areas.³⁶¹ A system of "approved accommodation" was introduced to prevent the increase of

³⁵⁹ Robert Price, "The Meaning of Government-Led Reform," in Robert Price and Carl Rosberg (eds.) *The Apartheid Regime* (Berkeley: Institute of International Studies, 1980)

³⁶⁰ Ibid.

³⁶¹ Tom Lodge and Bill Nasson, *All, Here, and Now: Black Politics in South Africa in the 1980s* (Cape Town: David Philip, 1991), 35

informal settlements in urban areas, and the Black Local Authorities Act of 1982 gave extra powers to black municipal councils to run township affairs.³⁶²

With a victory in the referendum of November 1983 behind him, Botha faced two important challenges.

First, he had to get the support of urban black leaders to accept the exclusion of black Africans from the Tricameral Parliament. Second, he had to persuade them to participate in a negotiating forum on black political rights³⁶³.

To deal with these twin issues, Botha appointed a special cabinet committee (SKK) five days after the referendum. The SKK was chaired by Botha's close ally, Jan Christiaan (Chris) Heunis, the Minister of Constitutional Development and Planning. Giliomee writes that Botha made his intention clear from the start: "he was opposed to a fourth chamber for blacks, but would support regional development, land consolidation in the homelands and a creation of a constellation of states."³⁶⁴ Thus, for the government, the Black Local Authorities Act, and accompanying legislation, was designed to compensate urban blacks from their exclusion from parliament. The system, however, would have an inherent flaw; black local authorities did not have a proper revenue base. Few township residents owned property, revenue from rates were limited, and many township beer halls (a major potential source of revenue) had been destroyed in the Soweto uprising in 1976 and the subsequent unrest.³⁶⁵

The government was not able to meet the expectations generated by its own discourse and actions. The most important constraint was financial; the cost of improving the physical and social conditions of urban black life were extremely high, and the government had expected to

³⁶² Ibid., 58

³⁶³ Herman Giliomee, *The Last Afrikaner Leaders: A Supreme Test of Power* (Cape Town: Tafelberg, 2012), 177

³⁶⁴ Ibid.

³⁶⁵ Ibid., 178

finance the upgrade of black townships out of revenues generated by economic growth. However, for a variety of reasons (falling gold prices, the structural impediments of the South African economy, and international economic isolation after the Soweto Uprising), the 1980s was a period of economic stagnation for the South African economy. The most important consequence was a decline in the level of black living standards.³⁶⁶ The recession of the 1980s brought increased levels of unemployment, high rates of inflation, and stagnating wages to the urban black population.³⁶⁷

Increases in rents became a significant threat to the living conditions of township residents. During the 1970s, the finances of the township administrations neared crisis proportions; “costs, driven by inflation, escalated; [the government] seeking to end state subsidisation of township administration, pursued a policy of township self-financing; and township-based revenues, generated largely by liquor taxes and rents, lagged behind expenditures.”³⁶⁸ By the end of the decade, township administrations were bankrupt.³⁶⁹ Consequently, pressure mounted to raise rents in order to cover the costs of domestic reform i.e. the costs of electricity, water, refuse collection, sewerage etc. Escalating rents thus became the salient feature of township life in the early 1980s.³⁷⁰

Government’s reform policies became a significant stimulus for the emergence of mass opposition in the black community, and latitude for that opposition to organise. The role of reform in the emergence of mass opposition worked in two ways.

First, reform policies gave rise to grievances. These became the “stimulus for the formation of new organisations, as well as the fuel for their efforts at mass mobilisation.”

³⁶⁶ Jeremy Seekings, “The Origins of Political Mobilisation in the PWV Townships, 1980-1984,” in William Cobbett and Robin Cohen (Eds.) *Popular Struggles in South Africa* (London: James Currey, 1988), 60-61

³⁶⁷ Ibid.

³⁶⁸ Riekert Commission Report, 68

³⁶⁹ Price, 159

³⁷⁰ Seekings., 203-204

Second, reform “limited government’s latitude in acting repressively against opposition organisations once they emerged.”³⁷¹ To ban newly created organisations and to put a blanket restriction on all political expression by the majority “would have made it impossible to convince the international community of the seriousness of the South African government’s intentions.”³⁷² Out of these new organisations, the United Democratic Front (UDF) was arguably the most significant.

In the history of black resistance in South Africa, the UDF was a movement of unprecedented pervasiveness and depth. The UDF was a broad coalition of student groups, civic associations, church societies, women’s organisations and trade unions. At its peak, it claimed a total membership of two million and an adherence to about seven hundred affiliates grouped in ten regional clusters, and embracing every major centre of population in the country. Its affiliates were ideological diverse but united only in their opposition to the apartheid government and demand for the universal franchise.³⁷³

The immediate spur to the founding of the UDF was the government’s reform proposals in 1982 and 1983 for the reform of the influx control system to control and regulate the presence of Africans in the cities, and the introduction of the new constitution that gave coloured and Indians limited power in a tricameral parliament but excluded the African majority. While these proposals were a catalyst for the UDF’s birth, “the actual genesis of the UDF lay in five strands of activity that developed following the banning of black consciousness bodies in 1977. Youth and student groups, trade unions, township civic organisations, and the revival of the nationalist tradition linked to the ANC each contributed in important ways to the UDF’s creation.”³⁷⁴

³⁷¹ Price, 160

³⁷² Ibid.

³⁷³ Tom Lodge and Bill Nasson, *All, Here, and Now: Black Politics in South Africa in the 1980s* (Cape Town: David Philip, 1991); Jeremy Seekings, *The UDF: A History of the United Democratic Front in South Africa 1983-1991* (Cape Town: David Philip Publishers, 2000)

³⁷⁴ Lodge et al, 35

However, despite the emergence of new organisations, and challenges of reform, the South African government was not on a 'pain-producing path' in 1983. There was no hurting stalemate and the conflict was not getting worse. Reform apartheid was simply an alternative means of achieving the central objective: the preservation of white minority rule.

4.5. The ANC's External Mission, 1960 – 1983

Immediately after the banning of the ANC and PAC, the organisational base of these resistance movements shifted into exile and while both professed a commitment to end apartheid, competition between them continued. By 1983, however, the fortunes of the PAC would considerably decline and the ANC would resurge.

Any explanation of the ANC's resurgence inside South Africa in the 1980s needs to take into account its diplomatic activities in exile. The ANC's exile diplomacy was the responsibility of the 'external mission', established by Oliver Tambo on the eve of its banning in 1960. The purpose of the external mission was to function as a foreign mission devoted to fundraising and diplomacy. After the arrest of the internal leadership at Rivonia in mid-1963, the external mission assumed greater responsibility.

It inherited three key objectives.

The first was the physical survival and relocation of the ANC. The difficulty with this was that South Africa was surrounded by colonial territories too economically reliant on South Africa to provide secure bases for banned South African organisations. As a result, the ANC had to relocate beyond the Zambezi River.

Second, the external mission assumed responsibility for military decisions. The continuation of the armed struggle was made possible through the alliance with the SACP and the support of the Soviet Union.

The third objective was most important: to gain exclusive recognition in the international community as “the sole legitimate representative” of South Africa’s oppressed people. For this, the ANC equated mobilisation for the struggle against apartheid with supporting the ANC i.e. if people genuinely opposed apartheid they should support the ANC.³⁷⁵

In order to pursue these objectives, the ANC established 43 missions in exile between 1960 and 1983. These missions can be organised into three important target areas of diplomacy: the Western powers (North America and Western Europe); the Soviet Union (including Eastern Europe); and Africa. Two institutions were responsible for this diplomacy: the Department of International Affairs (DIA) responsible for diplomatic work, and the Department of Information and Publicity (DIP) responsible for mass propaganda. These were accountable to the president, Oliver Tambo.

4.5.1. Diplomacy in the Western World

Apart from the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden) and The Netherlands, the majority of the ANC’s diplomacy in the Western world was confined to the activities of subnational anti-apartheid organisations (e.g. the Anti-Apartheid Movement in Britain, TransAfrica in the US, and the Holland Committee on Southern Africa), political parties

³⁷⁵ For good discussions on this see Scott Thomas, *The Diplomacy of Liberation: The Foreign Relations of the ANC Since 1960* (London: Tauris Academic Studies, 1996), 173 and Roger Pfister, “Gateway to International Victory: The Diplomacy of the African National Congress in Africa, 1960-1990”, *Journal of Modern African Studies*, Vol. 41, No. 1 (2003), 55

(e.g. Socialist, Social Democratic and Communist Parties in Western Europe), and international non-governmental organisations involved in anti-apartheid solidarity (e.g. the International Defence and Aid Fund, and the Socialist International).³⁷⁶ The objective of this diplomacy was to put pressure on national governments, either directly or indirectly (using the above-mentioned organisations), to support economic sanctions against South Africa and provide humanitarian assistance to the ANC. One can divide this diplomacy to that which targeted governments or non-governmental organisations.

4.5.1.1. Western Governments

Nordic countries provided support to the ANC at the highest level; since the early 1960s, they provided humanitarian assistance to South African political exiles, financed their educational activities and supported political detainees in South Africa.³⁷⁷ This official aid was initially provided through various United Nation agencies, but by the late 1970s, Nordic countries began providing aid directly to the ANC. While the money was small compared to the Soviet Union, the overall direct assistance (financial, humanitarian and political) gave the ANC international political legitimacy as important actors in South African politics. Sweden provided the largest amount of financial assistance followed by Norway, Denmark and Finland.³⁷⁸

Dutch assistance to the ANC came after the Soweto uprising when Tambo and Thomas Nkobi, the ANC Treasurer-General, met the Dutch Prime Minister Joop Den Uyl and his cabinet for the first time on 5 and 6 October 1977. Den Uyl promised official Dutch assistance for the ANC missions in Angola and Tanzania.

³⁷⁶ Scott Thomas, *The Diplomacy of Liberation: The Foreign Relations of the ANC Since 1960* (London: Tauris Academic Studies, 1996), 173

³⁷⁷ *Ibid.*, 177

³⁷⁸ See Tor Sellstrom, *Sweden and National Liberation in Southern Africa Volume II: Solidarity and Assistance 1970-1994* (Uppsala: Nordiska Afrikainstitutet, 2002)

4.5.1.2. Western Anti-Apartheid Organisations

The ANC's relationship with Nordic governments and The Netherlands was complimented by the formation and activities of a global network of anti-apartheid groups that consolidated the ANC's international legitimacy. The formation of these anti-apartheid groups in North America and Western Europe occurred as a result of three major events in South Africa.

First, during the Treason Trial of ANC activists between 1956 and 1962, Christian Action set up the Defence and Aid Fund (DAF), led by Canon L. John Collins of St. Paul's Cathedral, "to help with the legal expenses of the accused and provide assistance to their families."³⁷⁹ After the 1960s repression, the DAF moved to Britain and formed the International Defence and Aid Fund (IDAF), the first anti-apartheid international non-governmental organisation.

Second, a Boycott Movement was formed in Britain in 1959. The aim of the Boycott Movement was to persuade co-operative stores in Britain to withdraw South African goods from their shelves. After the shootings in Sharpeville, the Boycott Movement changed its name to the Anti-Apartheid Movement (AAM). The AAM "worked to mobilise British public opinion to support economic sanctions, but it increasingly became a transnational actor. It participated in anti-apartheid activities beyond Britain's borders by collaborating with anti-apartheid groups in other countries... and working closely with the ANC and other liberation movements."³⁸⁰

Third, following the Rivonia Trial in 1963, British solidarity organisations began to work with Amnesty International, and a Norwegian South Africa Committee was established to assist South African refugees.

³⁷⁹ Thomas, 175

³⁸⁰ Ibid., 182

The ANC also established political relations with Western European political parties such as the Italian Communist Party, the Spanish Socialist Workers Party, and the French Communist Party. These relations were complimented by the ANC's links to the Socialist International, the main international organisation of Social Democratic and Socialist parties. Social Democratic, Socialist and Communist governments and parties in Western Europe "supported the ANC's claim to be the "sole legitimate representative" of South Africa's oppressed people."³⁸¹ This reinforced the ANC's international legitimacy.

The ANC, however, never acquired the 'sole legitimate representative' status from Western governments and organisations despite its diplomatic success and increase in status. International organisations such as the United Nations and most western actors were aware of the plurality among South African opposition organisations.

4.5.2. The Soviet Union

The Soviet Union was a reliable supporter of the ANC. The re-establishment of important contacts between the Soviet Union and the ANC and SACP occurred in October and November 1961 when Moses Kotane, the Secretary General of both the ANC and SACP, was an official guest at the congress of the Communist Party of the Soviet Union (CPSU). Accompanied by Yusuf Dadoo, a senior SACP official, Kotane used his presence in Moscow to outline plans concerning the armed struggle and to "seek 'support in training military instructors'."³⁸² The CPSU approved the request.

As a result, from 1963 to 1965, "hundreds of Umkhonto fighters came to the USSR to be trained at Odessa, Moscow and Tashkent. In 1969-70 the surprise closure of the ANC camps in

³⁸¹ Ibid., 185

³⁸² Vladimir Shubin, "The Soviet Union/Russian Federation's Relations with South Africa, with Special Reference to the Period Since 1990", *African Affairs*, Vol. 95, No. 378 (1996), 5

Tanzania resulted in ‘retraining’ of the core of Umkhonto fighters in Simferopol in the Crimea and in other places in the USSR.”³⁸³

This, however, was only one sphere of cooperation. Others included “diplomatic support, participation in international solidarity campaigns, supplies both through Soviet government channels and through the NGOs of food, clothes, cars, trucks, stationary, sportswear, building materials and other goods. Assistance in the medical field included the training of dozens of doctors and nurses, the supply of medicine and equipment, treatment of sick and wounded ANC members in the USSR, and at a later stage, dispatch of Soviet doctors to the ANC camps in Angola.”³⁸⁴ Support also included academic and political training. This level of support was sustained up until the dismantling of the Soviet Union in 1991.³⁸⁵

4.5.3. Africa

The ANC’s diplomacy in Africa was the most complex, and it took the ANC many years to acquire legitimacy.

In Africa, the PAC’s policy of Pan-Africanism was more appealing to continental leaders. Mandela, who embarked on a continental tour, before his arrest, to garner support for the ANC wrote that the ANC’s non-racial policy was often criticised: “In the rest of Africa, most African leaders could understand the views of the PAC better than those of the ANC.”³⁸⁶

³⁸³ Ibid., 6

³⁸⁴ Ibid.

³⁸⁵ See Vladimir Shubin, *ANC: A View from Moscow* (Jacana: Johannesburg, 2009)

³⁸⁶ Nelson Mandela, *Long Walk to Freedom* (Edinburgh: Little, Brown and Company, 1994), 361

By 1964, the ANC had “established exile missions in Algeria, Egypt, Morocco, Tanzania and Zambia, while the PAC was represented in Botswana, Egypt, Tanzania, and Zaire.”³⁸⁷ The Organisation of African Unity (OAU), the United Nations (UN), and the government of Tanzania for many years tried to mediate and manage the tensions between the ANC and PAC. In 1969, for instance, the UN General Assembly gave recognition to both the ANC and the PAC as “authentic representatives of South Africa’s population.”³⁸⁸ And Tanzania housed both the ANC and the PAC.

Five years later, “the ANC still had to share the privilege of being granted observer status at the General Assembly and the Special Committee against Apartheid with the PAC.”³⁸⁹ This situation began to change from the mid-1970s. Five factors are important.

First, Zambia’s president, Kenneth Kaunda, had for many years lobbied the OAU and the UN to recognise the ANC as the most important anti-apartheid organisation. Kaunda went to the extent of expelling PAC members from Zambia in 1962.³⁹⁰ In addition, the ANC was able to establish its headquarters in Lusaka in 1970.

Second, the independence of Angola and Mozambique strengthened Kaunda’s position and provided further impetus to the ANC’s claim to exclusive legitimacy. The MPLA and FRELIMO were not only Marxist-Leninist and part of the Soviet alliance; they were also “part of an alliance with the ANC that had been concluded on the occasion of the Afro-Asian Peoples’ Solidarity Organisation (AAPSO) Conference in 1969 in the Sudanese capital Khartoum.”³⁹¹

³⁸⁷ Roger Pfister, “Gateway to International Victory: The Diplomacy of the African National Congress in Africa, 1960-1990”, *Journal of Modern African Studies*, Vol. 41, No. 1 (2003), 55

³⁸⁸ *Ibid.*, 57

³⁸⁹ *Ibid.*

³⁹⁰ Gail Gerhart and Clive Glaser, *From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882-1990, Volume 6: Challenge and Victory 1980-1990* (Bloomington: Indiana University Press, 2010), 152-156

³⁹¹ Pfister, 55

Third, through a chronic shortage of skilled administrators, persistent internal instability and ill-discipline, the PAC was excluded by the governments of Mozambique and Swaziland (in addition to Zambia).³⁹² By the end of the 1970s, “the exiled PAC also faced de-recognition by Tanzania, the OAU, and the UN” as a result of its internal instability.³⁹³ By the beginning of the 1980s, Mozambique, Angola and Zambia became openly hostile to the PAC, and Lesotho began to expel PAC members.³⁹⁴

Fourth, when a leading Southern African regional organisation was formed in 1974 by Botswana, Tanzania, and Zambia, the Front Line States, to pursue the objective of majority rule in Southern Rhodesia (later Zimbabwe), South West Africa (later Namibia) and South Africa, the governments of Zambia, Angola and Mozambique lobbied for sole recognition of the ANC.

While the Front Line States continued to play the role of mediator in the conflict between the ANC and PAC, the lobbying paid dividends; the ANC was able to establish MK training camps in Angola and Mozambique, while APLA was forbidden to do the same in Botswana and Zimbabwe. This facilitated MK’s ability to launch military attacks against South Africa, thereby increasing the ANC’s visibility.

Five, the formation of the UDF in 1983 provided the ANC with an important source of internal legitimacy. There are two reasons for this.

First, most of the UDF’s leaders were drawn from the ranks of 1950s ANC veterans.³⁹⁵ Most – if not all – of this UDF leadership had been members of the Congress Alliance and “saw

³⁹² Gerhart and Glaser, 152

³⁹³ Ibid.

³⁹⁴ Ibid., 154-155. The governments of Zimbabwe and Botswana however continued to maintain formal relations with the PAC, and were often willing to look other way in regard to transgressions of PAC members.

³⁹⁵ Jeremy Seekings, *The UDF: A History of the United Democratic Front in South Africa 1983-1991* (Cape Town: David Philip Publishers, 2000), 312

themselves as part of the ANC underground inside the country, whether formally or informally.”³⁹⁶ Further, a significant number of these leaders “had spent time in jail for ANC or MK-related activities or had joined the ANC whilst in jail.”³⁹⁷

Second, UDF leaders generally saw themselves as subordinate to the ANC in exile, although “subordinate in the sense more of a subordinate partner than of a subordinate in a straightforward hierarchical command structure.”³⁹⁸

By 1983, the ANC was regarded both internationally and in South Africa as an important opposition organisation to apartheid. In the Western world, it was part of a global network of anti-apartheid non-governmental organisations, political parties and governments who gave it international legitimacy. This, however, was in the context of the recognition of other anti-apartheid organisations. In the Soviet Union, the ANC was a client and the Soviet patronage included an extensive global network of socialist solidarity organisations. In Africa, recognition was in competition with the PAC, but as the PAC succumbed to internal instability, so the status of the ANC surpassed that of the PAC.

During this period, the ANC’s primary objective was consistent; the universal franchise. Armed struggle through MK was a means towards this goal. For this, political relations with the Front Line States, particularly Zambia, Tanzania, Angola and Mozambique were important. Diplomacy in the Western World and the Soviet Union was aimed at acquiring political support (the West) and military financial support (the Soviet Union) for this strategy. This was the position of the ANC at the beginning of 1983.

³⁹⁶ Ibid.

³⁹⁷ Ibid.

³⁹⁸ Ibid., 292

The ANC, however, was not on a 'pain-producing path' in 1983 and there was no perception of a hurting stalemate. Diplomacy in exile was a success in 1983 and the formation of the UDF had opened up possibilities of mass mobilisation in South Africa.

4.6. The Eve of Pre-negotiation: 1983

By 1983, the main actors in the South African conflict were the South African government, on the one hand, and a collection of opposition organisations on the other, based inside South Africa and internationally. The central issue of the conflict was white minority rule, and the NP government's system of apartheid (in its various formulations) was central for the implementation of white minority rule.

The NP government in 1983 under PW Botha should be understood within the context of the changes in the 1970s. The NP government realised that they could not slow the pace of African urbanisation. Separate development was not going to achieve the goal of reversing African urban migration. After the Soweto Uprising, leading Afrikaners began to question the ethical basis of apartheid. As a result, PW Botha reached three conclusions: (1) classic apartheid was impracticable; (2) Afrikaner political and social isolation could not work; and (3) a political formula for urban Africans had to be found.

The goal, however, was still the same: the preservation of white minority rule. Given the changes of the 1970s, an alternative framework had to be found to maintain this goal. Constitutional reform, in particular the Republic of South Africa Constitution Act of 1983, the Black Local Authorities Act of 1982 and accompanying legislation, was the development of this alternative framework. Thus, the NP government in 1983 was undergoing reform.

In 1983, there were two anti-apartheid fronts. Externally there was the ANC, PAC and an important number of international solidarity anti-apartheid organisations covering the broad spectrum of international politics. This external front also included governments and regional and international organisations. By 1983, the ANC had become a prominent anti-apartheid organisation, surpassing the PAC. It by no means, however, was the solely recognised organisation. Internally there was an abundance of civil society-based organisations bound together by a commitment to social and political equality, and the universal franchise. The most prominent were those under the umbrella of the UDF which had important historical ties to the 1950s Congress Movement.

In this anti-apartheid organisational mosaic, the historical ties between the ANC and the UDF, as discussed, were older and stronger. This gave the ANC a powerful sense of historical legitimacy.

Thus, in 1983, neither the NP government nor the ANC were on a pain-producing path. Both parties did not perceive the conflict to be a hurting stalemate and there was no mediator in sight to deflect the parties from their unilateral positions into a joint bilateral solution. An aborted pre-negotiation initiative in 1979 confirms this absence of a pain-producing path. On 30 and 31 October 1979, Chief Mangosuthu Buthelezi, the chief minister of the KwaZulu Bantustan and leader of Inkatha, brought an official delegation to London to meet Tambo and senior ANC leaders. According to Thabo Mbeki, the ANC's propaganda chief and later chief diplomat, the South African government had sent a message through Buthelezi on possibilities of opening a communication channel, but the ANC was "not ready to listen."³⁹⁹ Tambo's response to Buthelezi had been curt: "What has PW done to suggest that he's worth seeing?"⁴⁰⁰

³⁹⁹ Gevisser, 492-493

⁴⁰⁰ Ibid.

4.7. Conclusion

This chapter identified the central issue in the South African conflict as white minority rule. The basic demand of the ANC and its allied and other resistance organisations was for the universal franchise and the right to be included as equals in society and in political life.

Successive NP governments devised various methods to coopt Africans on unequal terms so as to maintain white minority rule. These methods were repeatedly rejected by opposition organisations. By 1983, however, neither the NP government nor the ANC and its allied organisations were on a pain-producing path. Both parties did not perceive the conflict to be a hurting stalemate and there was no mediator in sight to deflect the parties from their unilateral positions into a joint bilateral solution. The NP government was committed to reforming apartheid as a means of preserving white minority rule. And the ANC and its allied organisations were committed to the struggle for the universal franchise in South Africa.

CHAPTER FIVE

Stage One and Two of the Pre-negotiation Stage

The ANC

The question this chapter seeks to answer is why the ANC chose to negotiate at all. In answering this question the chapter will use stages one and two of Tomlin's model on pre-negotiation. Tomlin writes that the first stage of pre-negotiation is brought about by a change in conditions that causes a restructuring of values attached to alternative outcomes. The stage is characterised by an assessment of the problem produced by changing conditions, and a preliminary evaluation of alternative responses that adds negotiation to the range of policy options. When negotiation is added, a turning point is reached and the process moves to the second stage. In the second stage, a negotiated solution is actively considered. Another turning point is reached if negotiation is chosen as the preferred policy alternative, moving the process to the third stage. The chapter will end by discussing whether indicators of ripeness can assist in answering why the ANC chose to negotiate at all.

The chapter is divided into four sections. Section one discusses the important political and military conditions in exile that resulted in the consideration of a negotiated solution. The second section discusses the first stage of pre-negotiation where the ANC assesses these changing conditions, evaluates alternative outcomes, and adds negotiation to the range of policy options. The third section discusses the second stage of pre-negotiation where the ANC actively considered a negotiated solution. The discussion on the second stage continues into the next chapter as the ANC and government's stream in pre-negotiation merge. The fourth section discusses the theoretical implications of the discussion for pre-negotiation and ripeness.

5.1. Changing Conditions: 1983-1984

Five important changing conditions led to the exploration of negotiated solutions for the ANC: United States pressure for a negotiated settlement; changing political and military conditions in Southern Africa for the ANC; MK's inability to reinforce the 1984-86 uprising in South Africa; Oliver Tambo's case for adding a diplomatic option at the Kabwe Conference; and the increased interactions between ANC leaders and non-ANC aligned civil society organisations in South Africa.

5.1.1. Background: International Pressure for Negotiation

Towards the end of 1983, the ANC was subject to international pressure for a negotiated resolution to the South African conflict. The first important source of pressure came from the United States in 1983. As part of the Ronald Reagan's administration's mediation in the Angolan civil war, the United States government sought to raise the profile of their dialogue with the ANC in order to test their seriousness about negotiation.⁴⁰¹ According to Chester Crocker, the United States Assistant Secretary of State for African Affairs:

“We would use our contacts to focus on the shape of a post-apartheid future, underscoring our conviction that Marxist-Leninist principles were the last thing South Africa needed. Raising the visibility of our ANC contacts would directly confront Pretoria's absurd attempt to dictate who should be on the other side of any future table.... Meeting visibly with the ANC would set an example to Pretoria: talking to someone does not mean that you approve of them or agree with them. Placing our weight solidly behind negotiation would be the best way to signal to all parties the alternatives they faced.”⁴⁰²

⁴⁰¹ Chester Crocker, *High Noon in Southern Africa: Making Peace in a Rough Neighbourhood* (Johannesburg: Jonathan Ball, 1993), 318

⁴⁰² Ibid.

Crocker sent his senior intelligence staffer, Robert Cabelly, to make contact and meet with the ANC through Thabo Mbeki, Tambo's political secretary and the DIP director. On 7 September 1983, at the United States Information Service office in Lusaka, Cabelly met Mbeki and Sipho Makana, the Head of Information at the ANC's Department of Intelligence and Security (NAT). Makana recalls that the encounter was very blunt: "we don't trust each other but we have to work together." He and Mbeki read it as an attempt by South Africa to get a message to the ANC: "Drop the SACP and the Soviet Union, and we can do business."⁴⁰³ Cabelly insisted that the ANC become part of the "policy reforms in the region", and if this was not done, the ANC would be "driven out of the region."⁴⁰⁴

Cabelly told Mbeki's biographer, Mark Gevisser, that he reported three primary impressions to Crocker: "Firstly, that the ANC was in no way a military threat to South Africa; secondly, that behind the united front of the frontline states, they were all very iffy about the ANC; and thirdly, that Thabo Mbeki was a very sharp guy."⁴⁰⁵ Mbeki and Cabelly kept an open channel of communication, and in the following three years, would meet at least six times in Lusaka, culminating in the first official meeting between the ANC and the United States government in Washington in 1987.

5.1.2. Conditions in Southern Africa

Taken together, two important changing conditions in Southern Africa contributed to the shift towards exploring negotiated solutions: the position of MK in Mozambique and resultant pressure from the Front Line States.

⁴⁰³ Mark Gevisser, *Thabo Mbeki: The Dream Deferred* (Johannesburg: Jonathan Ball, 2007), 489

⁴⁰⁴ Vladimir Shubin, *ANC: A View from Moscow*. (Belville: Mayibuye, 1999), 209

⁴⁰⁵ Gevisser, 488

5.1.2.1. The Nkomati Accord and the Closure of the Eastern Front

The regional strategy of the South African government involved various military and economic policies designed to “persuade the countries in the region to expel the ANC from their territories.”⁴⁰⁶ In 1984, this strategy began to bear fruit. At the same time, MK strategists had warned the ANC leadership on the need to locate the armed struggle within South Africa’s borders in order to “overcome MK’s dependence on rear bases in neighbouring countries.”⁴⁰⁷

For MK in 1984, Mozambique was of strategic importance. MK’s structures in Mozambique were the most active at the time and were responsible for Natal, the Transvaal and the Cape, therefore handling the majority of MK personnel flowing in and out of South Africa.⁴⁰⁸

Because Mozambique could not fight a war on two fronts i.e. the Zimbabwe-Rhodesian and the South African, it chose to prioritise the immediate Zimbabwean struggle for independence.⁴⁰⁹ As a result, the ANC adopted three measures to adapt to Mozambique’s needs.

First, MK would not transport guerrillas or weapons into South Africa across Mozambique’s borders; instead, MK would infiltrate South Africa indirectly through Swaziland.⁴¹⁰ Second, MK would not establish military training camps on Mozambican soil. Third, MK units inside South Africa would not conduct military operations near Mozambique’s borders.⁴¹¹

⁴⁰⁶ Thula Simpson, *The People’s War of Umkhonto we Sizwe, 1961-1990* Doctoral Dissertation (London: University of London, 2006), 207

⁴⁰⁷ Transcript of Ivan Pillay interview by Howard Barrell, 20 July 1989, Folder 31, Part 1 Karis-Gerhart Collection, Historical Papers, University of the Witwatersrand

⁴⁰⁸ Simpson, *The People’s War of Umkhonto we Sizwe*, 207

⁴⁰⁹ Fraternal Message from the African National Congress to the FRELIMO Party, 31 January 1984. Folder 54, Part 3, A2675 Karis-Gerhart Collection, Historical Papers, University of the Witwatersrand

⁴¹⁰ Ibid.; Also see Howard Barrell, “The Turn to the Masses: The African National Congress Strategic Review of 1978-1979”, *Journal of Southern African Studies*, Vol. 18, No. 1 (1992), pp64-92

⁴¹¹ Fraternal Message from the African National Congress to the FRELIMO Party, 31 January 1984. Folder 54, Part 3, A2675 Karis-Gerhart Collection, Historical Papers, University of the Witwatersrand; Thula Simpson, ,

The ANC's concessions had important consequences; because the Mozambique-Swaziland-South Africa border area became a hive of activity, especially in the post-Soweto exodus where large groups of militant youth crossed the borders, the Swazi and Mozambican governments soon "lost their nerve."⁴¹² As the civil war with Renamo intensified, with the SADF increasing the rate of commando raids into Mozambique, Samora Machel succumbed to pressure; support for MK was replaced by a desire to achieve rapprochement with South Africa.

After an SADF commando raid in May 1983 killing several Mozambicans, an angry Machel told John Nkadimeng, the ANC representative in Mozambique, that it was 'high time' the ANC "got its act together and started to make its numbers count."⁴¹³ Soon, "the number of ANC members permitted to reside in the country was cut down and active steps were taken to reduce the traffic of its cadres in and out of the country."⁴¹⁴

Under pressure, Machel sort to achieve a rapprochement with South Africa at almost any cost and in pursuit of improving relations, the *Frente de Libertação de Moçambique* (FRELIMO) government began a process of negotiation with the South African government, culminating in the signing of the Nkomati Accord on 16 March 1984. The Accord stipulated that "neither country could allow its territory to be used as a springboard for attacks on the other." Essentially, this involved Mozambique agreeing to expel the ANC, and South Africa ceasing its support for Renamo.⁴¹⁵

As a result of the Accord, over 100 MK personnel in Mozambique were expelled. Large numbers crossed the border into Swaziland, taking with them truckloads of arms and

"The Making (and Remaking) of a Revolutionary Plan: Strategic Dilemmas of the ANC's Armed Struggle, 1974-1978", *Social Dynamics*, Vol. 35, No. 2 (September 2009), 316

⁴¹² Transcript of Sue Rabkin interview by Howard Barrell, 7 July 1989, Folder 32, Part 1 Karis-Gerhart Collection, Historical Papers, University of the Witwatersrand

⁴¹³ Simpson, *The People's War of Umkhonto we Sizwe*, 209

⁴¹⁴ Ibid.

⁴¹⁵ Ibid.

ammunition, and entered an ANC infrastructure designed to support between 70 and 80 members in transit.⁴¹⁶

This exodus was exacerbated by a simultaneous intake of larger recruits from South Africa into Swaziland. Raymond Lalla, MK's chief of intelligence in Natal, recalled that "while 100 or so went from Mozambique to Swaziland ... about 300 to 400 went from South Africa to Swaziland."⁴¹⁷

The co-operation between Swazi and South African security agents compounded the problem; South African agents operated with authority in Swaziland. The sudden influx of large numbers of MK personnel made skirmishes with local security forces, and confrontation with South Africa security agents, inevitable. When an MK assassination squad killed a senior Swazi security officer, ANC structures became "subject to an aggressive conjoint Swazi-South African offensive."⁴¹⁸ The "ensuing 'Battle of Swaziland' took a heavy toll on the ANC ... particularly the ... 'middle-cadre' ... who were people with almost a decade of experience in underground work and therefore were poised to be promoted to positions of leadership in the future."⁴¹⁹

5.1.2.2. Pressure from the Front Line States

The turning point that signalled a shift towards negotiation came in the run-up to the Nkomati Accord.

The ANC's Lusaka office was concerned about its exclusion from consultations and briefings by the Mozambican government on high-level South Africa-Mozambique ministerial

⁴¹⁶ Barrell, *Conscripts to their Age: African National Congress Operational Strategy, 1976-1986* Doctoral Dissertation (Oxford: University of Oxford, 1993), 337

⁴¹⁷ Raymond Lalla cited in Simpson, *The People's War of Umkhonto we Sizwe*, 210

⁴¹⁸ Simpson, *The People's War of Umkhonto we Sizwe*, 210

⁴¹⁹ Transcript of Ivan Pillay interview by Howard Barrell, 23 July 1989, Folder 31, Part 1 Karis-Gerhart Collection, Historical Papers, University of the Witwatersrand

negotiations. Johnny Makhathini, the DIA director, stated that this had made Tambo unusually anxious.⁴²⁰

In anticipation of the signing of the Accord, the ANC's National Working Committee (NWC) called an extended meeting at the end of 1983, to explore scenarios for potential negotiations. The NWC commissioned a group chaired by Pallo Jordan, the deputy director of DIP, with a brief to examine various scenarios in the event of negotiations.

Jordan reported that negotiations could come about under three circumstances: (1) the outright defeat of the apartheid regime; (2) a stalemate; or (3) a 'Patriotic Front dilemma' i.e. the situation of the Zimbabwean Patriotic Front (the coalition of the Zimbabwe African National Union and the Zimbabwean African People's Union) in 1979 when the Front Line States gave them an ultimatum to go to Lancaster House or get out of their countries.⁴²¹ They pointed out that if the ANC was subjected to sufficient political pressure by the Front Line States, it would need to be well prepared; "it would, therefore, be important to set their terms on the table."⁴²²

In the chaos of the aftermath of the Nkomati Accord, and the ensuing 'Battle of Swaziland', the exploration of negotiated solutions began.⁴²³

The regional implications of the Nkomati Accord were discussed at a Front Line States summit meeting in Arusha, Tanzania, on 29 April 1984. An important shift in favour of a negotiated solution to the South African conflict occurred with Front Line State leaders. The final communiqué of the summit illustrates that the ANC in 1984 was in a 'Patriotic Front

⁴²⁰ Narissa Ramdhani, *No Easy Walk: Building Diplomacy in the History of the Relationship between the African National Congress of South Africa and the United States of America, 1945-1987* Doctoral Dissertation (Durban: University of Kwazulu-Natal, 2008), 135

⁴²¹ Callinicos, 576

⁴²² Ibid.

⁴²³ Mark Gevisser, *Thabo Mbeki: The Dream Deferred* (Johannesburg: Jonathan Ball, 2007), 490. Emphasis added.

dilemma'. The communiqué also referred to the ANC, and not the PAC, as the leading resistance organisation.

Front Line State leaders made it clear their preference for a negotiated solution to the end of apartheid and set preconditions:

“For South Africa, the objective of the Front Line States and Liberation Movements is the abolition of apartheid by whatever means are necessary. The Leaders present again reiterated their strong preference for apartheid to be brought to an end by peaceful means. This can be achieved only through a process agreed upon in free discussions between the present South African regime and genuine representatives of the people of South Africa who are unrepresented in the present government structure of that country. A prerequisite for any such discussions would be the unconditional release from prison, detention, house arrest or ‘banning’ of Nelson Mandela and all other political leaders. Difficult as this step may be in the eyes of the present South African Government, there is no way to peace in southern Africa except through discussions between the South African Government and the African people of South Africa.”

The ANC was identified as principal liberation movement:

“The political and the armed struggles being waged by the peoples of Namibia and South Africa led by SWAPO and ANC respectively, are taking place inside those two countries. The struggle is between the people of Namibia and the occupying power, and between the people of South Africa and the apartheid regime. Therefore, the strategy of the Liberation Movements is that of internal struggle, firmly based on the people’s will and determination.”⁴²⁴

The Front Line States summit was important; it put pressure on the ANC to add negotiation into their policy alternatives. This pressure from the Front Line States was sufficient and the ANC began to explore negotiation possibilities.

⁴²⁴ Final Communiqué, Front Line States Summit Meeting, Arusha, Tanzania, 29 April 1984 cited in Alves Gomes, “Southern Africa 1984”, *Review of African Political Economy*, No. 29 (1984), 144-146

5.1.3. The Vaal Uprising and Operation Zikomo

5.1.3.1. The 3rd Day of September

Five months after the Front Line States Summit and as the ANC began exploring negotiation possibilities, an uprising began in the townships of the Vaal Triangle that set into motion a sustained period of popular protest unprecedented in scope and intensity. The uprising and its consequences significantly challenged the authority and legitimacy of the South African government.

On 3 September 1984 the government began to lose control of the reform process. The uprising that began in the Vaal Triangle was a rejection of reform and was initiated by the UDF-affiliated Vaal Civic Association (VCA) over the issue of rent increases.

The rent increases had an important context. As discussed in the previous chapter, as part of Botha's reforms, legislation was passed to deal with the position of urban Africans, culminating in the Black Local Authorities Act of 1982, which gave more powers to black municipal councils in running township affairs. Revenue for the councils would come from the rent and service charges that would accrue once the council obtained responsibility for the control of housing, as well as special levies on township residents.⁴²⁵

This township self-financing regime soon reached a cul-de-sac; rising inflation and the government policy of getting township residents to pay for township upgrade themselves escalated the costs of financially administering townships. Rents were consistently hiked in order to cover the costs of electricity, water, refuse collection, sewage and the like.

⁴²⁵ Price, 131

Township residents subsequently held public meetings addressed by various national opposition organisations such as the Azanian People's Organisation (AZAPO), the Azanian Students Organisation (AZASO), and the UDF-affiliated organisations such as the Soweto Civics Association (SCA), Congress of South African Students (COSAS), and VCA. Residents resolved not to pay the increases, and called on the councillors to resign. When the councillors refused to reduce the increases and meet the demands of the residents, the VCA called for a work stay-away and a school boycott on 3 September.

On 3 September 1984, 60% of workers stayed away and almost all the 93,000 pupils in the Vaal Triangle boycotted classes, solidifying an emerging alliance of residents, trade unions, and students.⁴²⁶ A week-long state of paralysis set in, with a profound impact on the Vaal Triangle's industries and wider regional economy.⁴²⁷

When the overwhelmed local councils requested police assistance to restore order, violence followed, and in the following four weeks, the Vaal witnessed pitched battles between residents and students against police, leaving more than 60 people dead, and thousands of arrests and detentions. A phase of general chaos ensued; police and commercial vehicles were stoned, the homes of community councillors were torched, and the school boycotts were extended and expanded in geographical reach. New anti-apartheid organisational structures were emerged; a COSAS proposal to trade unions on 27 October led to the formation of the UDF-affiliated Transvaal Regional Stay-away Committee (TRSC), an alliance of 36 political, community, and student organisations and trade unions.

Toward the end of October, the government stepped in to re-establish order; 7,000 SADF soldiers, assisting the South African Police (SAP), conducted Operation Palmiet, a major

⁴²⁶ Between February and July that year, South Africa was already in the grip of a COSAS-led nation-wide school boycott, involving over 30 000 pupils' not attending classes in the Vaal Triangle. The boycott spread to schools in the Pretoria townships and the Eastern Cape and involved over 200 000 school children.

⁴²⁷ Tom Lodge, Bill Nasson, Steven Mufson, Khehla Shubane and Nokwanda Sithole, *All, Here and Now: Black Politics in South Africa in the 1980s* (Cape Town: David Philip, 1991), 67

search-and-arrest operation in the Vaal Triangle.⁴²⁸ Over 400 people were arrested and detained.⁴²⁹

The state's response intensified the uprising. The TRSC called for another two-day stay-away between 4 and 6 November. The call was once again widely heeded; in a massive demonstration of the nature of discontent, 800,000 workers stayed at home, joined by 400,000 pupils from an extended school boycott led by COSAS. The discontent in the Transvaal townships converged in the November stay-away organised by the TRSC, when school children, community organisations and trade unions united under the TRSC and expressed their discontent in the largest political stay-away on record.⁴³⁰

The government response to the uprising was two-fold.

First, the government declared a partial state of emergency on 21 July 1985.⁴³¹ Second, the military intervened again, occupying the streets in force, setting up road blocks, conducting house-to-house searches and maintaining 24hour patrols.⁴³² Soldiers and policemen were given absolute authority to arrest, interrogate, search homes, and confiscate possessions.⁴³³ These powers were used extensively.⁴³⁴

⁴²⁸ South African Institute of Race Relations (SAIRR), *Race Relations Survey, 1984* (Johannesburg: Institute of Race Relations, 1985), 75

⁴²⁹ Ibid.

⁴³⁰ Ibid., 6

⁴³¹ The emergency initially covered the Eastern Cape and Transvaal, but later included the Western Cape from 25 October. Curfews from 10pm to 4am were imposed in the townships of the Eastern Cape (Fort Beaufort, Port Elizabeth and Uitenhage) and Soweto (Diepkloof, Meadowlands and Dobsonville) in the Transvaal. The restrictions went further; on 28 August, COSAS, the UDF's largest affiliate, was banned, and on 26 October, AZAPO, AZASM (the Azanian Students Movement), AZASO, the Detainees Parent's Support Committee, the National Forum Committee, the New Unity Movement, and the UDF and its affiliates were prohibited from organising or holding any gatherings in the emergency affected areas.

⁴³² Lodge et al, 78

⁴³³ Ibid.

⁴³⁴ Altogether, 7 361 people were detained under the emergency regulations between July and December; the combined total of 11 750 exceeds the figure of about 11 500 people detained following the 1960 Sharpeville (Vaal Triangle) and Langa (Cape Town) unrest, and the 2 430 detentions in the fourteen months following the Soweto Uprising of 16 June 1976. See South African Institute of Race Relations (SAIRR), *Race Relations Survey, 1985* (Johannesburg: Institute of Race Relations, 1986), 441

When the partial state of emergency failed to suppress the uprising, the government declared a second, and general, state of emergency on 12 June 1986. Unlike the first state of emergency, which affected specific magisterial districts, the second affected the whole of South Africa. Applied with an unprecedented harshness that temporarily put a halt to the uprising, it was renewed annually for four years. The detentions which came with this general state of emergency were particularly damaging to the UDF. In the first six months of the general state of emergency, between 20,000 and 30,000 people were detained, and several thousand endured months, and others years, in police cells and prisons. Detentions were countrywide, with the largest numbers recorded being in Soweto and Port Elizabeth.⁴³⁵

5.1.3.2. 'Operation Zikomo'

The ANC initially sought to provide guidance to the township uprising. Thabo Mbeki sought to "encourage confrontation while moderating expectations":

"[In] our planning, in our thinking, we must proceed from the basis that we inflicted a humiliating defeat on our enemy [through the boycott of coloured and Indian elections]... [As] revolutionaries, as fighters for liberation, [we] must plan how we should continue our offensive, knowing very well that the enemy will, as it must, hit back to stop the emergence and consolidation of the revolutionary situation that Pretoria fears so much."⁴³⁶

Mbeki called for a campaign to make South Africa 'ungovernable':

"We must destroy the enemy organs of government. We must render them ineffective and inoperative... In rejecting Botha's regime, we also reject his puppets. There is no reason that we should allow there puppets to control our lives... In every locality and in all parts of our country, we must fight to ensure that we remove the enemy's organs of government."⁴³⁷

⁴³⁵ Lodge et al, 82

⁴³⁶ Cited in Barrell, *Conscripts to their Age*, 352

⁴³⁷ *Ibid.*, 353

The ANC's opportunity to intervene and reinforce the uprising arrived in mid-1985 with the launch of Operation Zikomo, a large-scale infiltration of MK combatants into South Africa. According to Ronnie Kasrils, the MK chief of intelligence, the purpose of Zikomo was to "inject several hundred combatants as 'shock forces' in the township uprisings." They were to "form a kind of officer class for township militants, providing them with leadership and training."⁴³⁸

However, the ANC's political conditions in exile i.e. the dismantling of its military structures in Mozambique and the uncertain transitional environment of Swaziland, severely limited its ability to provide tactical guidance to the township revolt. This was compounded by the fact that MK strategists sought to apply prescriptions of 'military combat work' to the revolt. The view developed that MK fighters would form the officer corps of an army to be created by organising and arming the township activists, resulting in a coordinated and sustained uprising.⁴³⁹

Ivan Pillay, MK's intelligence chief in Swaziland, told Barrell that the combatants had minimal back-up: "they had maybe ... R1,000 or R2,000, maybe ... 12 hand grenades and an AK ... many of them just being put across the fence and sent home to integrate themselves with the defence committees, street committees etc."⁴⁴⁰ According to Mac Maharaj, Zikomo was a legacy of the Angolan mutiny the previous year and "represented a belated attempt to accommodate the grievances in the camps by sending a large number of cadres back home." However, "it quickly degenerated into sending them like cannon fodder, to put it crudely."⁴⁴¹

Several arguments had preceded Zikomo: the lack of underground structures to integrate MK; and the poor quality of political and intelligence briefings guerrillas received before infiltration. From this view, Zikomo was an attempt to compensate for the unpreparedness of

⁴³⁸ Transcript of Ronnie Kasrils interview with Howard Barrell, 19 August 1989, Folder 14, Part 1 Karis-Gerhart Collection, Historical Papers, University of the Witwatersrand

⁴³⁹ Simpson, *The People's War of Umkhonto we Sizwe*, 200

⁴⁴⁰ Transcript of Ivan Pillay interview with Howard Barrell, 20, 23 July 1989, Folder 31, Part 1 Karis-Gerhart Collection, Historical Papers, University of the Witwatersrand

⁴⁴¹ Transcript of Mac Maharaj interview by Howard Barrell, 3 February 1991, Folder 18, Part 1 Karis-Gerhart Collection, Historical Papers, University of the Witwatersrand

the ANC when the Vaal Uprising began.⁴⁴² Zikomo, however, did have some important short-term effects. As the government lost control over some of the townships, the newly infiltrated guerrillas survived. Consequently, MK activity increased to new levels from June 1985: “whereas there had been 30 attacks in the five months to May, there were 31 in June alone and 75 more between July and December; a total of 136 attacks for the year, more than double the number in any previous year.” In 1985, “the state killed or captured a mere 31 MK guerrillas, which meant a ratio of three guerrillas captured or killed for each 13 attacks; MK’s best year and most favourable casualty rate ever.”⁴⁴³

However, the ANC was not able to provide tactical direction to the uprising. MK’s intelligence officers acknowledge that their role in developing street committees and rent boycotts in the townships in the 1985-86 period was minimal. Garth Strachan, Joe Slovo and Ronnie Kasrils acknowledge that the ANC simply picked up on local initiatives made by ordinary residents and internal activists and then, post facto, developed strategies which made sense to them.⁴⁴⁴ After the second state of emergency, MK could not spread insurrectionary pressures beyond scattered localities, and therefore could not attenuate security forces to any significant degree.

As the state rolled back the unrest through the second state of emergency, MK’s casualty rate rose sharply. Bill Anderson, a senior NAT intelligence officer based in Lusaka, recalled that intelligence communications after losing the eastern front in the post-Nkomati period were established in an ad hoc manner “with infiltrated units only given very brief instructions about potential contacts in the internal underground.” Most of these units “soon lost contact with their external handlers upon entry into the country and were left to fend for themselves.”⁴⁴⁵ Kasrils estimated that as many as “75-80% of those infiltrated in the early 1980s were lost by 1986/87, whether through being killed, captured or having deserted for a variety of reasons ranging from a loss of contact with their external commanders, a shortage

⁴⁴² Barrell, *Conscripts to their Age*, 389

⁴⁴³ *Ibid.*, 390-391

⁴⁴⁴ Barrell, *Conscripts to their Age*, Chapter 9

⁴⁴⁵ Transcript of Bill Anderson interview by Howard Barrell, 8 April 1991, Folder 1 Part 1, Karis-Gerhart Collection, Historical Papers, University of the Witwatersrand

of ammunition, or basic disillusionment with the ANC.”⁴⁴⁶ Usually, “communications were so poor that the first the forward areas usually heard about the cadres that they deployed was after news of their capture or death was announced in the media.”⁴⁴⁷

5.1.4. The Kabwe Conference and its Consequences

The importance of the Kabwe Conference should be viewed within this context of early discussions with United States diplomatic envoys over possibilities of a negotiated solution, the Nkomati Accord and the closure of MK’s eastern front, the Front Line States preference for a negotiated end to apartheid, and MK’s inability to reinforce the uprising. These developments presented the ANC with two fundamental choices: (1) to continue the armed struggle with limited possibilities of its success, or (2) to pursue a negotiated settlement.

Given that the Kabwe Conference occurred during Operation Zikomo, armed struggle could not be discounted in 1985. The ANC therefore theorised that the two options could be mutually reinforcing: “revolutionary pressures could feed the prospects for negotiations; and, if negotiations started, this might create legal space in which its organisers could advance the prospects for revolutionary confrontation. But realising a symbiotic relationship between them would prove difficult.”⁴⁴⁸

In the midst of this fluidity, Tambo, who had repeatedly been approached for a meeting by various intermediaries acting for South African business interests, seized the opportunity to make the case for negotiation possibilities. He asked conference delegates “for clearance to meet an unnamed group of ‘important people’ who wanted to talk to the ANC; the talks, he specified, would not amount to negotiations with the government.”⁴⁴⁹

⁴⁴⁶ Transcript of Ronnie Kasrils interview with Howard Barrell, 13 September 1990, Folder 14, Part 1 Karis-Gerhart Collection, Historical Papers, University of the Witwatersrand

⁴⁴⁷ Simpson, *The People’s War of Umkhonto we Sizwe*, 203

⁴⁴⁸ *Ibid.*, 387

⁴⁴⁹ *Ibid.*, 395

This request for clearance was presented as a tactical shift by Tambo in his political report to the conference. Tambo stated that the ANC could not be against negotiations and a negotiated settlement in principle.⁴⁵⁰ The ANC had to place great emphasis on its role as an alternative government of South Africa. This meant that it had to act as a “credible representative of a liberated South Africa.” This had tactical and strategic implications:

“... It is clear that we have to improve the quality of our diplomacy and therefore the training of our representatives and their staff. We need also to tap and utilise in a better way the intellectual cadres available to us, both inside and outside our country.”⁴⁵¹

In other words, the ANC needed to evolve a set of ideas and tactics in preparation for the possibility of a political settlement.

Tambo drew a distinction between ‘talks’ and ‘negotiations’.

‘Talks’ were regarded as exploratory exchanges of views, designed to feel out an enemy or, alternatively, to cement understandings with real, temporary or potential alliances.⁴⁵² Tambo identified categories of talks.

The first comprised talks with ANC-aligned organisations inside South Africa, such as organisations aligned to COSATU and the UDF. The objective here was to build unity with all those who sort to dismantle apartheid and to draw them in as components of an ANC-led assault.⁴⁵³

⁴⁵⁰ Oliver Tambo, Political Report on the National Executive Committee to the National Consultative Conference of the African National Congress. 17 June 1985, Kabwe, Zambia

⁴⁵¹ Ibid.

⁴⁵² Howard Barrell, “ANC and Business: The Tactics of Talks”, *Work in Progress*, Issue 39 (October 1985), 4

⁴⁵³ Oliver Tambo, Political Report on the National Executive Committee to the National Consultative Conference of the African National Congress. 17 June 1985, Kabwe, Zambia

The second category comprised talks with non-governmental organisations not aligned to the ANC. These would include business organisations, civil society groups and opposition political parties inside South Africa, such as the Progressive Federal Party. The objective here was to turn them against apartheid.

Negotiations were understood as having a clearly defined framework within which attempts would be made to settle the South African conflict. A range of preconditions applied, the most important being that negotiations should be premised on the agreement to dismantle apartheid, replace it with a democratic political system. This was not negotiable.

Other preconditions included the release of political prisoners, the unconditional return of exiles, and a climate of political freedoms conducive to negotiations. Talks and negotiations, Tambo continued, were not mutually exclusive but complimentary. If the ANC was to negotiate from a position of strength, it had to use talks with non-ANC aligned organisations and constituencies to politically isolate the South African government. Successful talks thus bolstered and strengthened the ANC's negotiation strategy and tactics.⁴⁵⁴ The Kabwe Conference endorsed Tambo's case for talks and negotiations, and gave its approval for him to proceed to meet the 'unnamed group of important people'.

According to Maharaj, Tambo's political report was important: "there was a formal acknowledgement of the primacy of the political in the balance between the political and military components of the struggle."⁴⁵⁵ The implication of this tactical shift was that the political struggle became fundamental and armed struggle had to be integrated into it. Simply put, if apartheid could not be defeated by the armed struggle, then all that remained was the political option with MK support. MK's armed struggle was one element of the political struggle, and not its principle or even necessarily its important vehicle. Tambo's alternative diplomatic option i.e. talks and negotiation represented a potentially more important vehicle.

⁴⁵⁴ Ibid.

⁴⁵⁵ Cited in Pdraig O'Malley, *Shades of Difference: Mac Maharaj and the Struggle for South Africa* (New York: Penguin Books, 2007), 234

The Nkomati Accord thus led to the important rethink and shift toward the consideration of negotiation possibilities. The closure of MK's eastern front seriously hampered MK at a time when the ANC needed to reinforce the momentum generated by the uprising. With MK's shortcomings, the momentum could only be sustained through alternative tactics. Tambo's diplomatic alternative was a way out; while it was not military, it was still aimed at fighting apartheid.

5.1.5. Talking with Civil Society

In order to give effect to the tactical shift, the ANC turned its attention toward civil society organisations and opinion-leaders non-aligned to the ANC. The first of these was a meeting between a select group of ANC leaders and a delegation of prominent white businessmen and opinion-leaders. After discussions with Zambian President Kaunda, Gavin Relly, the chairman of Anglo American Corporation, South Africa's largest multinational corporation, assembled a team of business executives and editors to exchange views with the ANC on South Africa's political crisis in 1985 and the way forward.

On 13 September 1985, Gavin Relly led thirteen business executives and journalists on an Anglo American Gulfstream into the tropical heat of the South Luangwa National Park, 400km east of Lusaka. They were received by President Kaunda at the presidential hunting lodge of Mfuwe, and introduced to a team from the ANC led by Tambo and included Mbeki.⁴⁵⁶ President Kaunda chaired the session and opened proceedings. Kaunda stated that it was not possible for decisions to be taken; the objective was mutual learning and exploring common ground.⁴⁵⁷ The meeting lasted six hours.⁴⁵⁸ The businessmen were impressed by the cordial rapport between the groups.⁴⁵⁹

⁴⁵⁶ The ANC delegation also included Chris Hani, Jordan, Maharaj, and James Stuart (a member of the ANC's national executive). Relly's delegation included Peter Sorour (an executive at the South Africa Foundation), Zach De Beer (an executive director at Anglo American), Tony Bloom (the chairman of Premier Group), Hugh Murray (the editor of Leadership), Harald Pakendorf (the former editor of Die Vaderland) and Tertius Myburg (the editor of the Sunday Times).

⁴⁵⁷ Lieberfeld, "Evaluating the Contributions of Track-Two", 361

⁴⁵⁸ African National Congress, "Summary of Discussions Between Certain Representatives of Big Business and Opinion-Makers in South Africa and the ANC." ANC memorandum, September 14, 1985. Document 126 in

This event broke the ice between non-ANC aligned South African civil society organisations and the ANC, and significantly contributed to the legitimisation of the ANC. That the event was highly publicised added to its importance; almost overnight it made it acceptable for other non-ANC aligned groups to open dialogue with the ANC. After September 1985 there was a steady, open flow of visitors to Lusaka.

Table 5.1 illustrates some of the more prominent ones.

Table 5.1: Meetings between the ANC and non-affiliated civil society organisations	
<i>Date</i>	<i>Delegation</i>
September 1985	Major industrialists and journalists, Gavin Relly (Anglo American), Zac De Beer (LTA Construction), Tony Bloom (Premier Milling), Peter Sorour (South African Foundation), Hugh Murray (publisher, <i>Leadership</i>), Harald Pakendorf (former editor, <i>Vaderland</i>), Terius Myburgh (editor, <i>Sunday Times</i>) met the ANC in Zambia
September 1985	Dries van Heerden, editor of <i>Die Vaderland</i> , met with the ANC in Lusaka
November 1985	Progressive Federal Party, Dr Frederick van Zyl Slabbert (party leader), Colin Eglin (foreign affairs spokesperson), Peter Gastrow (member of parliament), Dr Alex Boraine (deputy leader), met the ANC in Lusaka
December 1985	Thirty seven South Africans mostly church leaders (including the Anglican and Roman Catholic archbishops of Cape Town) but also including five Stellenbosch University students and four University of Cape Town students, led by Bishop Philip Russell, met the ANC in Lusaka
January 1986	Federated Chamber of Industries met the ANC in Lusaka
March 1986	National Union of South African Students (NUSAS) led an eight-member delegation, including students from seven English-speaking campuses and one Afrikaans-speaking campus to Lusaka
April 1986	South African Catholic Bishops Conference: four-person delegation led by Archbishop Denis Hurley to Lusaka
May 1986	Professor J.P. de Lange (chairman of the Broederbond) and Mbeki meet for 5 hours in New York
May 1986	National African Federated Chamber of Commerce (NAFCOC) delegation led by Sam Motsuenyane met with ANC in Lusaka followed by second meeting in Europe

Gail Gerhart and Clive Glaser, *From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882-1990, Volume 6: Challenge and Victory 1980-1990* (Bloomington: Indiana University Press, 2010), 576-577

⁴⁵⁹ Gavin Relly, "The Costs of Disinvestment", *Foreign Policy*, No. 63 (Summer 1986), 132

September 1986	Joint delegation from University of Cape Town (UCT) and University of the Western Cape (UWC): including the vice chancellor, deputy vice chancellor, and dean of the medical school at UCT; and the rector and vice rector of UWC to meet the ANC in Lusaka
November 1986	South African Council of Churches (SACC) delegation led by Dr Manas Buthelezi and the Lutheran Church led by Dean Farisani meet the ANC in Lusaka
July 1987	Institute for a Democratic Alternative in South Africa (IDASA) organised delegation of fifty, mostly Afrikaans-speakers, including members of parliament, academics, journalists, and teachers to meet the ANC in Dakar, Senegal
September 1987	Prominent white South Africans including Dennis Worrall, former NP member of parliament and ambassador to Great Britain; Tommy Bedford, former Springbok rugby player; and Richard Steyn, editor of Natal Witness met the ANC in Lusaka
September – December 1987	Richard Rosenthal personal mission meeting with different ANC leaders in Europe and Lusaka
September 1987	Group of lawyers from Natal meet with ANC in Lusaka
October 1987	UWC academics and Western Cape Teachers Union delegation meet with ANC in Lusaka
October 1987	Delegation led by Chief Minister Enos Mabuza from KaNgwane Homeland met with ANC in Lusaka
November 1987	Two delegations of lawyers (Black Lawyers Association and the National Democratic Lawyers) met the ANC in Lusaka

Source: Price, 240 and conversations with Professors Andre du Toit and Annette Seegers.

No one meeting was seminally important; they together “increased the ANC’s stature, generating a momentum favouring negotiations.”⁴⁶⁰

Each group raised its own concerns with the ANC, but three themes dominated.

First, the ANC’s armed struggle was questioned. Many groups questioned the logic of “challenging the government militarily, where its advantage was strongest, rather than concentrating all resources on the government’s glaring political vulnerabilities.” The ANC often defended the use of violence by pointing out that “ultimately all violence was initiated

⁴⁶⁰Jonathan Melunsky, *The Rejection of Silence and Desolation: Explaining Political Transition in Modern South Africa*, Doctoral Dissertation (London: School of Oriental and African Studies, 2002), 131

by the government, and that without the actions of MK many whites would never have taken the ANC seriously.⁴⁶¹

Second, groups were anxious about when negotiations would begin: “When and how would the government and the ANC begin to talk about a political solution?” The ANC “could deny that sooner or later talks with the government would occur – even were this to happen in the improbable context of a military ‘seizure of power’. Yet rushing into negotiations when Pretoria still clearly had the upper hand would be foolhardy.”⁴⁶²

A third issue was the allegedly dominant position of the SACP in the ANC’s leadership. This led to a fourth concern: “what was the ANC’s vision of a post-apartheid political and economic system? Was it a vision shaped by communist models?” They dismissed the allegation of SACP domination arguing that ANC members were loyal to “the goals of democracy and non-racialism.”⁴⁶³ The ANC, however, was undecided in 1985 on how a post-apartheid society would look like. Beyond the Freedom Charter, there was no blueprint for a future political order.

The ‘breaking of the ice’ between non-ANC aligned organisations and the ANC contributed to the legitimisation of the ANC among South African constituencies who were not sympathetic and empathetic to the struggle against apartheid. The gains for the ANC were important: (1) talks with civil society groups increased its domestic and international prestige; (2) talks divided South Africa’s ruling classes; and (3) talks allowed the ANC to clarify its own views. As a political strategy, talks were a resource that exposed the government’s political vulnerabilities and thus paid greater dividend than armed struggle.

By late 1985, four important developments generated momentum toward negotiations.

⁴⁶¹Gail Gerhart and Clive Glaser, *From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882-1990, Volume 6: Challenge and Victory 1980-1990* (Bloomington: Indiana University Press, 2010), 144

⁴⁶² Ibid.

⁴⁶³ Ibid.

First, a channel of communication opened between the ANC and the United States government. As part of its conflict resolution policy in the region, the United States favoured a negotiated end to apartheid and sought to legitimise the ANC in the process.

Second, the Front Line States, the ANC's most important allies in Southern Africa, preferred a negotiated end to apartheid in 1984. This preference was crucial; the ANC was dependent on the Front Line States.

Third, Tambo proposed a way out in which armed struggle could gradually be phased out; armed struggle and the pursuance of a negotiated settlement could be mutually reinforcing, but the primacy was political i.e. talks and negotiations.

Fourth, talks with non-ANC aligned organisations paid greater dividend than armed struggle; their placed the ANC as a major actor in South African politics (domestically and internationally) in such a way that the ANC had to be a part of any South African political solution. What reinforced this momentum was that these developments occurred within the context of MK's limited ability to provide tactical guidance to the revolt. This set the stage for the beginning of pre-negotiation.

Thus, the period of the Nkomati Accord and Kabwe Conference represented those events and resulting change in condition that caused a restructuring of the values attached to alternative outcomes for the ANC, and resulted in the addition of a negotiated solution to the array of outcomes under consideration. Political events subsequent to the Kabwe Conference would involve an assessment of this change in condition and preliminary evaluation of alternative responses that would add negotiation to the range of policy options. The ANC however did not perceive the situation as a hurting stalemate. Mozambique was strategic for MK's armed struggle in the eastern front but the Nkomati Accord closed this option. The perception of a

hurting stalemate manifested at patron level and it was efficacious in making the ANC re-evaluate its position and add negotiation to the range of policy options.

5.2. Stage One: Problem Identification

In response to these changing conditions, Tambo embarked on a two-pronged strategy.

First, he set up a negotiation commission and a constitutional committee to respectively explore negotiation possibilities and guidelines for a post-apartheid constitution. The responsibility for this was given to Jordan and Zola Skweyiya, the ANC's senior judicial officer.

Second, he embarked on a diplomatic mission in the United Kingdom and United States to generate an international consensus on the preconditions for settlement negotiations. The responsibility for this was given to Thabo Mbeki. The political process that resulted from these two strategies ran simultaneously and will be discussed separately.

5.2.1. The Negotiation Committee and the Constitutional Committee

After the Kabwe Conference, Tambo set up a four member sub-committee tasked with providing a systematic analysis of the question of negotiation possibilities. Chaired by Jordan, it included Mbeki, Makana and James Stuart. They presented a report to the national executive on November 1985.

Titled 'A Submission on the Question of Negotiation' the paper stated that talks with the enemy are, in and of themselves, not harmful:

“If negotiations are viewed as yet one more terrain of struggle, rather than as a means of drawing the struggle to a close, we have no reason to shun them. However, as has been demonstrated in the case of Namibia, the enemy may press for talks in order to employ them as a means to buy time and forcing the movement to wind down the struggle through a de fact moratorium. We must therefore approach talks as a means of winning at the conference table or consolidating what we have won on the battlefield. In other words, we will enter into talks as a means of pursuing our political objectives employing other means, or to supplement our conventional means.”⁴⁶⁴

The paper argued that in the event the ANC should go into settlement negotiations, they should do so with a view to “extracting from the new situation the optimum conditions for the continuation of our struggle. [The] strategic objective – people’s power, as defined in the Freedom Charter – will remain the same, though the means we employ to arrive at it [i.e. negotiation] may have to change.”⁴⁶⁵ Conditions should therefore be created in which “[the ANC] can visibly emerge as the chief determinant of the pace of events.”⁴⁶⁶

Four preconditions were listed for entering negotiations: (1) the release of political prisoners and detainees, all captured freedom fighters and prisoners of war; (2) the lifting of the state of emergency, the withdrawal of all SADF and police personnel from the township and their confinement to barracks; (3) the cessation of political trials and trials arising from participation in the uprising and the unconditional release of all those charged and arrested; and (4) the repeal of all politically repressive laws and all other laws empowering the government to proscribe freedom of assembly, speech and the press.⁴⁶⁷

The paper stated that in preparation for getting to settlement negotiations, the ANC had to develop a set of constitutional proposals and not merely rely on the Freedom Charter. To this end, the national executive needed to set up a constitutional think tank under the supervision

⁴⁶⁴ African National Congress, “A Submission on the Question of Negotiations.” Internal ANC Policy Paper, Lusaka, November 27, 1985. Document 129 in Gail Gerhart and Clive Glaser, *From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882-1990, Volume 6: Challenge and Victory 1980-1990* (Bloomington: Indiana University Press, 2010), 589

⁴⁶⁵ Ibid.

⁴⁶⁶ Ibid.

⁴⁶⁷ Ibid., 591

of a sub-committee to draft the relevant proposals for the ANC to consider. The paper concluded that the ANC needed to adopt a Bill of Rights setting out the rights all South Africans would enjoy under an ANC-led government.⁴⁶⁸ The proposed sub-committee would also be responsible for studying and familiarising the national executive with regard to negotiated transitions in the region “in order to learn negotiations tactics and pick up tips on specific situations.”⁴⁶⁹

Tambo established a department of legal and constitutional affairs under Skweyiya and a constitutional committee under Jack Simons, a senior SACP member.⁴⁷⁰

The constitutional committee reported its first discussions to the national executive less than a week after its formation. Five issues underpinned these discussions: (1) the problem of power-sharing and rights of minorities; (2) how to reconcile freedom of speech, organisation and electoral activity with the need to combat racism and tribalism; (3) how to devise an electoral system and appropriate structure of government that would encourage the achievement of constitutional principles; (4) how to establish forms of regional and local government that would be consistent with constitutional principles; and (5) how to deal with the logistics for maintaining an on-going legal and administrative system while rapidly dismantling the institutional structures of apartheid.⁴⁷¹ Their bottom-line and non-negotiable was the universal franchise in a non-racial multiparty political system with an entrenched Bill of Rights.

On 20 September 1986, the constitutional committee presented a memorandum to the national executive proposing the basic features of the text for a new constitution. Reiterating their previous position, they stressed the non-racial objectives of a new constitution, that it should be based on the principles of a unitary state with a system of universal suffrage based

⁴⁶⁸ Ibid.

⁴⁶⁹ Ibid., 592

⁴⁷⁰ The constitutional committee was to report to Skweyiya. Simons was assisted by two ANC legal scholars, Kader Asmal and Albie Sachs. The team of Skweyiya, Simons, Asmal and Sachs represented the ANC’s constitutional brains trust

⁴⁷¹ African National Congress, “The Preliminary Nature of the Constitutional Document.” Internal ANC Policy Paper Presented to the National Executive Committee, 14 January 1986. BC 1081 (P25.4) Manuscripts and Archives Department, University of Cape Town

one person one vote, and that it should contain a Bill of Rights. The committee proposed that the national executive considers the adoption and publication of guidelines for a new constitution before the actual writing of a constitution.⁴⁷² The national executive accepted the proposal.

On 9 October 1987, the national executive of the ANC released its first public statement on negotiations. The ANC stated that it was not opposed to a negotiated settlement:

“We wish to reiterate that the ANC has never been opposed to a negotiated settlement of the South African question. On various occasions in the past we have, in vain, called on the apartheid regime to talk to the genuine leaders of our people. Once more, we would like to reaffirm that *the ANC and the masses of our people as a whole are ready and willing to enter into genuine negotiations* provided they are aimed at the transformation of our country into a united and non-racial democracy. *This, and only this, should be the objective of any negotiation process.* Accordingly, no meaningful negotiations can take place until all those concerned, and especially the Pretoria regime, accept this perspective which we share with the whole of humanity.”⁴⁷³

The ANC stated that the issue of negotiations should be put before the entire ANC leadership. Therefore, since a considerable number were in prison, their unconditional release was a precondition for settlement negotiations:

“We further wish to state again that the questions whether or not to negotiate, and on what conditions, should be put to our entire leadership, including those who are imprisoned and who should be released unconditionally. While considering these questions our leadership would have to be free to consult and discuss with the people without let or hindrance.”

The ANC also rejected the demand that the ANC suspend the armed struggle as a condition for talks:

⁴⁷² African National Congress, Memorandum to the NEC by the Constitutional Committee, September 20, 1986. BC 1081 (P25.5) Manuscripts and Archives Department, University of Cape Town

⁴⁷³ African National Congress, “The Question of Negotiations.” Statement by the ANC National Executive Committee, Lusaka, October 9, 1987. Document 139 in Gail Gerhart and Clive Glaser, *From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882-1990, Volume 6: Challenge and Victory 1980-1990* (Bloomington: Indiana University Press, 2010), 615

“We reject unequivocally the cynical demand of the Pretoria regime that we should unilaterally abandon or suspend the armed struggle. The source of violence in our country is the apartheid system. It is that violence which must end. Any cessation of hostilities would have to be negotiated and entail agreed action by both sides as part of the process of the creation of a democratic South Africa.”⁴⁷⁴

To end apartheid, the ANC further stated, means “to define and treat all our people as equal citizens of our country, without regard to race, colour or ethnicity.” Consequently, the ANC accepted that a Bill of Rights would accompany a new constitution in order to guarantee and safeguard the rights of the individual. The ANC stated that before any settlement negotiations take place, the government would have to demonstrate its seriousness by implementing various measures to create a climate conducive for settlement negotiations. These would include the unconditional release of political prisoners, the lifting of the state of emergency and withdrawal of the army and police from the townships, and the repeal of all repressive legislation limiting the freedom of assembly, speech, and the press.⁴⁷⁵

On 9 October 1987, Stage One of the pre-negotiation stage for the ANC was complete. The ANC officially added negotiation to its range of policy options. The negotiation commission had assessed the ANC’s changing conditions in exile. In the aftermath of the Nkomati Accord and the Front Line States summit in 1984; the ANC was in a ‘Patriotic Front dilemma’ and had to prepare for negotiation. The next step was to develop a set of preconditions for settlement negotiations. There were two sets of preconditions: those that related to creating a climate conducive for settlement talks, and non-negotiables (bottom lines) related to the creation of a new constitutional order to replace apartheid. The former was political liberalisation. The latter was a non-racial constitutional democracy accompanied by a Bill of (individual) Rights. The public diplomacy that complimented this process (designed to generate international support for these preconditions) opened the path to Stage Two.

⁴⁷⁴ Ibid.

⁴⁷⁵ Ibid.

5.2.2. Semi-Official Diplomacy

As discussed, Tambo's second strategy was a diplomatic mission in the United Kingdom and United States to generate international support and consensus on preconditions for settlement negotiations. The target was Britain's ruling Conservative Party of Prime Minister Margaret Thatcher and their allies. Anthony Sampson (a close friend of Tambo and Mandela) and David Astor, a former proprietor and editor of the Observer, arranged a week-long visit for Tambo in late October 1985 to meet British businessmen, bankers and politicians.

5.2.2.1. Meeting with House of Commons Foreign Affairs Committee

On 28 October, Tambo went to a private meeting of Conservative Party MPs led by Sir Anthony Kershaw, the chairman of the House of Commons Foreign Affairs Select Committee and former foreign office minister. The following day, on 29 October, after a meeting at Chatham House, Tambo and Mbeki gave evidence at a public session of the Foreign Affairs Committee, chaired by Kershaw.⁴⁷⁶

The committee members had four general concerns. First was the issue of violence, particularly political violence against black policemen and black town councillors. Second, they wanted to know whether the ANC was committed to a political philosophy beyond the simple end of apartheid, particularly whether the intention was to destroy or reform the capitalist system. Third, committee members were concerned whether the ANC was prepared to renounce the use of violence in exchange for the release of political prisoners, particularly Mandela. They also wanted to gauge the ANC's views on power-sharing. Fourth, they wanted to know whether sanctions would assist in bringing about peaceful democratic change in South Africa.⁴⁷⁷

⁴⁷⁶ Harvey, 16

⁴⁷⁷ "The Situation in South Africa: Minutes of Evidence." Testimony of Oliver Tambo and Thabo Mbeki before the Foreign Affairs Committee of the British House of Commons, October 29, 1985 (abridged) Document 127 in Gail Gerhart and Clive Glaser, *From Protest to Challenge: A Documentary History of African Politics in*

Tambo argued that the ANC's violence should be viewed in historical context; the ANC was a non-violent organisation for 50 years before the formation of MK. Armed struggle had thus been a last resort. Tambo further the committee that the ANC was committed to a democratic system and did not want to destroy the capitalist system:

“The Freedom Charter does not even purport to want to destroy the capitalist system. All that the Freedom Charter does is envisage a mixed economy in which part of the economy, some of the industries, would be controlled, owned, by the State (as happens in many countries), and the rest by private ownership – a mixed economy.”⁴⁷⁸

In his contribution, Mbeki argued that the release of political prisoners alone would never be a sufficient condition to renounce the use of violence. Many other steps would have to be taken: “the state of emergency must be lifted, the ban on the ANC must be lifted and on all other political organisations.” Mbeki stated that the expression ‘power-sharing’ is not the term the ANC would prefer as it suggested a “continuing fragmentation of the population” whereas distinct groups they must share power amongst themselves. The ANC was in favour of an entrenched Bill of ‘individual’ Rights as opposed to ‘group’ rights. The ANC, Mbeki continued, was also against federalism: “We do not want to federate these constitutional units that the apartheid system has created. We cannot say we need a federal structure which must recognise the reality of the Bantustans...”⁴⁷⁹ Tambo concluded by stating that their pursuit of sanctions was aimed at limiting the escalation and scope of the conflict.⁴⁸⁰

After giving evidence to the committee and further meetings with editors and businessmen, Tambo and his party left on 31 October. Conservative Party MP Robert Harvey, who sat on the committee, was impressed by what he described as “the remarkable moderation displayed by the ANC team.” He described Tambo's London diplomacy a turning point:

South Africa, 1882-1990, Volume 6: Challenge and Victory 1980-1990 (Bloomington: Indiana University Press, 2010), 583

⁴⁷⁸ Ibid.

⁴⁷⁹ Ibid., 586

⁴⁸⁰ Ibid.

“It had been a highly significant trip: [Tambo] and his colleagues had begun to cross the line (even in the minds of Conservative politicians and businessmen) that divides a terrorist revolutionary movement from a legitimate and politically sensitive resistance organisation against an oppressor government.”⁴⁸¹

While the Anti-Apartheid Movement had always been well-supported in Britain, it became possible after Tambo’s presentations to be a supporter of the ANC as well.⁴⁸²

5.2.2.2. Meetings with Official Representatives of the United Kingdom and United States

Sampson arranged a second series of meetings for Tambo. In this second round, he arranged for Tambo to address a larger audience of businessmen on 24 June 1986. This was held under the auspices of David Astor at the Connaught Rooms in London. The participants included Lord Barber, the former Chancellor of the Exchequer and chairman of Standard Chartered Bank; Sir Timothy Bevan, chairman of Barclays Bank; Sir Alistair Frame; Lord Greenhill of SG Warburg; Sir Martin Jacomb; Evelyn de Rothschild; George Soros; Sir James Spooner; and Michael Young. The ANC delegation included Tambo, Mbeki, Maharaj, Aziz Pahad (deputy head of the ANC’s mission in London), and Jacob Zuma (NAT’s deputy director and head of intelligence).

Sampson writes that the encounter was surprisingly relaxed. Tambo was still looking to the British commercial elite to bring pressure on both the South African and British government. The second state of emergency changed the businessmen’s perspectives of South Africa; they were anxious, and trying to rethink their policies towards South Africa. The chairman of the two biggest banks in South Africa, Lord Barber of Standard and Sir Timothy Bevan of Barclays, were at odds with Margaret Thatcher over Britain’s relationship with South Africa. They took turns talking privately with Tambo.

⁴⁸¹ Harvey, 16

⁴⁸² Ibid.

Bevan was openly confronting the Botha government and refused to lend money to South Africa until apartheid “had been abolished.” Lord Barber had also boldly stated that it was unreasonable to expect the ANC to renounce violence unconditionally.⁴⁸³

Michael Young, the public affairs director at Consolidated Goldfields approached Tambo privately and asked him what Consolidated Goldfields, with its large interests in South Africa, could do to assist.⁴⁸⁴ Young’s request was not random; Consolidated Goldfields was Cecil John Rhodes’ old company and had been making handsome profits for over a century through its South African subsidiary, Gold Fields of South Africa. But the London parent company “had to take a longer perspective, wondering who might rule South Africa in ten years’ time.”⁴⁸⁵

According to Young’s account of the conversation, Tambo asked if he could assist in creating a secret communication channel between the ANC and the government; specifically, Tambo requested building a bridge between the ANC and Afrikaners close to the government as a first step. Tambo told Young that no means of communication existed and, without this, the ANC’s diplomacy towards a peaceful resolution of the conflict was impossible.⁴⁸⁶ Mbeki requested that Young arrange a meeting between Tambo and Lynda Chalker, the foreign office minister in charge for Africa.⁴⁸⁷ Because of Young’s close proximity to the Conservative Party, Chalker agreed to meet Tambo in late June 1986. This meeting was the first official-level meeting between the ANC and a British cabinet minister.⁴⁸⁸ Chalker effectively placed the ANC-British government relationship “on an entirely different and more proactive footing.”⁴⁸⁹

⁴⁸³ Cited in Sampson, *Black and Gold*, 25

⁴⁸⁴ Transcript of Michael Young interview by John Carlin, 25 May 1999

⁴⁸⁵ Sampson, *Black and Gold*, 25

⁴⁸⁶ Transcript of Michael Young interview by John Carlin, 25 May 1999

⁴⁸⁷ Harvey, 23

⁴⁸⁸ *Ibid.*, 24

⁴⁸⁹ *Ibid.*

The Tambo-Chalker meeting had far-reaching implications for the ANC. A few days later the United States State Department publicly announced it was planning closer and official contacts with Tambo.

In September 1986, Tambo met Sir Geoffrey Howe, the British foreign secretary, for a two-hour official-level discussion in his country house. Also in September 1986, Tambo also held official discussions with Chester Crocker, Ronald Reagan's special envoy for Africa. According to Crocker, he met with Tambo to lay groundwork for an October 1986 official visit by George Schultz, the United States Secretary of State, to the ANC headquarters in Lusaka, and an official visit by Tambo to the United States State Department, on invitation by Schultz the following year. Schultz stressed the importance of a negotiated solution to the South African crisis, and "spoke of his firm plan to advance [a negotiated process] by meeting with the ANC leader in exile, Oliver Tambo."⁴⁹⁰

The Tambo-Schultz meeting was an important diplomatic breakthrough for the ANC. On 28 January 1987, Tambo led a delegation of four to Washington that included Mbeki, Makhathini, Barbara Masekele (the ANC's representative in the United States) and Neo Mnumzana, the ANC's chief representative to the United Nations. On the US side, Schultz was accompanied by a delegation of eight, which included Crocker, his deputy Chas Freeman, a representative of the National Security Council, the State Department spokesman, Charles Redman, and the US ambassador to Zambia, Paul Hare.⁴⁹¹ Minutes of the meeting show convergence in views on the resolution of the South African conflict. Schultz opened the meeting, referring to the ANC leader as 'President' Tambo, and stated the position of the United States government towards South Africa:

"The Secretary of State said the U.S. Administration is against apartheid and that the sooner that system goes the better. However, they were against all violence from whichever side it came. They wished to see an open, democratic state with equal opportunities for all to participate in government and in the economy of the country.

⁴⁹⁰ Chester Crocker, *High Noon in Southern Africa: Making Peace in a Rough Neighbourhood* (Johannesburg: Jonathan Ball, 1993), 324

⁴⁹¹ Report of Meeting Between President of the ANC Oliver Tambo and the U.S. Secretary of State, George Schultz: State Department: 28 January 1987. BC 1081 (P14.1) Manuscripts and Archives Department, University of Cape Town, 2

This should come through negotiations. While the U.S. Administration has its own ideas, it does not wish to prescribe solutions. This is a task for South Africans. To that end the Pretoria regime should release the political prisoners, unban political parties and involve everybody in negotiations. The U.S. Administration has been talking to South Africans as well as talking to the ANC to convey its views about the need for negotiations. It recognised the ANC as an important player in South Africa. He had read the ANC's January 8th statement with interest and noted what it said about a non-racial democracy."⁴⁹²

Schultz outlined the US government's areas of concern:

"[Schultz] wanted to make it clear that the U.S. Administration was opposed to violence and viewed the "practice of necklacing" as horrible. He also wished to take up the issue of Soviet influence over the ANC rather than the question of communism."⁴⁹³

Tambo stated that the US and the ANC were in agreement about the overall objective: "the goal of a united, democratic and non-racial South Africa."⁴⁹⁴ Their major difference was on "what action to take to achieve this result." Tambo also presented other issues to Schultz:

"6. We believe that the policy of constructive engagement has not succeeded to move Botha towards this goal. Instead, Pretoria read it as encouragement to dig in; 7. We are also aware that your stated policy is to bring about negotiations. Our view is that Botha is not ready because pressure is still insufficient; 8. Therefore we urge strict implementation of the present set of U.S. sanctions."⁴⁹⁵

Tambo described a possible scenario around the issue of the release of political prisoners: "To unblock the political process we urge the U.S. Administration to do everything possible to secure the unconditional release of all political prisoners. There is a way of handling Botha's expressed concerns."⁴⁹⁶ Schultz stated that the US was in favour of the release of political prisoners, and this had been communicated to the South African government. He

⁴⁹² Ibid

⁴⁹³ Ibid.

⁴⁹⁴ Oliver Tambo, Notes for Meeting with Secretary of State, Mr George Schultz. BC 1081 (P14.1) Manuscripts and Archives Department, University of Cape Town

⁴⁹⁵ Ibid.

⁴⁹⁶ Ibid.

asked whether the ANC would be prepared to renounce violence if Botha were to agree to “serious negotiations.” Tambo explained that the ANC “could not agree to a unilateral cessation of hostilities but that hostilities could end as a result of negotiations during which both sides could agree to end the use of force.” Further, the ANC would “need strong signals, and not words, to convince [the ANC] that Pretoria was serious about negotiations.”⁴⁹⁷

Tambo and Schultz appreciated they had met in an official capacity, and stated that the meeting was the beginning of an official dialogue between the United States and the ANC.⁴⁹⁸ Originally scheduled for thirty minutes, Tambo and Schultz spoke for over an hour.⁴⁹⁹ The meeting signalled the official recognition of the ANC by the US government.

The meeting in the Connaught Rooms was crucial; Tambo requested international assistance for the negotiated ending of apartheid. Consolidated Goldfields came to his assistance in two ways.

First, they offered to create a communication channel between the ANC and South African government. To this end, Consolidated Goldfields would facilitate building a bridge between ANC and Afrikaners close to the government as a first step.

Second, Michael Young, the corporation’s public affairs director, facilitated the first official-level meeting between the ANC and a British cabinet minister. This was complimented by George Schultz’s official visit to the ANC headquarters in Lusaka, and Tambo’s official visit to the United States State Department. By 1987 a consensus on preconditions for negotiation emerged that was supported by the United States: the unconditional release of political prisoners and unbanning of political parties.

⁴⁹⁷ Report of Meeting Between President of the ANC Oliver Tambo and the U.S. Secretary of State, George Schultz: State Department: 28 January 1987. BC 1081 (P14.1) Manuscripts and Archives Department, University of Cape Town

⁴⁹⁸ Report of Meeting Between President of the ANC Oliver Tambo and the U.S. Secretary of State, George Schultz: State Department: 28 January 1987. BC 1081 (P14.1) Manuscripts and Archives Department, University of Cape Town

⁴⁹⁹ Ibid.

The process moved to the second stage; the active consideration of a negotiated solution.

5.3. Stage Two: Search for Options

With the ANC publicly putting forward its position on negotiations, and after official level meetings between Tambo and Howe and Schultz, Michael Young proceeded to set up a secret channel between the ANC and the South African government.

First, Young approached Rudolf Agnew, the chairman of Consolidated Goldfields and suggested the company provide funds for the project.⁵⁰⁰ Agnew authorised over £500 000.⁵⁰¹

Second, Young sought the advice of Fleur de Villiers, a senior consultant for Consolidated Goldfields. Both agreed that De Villiers would initiate contact with politically influential Afrikaners and Young would liaise with the ANC leadership. De Villiers approached Willie Esterhuyse, a professor of philosophy at Stellenbosch University, to assist with a list of participants for the dialogue. Esterhuyse could only initially convince two other professors from his university, Willie Breytenbach and Sampie Terreblanche. All three had gained a reputation as notable reformers with important links to the NP government.

In the meantime, South Africa's National Intelligence Service (NIS) had closely observed Tambo and Mbeki's public diplomacy in the United Kingdom and United States. Senior officers of the Zambia Security and Intelligence Service (ZSIS) undertook regular missions to the NIS in Pretoria, and the heads of the NIS and the South African Military Intelligence Division (MID) travelled regularly to visit President Kaunda; "they took tea with the [Kaunda] within yards of the residence of Oliver Tambo, who lived in a cottage in the State

⁵⁰⁰ Transcript of Michael Young interview by John Carlin, 25 May 1999

⁵⁰¹ Harvey, 20

House grounds.”⁵⁰² The MID Generals used Kaunda as a go-between in communicating with Angola’s president, Jose Eduardo Dos Santos, during the Angolan civil war.⁵⁰³ The NIS used relations with the ZSIS to gather information on the thinking of senior ANC leaders.⁵⁰⁴

When Esterhuysen agreed to De Villiers’ request, the NIS viewed this as a means to gain closer information on the motives of the ANC’s diplomacy. According to Mike Louw, the NIS deputy director-general, identifying Esterhuysen as their ‘point person’ was important: “We trusted him, his instincts... We regarded him not as someone who had a rosy view of meeting with the ANC... He was a trained person in political science and ... his views were balanced. He could give you quite a clear report on the personalities that he spoke to, what he saw as weak points, how a person behaved under this or that circumstance.”⁵⁰⁵

In 1987, Neil Barnard, the director general of the NIS, approached Esterhuysen and requested he report to him on the discussions with the ANC. Esterhuysen agreed provided he informed his ANC equivalent, which would turn out to be Mbeki. This informal dialogue thus became a shield for the secret channel between the government and the ANC.

Six meetings took place in England between elite Afrikaner academics, led by Esterhuysen, and a number of ANC officials, led by Mbeki, between October 1987 and February 1990. The meetings were held on average every four months, and follow-up meetings continued after the beginning of official negotiations. Each of the meetings in England lasted three days, were typically over a weekend, with formal sessions on Saturday and Sunday extending to the mid-afternoon.⁵⁰⁶

⁵⁰² Waldmeir, 75

⁵⁰³ Minutes of a Meeting Between President Kenneth Kaunda and South African Representatives, Lusaka, 25 June 1984, Topic 440, Frontline States Joint Monitoring Commission

⁵⁰⁴ Transcript of Neil Barnard interview by Patti Waldmeir, 25 November 1994. Giliomsee Papers BC 1070, Manuscripts and Archives Department, University of Cape Town

⁵⁰⁵ Transcript of Mike Louw interview by Patti Waldmeir. Giliomsee Papers BC 1070, Manuscripts and Archives Department, University of Cape Town

⁵⁰⁶ Daniel Lieberfeld, “Contributions of a Semi-Official Pre-negotiation Initiative in South Africa: Afrikaner-ANC Meetings in England, 1987-1990,” in Ronald Fisher (ed.) *Paving the Way: Contributions of Interactive Conflict Resolution in Peacemaking* (Lanham: Lexington Books, 2005), 111

Esterhuysen writes that the informal dialogue was an attempt to “dismantle the ‘enemy construct’ and to create a construct around the idea of negotiated partners.” This objective “was why the discussion forum was not a public one, and also why the dialogue was limited to politically influential Afrikaners and pro-negotiation ANC figures.”⁵⁰⁷

5.3.1. Meeting held in Henley-on-Thames, England, 31 October – 1 November 1987

The first meeting was held in Henley, England, between the 31st October and 1st November 1987. The ANC team was led by Aziz Pahad, and included Wally Serote, Tony Trew and Harold Wolpe. The Afrikaner professors were led by Willie Esterhuysen, and included Willie Breytenbach and Sampie Terreblanche.⁵⁰⁸

Accounts of this first dialogue session differ.

Esterhuysen writes that Young, who facilitated the discussion made no attempt to impose an agenda. The parties, he further states, made exploratory statements about the situation in exile and in South Africa and “talked about the main agenda items for subsequent talks.”⁵⁰⁹ The talks were thus “particularly probing and by no means as stressful or aggressive.”⁵¹⁰

Esterhuysen writes that six items formed the basis of the discussion: preconditions for a settlement process; the issue of violence; the issue of sanctions and what a post-apartheid economic dispensation should look like; consensus about a transition process; the release of political prisoners and especially the position of Nelson Mandela in this process; and how to deal with, on the one hand, the expectations of people who had been disadvantaged and

⁵⁰⁷ Willie Esterhuysen, *Endgame: Secret Talks and the End of Apartheid* (Cape Town: Tafelberg, 2012), 90

⁵⁰⁸ African National Congress, Report on a meeting held in Henley-on-Thames, England, with three Stellenbosch academics, October 31 – November 1, 1987 (abridged). Document 146 in Gail Gerhart and Clive Glaser, *From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882-1990, Volume 6: Challenge and Victory 1980-1990* (Bloomington: Indiana University Press, 2010)

⁵⁰⁹ Ibid.

⁵¹⁰ Ibid.

oppressed because of their skin colour, and, on the other hand, the political reality of the fears of whites and the position of Afrikaners in particular.⁵¹¹

The ANC recollects a more structured discussion. According to the ANC, The objective of the professors was to obtain information about “how the ANC would react to various possible moves by the state, and especially the release of Govan Mbeki and then Nelson Mandela – aimed at opening ... the path to negotiations.”⁵¹²

In the first session, Breytenbach opened the discussion and gave a background of the perceptions of the security experts in Botha’s government. Breytenbach stated that the security experts believed the South African conflict and prevailing impasse “required a political solution.” This was dependent on the support and ‘buy-in’ of the black population:

“The approach of the “securocrats”, other than the inner group of “controllers”, is that political stability requires 20% coercion, 80% political solution. The political solution depends on the support of the mass of the blacks and in the short/middle term the question is whether this support can be won.”⁵¹³

There were two important groups in the government, each with a different interpretation on how to reach such a political solution: one group, associated with the MID believed that the black population should be co-opted within the existing framework of reform; and another, associated with the NIS, recognised the ANC and argued that the way out of the stalemate was to enter negotiations with them.⁵¹⁴ For the latter group, the possibility of negotiations with the ANC arose because the second state of emergency had effectively diminished two of the ANC’s three options: mass mobilisation and the creation of alternative structures. Thus while the ANC could continue to prosecute the armed struggle, it would be deploying its

⁵¹¹ Ibid., 102

⁵¹² African National Congress, Report on a meeting held in Henley-on-Thames, England, with three Stellenbosch academics, October 31 – November 1, 1987 (abridged). Document 146 in Gail Gerhart and Clive Glaser, *From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882-1990, Volume 6: Challenge and Victory 1980-1990* (Bloomington: Indiana University Press, 2010), 637

⁵¹³ Ibid., 638

⁵¹⁴ Ibid.

weakest arm against the government's strongest point – the military. The conclusion was that the ANC would inevitably run out of options, and would have to negotiate.⁵¹⁵

Breytenbach stated that the security experts were more amenable to negotiation than the politicians as they did not possess the “ideological emotionalism” of politicians i.e. they were more pragmatic. Their view of a political solution was premised on two main realisations; first, that the second state of emergency, and the accompanying political stability, had created conditions for the opening of serious negotiations; and second, that any future political system to replace apartheid would have to “provide for all [the races] at the highest level” i.e. at the level of the central state.

In the final session, Breytenbach and Esterhuysen were more precise about actual initiatives. First, the security experts viewed the release of political prisoners as crucial to a political solution and a priority matter. Second, for the security experts, it was not a condition of negotiation that the ANC relinquish violence. This however was an issue for the electorate i.e. for politicians: “They are interested in results (i.e. a political solution) and they do not demand that the ANC abandon violence as a condition of negotiation.” Esterhuysen qualified that “a response from the ANC which included something about the armed struggle would be necessary if the release [of political prisoners] was to be a step forward” so as to put the politicians at ease.

Third, the important sequential steps were to release Govan Mbeki followed by Mandela, and then the unbanning of the ANC. However, the security experts regarded the release of political prisoners and the ANC's unbanning as two separate issues. Their willingness to release Mbeki and Mandela was purely an issue of timing; before the state of emergency, this would not have been possible as it would have been interpreted as buckling under the pressure of the uprising i.e. “it would have been interpreted as violence paying off.” However, the second state of emergency and the restoration of stability had created more favourable conditions; they were now prepared to release Mbeki and then Mandela.⁵¹⁶ The

⁵¹⁵ Ibid.

⁵¹⁶ Ibid.

immediate goal of releasing political prisoners was to relieve international pressure in order to revive the economy. However, by responding positively to this, the ANC could seize the initiative and insert itself more constructively in an evolving political solution.

The central issue was for the government to release of prisoners without losing face i.e. “without stoking white fears about violence and without giving the [Conservative Party] the opportunity to make capital out of the release and what the response of the ANC will be.” However, before the government embarked on the process, the security experts were concerned and wanted to know what the response of the ANC will be – “if there is not some sort of positive response (in the sense of welcoming the release and treating it as a step towards negotiations) from the ANC, if the ANC downgrades the step and simply moves the goal posts, then there will be a blockage. Negotiations will lose, not the [government].”⁵¹⁷ Pahad led the ANC response. The ANC, he stated, would welcome the release of some prisoners but preferred to deal with the issue on political terms; they would call for the release of all political prisoners. Breytenbach and Esterhuyse regarded this as a positive response. Pahad then pointed out that while the issue of political prisoner release had previously been handled by lawyers, it was now necessary to shift it to the political; the government had to communicate directly with the ANC on this issue.⁵¹⁸

The logic of the security experts, however, was clear; the government was aware that without the release of political prisoners, the stability created by the second state of emergency was unsustainable. By releasing political prisoners, space would open to make viable Botha’s reformist political measures and in that way weakens the position of the ANC if it continued to stay outside the reformed structures.⁵¹⁹ The strategy of negotiation, therefore, was a continuation of reform and not the consequence of its failure. More importantly, the MID and NIS position was taken from a position of relative strength; they believed that the ANC had little room to manoeuvre and were thus engaged in a process of co-opting them. However, in order for reform to be viable, the government needed the ANC on board. This was a bilateral solution to their goal of reform.

⁵¹⁷ Ibid.

⁵¹⁸ Ibid.

⁵¹⁹ Ibid

5.3.2. Meeting held in Eastwell Manor, Kent, 21 – 24 February 1988

The second meeting was held in Eastwell Manor Hotel in Kent between 21 and 24 February 1988. The ANC team was led by Thabo Mbeki, and included Pahad, Serote and Trew. Esterhuysen was accompanied by Terreblanche and Marinus Wiechers. Mbeki's participation enhanced the legitimacy and status of the talks. Koos Kruger, Esterhuysen's NIS handler, identified Mbeki as their contact person and advised Esterhuysen accordingly: "Some of my NIS contacts warned me against speaking too much; I should rather listen carefully to what Mbeki said. Koos Kruger asked me to keep detailed notes because Mbeki was an important ANC leader."⁵²⁰ Kruger also arranged for Esterhuysen to meet Barnard in preparation for contact with Mbeki. Esterhuysen informed Mbeki on the status of the talks.

Three issues dominated the meeting. First was the renunciation of violence as a precondition for opening negotiations. While the government could not relax its requirement that the ANC declare a cessation of violence before settlement negotiations could begin, they realised that the ANC alone could not end the violence.⁵²¹ Therefore, the government were prepared for a dialogue without a cessation of violence.

Second, Mbeki outlined the conditions for the beginning of settlement negotiations: the release of *all* political prisoners and the unbanning of *all* political organisations. Mbeki added that their public diplomacy in the United States and United Kingdom had confirmed this: "All Western countries support us on this. There is an international consensus."⁵²² For the ANC, this was non-negotiable. What was up for discussion, Mbeki continued, was the logistics of these conditions: "of course, the 'how' of the conditions has to be discussed. The ANC would

⁵²⁰ Willie Esterhuysen, *Endgame: Secret Talks and the End of Apartheid* (Cape Town: Tafelberg, 2012), 119

⁵²¹ Harvey, 133

⁵²² Cited in *ibid*

like to talk about their implementation. But we seek in principle acceptance, even if it's not via a public announcement.”⁵²³

Mbeki proposed that the ANC was in favour of a ‘controlled introduction of freed political prisoners’ into the community. Further, released political prisoners, who enjoyed significant status in most communities, could play a constructive role in reducing levels of violence thus transforming them into part of the evolving political solution.

The meetings were not well received by the ANC security officers once they became known to them; beyond a carefully chosen circle of trusted confidants of Tambo, few in the ANC knew about the talks. Chris Hani, MK’s chief of staff, was furious when he discovered at an NWC meeting on 22 February 1988 that Mbeki was absent because he was attending the meetings in London. When the chair of the meeting suggested that an item on the agenda be put off until Mbeki returned from London to compile a report, Hani exploded: “On whose authority has [Comrade] Thabo entered into discussions with these Afrikaner intellectuals [in Britain]? Does the NEC/NWC know anything of this?” Hani stated that it was “disturbing that a member of the NEC leaves to hold discussions with Afrikaner intellectuals without prior consultations with the NWC... I cannot understand why the NWC... were not apprised. Anyone who goes to such a meeting should be delegated by the movement.”⁵²⁴ There was a general acclamation of approval of Hani’s objections.

Joe Nhlanhla, the director of NAT, stated that this was indicative of a broader problem where ANC officials were “meeting people from home without any prior consultation let alone coordination.” A consequence of this uncontrolled contact, Hani continued, “is that people from home complain that we are saying different things to them.” Hani then concluded: “Let the minute’s record that we register our extreme displeasure that [Comrade] Thabo has

⁵²³ Ibid.

⁵²⁴ African National Congress, ANC National Working Committee minutes, Lusaka, February 22, 1988. Document 143 in Gail Gerhart and Clive Glaser, *From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882-1990, Volume 6: Challenge and Victory 1980-1990* (Bloomington: Indiana University Press, 2010)

unilaterally gone to London without any consultation and without a mandate from the NWC.”⁵²⁵

By August 1988, the ANC’s constitutional committee had published a set of constitutional guidelines for a future democratic South Africa, and were accepted by the national executive. The guidelines reiterated their call for an “independent, unitary, democratic and non-racial state.” All South Africans would “have the right to vote under a system of universal suffrage based on the principle of one person, one vote.” The constitution would “include a Bill of Rights based on the Freedom Charter [guaranteeing] the fundamental rights of all citizens irrespective of race, colour, sex or creed.”⁵²⁶

5.3.3. Meeting held in Mells Park, Somerset, August 1988

Meetings reconvened at Mells Park, the secluded manor house owned by Consolidated Goldfields, in August 1988. There were three on the ANC side; Mbeki, Pahad and Trew. On the South African side were Esterhuyse and Terreblanche and a newcomer Willem de Klerk (Wimpie), a senior broederbond member, newspaper editor, and elder brother of Frederik W. De Klerk, the Transvaal leader of the National Party and most conservative successor to Botha.

Three issues dominated the meeting. First, Mbeki admitted that the ANC was deeply worried that political violence was spiralling out of control. The “supremacy of the political leadership”, Mbeki added, would be undermined as a result, and thus the position of the ANC leadership was that “violence [was] not an alternative to mass political struggle.”⁵²⁷ The ANC wanted to prevent a situation of “violence for violence sake.”⁵²⁸ Mbeki stated that the ANC

⁵²⁵ Ibid.

⁵²⁶ African National Congress, “Constitutional Guidelines for a Democratic South Africa.” ANC policy paper, Lusaka, August 1988. Document 153 in Gail Gerhart and Clive Glaser, *From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882-1990, Volume 6: Challenge and Victory 1980-1990* (Bloomington: Indiana University Press, 2010)

⁵²⁷ Esterhuyse, 143

⁵²⁸ Ibid.

would be prepared to abandon violence if the ‘political struggle’ i.e. negotiation, yielded results and proved effective in bringing about a non-racial constitutional order: “violence can be unnecessary.”⁵²⁹ In order for this to happen, “there had to be a strong commitment to a meaningful process that would lead to a non-racial democratic settlement.”⁵³⁰

Second, the group spoke at length about a ‘transitional stage’, and this brought about consensus and acceptance on the need for a transitional phase to establish a “pro-negotiation culture.”⁵³¹ Third, discussion was also devoted to the ANC’s constitutional guidelines. According to Mbeki, the formation of a constitutional committee and publication of the guidelines was an indication of the ANC’s preparation for an eventual constitutional negotiation process. The guidelines, Mbeki continued, “would be discussed as widely as possible to ensure an inclusive consensus on basic principles and values.”⁵³²

5.3.4. Meeting held in Mells Park, 21 – 24 April 1989

The meetings held in Flitwick Park in Bedfordshire, on December 1988 had limited achievement beyond advancing mutual understanding. The meetings in April 1989, however, were crucial. The most important issue was the political context; Botha had suffered a stroke, and with F.W de Klerk as National Party leader, Willem de Klerk took over the leadership from Esterhuysen.⁵³³ Willem de Klerk revealed that his brother had little patience with the security experts; he had a civilian inner circle with close ties to the Transvaal business community alienated by Botha. His rise was “viewed with suspicion by the military and security apparatus ... which feared that a major purge could get under way should he become president.”⁵³⁴

⁵²⁹ Ibid., 144

⁵³⁰ Ibid.

⁵³¹ Ibid., 145

⁵³² Ibid., 150

⁵³³ Ibid., 164

⁵³⁴ Ibid.

According to Esterhuysen, the discussion that followed focused primarily “on the question as to when the time would be ripe for the two contending parties to start talking directly to each other.” By April 1989, the conditions for settlement negotiations had been clearly defined:

“By [April 1989] the conditions set by both the ANC and the NP had been clearly defined for some time, with the release of Nelson Mandela one of the non-negotiable conditions on the part of the ANC. For Botha and his government, the insistence on a renunciation of violence by the ANC was of prime importance. Naturally, none of the participants at our meeting had the mandate or power to give any authoritative view in this regard. This was a matter the contending parties themselves had to discuss.”⁵³⁵

Botha’s stroke was a turning point. Esterhuysen reported that Botha’s stroke had impaired his judgment and temperament. His illness had stalled his communication with Barnard over the secret channel with the ANC. Mbeki responded by stating that it would therefore be better to delay the impending talks, Mandela’s release, and the unbanning of the ANC until after De Klerk was inaugurated as the president; this would give his presidency enormous impetus, credibility and legitimacy, all of which were crucial for any settlement talks with the ANC.⁵³⁶

Barnard, however, did not hold the same view. He told Mbeki’s biographer that he learned two things from Esterhuysen’s reports: “Firstly, it was reassuring that there were South Africans on the other side who were interested in finding a solution, and secondly, reaffirmation that we should not find the solution outside the country. We had to bring them home.”⁵³⁷ Botha’s stroke, however, had prevented him getting the necessary instruction. Barnard found other means to secure the necessary orders. On 16 August, the State Security Council, chaired for the first time by FW de Klerk, approved a resolution carefully drafted to provide authorisation of the first official NIS-ANC meeting:

“It is necessary that more information should be obtained and processed concerning the ANC, and the aims, alliances and potential approachability of its different leaders and groupings. To enable this to be done, special

⁵³⁵ Esterhuysen, 192

⁵³⁶ *Ibid.*, 167

⁵³⁷ Neil Barnard cited in Gevisser, 545

additional direct action will be necessary particularly with the help of the National Intelligence Service functionaries.”⁵³⁸

To understand the importance of the events following this decision, it is important to trace the government’s parallel stream in the first and second stage of pre-negotiation.

5.4. Theoretical Implications: Pre-negotiation and Ripeness

5.4.1. Implications for Pre-negotiation

This dissertation has discussed that pre-negotiation is the period when negotiation is considered and adopted as an option. The onset of the process is marked by a turning point when negotiation is added to a range of options being considered by one or more parties.⁵³⁹

The first stage is brought about by a an event or change in conditions that “causes a restructuring of the values attached to alternative outcomes by one or more parties in a relationship and results in the addition of a negotiated solution to the array of outcomes under consideration.” The stage is characterised by “an assessment of the problem produced by the changing conditions and a preliminary evaluation of alternative responses that may or may not add negotiation to the range of policy options.” A turning point is reached if that addition does occur and pre-negotiation moves to its second stage.⁵⁴⁰

In the second stage, the search for options, the parties actively consider a negotiated solution. If a negotiated solution is chosen as the preferred policy alternative, another turning point is reached

⁵³⁸ Cited in James Saunders, *Apartheid’s Friends: The Rise and Fall of South Africa’s Secret Service* (London: John Murray, 2006), 248

⁵³⁹ Tomlin, 258

⁵⁴⁰ Ibid., 258-259

The ANC's process of exploring negotiation possibilities between late 1983 and 1988 is consistent with the first and second stages of pre-negotiation as described by Tomlin.

The turning point is 1984. Important events and changing conditions contribute to the onset of stage one.

In 1983, the United States opens up a channel of communication with the ANC. In early 1984, the Nkomati Accord led to the closure of MK's eastern front and neutralised MK's strategic capabilities in Southern Africa. The turning point comes during this period; anticipating the Nkomati Accord, Pallo Jordan was commissioned to undertake a strategic analysis on potential scenarios for settlement negotiations. Jordan reported that if the ANC was subjected to sufficient political pressure by the Front Line States, it would need to start preparing for settlement talks.

The Nkomati Accord and the resulting Front Line States summit in Arusha on 29 April 1984 brought about the onset of the first stage of pre-negotiation i.e. caused a restructuring of the values attached to alternative outcomes, and resulted in the addition of a negotiated solution to the array of outcomes. The Front Line States effectively push the ANC towards exploring negotiation possibilities.

The eve of stage one is June 1985, when the Kabwe Conference endorses Tambo's alternative diplomatic option on talks and negotiation. This, however, coincides with Operation Zikomo, an MK attempt to reinforce the uprising in the face of broader tactical changes towards negotiation.

The coincidence of Operation Zikomo and the Kabwe Conference has important implications for the beginning of pre-negotiation.

First, immediately before the substantive shift towards negotiation, there was one last shift to making the military option succeed. Stage one of pre-negotiation was thus preceded by radicalisation.

Second, the ineffectiveness of the military pillar coincided with an effort to intensify the military struggle. In other words, as there was a push towards negotiation, there was a push in the other direction. This confirms an important critique of the rationality assumption in ripeness theory. As discussed, ripeness propositions incorporate assumptions from realist and rational choice perspectives i.e. unitary actors rationally calculate the costs and benefits of policy choices, based primarily on the consideration of power. However, leaders of conflicts may be subject to irrational processes, and can become trapped in the continued pursuit of victory, even after costs would seem to have begun to outweigh benefits. Pre-negotiation thus incited organisational and strategic divisions. Thus, pre-negotiation is not accompanied by de-escalation; the military and diplomatic tracks run simultaneously.

Stage one involved research and deliberations by the negotiation commission and constitutional committee (between 1985 and 1987). As a result of this process, the ANC adds negotiation to the range of policy options in its statement on negotiation on 9 October 1987. Stage one ends with the release of this statement on negotiation.

The second stage begins with the secret conversations in England. These conversations facilitated by Consolidated Goldfields were a concerted ANC attempt to communicate more substantively their preconditions for settlement talks to the South African government. The point at which stage two ends for the ANC, is when the government and ANC streams converge in 1989, and the process becomes outer-directed. The dissertation will discuss the end of stage two in the next chapter.

5.4.2. Implications for Ripeness

In order to discuss the ripeness implications of the ANC stream in the first and second stage of pre-negotiation, it is important to review briefly Zartman's notion of ripeness. Zartman argues that compelling opportunities arise for conflict resolution based on the perceptions of the main actors concerning their military situations. The important condition must be a mutual sense of hurting stalemate i.e. a feeling that neither side can win, and all will be dramatically worse off if the conflict is not ameliorated.⁵⁴¹ The actors must also perceive a possible solution to meet their minimum needs. A third party can attempt to shape the perceptions of the actors, and provide assistance to one or both parties, but must also use its problem-solving ability to put forward a satisfactory compromise solution.

Zartman provides us with a set of indicators to look for in the South African case: a sense of a hurting stalemate; a sense of a moment in the future that will worsen if negotiations fail; a sense that the tide of the combat has changed; the mediators' need for leverage; and the development of a political solution.

5.4.2.1. Major Actors

Who are the main ANC actors and what are their goals?

This dissertation challenges the conception of the antagonists as unitary actors. The dissertation has a polycentric view of actors; revolutionary movements and organisations consist of many coalitions, factions and individuals who sometimes have conflicting interests.

Hermann provides a useful way of classifying political decision-making units that can enhance our ability to account for governments' and political organisations' behaviour in

⁵⁴¹ Stedman, 236

diplomacy. Hermann identified three possible types of authoritative decision units: a predominant leader, a single group or a coalition of autonomous actors.

One can classify the major actors and decision unit model in the ANC during the first and second stage of pre-negotiation as that of a predominant leader decision unit with an advisory group i.e. a leader who uses advisors as consultants to provide information and expertise but reserves the right to make the decision. For the predominant leader unit, the individual's sensitivity to information from the political context "helps to define how much attention he or she will pay to others' point of view and to situational cues."⁵⁴²

The predominant leader in the ANC was its president, Oliver Tambo, and the highest authoritative institution was the Office of the President. His advisory group on negotiation comprised of three officials located within this office. Thabo Mbeki was Tambo's political secretary, and the director of the DIP (located in the Office of the President). Mbeki's responsibility was to assist Tambo's diplomacy in generating international support for the ANC's preconditions for initiating official negotiations. Pallo Jordan was the deputy director of the DIP. His responsibility was to generate consensus within the ANC on preconditions for initiating official negotiations. Zola Skweyiya was the chief legal advisor in the Office of the President. His responsibility was to develop a set of constitutional guidelines in preparation for an eventual constitutional negotiation process.

Their perceptions on both the course of the conflict and the South African government did not change: the overthrow of the apartheid system and the goal was the universal franchise.

5.4.2.2. Third Parties

Was there a mediator, and if so, dose the mediator have a conception of a possible settlement?

⁵⁴² Hermann, 64-65

Consolidated Goldfield's mediation through Michael Young happens in stage two after the ANC adds negotiation to its range of policy options.

This was an example of the mediator as 'communicator', addressing the conflict as a breakdown in the ability of the ANC and South African government to communicate with each other. Young acted as a telephone wire i.e. creating an environment in which the ANC and South African government could establish contact and carry messages. Michael Young's role was thus completely procedural, with no substantive contribution, and completely passive, and only involved carrying out the parties' orders for the facilitation of dialogue and delivery of messages.

These series of facilitated meetings had two goals: to improve understanding between the government (through Esterhuysen) and the ANC by 'humanising' the adversary groups through face-to-face meetings, and to prepare the ground for settlement negotiations by exploring, in an unofficial and informal setting and without commitment, underlying issues and possible solutions.⁵⁴³

These meetings took place in exotic and novel settings: grand estates in the English countryside. These settings were important; they were able to overcome "communication-inhibiting conflict norms and promoted learning and new ideas."⁵⁴⁴ As a result, the meetings all included "substantial social interaction, with participants' typically dining and drinking alcohol together."⁵⁴⁵ This level of informality and 'equal status' between groups fostered interpersonal bonds and trust and had a significant impact on their perceptions of each other, the conflict, their role in it, and anxieties about its resolution.

⁵⁴³ Louise Diamond and John McDonald, *Multi-Track Diplomacy: A Systems Approach to Peace* (West Hartford: Kumarian, 1996), 2

⁵⁴⁴ Herbert Kelman and Steven Cohen, "Resolution of International Conflict: An Interactional Approach", in Stephen Worchel and William Austin (Eds.) *Psychology of Intergroup Relations* (Chicago: Nelson-Hall, 1986), 337

⁵⁴⁵ Daniel Lieberfeld, "Evaluating the Contributions of Track-Two Diplomacy to Conflict Termination in South Africa, 1984-90", *Journal of Peace Research*, Vol. 39, No. 3 (2002): 358

Zartman writes that potential mediators can work to effect settlement of conflict by creating the perception of a ripe moment among combatants. A mediator must convince the parties that their unilateral options are blocked and present them with mutually beneficial alternatives. In this process, the mediator has to push belligerents towards settlement by imposing deadlines in order to create a sense of urgency. However, the ANC's addition of negotiation to their range of policy options in no way meant that they believed their most preferred policy outcome had been foreclosed. The political process was conducive to mediation as communication. The interests of the ANC from this perspective, was to use mediation as a means for communicating with the government and not to find imaginative formulas.

5.4.2.3. Hurting Stalemate and Way Out

Did the ANC perceive their situation to be a hurting stalemate in late 1983 and early 1984?

It is important to consider the conditions of the ANC in exile in the 1980s, and the major actors' perceptions of these conditions. Two important periods are important; before and after the Nkomati Accord.

5.4.2.3.1. Before the Nkomati Accord: 1983-1984

Before the Nkomati Accord, the ANC's position in exile was varied. On the political front, the ANC was viewed both internationally and in South Africa as the major liberation movement in the struggle against apartheid. In the Western world, it was part of a global network of anti-apartheid non-governmental organisations, political parties and governments who gave it international legitimacy as the principal anti-apartheid organisation. In the Soviet Union, the ANC was a client and the Soviet patronage was in full support of MK. As

discussed, this patronage also included an extensive global network of socialist solidarity organisations. In Africa, significant recognition of the ANC occurred after the independence of Angola and Mozambique, particularly after these respective countries joined the Front Line States.

On the military front, conditions illustrate a noticeable reversal of fortunes for MK, an important factor that can lead to a hurting stalemate. While MK armed attacks had escalated in 1983, statistics showed an appalling casualty rate: 43 MK guerrillas were killed or arrested in 1983, translating into about three MK fighters neutralised for every four attacks. In anticipation of the closure of MK's strategic Eastern Front, Jordan was commissioned to investigate a potential plan B i.e. alternative scenarios and potential strategies in event of a worse-case scenario. These political developments at the end of 1983 indicate preparations for, and anticipations of, a blockage of unilateral solutions, and the conceivability of joint solutions.

This condition is therefore consistent with the ripeness notion of an imminent catastrophe i.e. the realisation that matters will get worse if they haven't gotten better in ways that negotiation seeks to define. The Nkomati Accord was a looming catastrophe; a deadline that threatened to impose additional and unacceptable costs of high magnitude.

5.4.2.3.2. After the Nkomati Accord: 1984-1987

The series of events that occur subsequent to Nkomati illustrates a 'ripening process' on the part of the ANC.

Four events and political processes are important.

The first was the position of MK; over 100 MK personnel based in Mozambique had to leave immediately as a result of the Nkomati Accord. This crisis was exacerbated by the fact that the Mozambique exodus was accompanied by a simultaneous intake of larger recruits from South Africa into Swaziland. The co-operation between Swazi and South African security agents compounded the problem; the sudden influx of large numbers of MK personnel made skirmishes with local security forces, and confrontation with South Africa security agents, inevitable. ANC structures became subject to an aggressive Swazi-South African offensive. The ensuing 'Battle of Swaziland' took a heavy toll on the ANC.

While Operation Zikomo provided MK with much needed success in 1985, it was insufficient; after the second state of emergency MK could not spread insurrectionary pressures beyond scattered localities, and therefore could not attenuate security forces to any significant degree. As the state rolled back the unrest through the second state of emergency, MK's casualty rate rose sharply.

The Nkomati Accord and the second state of emergency effectively diminished the MK's ability to effectively wage the armed struggle from the eastern front. While the ANC could continue to prosecute the armed struggle in 1985, it would be deploying its weakest arm against the government's strongest point – the military. The ANC was running out of options; bilateral solutions presented the way out and had to be considered.

Second, the South African government had inflicted such high costs on Mozambique that Machel succumbed to pressure. The hurting stalemate that ensued was perceived at the patron level and the resulting Nkomati Accord hindered MK's capability of continuing armed struggle. This is consistent with Stedman's conclusion on the Zimbabwean case i.e. the perception of a stalemate can be manifested at patron level and be efficacious.

The Front Line States summit in late April 1984 pushed the ANC into exploring negotiation possibilities as a preferred policy option. Front Line States leaders made clear their preference for a negotiated settlement. In Zartman's formulation, ripeness is a product of

actors believing that their most preferred outcome has been foreclosed, which prompts a willingness to look for compromise solutions. This is what happens after the Front Line States summit.

Third, serious consideration toward a negotiated settlement happens as a result of this summit. The tactical shift at the Kabwe Conference in June 1985 (i.e. the primacy of the political) is crucial. The implication of this tactical shift was that the political struggle became fundamental and armed struggle had to consequently be integrated into it. Simply put, if apartheid could not be defeated by the armed struggle, then all that remained was the political option with MK support. Therefore, MK's armed struggle became one element of the political struggle, and not its principle or even necessarily its important vehicle. Tambo's alternative diplomatic option i.e. talks and negotiation represented a potentially more important vehicle. This is an illustration of a condition of ripeness i.e. when unilateral solutions are blocked and joint solutions (talks and negotiations) become conceivable. This was the result of the Nkomati Accord that foreclosed armed struggle, prompting a willingness to look for compromise solutions. This however did not mean that armed struggle was discontinued; it simply meant that a negotiation track was opened that ran parallel with the military option.

Once the ANC agreed on the primacy of the political, the next step was to design a political solution through which they could meet their minimal demands. The political developments after Kabwe represent the search for such a political solution. Tambo's advisory team of Mbeki (chief diplomat), Jordan (negotiation advisor) and Skweyiya (legal and constitutional advisor) was central for this task.

5.4.3. Why did the ANC negotiate at all?

Four conditions influence the ANC's choice of exploring negotiated solutions.

First, a channel of communication opened between the ANC and the United States government. As part of its conflict resolution policy in the region, the United States favoured a negotiated end to apartheid and sought to legitimise the ANC in the process.

Second, the Front Line States, the ANC's most important allies in Southern Africa, preferred a negotiated end to apartheid in 1984. This preference was crucial; the ANC was dependent on the Front Line States.

Third, Tambo proposed a way out in which armed struggle could gradually be phased out; armed struggle and the pursuance of a negotiated settlement could be mutually reinforcing, but the primacy was political i.e. talks and negotiations.

Fourth, talks with non-ANC aligned organisations paid greater dividend than armed struggle; they placed the ANC as a major and legitimate actor in South African politics (domestically and internationally) in a way that the ANC had to be a part of any South African political solution. What reinforced this momentum was that these developments occurred within the context of MK's limited ability to provide tactical guidance to the revolt. This set the stage for the beginning of pre-negotiation.

The period of the Nkomati Accord and Kabwe Conference represented those events and resulting change in conditions that caused a restructuring of the values attached to alternative outcomes for the ANC, and resulted in the addition of a negotiated solution to the array of outcomes under consideration. Political events subsequent to the Kabwe Conference would involve an assessment of this change in condition and preliminary evaluation of alternative

responses that would add negotiation to the range of policy options. The ANC however did not perceive the situation as a hurting stalemate. Mozambique was strategic for MK's armed struggle in the eastern front but the Nkomati Accord closed this option. The perception of a hurting stalemate manifested at patron level and it was efficacious in making the ANC re-evaluate its position and add negotiation to the range of policy options.

5.5. Conclusion

This chapter sought to answer is why the ANC chose to negotiate at all. In answering this question the chapter used stages one and two of Tomlin's model on pre-negotiation. Tomlin writes that the first stage of pre-negotiation is brought about by an event or change in conditions that causes a restructuring of values attached to alternative outcomes. The stage is characterised by an assessment of the problem produced by changing conditions, and the addition of negotiation to a range of policy options. When negotiation is added, a turning point is reached and the process moves to the second stage. In the second stage, a negotiated solution is actively considered. Another turning point is reached if negotiation is chosen as the preferred and necessary policy alternative, moving the process to the third stage.

The chapter argued that four events and conditions influenced the ANC's choice of exploring negotiation possibilities. First, a channel of communication opened between the ANC and the United States government. Second, the Front Line States, the ANC's most important allies, preferred a negotiated end to apartheid in 1984. Third, Tambo offered a way out in which diplomacy could pay greater dividend. Fourth, talks with non-ANC aligned organisations placed the ANC as a major actor in South African politics in such a way that the ANC had to be a part of any South African political solution. These occurred within the context of MK's limited ability to provide tactical guidance to the township uprising.

Therefore, period of the Nkomati Accord and Kabwe Conference represented those events and resulting change in condition that caused a restructuring of the values attached to alternative outcomes for the ANC, and resulted in the addition of a negotiated solution to the

array of outcomes under consideration. Political events subsequent to the Kabwe Conference would involve an assessment of this change in condition and preliminary evaluation of alternative responses that would add negotiation to the range of policy options. The ANC did not perceive the situation as a hurting stalemate. The perception of a hurting stalemate manifested at patron level (Mozambique and the Front Line States) and it was efficacious in making the ANC re-evaluate its position and add negotiation to the range of policy options.

CHAPTER SIX

Stage One and Two of the Pre-negotiation Stage

The NP Government

This chapter seeks to answer two questions: (1) why the NP government chose to negotiate at all; and (2) why the NP government chose to negotiate with the ANC. In answering this question the chapter will use stages one and two of Tomlin's model on pre-negotiation. Tomlin writes that the first stage of pre-negotiation is brought about by an event or change in conditions that causes a restructuring of values attached to alternative outcomes. The stage is characterised by an assessment of the problem produced by changing conditions, and a preliminary evaluation of alternative responses that adds negotiation to the range of policy options. When negotiation is added, a turning point is reached and the process moves to the second stage. In the second stage, a negotiated solution is actively considered. Another turning point is reached if negotiation is chosen as the preferred and necessary policy alternative, moving the process to the third stage. The chapter will end by discussing whether indicators of ripeness can assist in answering why the NP chose to negotiate at all.

The chapter is divided into four sections. The first section provides a background on the context of the government's stream in stage one of pre-negotiation. Attention is paid to the politics of constitutional reform in the 1980s and the re-emergence of Nelson Mandela as an important actor in that process. The second section discusses the confidential conversations between a team of senior government officials and Mandela in prison, culminating in the historic meeting between Botha and Mandela. The third section discusses the second stage of pre-negotiation where the South African government and the ANC communicate their intentions to each other and choose negotiation as the preferred policy alternative. The fourth section discusses the theoretical implications of the discussion.

6.1. Changing Conditions: Constitutional Reform and the Re-emergence of Mandela

Two important changing conditions led to a consideration of a negotiated solution for the NP government: (1) the consequences of the unfolding constitutional reform process; and (2) the re-emergence Nelson Mandela as an important actor in South African politics.

6.1.1. The Politics of Constitutional Reform

As discussed in Chapter Four, in 1973, the NP government realised that white South Africans could no longer monopolise central government. As a result, the Theron Commission was set up to examine the constitutional position of coloureds. Following Theron's report in 1976, a cabinet committee proposed a parliament with separate racial chambers, and a council to mediate in matters of mutual concern with ultimate power exercised by the State President.⁵⁴⁶ This resulted in the Tricameral Constitution – endorsed by white voters in a referendum in November 1983 and inaugurated in September 1984. The aim was to preserve white minority rule by “[associating] the 2.5 million coloureds with whites to broaden the NP's power base, preventing their surrender to a ‘black-power’ situation.”⁵⁴⁷

The Tricameral Constitution was not meant to provide a final solution: “it was tailored as a transitional document.”⁵⁴⁸ Botha stated: “We do not know what tomorrow will bring. We are not prophets. This is a step in the dark. We can only proceed into the future with faith.”⁵⁴⁹ Excluding Africans from this new constitution raised new questions on black political rights and black political representation in central government. These questions moved centre-stage in the constitutional reform debate. Apartheid's basic principle and answer to this question was that African representation took place in the homelands. However, many government officials by 1980 realised that not all Africans would be politically represented inside the homelands. In 1980, for instance, Botha conceded that “urban blacks might gain

⁵⁴⁶ Melunsky, 81

⁵⁴⁷ Ibid.

⁵⁴⁸ Ibid., 82

⁵⁴⁹ Cited in Lipton, 53

representation outside the homelands.” In opening the Tricameral Parliament, he acknowledged that “black political rights topped government’s agenda.”⁵⁵⁰ Botha, however, had no idea how to proceed beyond this point.

As discussed, in Chapter Four, in February 1983 Botha established the SKK to deal with black constitutional issues. Chaired by Heunis, it was attended by all senior cabinet ministers: FW de Klerk, Barend du Plessis, Gerrit Viljoen, Louis le Grange, Pik Botha, Kobie Coetsee and Magnus Malan. SKK met monthly and received inputs from “academics, businessmen and especially, [officials of the department of] Constitutional Development.”⁵⁵¹ While there was no obvious direction of argument, nor any single paper of special importance, constitutional policy was gradually formulated within SKK and became the point in the political system where pressure for change was generated.⁵⁵²

The constitutional reform process that unfolded had some important consequences for South Africa.

First, the process shifted the terms of debate in the South African government, providing the framework for apartheid’s demise. Botha “forced whites, willingly or not, to embark on a voyage to a new and inevitably much different future.”⁵⁵³ The debate was no longer whether apartheid should end but how i.e. sequences, times-spans, and methods.

Second, constitutional reform was an attempt to share power while preserving white minority rule i.e. without losing control. Power-sharing involved granting citizenship to Africans, and accepting their permanence in urban areas. Reform, however, did not involve blacks and whites participating in the same structures; it involved African participation in a constitution in which whites would have the final say. Government strategists had no idea how this would

⁵⁵⁰ Melunsky, 82

⁵⁵¹ Melunsky, 83

⁵⁵² Ibid., 84

⁵⁵³ Ibid., 93

be done, but Botha would have been happy if Mandela would be part of the process.⁵⁵⁴ Therefore, Botha favoured negotiations and African participation in central government but only on his terms.

Third, the constitutional reform process was rejected, resulting in an uprising that created a crisis of legitimacy. Consequently, the government realised it was running out of options. As constitutional reform failed to acquire the necessary legitimacy, government strategists were “forced to accept that negotiations and constitutional change must include the ANC, pre-eminently Mandela.”⁵⁵⁵

Fourth, the message from constitutional development and SKK was that the “ANC’s unbanning and Mandela’s release were pre-requisites for meaningful constitutional reform.”⁵⁵⁶ Talking to Mandela became the most important strategy for continuing reform in the face of a legitimacy crisis.

The identification of the ANC was important; the events post-1983 (discussed in the previous chapter) showed that the ANC was weak militarily and a moderate organisation.

6.1.2. The Re-emergence of Mandela

The re-emergence of Mandela at the centre of South African politics was the result of the activities of the AAM in Britain, in particular its campaign for the release of South African political prisoners. The AAM focus on political trials and prisoners began in August 1962, when Mandela was arrested and intensified during the Rivonia Trial of 1963-64. At the end of the Rivonia Trial, the focus of the attention declined. Anthony Sampson points out that

⁵⁵⁴ Ibid.

⁵⁵⁵ Ibid.

⁵⁵⁶ Ibid., 94

while Mandela was mentioned 24 times in the New York Times of 1964, he then disappeared from the newspaper for the rest of the decade.⁵⁵⁷

This changes in December 1973 when the AAM formed the SATIS (Southern Africa: The Imprisoned Society) committee. Supporting organisations included the British Council of Churches, the Trade Union Congress, the UN Association and Amnesty International. The SATIS committee felt that while political trials had been the focus for many years, “once prisoners were imprisoned they were forgotten and campaigns stopped.”⁵⁵⁸ New tactics of personalising campaigns around specific individuals would benefit all political prisoners. SATIS thus began to encourage AAM affiliated organisations to take up a campaign for a specific political prisoner and circulate biographies, dock statements and other materials produced by the AAM, IDAF, and UN on legislation and prisoners.⁵⁵⁹

The initial focus of SATIS was not Mandela; SATIS was concerned with political prisoners in general. Interest in Mandela begins in 1978 through the request of the ANC when the AAM was asked to assist in an international campaign focusing on Mandela’s birthday. This would become one of the largest and most successful AAM initiatives ever embarked on; it succeeded in not only making Mandela well known to the majority of the Western world, “but also in increasing support for the ANC and for the struggle against apartheid.”⁵⁶⁰ The 1978 celebration of Mandela’s 60th birthday began the campaign that became the focal point of international anti-apartheid activity. The ANC and AAM identified and actively promoted Mandela as the leader of anti-apartheid resistance, and made it clear that “South Africa could experience no real change or peace as long as the real leaders were in prison.”⁵⁶¹ The Mandela campaign also focused on broader political issues; “by emphasising Mandela’s incarceration and police brutality against [Winnie Mandela], broader public support was

⁵⁵⁷ Anthony Sampson, *Mandela: The Authorised Biography* (London: Harper Collins Publishers, 1999), 259

⁵⁵⁸ Genevieve Klein, “The British Anti-Apartheid Movement and Political Prisoner Campaigns, 1973-1980”, *Journal of Southern African Studies*, Vol. 35, No. 2 June 2009, 461

⁵⁵⁹ *Ibid.*

⁵⁶⁰ *Ibid.*, 466

⁵⁶¹ *Ibid.*, 467

harnessed.” At the same time, his words and actions “were used to publicise the actions and ideology of the ANC and to inform people about apartheid,”⁵⁶²

This paid dividend. On Mandela’s birthday in 1978, the British Prime Minister James Callaghan sent greetings to Mandela from the floor of the House of Commons.⁵⁶³ The *Times* called Mandela “the colossus of African nationalism.”⁵⁶⁴ And in a private conversation with Botha at Chequers in 1984, British Prime Minister Margaret Thatcher made it clear to Botha that Mandela was central to the resolution of the South African conflict:

“I had to tell him how appalled we were by the forced removals of blacks from areas which had been designated for white residents only. *I went on to raise the case of imprisoned Nelson Mandela whose freedom we had persistently sought. It was my view, moreover, that no long-term solution to South Africa’s problems could be achieved without his cooperation.*”⁵⁶⁵

The AAM campaign portrayed Mandela as a natural leader, and a victim of the South African government. In this process, he became an accepted and powerful symbol of the struggle against apartheid. Soon, the AAM began to make use of various medium in transmitting this message, such as the use of popular culture, music and media, drawing in diverse international support. This in turn popularised Mandela in the 1980s, transforming him into the focal point international mass mobilisation in the struggle against apartheid. More importantly, as Mandela gained international acceptance as a future South African leader, so the ANC gained further legitimacy internationally as “the liberation movement of choice.”⁵⁶⁶

⁵⁶² Ibid.

⁵⁶³ Ibid., 468

⁵⁶⁴ Ibid.

⁵⁶⁵ Margaret Thatcher, *The Downing Street Years* (Harpercollins, 1993), 514 emphasis added

⁵⁶⁶ Klein, 469

6.2. Stage One: Problem Identification

Within the context of this international popularisation of Mandela, the government search for negotiation possibilities is located in the politics of political prisoner releases, and in particular, secret debates about what to do with Nelson Mandela. The lead on the government's side was taken by the National Intelligence Service (NIS) and the Department of Prisons. The thinking and strategy was dependent on personalities, particularly President Botha, the Minister of Justice, Police and Prisons H.J (Kobie) Coetsee, and the head of the NIS, Dr Niel Barnard.

At the centre of the government's thinking was the political role of Nelson Mandela first as a means of legitimising constitutional reform, and then as a means of developing a broader political solution. Both Coetsee and Barnard reported directly to Botha, and their discussions with Mandela were conducted without the knowledge of the cabinet or the State Security Council.

6.2.1. The Major Actors: Thinking and Motivation

In June 1980, the month the South African Parliament passed the Republic of South Africa Constitution Amendment Act, Dr Jannie Roux, then the Deputy Commissioner of Prisons, spoke with Mandela for two-and-a-half hours. Roux reported that "Mandela took strong exception to being called a 'self-confessed communist'." He "appeared to see a place for white people in a future South Africa, but not as holders of political power: he had in mind a five-year transition during which they would be accustomed to the transfer of power; but he understood [Roux's] warning that white's would not just capitulate." He "appeared to have relatively rigid thinking patterns ... and it is difficult to get him to accept an opposite viewpoint."⁵⁶⁷

⁵⁶⁷ Cited in Anthony Sampson, *Mandela: The Authorised Biography* (London: Harper Collins Publishers, 1999), 298

In February 1981, the Department of Justice received another report about Mandela. The report stated that Mandela “had so adjusted himself to prison regulations that he gave the impression of good behaviour, and no contraventions of prison regulations had been recorded against him up to 1976.” It further stated that Mandela adopted a “persistent attitude by making repeated representations about conditions, but in a way that no steps can be taken against him.” It warned that this was not good behaviour: “he gives the orders and then withdraws to regard his actions from a distance. Mandela sticks to his chosen course and influences everyone with him not to deviate from this... It is clear that Mandela has in no way changed his position and that imprisonment so far has had no positive effect on him.”⁵⁶⁸

Botha appointed Roux as his director-general in the Office of the State President.⁵⁶⁹ The psychological profile of Mandela was for perusal of the Broederbond and the cabinet, and it had a major bearing on Mandela’s removal from Robben Island in 1982, along with the Rivonia political prisoners.⁵⁷⁰

In October 1981, Botha appointed his Deputy Defence Minister, Kobie Coetsee, as the Minister of Justice and Prisons. On instruction from Botha, his immediate task was to work on a policy for releasing political prisoners.

Botha was not initially concerned with Mandela; his concern was with the imprisonment of Breyten Breytenbach, a dissident Afrikaner poet and ANC supporter. Breytenbach was a member of a prominent Cape National Party family close to Botha, and the twin brother of the legendary SADF soldier Colonel Jan Breytenbach.⁵⁷¹ According to Coetsee, Botha was “unhappy about the security system having dealt with Breyten Breytenbach the way it did ...

⁵⁶⁸ Cited in *ibid.*, 298-299

⁵⁶⁹ Terry Bell and Dumisa Ntsebeza, *Unfinished Business: South Africa, Apartheid and Truth* (Cape Town: Redworks, 2001), 76

⁵⁷⁰ *Ibid.*, 77

⁵⁷¹ Colonel Breytenbach was the founder of the South African Special Forces Brigade, and Commanders of the notorious 1 Reconnaissance Commando, 32 ‘Buffalo’ Battalion, and 44-Parachute Brigade (all active in the Angolan Civil War).

and felt that he was dealt with unfairly by the ... justice system.”⁵⁷² Jailed in 1975, Botha believed that Breytenbach was simply an idealist “who should be given another chance.”⁵⁷³

Coetsee got instruction from Botha to find legal ways of getting Breytenbach out of prison.⁵⁷⁴ The problem was that political prisoners did not qualify for parole or remission of sentence: “I had to tell [Botha] that the policy was ... not to release political prisoners until the sentence had expired, and in the case of life sentences it meant a life sentence.”⁵⁷⁵ Coetsee told Botha that the only way he could get Breytenbach out of prison was to change government policy regarding the release of political prisoners. Botha simply told him to work on it, as long as Breytenbach got out of prison.⁵⁷⁶

With Botha’s support, Coetsee got cabinet approval to change the government’s political prisoner release policy: “all of them would be entitled to the same release facilities as other prisoners.” Most cabinet ministers were in support of this; political prisoners with life sentences were the most problematic for the government and had the greatest influence on younger political prisoners:

“Those who had no prospect of ever being released were the most difficult people in all the prison, and because they were so difficult they were all taken down to Robben Island, which makes Robben Island the most difficult place to manage. They couldn’t get staff and personnel ... to go to Robben Island. So I said with this we’ve also got to change, people with the prospect of being released could become model prisoners ... we should try and arrange for prisoners to be not grouped together and to be confined Robben Island but ... there must be other institutions to which they can go as well.”⁵⁷⁷

The goal of the new release policy was to demystify the Rivonia political prisoners and demobilise Robben Island of radical political prisoners.

⁵⁷² Transcript of Kobie Coetsee interview by Patti Waldmeir, 3 March 1995. Giliomee Papers BC 1070, Manuscripts and Archives Department, University of Cape Town

⁵⁷³ Ibid.

⁵⁷⁴ Transcript of Kobie Coetsee interview with Pdraig O’Malley, 26 September 1997

⁵⁷⁵ Transcript of Kobie Coetsee interview by Patti Waldmeir, 3 March 1995. Giliomee Papers BC 1070, Manuscripts and Archives Department, University of Cape Town

⁵⁷⁶ Ibid.

⁵⁷⁷ Ibid.

Coetsee was soon confronted with the 'release Mandela' question.

Coetsee stated that Botha wanted to release Mandela; he considered Mandela's release "as a given situation but he wanted him released to have him safely deposited where he couldn't cause any more trouble ... He wanted him to go to the Transkei."⁵⁷⁸ Botha did not initially consider Mandela's release as part of a political solution: "[According to Botha] his release was solving the problem of him being in jail."⁵⁷⁹ Botha saw Mandela as part of the problem; "he wanted him out of jail because imprisoning him was more trouble than it was worth."⁵⁸⁰

Coetsee subsequently familiarised himself with Roux's background reports on Mandela. When he asked for further reports, he was given a more detailed analysis from the Department of Prisons, which made specific points:

"A. Mandela is exceptionally motivated and maintains a strong idealistic approach; B. He maintains outstanding personal relations; C. He is manipulative, but nevertheless not tactless or provocative; D. There are no visible signs of bitterness towards whites, although this may be a fine game of bluff on his part; E. He acknowledges his own shortcomings, but nevertheless believes in himself; F. He is a practical and pragmatic thinker who can arrive at a workable solution on a philosophical basis; G. He has a capacity for integrated and creative thought; H. He has an unbelievable memory, to reproduce things in the finest detail; I. He has an unflinching belief in his cause and in the eventual triumph of African nationalism; J. He regards himself as called to the task and this elevates him above the average white who, according to him, has apparently lost his idealism; K. He believes in self-discipline, and continually taking the initiative, to the requisites of success. There exists no doubt that Mandela commands all the qualities to be the Number One black leader in South Africa. His period in prison has caused his psycho-political posture to increase rather than decrease, and with this he now has acquired the characteristic prison-charisma of the contemporary liberation leader."⁵⁸¹

The analysis provided no answer of what to do with such an opponent.

⁵⁷⁸ Transcript of Kobie Coetsee interview with Pdraig O'Malley, 5 September 1998

⁵⁷⁹ Transcript of Kobie Coetsee interview by Patti Waldmeir, 3 March 1995. Giliomee Papers BC 1070, Manuscripts and Archives Department, University of Cape Town

⁵⁸⁰ Waldmeir, 93

⁵⁸¹ Cited in Sampson, 299

In November 1979, Botha appointed Professor Lukas Daniel ('Niel') Barnard as the head of the Department of National Security (DONS), the successor to the Bureau of State Security (BOSS). In June 1980, DONS was renamed the NIS.

At the time, the NIS was a transitional organisation; the intelligence staff at NIS comprised two groups. At the senior level were many old BOSS officials recruited from the ranks of the security police in the 1960s. At lower levels were younger intelligence officers, recruited from universities with degrees in political science, law, psychology and African studies.⁵⁸²

Barnard was of the younger generation, and sought to transform NIS from its predecessor BOSS; “[originally] consisting of former security policemen, it subsequently turned itself into an organisation that valued professional, often academic, qualifications.”⁵⁸³ Professional reviews of individuals included assessments of relevant books read and it was open to civilian influence, the largest part of its budget was spent on research and it recognised the strategic studies qualifications of the University of Pretoria (UP) and Orange Free State (UOFS).⁵⁸⁴

The NIS focused on the long-term resolution of events at a macro-level; “NIS spoke the language of causes, consequences and prevention” and much of its work involved the gathering, sorting and evaluation of information obtained in the media, the security, public and diplomatic services, and from informants.⁵⁸⁵ According to Maritz Spaarwater, an NIS official who worked in various senior positions, the NIS “was intellectualised and transformed into the nearest thing the state had to an objective think-tank.”⁵⁸⁶ Under Barnard,

⁵⁸² Mark Swilling and Mark Phillips, “Powers of the Thunderbird”, in Centre for Policy Studies, *South Africa at the End of the Eighties* (Johannesburg: Centre for Policy Studies, 1989), 41

⁵⁸³ Annette Seegers, *The Military in the Making of Modern South Africa* (London: Tauris Academic Studies, 1996), 250

⁵⁸⁴ Ibid.

⁵⁸⁵ Seegers, 50; Swilling and Phillips, 41

⁵⁸⁶ Maritz Spaarwater, *A Spook's Progress: From Making War to Making Peace* (Cape Town: Zebra Press, 2012), 116

it rapidly gained credibility and respect of senior government officials, especially Botha.⁵⁸⁷ The NIS reported to Coetsee.

It is unclear at what point and under what circumstances the government's exploration of negotiation possibilities begins.

Coetsee states that it begins as a part of a general policy reform on political prisoner releases, and in the process of what to do with Mandela.

Barnard and his deputies offer a different account. Barnard states that the NIS took the view from the early 1980s that a negotiated end to apartheid was the only viable solution to the South African conflict: “[We] were confronted daily with an accurate assessment about the real problems of this country... You see the problems internally, you see the problems with the labour unions, you see the problems with education, you see the problems with socio-economic development, and you see the speeches made by other people... I tried to form an honest assessment based on good and accurate intelligence as to the true problems of this country.”⁵⁸⁸

Barnard states that his perceptions were shaped by two senior colleagues; Mike Louw and Maritz Spaarwater. Louw was Barnard's deputy and also came from the political studies department at UOFS. He had risen through BOSS where he wrote the agency's annual intelligence estimate.⁵⁸⁹ When he joined NIS, Louw became the Chief Director of Evaluation and deputy to Barnard. Louw agrees with Barnard's interpretation stating that by the end of the 1970s, the realisation of the permanency of the urban African population had rendered apartheid unworkable:

⁵⁸⁷ Ibid., 119

⁵⁸⁸ Transcript of Niel Barnard interview with Pdraig O'Malley, 17 September 1998

⁵⁸⁹ Saunders, 232

“The whole idea on which South Africa was built was crumbling. The homelands were failing hopelessly, they were totally corrupt, and billions were pumped into them and would just disappear. Apartheid couldn’t work because it wasn’t tackled with gusto, and implemented with vision – it was just hand-outs here and there... We were left without anything to guide the country, except the pragmatic constitutional manoeuvrings of PW Botha...”⁵⁹⁰

Louw had a significant impact on Barnard’s thinking: “Mike Louw was a man who very strongly all the time took the line that there is only one solution for this country and that is to find a political settlement; there is just no other way out. That influenced my thinking to a large extent.”⁵⁹¹

Spaarwater was younger than Louw and “had been part of the short-lived radical movement among Afrikaner students in the late 1960s that debated the theological morality of apartheid.” He confirms Louw’s explanation and points out that “his disillusionment with apartheid had taken root in 1978 when it became clear ... that NP politicians’ claim that government policy would reverse the influx of black people to the cities was nonsense.”⁵⁹² He rose to the rank of Colonel in MID and was recruited by Louw to the NIS.

Spaarwater writes that research output from NIS in the early 1980s gradually inspired a rethink in the higher echelons of the South African government about the country’s security situation. This led to the realisation that “the only way out was to proceed to a negotiated settlement.” Louw, he writes, was critical to this process: “No one in the intelligence community had a greater influence on bringing this about than Mike Louw, with the strong leadership and support of Niel Barnard, in gaining the confidence of the highest decision-makers.”⁵⁹³

⁵⁹⁰ Transcript of Mike Louw interview by Patti Waldmeir. Giliomee Papers BC 1070, Manuscripts and Archives Department, University of Cape Town

⁵⁹¹ Transcript of Niel Barnard interview with Pdraig O’Malley, 17 September 1998

⁵⁹² Cited in Saunders, 233

⁵⁹³ Spaarwater, 120

Thus one can conclude that among highly placed strategists and officials in the South African government, the shift towards exploring negotiation possibilities happens in the early 1980s during the early reform period. This shift among a handful of NIS strategists coincides with debates and initiatives concerning reforming political prisoner release policy. In this context, Mandela was identified as an important actor.

6.2.2. Approaching Mandela: The Logical Conclusion of Reform

Fourteen months after the Department of Prisons' final psychological profile of Mandela on Robben Island, Mandela, Walter Sisulu, Govan Mbeki, Andrew Mlangeni and Ahmed Kathrada (the ANC leadership on Robben Island) were transferred to Pollsmoor Prison in April 1982.⁵⁹⁴ Niel Barnard stated the intention: "One of the critical issues at the start of the '80s, when I was at the NIS, was we should find a way of almost demystifying this man [Mandela] ... How should we defuse a very critical and difficult situation."⁵⁹⁵

The government began to use Mandela's isolation to investigate his views on South Africa's political future. This was done by authorising visits by influential personalities.

In August 1984, one month after the beginning of the Vaal Uprising, Mandela was visited by a journalist, Benjamin Pogrand of the Rand Daily Mail whom he hadn't seen in twenty years. In October 1984, he was visited by Professor van der Merwe from the University of Cape Town who had been trying to broker peace between the government and the ANC. In late 1984 and early 1985, he was visited by Lord Nicholas Bethell, a member of the British House of Lords, and Professor Samuel Dash, from Georgetown University's law faculty.

⁵⁹⁴ Nelson Mandela, *Long Walk to Freedom* (Edinburgh: Little, Brown and Company, 1994), 611

⁵⁹⁵ Transcript of Niel Barnard interview with John Carlin, 25 May 1999

Mandela and Lord Bethell discussed the armed struggle and Mandela explained that it was up to the government to renounce violence.⁵⁹⁶ In his discussions with Professor Dash, Mandela laid out what he saw the minimum for a future non-racial South Africa: “a unitary state without homelands, non-racial elections for the central Parliament and one-person one-vote.”⁵⁹⁷

The township uprising had important implications for constitutional reform. The response to the uprising is the point at which the government begins to restructure the values attached to alternative outcomes, adding negotiation to the array of outcomes under consideration.

In January 1985, SKK persuaded Botha to announce at the opening of Parliament that “Africans permanently resident in South Africa could not forever be politically represented in homeland structures.” Urban Africans “were to have the right to political participation and a say [inspraak] in the higher levels... Consequently structures must be developed for black communities outside national states [i.e. in non-independent homelands] whereby they can enjoy self-determination over their own affairs up to the highest level.”⁵⁹⁸

Botha proposed an open-ended non-statutory black negotiation forum. He stated that “existing mechanisms for negotiation must be improved, and expected all ‘responsible’ black leaders to participate.” Heunis elaborated that “anyone could participate, and the only qualification was renouncing violence.”⁵⁹⁹ Negotiation meant negotiating structures for urban African representation outside non-independent homelands, and within central government. It did not mean negotiating the end of apartheid; it meant negotiating the reform of apartheid.

Following from this, while on a European tour at the beginning of January 1985 Botha had been encouraged by a group of German leaders, in particular Franz-Josef Strauss, the Bavarian Christian-Socialist, to offer to release Mandela if he would renounce all violence.

⁵⁹⁶ Mandela, 619

⁵⁹⁷ Ibid., 620

⁵⁹⁸ Cited in Melunsky, 84

⁵⁹⁹ Ibid., 85

Botha presented this formula to the cabinet but was warned by Coetsee and Louis le Grange, the Minister of Law and Order, that Mandela would not give up his strongest bargaining chip prematurely.⁶⁰⁰ However, with the support of the rest of the cabinet, Botha further told Parliament that he was offering Mandela his freedom provided he “unconditionally rejected violence as a political instrument.”⁶⁰¹ Publicly challenging Mandela, he concluded that it was therefore “not the South African government which now stands in the way of Mr Mandela’s freedom. It is he himself.”⁶⁰²

Mandela, determined to insert himself into the political process, prepared a statement which rejected the offer but kept open the option of negotiation. The statement was read out at a mass rally in Jabulani Stadium, Soweto:

“I am surprised at the conditions that the government wants to impose on me... It is only ... when all other forms of resistance were no longer open to us, that we turned to armed struggle... Let [Botha] renounce violence. Let him say that he will dismantle apartheid. Let him unban ... the African National Congress. Let him free all who have been imprisoned, banished or exiled for their opposition to apartheid. Let him guarantee free political activity so that people may decide who will govern them... Only free men can negotiate. Prisoners cannot enter into contracts ... I cannot give any undertaking at a time when I and you, the people, are not free.”⁶⁰³

To Botha’s formula, ‘Mandela in exchange for non-violence’, Mandela responded ‘legality in exchange for non-violence’ and “Botha’s gambit became an albatross.”⁶⁰⁴ Realising the deadlock, Coetsee was summoned to the President’s office and Botha told him: “You know we have painted ourselves in a corner. Can you get us out?”⁶⁰⁵

A chain of important events followed this interaction.

⁶⁰⁰ Sampson, 335

⁶⁰¹ Mandela, 620; Sampson, 335; Waldmeir, 93; Allister Sparks, *Tomorrow is Another Country: The Inside Story of South Africa’s Negotiated Revolution* (Sandton: Struik Book Distributors, 1994), 49

⁶⁰² Cited in Mandela, 620-621

⁶⁰³ Mandela, 622-623

⁶⁰⁴ Zartman, “Negotiating the South African Conflict”, 154

⁶⁰⁵ Transcript of Kobie Coetsee interview with Pdraig O’Malley, 6 November 1999

In April 1985, Stoffel van der Merwe, a cabinet minister, wrote in a booklet titled '*And What about the Black People?*' that separate development could not work. He admitted that attempts at expelling blacks from urban areas "had failed, that it was a mistake to force blacks in urban areas to accept citizenship of independent homelands, and maintained the situation in which blacks lived in one area and voted in another was ineffective and meaningless." He proposed "including all South Africans in a common political system, though not necessarily within the same structures."⁶⁰⁶ The booklet confirmed that the government accepted that urban Africans were permanent resident in 'white' South Africa with legitimate claims for political representation. However, no detail was provided how this would be achieved, "save for rejecting a fourth parliamentary chamber, and confirming that future dispensations would be group-based."⁶⁰⁷

In August 1985, at the NP Natal Congress (in a speech that would become known as the Rubicon speech), Botha declared that South Africa was one country:

"Should any of the Black National States therefore prefer not to accept independence, such states or communities will remain a part of the South African nation, are South African citizens and should be accommodated within political institutions within the boundaries of the Republic of South Africa."⁶⁰⁸

Botha announced that Africans "needed a forum to represent themselves in future negotiations, and would be included in government." Additionally, Botha admitted that "influx control was out-dated and costly."⁶⁰⁹

In September 1985, Botha accepted that some Africans who lived and worked permanently inside South African could be granted citizenship:

⁶⁰⁶ Melunsky, 85

⁶⁰⁷ Ibid.

⁶⁰⁸ Cited in Schrire, *Adapt or Die*, Appendix A

⁶⁰⁹ Melunsky, 85

“We must consequently accept the South African citizenship of those black persons who lost their citizenship because of the independence of Transkei, Bophuthatswana, Venda and Ciskei but who permanently reside in South Africa.”⁶¹⁰

This was Botha’s crucial concession as voting rights follow from citizenship rights. Exactly who qualified remained unclear. It was even more unclear “how African participation would be exercised beyond government’s commitment to groups, its belief that the country was made up of minorities, that there should be community self-determination, and that no one group should dominate.”⁶¹¹

This was the political climate in which Mandela requested a meeting with Coetsee to discuss talks between the government and the ANC. Although Coetsee did not respond, the opportunity came in December 1985 when a routine medical examination diagnosed Mandela with an enlarged prostate gland that required surgery. Mandela’s hospitalisation provided the opportunity for Coetsee. He arrived at Mandela’s side unannounced. He told Sparks that he was immediately impressed by Mandela. For his part, Mandela was surprised but recognised the government was extending an olive branch: “I was amazed. The government, in its slow and tentative way, was reckoning that they had to come to some accommodation with the ANC. Coetsee’s visit was an olive branch.”⁶¹²

Although no substantive political discussions occurred, the government signalled its intent. Mandela told Sparks: “at one point he said to me ‘I am interested in your being put in a situation between prison and freedom’.”⁶¹³ Coetsee assigned Mandela a new cell, away from his colleagues in order to create the environment for commencing talks.⁶¹⁴ Coetsee received instruction from Botha:

⁶¹⁰ Cited in Pottinger, 131

⁶¹¹ Melunsky, 87-88

⁶¹² Mandela, 624

⁶¹³ Cited in Sparks, 25

⁶¹⁴ Cited in Melunsky, 142

“We got the green light from Mr Botha that we could start talking to Mr Mandela in general. Just [keep] in mind that at the time it was the department of prisons mostly taking initiatives. We weren’t constitutionally equipped, we weren’t mandated, that’s why Mr Botha also decided to form a committee a little bit later. But it was to have access to Mr Mandela, and also put him in a position where he could have the opportunity to impose his views, which he did... I got the impression that he decided to use the opportunity and he interpreted it correctly, that it is something very special being designed.”⁶¹⁵

Mandela’s second isolation achieved the government’s desired results. According to Mandela, he came to the realisation that the time had come to begin discussions with the government:

“I had concluded that the time had come when the struggle could best be pushed forward through negotiations. If we did not start a dialogue soon, both sides would soon be plunged into a dark night of oppression, violence and war. My solitude would give me an opportunity to take the first steps in that direction, without the kind of scrutiny that might destroy such efforts.”⁶¹⁶

It was therefore not about the human cost of violence that led to Mandela’s perception of a stalemate but that the violence threatened to marginalise the ANC as an organisation. In other words, this was a deeply political understanding of costs. This happens at the beginning of 1986.

At the same time, Botha continued to give concessions as a way of legitimising constitutional reform. In the same month Botha formally proposed a National Statutory Council to “plan and prepare a constitutional dispensation which provides participation by all South African citizens in the processes of government”, and to grant Africans a voice in government “on an interim basis.”⁶¹⁷ However, despite Botha’s efforts, no black African leader, even those closely associated with the government, supported the NSC. Buthelezi refused to participate unless Mandela was released.⁶¹⁸

⁶¹⁵ Transcript of Kobie Coetsee interview with John Carlin, 25 May 1999

⁶¹⁶ Mandela, 625-626

⁶¹⁷ Schrire, *Adapt or Die*, 103

⁶¹⁸ Melunsky, 88

The point at which Mandela communicates his intentions to the government happens in June 1986 during the imposition of the second state of emergency. Mandela approached the Commissioner of Prisons, Lieutenant-General Willie Willemse, and requested a meeting with Coetsee in order to begin talks-about-talks with the government.⁶¹⁹ Willemse immediately contacted Coetsee and Mandela was driven to Coetsee's official residence in Cape Town, Savernake, spending three hours in discussion.⁶²⁰

According to Mandela, Coetsee asked relevant questions "that reflected a familiarity with the issues that divided the government and the ANC." Mandela was asked on the circumstances under which the ANC would suspend the armed struggle, whether he spoke for the ANC as a whole, and whether he envisioned any constitutional guarantees for minorities in a new South Africa.⁶²¹ Mandela, encouraged by the meeting, "saw the beginnings of a compromise."⁶²²

The major turning point happens in 1987, the same year in which the ANC adds negotiation to its range of policy options. Two events are important.

First, in order to regain control of events and bring about political certainty, Botha informed senior government officials early in 1987 to review government strategy. The Department of Constitutional Development and Planning produced a document, *Ons Skrik Vir Niks* (We Are Not Afraid of Anything), signalling an important shift in thinking inside the Department in favour of negotiation. The document was supported by more than twenty of the Department's senior members. The document argued that "reform could not proceed within apartheid's framework as government was insensitive to legitimate black political aspirations and lacked credibility among blacks and some whites. Without urgent political reform, conflict would intensify and the economy would further deteriorate."⁶²³

⁶¹⁹ Mandela, 631

⁶²⁰ Sampson, 352

⁶²¹ Mandela, 632

⁶²² Ibid

⁶²³ Melunsky, 92

As a result, it argued against detentions of anti-apartheid activists, concluding that the security agencies' way of addressing the uprising was counter-productive. According to the department's senior leaders, it was better to leave the anti-apartheid activists alone, unban political organisations and remove apartheid laws that had become unenforceable such as the Group Areas Act.⁶²⁴

The document proposed “negotiating a new constitution; representation for all South Africans on central, regional and local constitutional structures; incorporating all homelands into South Africa; protecting human rights; scrapping discriminatory laws; freezing parliament for a year, and establishing an inclusive, transitional parliament and executive authority to draw up a new constitution; withdrawing troops from the townships and ending the Emergency.”⁶²⁵

In short, the message was that the political liberalisation was a prerequisite for meaningful constitutional reform. Government thinking was moving towards finding accommodation with the ANC. The strategy, however, was reaching out to the ANC as a means of legitimising constitutional reform. Government strategists were unclear on the endgame of such reform.

Second, the NP interpreted its electoral victory in the May 1987 white election as providing it with a mandate to continue constitutional reform to its logical conclusion. Its slogan, “reform yes – surrender no”, indicated the government's dual concern and helped secure electoral triumph. The result indicated that reformist under-currents could not be stemmed.

Gerrit Viljoen, a senior cabinet minister and government strategic thinker, admitted that government “had completely abandoned attempts at forcing blacks to channel their political

⁶²⁴ Seegers, *The Military in the Making*, 249

⁶²⁵ Melunsky, 92

aspirations towards the homelands, and wanted a mandate for constitutional reform which will bring about political power-sharing with blacks at central government level.”⁶²⁶

De Klerk stated that all efforts to prevent black urbanisation had failed: “it does not help to bluff ourselves about this. The economy demands the permanent presence of the millions of blacks in urban areas.”⁶²⁷ Cabinet ministers argued that denying blacks’ political representation would turn them into revolutionaries: “White stability can be ensured only if blacks are given political rights and socio-economic upliftment.”

According to Magnus Malan, the government “wanted to meet black aspirations and negotiate future political structures, and planned to give blacks, especially the estimated five million urban blacks, full participation on the same basis as whites, coloureds and Indians.” Most urban blacks, Malan continued, “have no ties to the homelands whatsoever and if these are forced and the people shifted back to these areas, we will lose the revolutionary war.” Barend du Plessis “predicted an explosion if blacks were not given rights.”⁶²⁸

By May-June 1987, constitutional reform had become official NP policy and the election had the unintended consequence of promoting the ANC’s stature and symbolic appeal. According to an observer of the times, “one major winner of the [May] election was the ANC. It participated like a silent phantom. Pretoria elevated the ANC to its major threat. It therefore made the Congress the only alternative to NP rule.”⁶²⁹

In July 1987, Mandela resumed contact with Coetsee, holding several meetings at Savernake. In early 1988, Botha instructed Barnard to begin more structured discussions with Mandela. Barnard recalls:

⁶²⁶ Ibid., 108

⁶²⁷ Cited in *ibid.*

⁶²⁸ Ibid.

⁶²⁹ Ibid., 109

“Mr Botha, during a discussion, told me, ‘Dr Barnard, we want you to ... meet Mr Mandela now. There will be a team... Try to find out what you have been advocating for some time. Is it possible to find a peaceful settlement with the ANC, with this man Mandela? Try to find out what are his views on communism ... and then try to find out is Mr Mandela and the ANC interested in a peaceful settlement. For we also have deep suspicions about what they would be interested in’...”⁶³⁰

Coetsee approached Mandela and proposed they begin more structured discussions with a team of four: Barnard and Louw from NIS, and Fanie van der Merwe (director-general of the Department of Prisons) and Willemse (Commissioner of Prisons), all reporting to Coetsee. Barnard would lead the team, and Barnard and Coetsee would keep Botha informed. Botha instructed Coetsee to keep the talks confidential; neither the cabinet nor the State Security Council would be informed.

Stage one for the NP government ends at this point; when Botha instructs Barnard to form a committee of officials to investigate, through Mandela, whether the ANC is amenable to a negotiated settlement. This is when negotiated solutions are added to the range of policy alternatives.

6.3. Stage Two: The Search for Options

6.3.1. Mandela and the Committee of Senior Officials

Stage two begins with the formal meeting of the committee of senior officials on 25 May 1988 at the officer’s club in Pollsmoor. After that they met every week for a few months, and then at irregular intervals; sometimes not for a month, and then suddenly weekly. Sometimes meetings would go on for seven hours at a time. Barnard and Mandela would equally schedule the meetings.⁶³¹

⁶³⁰ Transcript of Niel Barnard interview with John Carlin, 25 May 1999

⁶³¹ Mandela, 640

Barnard stated that the meetings were “not a political debate but an effort on the part of knowledgeable persons to establish ‘how Mr Mandela’s head worked’.” Barnard approached the discussion with three objectives: “(1) to establish whether Mr Mandela was interested in a peaceful solution to South Africa’s political problems; (2) to establish whether Mr Mandela himself was a communist or not; and (3) whether he would support the protection of minority groups in a future constitutional dispensation.”⁶³²

The committee of senior officials would meet Mandela 47 times. The majority of the meetings involved Mandela, Barnard and Louw. Barnard and Louw developed an admiration and deep respect for Mandela, referring to him, out of his presence, as ‘the Old Man’, and in his presence as ‘Sir’.

Mandela recalls that the group focused on three issues: (1) the armed struggle, (2) the ANC’s relationship with the South African Communist Party (SACP), and (3) the meaning of majority rule.

The group spent months debating the armed struggle. Mandela recalls that the government insisted the ANC renounce violence and end the armed struggle “before the government would agree to negotiations ... and before [Mandela] could meet President Botha.” Mandela would counter-argue that armed struggle was a “legitimate form of self-defence” and believed that he advanced their understanding on this point.⁶³³

The ANC’s relationship with the SACP also troubled the government team; they maintained that “the Communist Party dominated and controlled the ANC and that in order for settlement negotiations to begin [the ANC] must break from the [SACP].” Mandela explained that the ANC and SACP were separate and distinct organisations “that shared the same short-term

⁶³² Cited in Saunders, 244

⁶³³ Mandela, 641

objectives [the over throw of apartheid], but [their] long term interests were not the same.” The group never reached consensus on this.⁶³⁴

The group was also not able to reach consensus on majority rule; the government team insisted that minority rights are inevitably threatened with Mandela arguing contrary.⁶³⁵

In August 1988, Mandela was told that Botha had planned to see him later that year. After being hospitalised a second time, and another transfer to a large bungalow on prison grounds, the secret talks with the group continued, but stalled on the same issues. Mandela got increasingly restless. He told Barnard that he wanted to “talk to the man with the power, and that is PW Botha.” But for endless hours, Mandela recollects, Barnard’s team pressed him on the same questions: “Was he interested in a negotiated settlement? What were his views about communism? How would an ANC government treat minorities? The same old questions, the same reassuring answers – the same paralysis.”⁶³⁶

After repeated requests to meet Botha had fallen on deaf ears, Mandela put his views in writing in late 1988 on the explicit understanding that a meeting would materialise. While hammering down demands and preconditions for negotiation in a memorandum, Botha suffered a stroke. While it did not incapacitate him, he was significantly weakened.

A month after being rushed to hospital, Botha announced that he “intended to separate the position of state president from the leadership of the National Party” with the explicit intention of creating a prime minister beneath the state president.⁶³⁷ Botha’s strategy backfired and NP power-brokers seized power; in February 1989, FW De Klerk, a senior cabinet minister and the conservative Transvaal leader of the NP was elected head of the

⁶³⁴ Ibid., 642

⁶³⁵ Ibid.

⁶³⁶ Cited in Waldmeir, 103

⁶³⁷ Saunders, 245

party, and on March 13, won the support of the NP for the leader of the party to occupy the state presidency.⁶³⁸

An extraordinary interregnum emerged raising the political stakes. The tension and anxiety following Botha's stroke was not lost on Mandela and the government team. According to Barnard, Mandela became increasingly restless and irritated with the team as he sensed that if he could not meet and find agreement with Botha quickly, he would have to start with the whole process all over again with new role players. Barnard agreed with Mandela that the meeting had to occur before it was too late. He subsequently approached Botha:

“I remember ... telling him that the time is absolutely right to meet Mr Mandela, as quickly as possible. If not, we are going to slip, perhaps, one of the most important opportunities in our history ... My views with Mr Botha were the following, ‘Mr President, if you meet him and it becomes the basis, the foundation for future development in our country, history will always acknowledge you as the man who started this due process. If it's the beginning of going forward, it would always say that you have taken each and every step, and so in my concerned opinion there is only a win-win situation...’ So approval was finally given...”⁶³⁹

6.3.2. The Mandela-Botha Meeting

The historic meeting between Mandela and Botha was premised on two important documents; a memorandum written by Mandela and presented to Botha (i.e. the Mandela Document) for the meeting, and the government team's response to the Mandela Document (i.e. the Government Team Document). Both these documents can be considered the first official positions that the government and Mandela put to each other during the pre-negotiation stage. More importantly, this moment, and the subsequent meeting between Mandela and Botha, indicates ripeness.

6.3.2.1. The Mandela Document

⁶³⁸ Ibid.

⁶³⁹ Transcript of Niel Barnard interview with John Carlin, 25 May 1999

In this historic document, Mandela stated that the 1980s political crisis had made it necessary for the ANC and the government to negotiate a political settlement. Mandela stated that his role, at this stage, was limited: “to bring the country’s two major political bodies to the negotiating table.”⁶⁴⁰ His intervention was “influenced by purely domestic issues, by the civil strife and ruin into which the country is sliding.” Mandela responded to three main demands set by Barnard’s team as preconditions for settlement negotiations: “that the ANC renounce violence, break with the SACP and abandon its demand for majority rule.”

Mandela argued that while the ANC “has no vested interest in violence” it considered the armed struggle “a legitimate form of self-defence” against a government which would “not allow peaceful forms of protest.” The fundamental problem was not the refusal of the ANC to renounce violence but that “the government is not yet ready for negotiation and for the sharing of political power.” The government had to accept that the ANC would not suspend the armed struggle until the government demonstrated its willingness to surrender the monopoly of political power, and to negotiate directly and in good faith with acknowledged black leaders. Therefore, the renunciation of violence by either the government or the ANC “should not be a precondition to, but the result of, negotiation.”

Mandela “[rejected] the charge that the ANC is dominated by the SACP.” He stated that “at no time has the [ANC] ever adopted or co-operated with communism itself ... [and] the SACP was throughout the years accepted the leading role of the ANC.” Mandela argued that the ANC was a non-aligned organisation that welcomed support “from the East and the West, from the socialist and capitalist countries... and have no intention whatsoever of changing [their] stand on this question.”

On majority rule, the document stated that the principle is a foundation of democratic societies. More importantly, “majority rule and internal peace are ... two sides of a single

⁶⁴⁰ The Mandela Document: Full Text of the Document Presented by Nelson Mandela to PW Botha, July 1989. BC 1081 (P32.1) Manuscripts and Archives Department, University of Cape Town

coin, and white South Africa simply has to accept that there will never be peace and stability ... until the principle is fully applied. It is precisely because of its denial that the government has become the enemy of practically every black man. *It is that denial that has sparked off the current civil strife.*”⁶⁴¹

Mandela’s resolving formula was a “negotiated settlement, and a meeting between the government and the ANC [as] the first major step towards lasting peace in the country.” Two issues would have to be discussed: “the demand for majority rule in a unitary state; [and] the concern of white South Africa over this demand, as well as the insistence of whites on structural guarantees that majority rule will not mean domination of the white minority by blacks.” The most crucial task facing the government and the ANC was “to reconcile these two positions. Such reconciliation will be achieved if both parties are willing the compromise.”

The negotiation process that would reconcile these two positions would be done in two stages: In the first stage, the ANC and the government would need to work out preconditions for a proper climate for negotiations; and the second stage would be the actual settlement negotiations themselves that would occur when the climate is ripe for doing so.”⁶⁴²

6.3.2.2. The Government Team Document

⁶⁴¹ Ibid.

⁶⁴² Ibid.

Barnard's team provided Mandela with a frank response.⁶⁴³ They reminded Mandela that their task was not to conduct negotiations but investigate whether, and how, he could contribute to a peaceful settlement.

The government criticised Mandela for belittling the government preconditions and "relapsing into revolutionary rhetoric [in which] Mandela the 'freedom fighter' holds floor." They refuted his assertions about the armed struggle, the renunciation of violence and majority rule. They stated that Mandela's viewpoint was "nothing new" and to become involved in disputes on this issue "would merely promote polarisation and be counter-productive." The team stressed that the government was "honest and sincere in its efforts to achieve a breakthrough in respect negotiations with all South Africans who commit themselves to a peaceful future for RSA."

On the ANC relationship with the SACP, the government stated that Mandela's views on the issue were not authoritative and he was not informed about the SACP's power over the ANC in exile: "this tendency is not a mere propaganda statement as you maintain; it can be substantiated by hard intelligence facts and independent sources." They disagreed with Mandela over the ANC's views on communism, the role of SACP members in the ideological direction of the ANC, and of the role of Marxist ideology in the relevance of the ANC's struggle against apartheid. In short, Mandela was being disingenuous in claiming SACP members and their Marxist ideology were irrelevant. They also rejected Mandela's contentions on majority rule.⁶⁴⁴

The government team stated that Mandela's views on a negotiated political settlement were "evidently written in a more rational style and [indicated] a readiness to put national interests before sectarian interests, and willingness to play a constructive role." They believed Mandela's approach to a negotiated settlement contained definite points of agreement with government positions. The government also saw a two-staged negotiation process, where

⁶⁴³ The Text, 1989-09-01, 16:39, Prison Service HQ 80668009, MCH01-67.4, ANC Archives, Mayibuye Centre, University of the Western Cape

⁶⁴⁴ Ibid.

intensive talks-about-talks on stumbling blocks and obstacles (i.e. preconditions) would precede a formal phase where “participants in the negotiation process [would] be empowered to enter into an agreement if they reach a consensus.” One possibility, the government team argued, would be “for a democratic process to empower people to really become formally involved in a more structured negotiation situation.”⁶⁴⁵

6.3.2.3. Tea at Tuynhuys

On 5 July 1989, Nelson Mandela and President PW Botha sat down to tea for Tuynhuys, the presidential office in Cape Town. Botha poured the tea. Also in attendance were Barnard, Coetsee and Willemse. The meeting lasted thirty minutes. No substantive issues were discussed.

The meeting began with a conversation about South African history and culture. Mandela drew parallels between African and Afrikaner nationalism. He explained that the liberation struggle was akin to the 1914 Afrikaner Rebellion, the difference being that it was a struggle “between brothers who happen to be different colours.”⁶⁴⁶ Botha stated that “the Afrikaner loved South Africa, which was his only home [and] Mandela said that he understood.”⁶⁴⁷ Mandela raised the subject of Walter Sisulu’s release. Botha listened and told Barnard that he had to assist Mandela on this request.⁶⁴⁸

All who were present have sentimental recollections of this historic encounter and their role in it. Mandela writes that his impressions of Botha were formed the moment he walked into his office: “PW Botha walked towards me. He had planned his march perfectly, for we met exactly halfway. He had his hand out and was smiling broadly, and in fact, from the very first moment, he completely disarmed me. He was unfailingly courteous, deferential and

⁶⁴⁵ Ibid.

⁶⁴⁶ Mandela, 659

⁶⁴⁷ Waldmeir, 106

⁶⁴⁸ Transcript of Niel Barnard interview with John Carlin, 25 May 1999

friendly.”⁶⁴⁹ The meeting, Mandela recollects, “was friendly and breezy until the end” and he came out “feeling that I had met a creative, warm head of state that treated me with all the respect and dignity that I could expect.”⁶⁵⁰ Waldmeir writes that Botha told an opposition politician, “‘*Ek het begrip vir die ou man*’ (I can understand the old man), and [faced] with the same circumstances, ‘I don’t know what I would have done’.”⁶⁵¹

According to Barnard, he had prepared Mandela and Botha for the meeting. He recalls: “I tried to convince [Mandela], ‘Listen, this is an ice-breaker meeting. It is not about fundamental issues. Come to learn the man. Talk about all those easy things in life... Don’t tackle a difficult issue, that’s not the reason for the first meeting.’” He advised Botha:

“... I told [Botha] that I think [Mandela] is a man of quite a personality with a very firm understanding of what was going on in terms of politics. And that he should be handled in such a way that he can, with honour, take the whole process forward. ‘Listen to him with a lot of respect... If you don’t mind [don’t] do the talking, listen to him to what he has to say. He has a lot on his mind, and then agree that he will take the process forward, if I can advise that, Mr President,’ which broadly, to a large extent, happened. I think it was a good meeting...”⁶⁵²

Coetsee recalls that there were no moments of tension and there was chemistry between the two.⁶⁵³

Barnard decided it was time to talk with the ANC in exile. He instructed Esterhuysen to liaise with Mbeki in London to facilitate a meeting between Spaarwater and Mbeki.⁶⁵⁴ The meetings would be given the name ‘Project Flair’.

6.4. End of Stage Two: The State and the ANC

⁶⁴⁹ Mandela, 658-659

⁶⁵⁰ Cited in Waldmeir, 105; Mandela, 659

⁶⁵¹ Cited in Waldmeir, 106

⁶⁵² Transcript of Niel Barnard interview with John Carlin, 25 May 1999

⁶⁵³ Transcript of Kobie Coetsee interview with John Carlin, 25 May 1999

⁶⁵⁴ Saunders, 246

As mentioned, in the second stage, a negotiated solution is actively considered. Another turning point is reached if negotiation is chosen as the preferred and necessary policy alternative, moving the process to the third stage. The process of choosing negotiation as the necessary policy alternative was concluded and made jointly by the NIS and ANC. The process that facilitated the final stages of the second stage was Project Flair. Project Flair was preceded by two developments that marked the completion of stage two in pre-negotiation for the ANC; the resolution of the Angolan civil war, and the drafting of the Harare Declaration.

6.4.1. The New York Accords

In 1989, MK was plunged into an indefinite crisis effectively rendering the armed struggle obsolete.

On 22 December 1988, two important agreements were signed in New York, bringing a temporary end to over twenty years of civil war in Angola and Namibia.

The first agreement, signed by Angola, Cuba, and South Africa, set 1 April 1989 for the beginning of the implementation of UN Security Council resolution 435. The resolution contained a plan for “achieving the independence of Namibia, under which a 7,500 strong UN military force ... was to be inserted into Namibian territory to ensure suitable conditions for the holding of ‘free and fair elections’ for a constitution-making assembly in November 1989, seven months after the implementation of the resolution commenced. Formal independence would follow shortly afterwards.”⁶⁵⁵

⁶⁵⁵ Geoff Berridge, “Diplomacy and the Angola/Namibia Accords”, *International Affairs*, Vol. 65, No. 3 (Summer 1989), 463

The second agreement provided for the “total withdrawal of Cuban troops from Angola, in stages, by July 1991, and was signed by Cuba and Angola.”⁶⁵⁶

Implicit in both agreements was a non-aggression pact similar to the Nkomati Accord. Principle G of the New York Principles stated that the signatories should “not allow their territory to be used for acts of war aggression, or violence against other states.”⁶⁵⁷ Consequently, in return for South Africa’s dropping UNITA, the Angolan government would cease offering military facilities to the ANC.

In early January 1989, Oliver Tambo announced the decision to abide by the New York Accords and closed all MK military bases in Angola.

According to the chief mediator in the Angolan conflict, Chester Crocker, the New York Accords were of historical significance for Southern Africa:

“The principles contained potent symbolism and it would set new standards of regional conduct. UNITA would lose its regional military ally at the moment when the MPLA was losing the Cubans. The ANC would lose its last remaining sanctuary within reach of South Africa just when SWAPO [South West African People’s Organisation] would become free to return home and seek power through elections. South African would put Namibia on the path to independence and begin shedding their interventionist military role in neighbouring countries.”⁶⁵⁸

The New York Principles would serve as a resolving formula for civil wars in Angola and Namibia, and consequently, begin the path to the negotiated end of apartheid.

⁶⁵⁶ Ibid.

⁶⁵⁷ Chester Crocker, *High Noon in Southern Africa: Making Peace in a Rough Neighbourhood* (Johannesburg: Jonathan Ball, 1993), 500

⁶⁵⁸ Ibid., 442

The New York Accords had a profound impact on MK. A large exodus of MK fighters moved across the Angolan border into Zambia “where the ANC did not have permanent military camps, but rather an agreement with the Zambian government that it could use ‘transit’ residences for its military personnel headed towards South Africa.”⁶⁵⁹ Morale was at its lowest.

Bill Anderson, a senior NAT intelligence officer in Zambia, stated that after the New York Accords MK was “in a state of absolute chaos with [MK fighters deployed] without briefings, without proper preparations of documents, without proper clothing.”⁶⁶⁰ Keith Mokoape, a senior MK intelligence officer, told Anderson that “because the number of MK operations was perceived to be declining, ‘there was one objective and one alone’ for the intelligence department in helping to plan operations: this was ‘to make the graph of actions go up, irrespective of what actions were undertaken, irrespective of basing cadres, and so on’.”⁶⁶¹ Chris Hani, the MK Chief of Staff, stated that “of about 240 MK cadres deployed from Zambia in 1989, a third had defected, a third were captured or killed, while a third were somehow in place, whether active or drifting.”⁶⁶²

The resulting uncertainty led to increasing levels of frustration and ill-discipline in MK, with serious diplomatic implications for the ANC’s relationship with the Zambian government. As a result, the NAT Security Department (Mbokodo) and the ZSIS carried out regular raids to disarm MK fighters.⁶⁶³

The violence within MK continued; “on 30 July [1989] an explosive device detonated at a house belonging to the ANC in Kamanga township in Lusaka.”⁶⁶⁴ Mbokodo became more ruthless in its policing, and a vicious cycle ensued. Things came to a head in August 1989 when Mbokodo agents arrested and detained four MK fighters who had applied for refugee

⁶⁵⁹ Thula Simpson, “Toyi-Toying to Freedom: The Endgame in the ANC’s Armed Struggle, 1989-1990”, *Journal of Southern African Studies*, Vol. 35, No. 2 (June 2009), 508

⁶⁶⁰ Transcript of Howard Barrell interview with Bill Anderson, 8 April 1991. Folder 1, Part 1 Karis-Gerhart Collection, Historical Papers, University of the Witwatersrand; Simpson, 508

⁶⁶¹ Ibid.

⁶⁶² Ibid.

⁶⁶³ Simpson, 509

⁶⁶⁴ Ibid.

status with the United Nations High Commission for Refugees (UNHCR) and awaiting resettlement. The Zambian government, furious with this heavy handed response, demanded their release.⁶⁶⁵

When allegations of torture and abuse in Mbokodo custody surfaced, the Zambian government had enough; on 16 August, Alfred Nzo announced that over 5,000 MK fighters in Zambia would be relocated to Tanzania and Uganda.⁶⁶⁶ A second exodus of MK took place within just a month, this time from Zambia, the ANC's most loyal ally in the region.

This was of extreme significance for the ANC's external mission and the armed struggle; the infiltration of MK into South Africa was no longer an option. In the aftermath of the Nkomati and New York Accords, MK's military camps in Tanzania and Uganda faced an enormous strip of territory preventing any significant deployment of MK fighters into South Africa. It became impossible for the ANC to pursue the armed struggle in any meaningful way; armed struggle had reached its endgame, and MK was checkmated in August 1989.

6.4.2. The Harare Declaration

As the Angola/Namibia conflict resolution came to an end, Oliver Tambo realised that the ANC was losing control of events. If the ANC wanted to control the unfolding process, it would have to embrace the principles of negotiations as a first preference. Simon Makana, now the ANC's chief representative in the Soviet Union, stated that political events in Southern Africa isolated the ANC; the Front Line States were tired of decades of war in Southern Africa and by 1989, were actively pushing the ANC toward a negotiated settlement with the NP government.⁶⁶⁷

⁶⁶⁵ Ibid., 510

⁶⁶⁶ Ibid.

⁶⁶⁷ Gevisser, 545

In the immediate aftermath of the New York Accords, Tambo instructed Mbeki to organise an internal committee to draft an ANC bottom line for settlement negotiations. Tambo's strategy was to draft a document to be endorsed by the Front Line States, the Organisation of African Unity (OAU), and the United Nations (UN) as a basis for the ANC's negotiation with the government.⁶⁶⁸

The document, known as the Harare Declaration, was drafted by Tambo and Mbeki, and accepted by the OAU on 21 August 1989 (less than week after MK's relocation to East Africa) and by the UN on 14 December 1989.

The preamble declared apartheid "an obstacle to peace and an affront to justice and human dignity, and must be abandoned."⁶⁶⁹ The declaration encouraged the negotiated end to the apartheid system and the creation of a non-racial democracy and constitutional order, with "universally recognised human rights, freedoms and civil liberties, under an entrenched Bill of Rights." It stated that it was essential for a necessary climate of negotiations to be created before any negotiations can take place and placed the responsibility on the South African government to create this climate. Accordingly, the government, at the very least, was called to: "release all political prisoners and detainees unconditionally and refrain from imposing restrictions on them; lift bans and restrictions on all proscribed and restricted organisations and persons; remove all troops from the townships; end the state of emergency and repeal all legislation ... designed to circumscribe political activity; and cease all political trials and political executions." These measures were essential and necessary to produce conditions in which "free political discussion can take place."

The declaration defined how the process of negotiation should unfold:

⁶⁶⁸ Ibid., 549

⁶⁶⁹ "Declaration of the Organisation of African Unity Ad Hoc Committee on Southern Africa on the Question of South Africa" (Harare Declaration), August 21, 1989. Document 174, in Gail Gerhart and Clive Glaser, *From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882-1990, Volume 6: Challenge and Victory 1980-1990* (Bloomington: Indiana University Press, 2010)

“Discussions should take place between the liberation movement and the South African regime to achieve the suspension of hostilities on both sides by agreeing to a mutually binding ceasefire; negotiations should then proceed to establish the basis for adoption of a new Constitution by agreeing on, among others, the Principles enunciated above; having agreed on these principles, the parties should then negotiate the necessary mechanism for drawing up the new Constitution; the parties shall define and agree on the role to be played by the international community in ensuring a successful transition to a democratic order; the parties shall agree on the formation of an interim government to supervise the process of the drawing up and adoption of a new constitution...; after the adoption of the new Constitution, all armed hostilities will be deemed to have formally terminated.”⁶⁷⁰

The day before Tambo was to present the Harare Declaration to the OAU, he suffered a stroke that seriously weakened him and was airlifted to a hospital outside Stockholm, Sweden. The stroke ended Tambo’s active participation as the ANC’s predominant leader in the pre-negotiation stage. While Nzo and Mbeki temporarily filled the vacancy, it led to a power vacuum in the ANC’s external mission. The consequence was that Mandela’s authoritative role was significantly elevated. The problem was that he was still in prison; his release was thus of crucial importance for the ANC to reconstitute political authority, and maintain momentum in pre-negotiation.

6.4.3. ‘Project Flair’

Following Barnard’s instruction, Esterhuysen informed Mbeki that the NIS was ready to meet and to begin to negotiate preconditions for settlement negotiations. Project Flair was carried out by Louw and Spaarwater on the government side. On the ANC side was Mbeki and Jacob Zuma, the deputy director of NAT.

The first meeting took place on 12 September 1989, at the Palace Hotel in Lucerne, Switzerland. The meeting lasted seven hours. The agenda covered substantive issues: the necessity of a negotiated settlement; the release of Mandela; the state of emergency; the ANC’s relationship with the SACP; and the armed struggle. The NIS was seeking assurance

⁶⁷⁰ Ibid.

that the ANC was ready to talk and negotiate. Louw and Spaarwater were given this assurance. The second item discussed was the role of would-be facilitators and mediators. Both sides agreed that only direct dialogue between the ANC and the government would lead to progress. Esterhuysen writes that what was primarily intended as a clarification of positions became in reality also an unofficial declaration of intent: “we have to make peace with one another and among ourselves.”⁶⁷¹

The second meeting took place on 6 February 1990, in Lausanne, Switzerland. The ANC delegation comprised Mbeki and Pahad, and for the NIS, Louw and Spaarwater. According to Pahad, concrete details were discussed about “the release of Mandela, structures to be established to manage the return of the exiled ANC leadership, and preparations for the first [public] meeting between the ANC and the government in South Africa, the issue of indemnity, the definition of a political prisoner and the cessation of violence.”⁶⁷²

They set up working committees: ‘Group Alpha’ was the codename for Mandela’s release; ‘Group Bravo’, the release of detainees; ‘Charlie’ for setting up discussions at a political level; and ‘Delta’, for maintaining contact between the NIS and NAT.⁶⁷³ Issues pertaining to removing obstacles for settlement negotiations had to be dealt with, indemnity had to be arranged, and the question of who was a political prisoner had to be resolved. There was agreement that the negotiation process would need to have an initial phase of talks about talks i.e. of deciding who would represent whom, and on the form the process would take.⁶⁷⁴ Louw cautioned that De Klerk was about to take enormous political risk, and the ANC would need to respond positively in order to keep the momentum. Specifically, Louw wanted “a positive response from the ANC’s executive committee, ‘greater discipline’ in controlling the protest campaign inside South Africa, and an agreed formula for ending guerrilla struggle.”⁶⁷⁵

⁶⁷¹ Cited in Esterhuysen, 224

⁶⁷² Aziz Pahad, “Nine Days that Shook the World”, *The Thinker: For Thought Leaders*, Vol.13 (2010), 23

⁶⁷³ Ibid.

⁶⁷⁴ Sparks, 116

⁶⁷⁵ Cited in Ibid.

6.4.4. The Mandela-De Klerk Meeting

De Klerk was formally elected on 14 September 1989, two days after the first ANC-NIS meeting in Lucerne.

De Klerk's first action as the president was to take constitutional reform to its logical conclusion. In his election as NP leader on February 1989, De Klerk stated that his new goal was a 'new' South Africa: "a totally changed South Africa which would rid itself of the antagonisms of the past and would be free from domination and suppression, in whatever form. Our goal was a South Africa in which all reasonable people would unite behind mutually acceptable goals and against radicalism, regardless of its origin."⁶⁷⁶ De Klerk used this message as the NP platform in the all-white 1989 election campaign and "as the basis on which [he] asked the electorate to give [the NP] a mandate for fundamental reform."⁶⁷⁷

In his inauguration speech on 20 September De Klerk stated that the mandate of the 6 September election had placed the white electoral irrevocably on the road to a new South Africa and that "there was only one way to peace and justice for all: it was the way of reconciliation; of searching together for mutually acceptable solutions; of talking together about what the new South Africa must look like; and of constitutional negotiations which could lead to lasting understandings." His government's specific goals with thus include "the elimination of mistrust; the initiation of negotiations to develop a new constitutional dispensation; economic growth and prosperity; and a firm stand against unrest, terrorism and violence."⁶⁷⁸

His first task was to reinstall cabinet government. To this end, he began to dismantle the security structures developed under Botha. According to De Klerk, in the new political environment accompanying his presidency, the security services "would have to maintain an

⁶⁷⁶ F.W. De Klerk, *The Last Trek, A New Beginning: The Autobiography* (London: Macmillan, 1998), 150

⁶⁷⁷ *Ibid.*, 151

⁶⁷⁸ *Ibid.*, 151

impartial stance towards the political role of the ANC and other revolutionary organisations.” He says he realised “how difficult it would be for them to change their attitudes, virtually overnight, to organisations that they had for decades come to regard, in all respects, as their mortal enemies.” On 10 January 1990, he told 800 senior police officers at the South African Police College that it was their duty to be impartial: “... they would no longer be required to promote or oppose any particular political cause; ... they should refrain from any political involvement; and they should restrict their activities to combating crime and protecting the lives and property of all South Africans.”⁶⁷⁹

Mandela had continued to meet the secret working group. On 10 October 1989, De Klerk unconditionally released Walter Sisulu, Raymond Mhlaba, Ahmed Kathrada, and other old guard ANC political prisoners. In early December, Mandela was informed that he was to meet De Klerk for the twelfth of that month. He drafted a letter to De Klerk, similar in message and content to the Mandela Document sent to Botha.

Mandela’s letter stated that the ANC would not accept the suspension of the armed struggle as a precondition for talks; the ANC’s commitment to peace was in their readiness to talk and this was articulated in various public statements.⁶⁸⁰ He reiterated his proposal to Botha that talks take place in two stages: “the first being where the government and the ANC would together work out the preconditions for negotiations; [the] second stage would consist of the actual negotiations themselves when the climate for doing so was ripe.”⁶⁸¹ Mandela told De Klerk that the principle source of all South Africa’s problems was the policy of apartheid, and to this end he fully supported the guidelines adopted in the Harare Declaration for its dismantling.⁶⁸²

Mandela and De Klerk met on the morning of 13 December in Tuynhuys. In attendance were Barnard, Louw, Willemse and Coetsee. Mandela raised the issue of ‘group rights’, which was

⁶⁷⁹ Ibid., 153

⁶⁸⁰ African National Congress, ‘A Document To Create a Climate of Understanding.’ Document forwarded by Nelson Mandela to F.W De Klerk on 12 December 1989

⁶⁸¹ Ibid.

⁶⁸² Ibid.

contained in the National Party's recently introduced five year plan, arguing that "it was not in his interest to retain this concept, for it gave the impression that he wanted to modernise apartheid without abandoning it." Mandela said the concept must be "entirely cast aside" as "the ANC had not struggled against apartheid for seventy-five years only to yield to a disguised form of it."⁶⁸³ De Klerk stated that the National Party's support for group rights was a mechanism to provide "structural guarantees that majority rule would not mean the domination of the white minority by blacks."⁶⁸⁴

Both Mandela and De Klerk have pleasant recollections of the meeting. Mandela's impression of De Klerk was a reasonable leader who was a very good listener.⁶⁸⁵ De Klerk's impression was that Mandela conveyed "dignity, courtesy and self-confidence [and] had the ability to radiate unusual warmth and charm – when he so chose." De Klerk saw him as "every inch of a Thembu patriarch [who] bore the mantle of authority with the ease of those who are not troubled by self-doubt."⁶⁸⁶ They both more or less reached the same conclusions: that it would be possible to do business together.

After meeting Mandela, De Klerk summoned his cabinet and began developing a comprehensive strategy for negotiations. By the beginning of the New Year, the cabinet had accepted the full consequences of power-sharing, "provided there would be reasonable protection for minority rights" and agreed that the ANC would have to be part of the process and political solution. This would require "a strategy to bring the ANC to the negotiating table." They reached consensus "on the need for an approach that would surprise [the ANC] and give [the government] the early initiative."⁶⁸⁷

⁶⁸³ Mandela, 664

⁶⁸⁴ De Klerk, 158

⁶⁸⁵ Mandela, 663-665

⁶⁸⁶ De Klerk, 157

⁶⁸⁷ Ibid., 162

6.5. Theoretical Implications: Pre-Negotiations and Ripeness

6.5.1. Implications for Pre-negotiation

The South African government stream in pre-negotiation features factors analogous to the first and second stages of pre-negotiation as described by Tomlin.

As discussed, pre-negotiation is brought about by either an event or change in conditions that “causes a restructuring of the values attached to alternative outcomes and the addition of a negotiated solution to the array of outcomes under consideration.” The stage is characterised by “an assessment of the problem produced by changing events or conditions and a preliminary evaluation of alternative responses that may or may not add negotiation to the range of policy options.”⁶⁸⁸ A turning point is reached if the addition does occur, and the process moves into its second stage. In the second stage, one of the parties “has under active consideration a negotiated solution to the policy problem identified in stage one.” When negotiation is chosen as the preferred or necessary policy alternative, another turning point in the pre-negotiation process is reached.⁶⁸⁹

The government exploration of negotiation possibilities emerges as part of the process of constitutional reform.

The first phase of constitutional reform begins in 1973 with the appointment of the Theron Commission and ends in September 1984 with the inauguration of the Tricameral Constitution. The government faced two important challenges in this process: to get the support of urban African leaders to accept the exclusion of Africans from the Tricameral Parliament and to persuade them to participate in a negotiating forum on black political

⁶⁸⁸ Tomlin, 258-259

⁶⁸⁹ Ibid.

rights. To deal with these twin issues, Botha appointed the SKK five days after the referendum of November 1983.

Botha was initially opposed to a fourth chamber for blacks, but would support regional development, land consolidation in the homelands and a creation of a constellation of states. Thus, for the government, the Black Local Authorities Act, and accompanying legislation, was designed to compensate urban blacks from their exclusion from parliament.

The turning point comes in September 1984 when the government loses control of the reform process. The ensuing uprising creates a legitimacy crisis for the government. Important conditions facilitate the restructuring of the values attached to alternative outcomes and the addition of a negotiated solution to the array of outcomes under consideration. The process of stage one occurs between 1985 and 1987, through five major concessions.

First, in January 1985, Botha announces at the opening of parliament that Africans permanently resident in South Africa could not forever be politically represented in homeland structures. Urban Africans were to have the right to political participation in central government. The implication is that political structures would have to be developed for black communities outside non-independent homelands. To this end, Botha proposed an open-ended non-statutory black negotiation forum. Heunis stated that anyone could participate, and the only qualification was renouncing violence.

Second, in April 1985, Stoffel van der Merwe wrote that separate development was unworkable. He admitted that attempts at expelling blacks from urban areas “had failed, that it was a mistake to force blacks in urban areas to accept citizenship of independent homelands, and maintained the situation in which blacks lived in one area and voted in another was ineffective and meaningless.” He proposed “including all South Africans in a common political system, though not necessarily within the same structures.”⁶⁹⁰ Van der

⁶⁹⁰ Melunsky, 85

Merwe confirmed that the government accepted that black Africans were permanent resident in 'white' South Africa with legitimate claims for political representation.

Third, in August 1985, at the NP Natal Congress, Botha declared that South Africa was one country and that "[should] any of the Black National States therefore prefer not to accept independence, such states or communities will remain a part of the South African nation, are South African citizens and should be accommodated within political institutions within the boundaries of the Republic of South Africa."⁶⁹¹ Botha further announced that blacks "needed a forum to represent themselves in future negotiations, and would be included in government."⁶⁹²

Fourth, in September 1985, Botha accepted that some Africans who lived and worked permanently inside South Africa could be granted citizenship. This was Botha's crucial concession as voting rights follow from citizenship rights. Exactly who qualified remained unclear. It was even more unclear "how African participation would be exercised beyond government's commitment to groups, its belief that the country was made up of minorities, that there should be community self-determination, and that no one group should dominate."⁶⁹³

Fifth, at the beginning of 1986, Botha formally proposes the National Statutory Council to "plan and prepare a constitutional dispensation which provides participation by all South African citizens in the processes of government", and to grant Africans a voice in government "on an interim basis."⁶⁹⁴

By February 1986, the government reached a cul-de-sac; despite these concessions, no African leader, even those closely associated with the government, is in full support of these

⁶⁹¹ Cited in Schrire, *Adapt or Die*, Appendix A

⁶⁹² Melunsky, 85

⁶⁹³ Melunsky, 87-88

⁶⁹⁴ Schrire, *Adapt or Die*, 103

constitutional reform initiatives. Botha expresses this in his private papers: “we are rapidly reaching the stage at which we have to say how far we are prepared to go.”⁶⁹⁵

The turning point comes with the opportunity to review government strategy in 1987. The Department of Constitutional Development proposes constitutional negotiations and the dismantling of apartheid. Senior cabinet ministers’ interpretation of the May 1987 NP electoral victory is consistent with the views expressed in this document; the government’s official policy in 1987 was constitutional reform which would bring about political power-sharing with blacks at central government level. This is the message that Professor Willie Breytenbach transmits to the ANC representatives in Henley-on-Thames in England in October-November 1987.

The first stage of pre-negotiations thus ends after the 1987 election. This is the point where negotiation with the ANC is added to the range of policy options.

For the government, the second stage begins in early 1988 where Botha instructs Barnard to begin more structured discussions with Mandela. Conversations with Mandela begin on 25 May 1988 and end in December 1989. In this process, the government actively considered a negotiated solution. This process can be grouped into three phases.

The first phase was from May 1988 to mid-1989. This phase was characterised by confidential discussions between Mandela and a government team led by Barnard. Four major issues characterised these discussions: the armed struggle, the ANC’s relationship with the South African Communist Party (SACP), and the meaning of majority rule. The phase ends with the formal tabling of positions between Mandela and Barnard. While both parties disagreed on the abovementioned issues, both agreed on the need to pursue a negotiated settlement, and on the format that such a process would take i.e. a two-staged negotiation process, where intensive talks-about-talks on preconditions would precede official

⁶⁹⁵ Cited in Melunsky, 104

negotiations. It is at this point i.e. on the eve of the Mandela-Botha meeting, where the government and Mandela choose negotiation as the preferred and necessary policy alternative. Mandela's meetings with Botha and De Klerk represent the official acknowledgement of this mutual decision and the end of stage two.

For the ANC's external mission, the second stage (as discussed) begins with the meetings on Henley-on-Thames in England, and ends in August 1989 with the formal tabling of the Harare Declaration at the OAU. The conversations in England, even though confidential, were semi-official and involved the ANC putting forward their preconditions for settlement talks to brokers with access to the NIS and government.

The turning point happens in December 1988 with the signing of the New York Accords, bringing a temporary end to the Angolan Civil War. These accords effectively served as a resolving formula for the conflicts in Southern Africa: UNITA would lose its South African allies at the moment when the MPLA was losing the Cubans. The ANC would lose its last remaining sanctuary within reach of South Africa just when SWAPO would become free to return home and seek power through elections. South African would put Namibia on the path to independence and begin shedding its interventionist military role in Southern Africa.

This had important consequences for MK. First, MK lost its Angolan bases and relocated to Zambia. Second, the resulting uncertainty led to a process of implosion in MK, jeopardising the ANC's relationship with the Zambian government, its closest ally in the region. MK is consequently relocated to East Africa, making it impossible to pursue the armed struggle in any meaningful way. The drafting of the Harare Declaration occurs during this process, and its presentation to the OAU on 21 August 1988 is the moment when the ANC chooses negotiation as the preferred and necessary policy alternative. This marks the end of the second stage.

6.5.2. Implications for Ripeness

As discussed in Chapter Three, in order to discuss the theoretical implications of the South African government stream in the first two stages of pre-negotiation, it is important to review briefly Zartman's notion of ripeness. Zartman argues that compelling opportunities arise for conflict resolution based on the perceptions of the main actors concerning their military situations. The important condition must be a mutual sense of hurting stalemate i.e. a feeling that neither side can win, and all will be dramatically worse off if the conflict is not ameliorated. The actors must also perceive a possible solution to meet their minimum needs. A third party can attempt to shape the perceptions of the actors, and provide assistance to one or both parties, but must also use its problem-solving ability to put forward a satisfactory compromise solution.

Zartman provides us with a set of indicators to look for in the South African case: a sense of a hurting stalemate; a sense of a moment in the future that will worsen if negotiations fail; a sense that the tide of the combat has changed; the mediators' need for leverage; and the development of a political solution.

6.5.2.1. Major Actors

Who are the main actors and what are their goals?

Similarly to the ANC, one can classify the major actors and decision unit model in the South African government during the first two stages of pre-negotiation as that of a predominant leader decision unit with an advisory group i.e. a leader who uses advisors as consultants to provide information and expertise but reserves the right to make the decision.

The predominant leader in the government was President PW Botha. However, unlike in the ANC where the highest authoritative institution was the Office of the President, in the South African government, Botha with help from his inner circle decided policy on pre-negotiation. Two individuals formed the core of Botha's inner circle with regard to pre-negotiation; Kobie Coetsee and Niel Barnard. Coetsee was Minister of Justice and Prisons, and Barnard was director-general of the NIS which reported to Coetsee. Additional actors involved in pre-negotiations (Louw, van der Merwe, Willemsse and Spaarwater) were all under the authority of Coetsee in his ministerial capacity.

Thus, while cabinet, SKK and the Department of Constitutional Development were important institutions with regard to constitutional reform (which evolved during pre-negotiation) they were not the primary decision-making bodies with regard to pre-negotiation. Like the ANC, the political dynamics of this authoritative decision unit resemble that of a sensitive predominant leader; the beginning of talks with Mandela in May 1988 was the culmination of an extended process constitutional reform that included deliberations in SKK, the cabinet and the Constitutional Development.

Within this process, the major actors' perceptions of the conflict went through important transformation. The central issue for the government was the pivotal question of black political rights i.e. black political representation in central government, in the process of constitutional reform. Apartheid's basic principle was that African political representation took place in the homelands. The theory was that all Africans belonged to one of the ten homelands, each of which would in time become independent, at which time its citizens would lose South African citizenship.⁶⁹⁶ Mike Louw, however, suggests that by the mid-1970s, many government strategists realised that not all Africans would be politically represented in the homelands. By 1980, Botha conceded that urban blacks might gain political representation outside the homelands. In January 1985, Botha announces that Africans permanently resident in South Africa could not be forever by politically represented in homeland structures, and that new structures had to be developed outside of the homelands to facilitate representation at higher levels in the South African government. In April 1985,

⁶⁹⁶ Melunsky, 82

Botha states that “Africans belonging to independent homelands would not inevitable lose South African citizenship.”⁶⁹⁷ In August 1985, his Rubicon speech effectively abandoned Verwoerdian apartheid by declaring that South Africa was one country. And in September 1985, he accepted that certain blacks could become citizens in “white” South Africa.

6.5.2.2. Third Parties

Was there a mediator, and if so, does the mediator have a conception of a possible settlement?

There was no mediator in the government stream of pre-negotiation that shaped the process.

6.5.2.3. Hurting Stalemate and Way Out

Did the NP government perceive the situation to be a hurting stalemate?

In answering these questions, it is important to consider the position of the ANC (Chapter Five) and the government.

The important period is 1987-1989, where a process of convergence in the positions of the parties happens, leading to mutual perceptions of a stalemate. The process begins in early 1987 when Botha informs senior officials that independent sub-committees would review government strategy. Constitutional Development’s secret document, ‘*Ons Skrik Vir Niks*’ was important. The document argued that “reform could not proceed within apartheid’s framework as [this] was insensitive to legitimate black political aspirations and lacked

⁶⁹⁷ Ibid., 85

credibility among blacks and some whites.”⁶⁹⁸ It argued against detentions of anti-apartheid activists, concluding that the security agencies’ way of addressing the uprising was counter-productive. It was better to leave the anti-apartheid activists alone, unban political organisations and remove apartheid laws that had become unenforceable.⁶⁹⁹ The document proposed “negotiating a new constitution; representation for all South Africans on central, regional and local constitutional structures; incorporating all homelands into South Africa; protecting human rights; scrapping discriminatory laws; freezing parliament for a year, and establishing an inclusive, transitional parliament and executive authority to draw up a new constitution; withdrawing troops from the townships and ending the Emergency.”⁷⁰⁰ The message was that the political liberalisation was a prerequisite for meaningful constitutional reform. Government thinking was moving towards finding accommodation with the ANC. Joint solutions become conceivable.

The ANC took note of these developments. An ANC document noted proposals to “dissolve parliament, dismiss government, release political prisoners, and transform the Statutory Council into an interim government, which would draft a new constitution immediately followed by elections.” The document records that “army chiefs and some ministers agreed to these proposals, but Botha’s response was unknown.”⁷⁰¹ Thabo Mbeki also reported to the ANC on this line of thinking: “army chiefs... and cabinet agreed to the dismissal of government and scrapping of the NSC. That document was taken to PW. PW’s views are not known.”⁷⁰² This was the same period the ANC explored negotiation possibilities.

After the NP electoral victory in May 1987, the government focused on constitutional issues, claiming an overwhelming mandate to include blacks in central government. Like government leaders, government supporters “saw the election as a mandate for reform.”⁷⁰³ Observers of the time noted this significance. According to Hendrik van der Merwe: “The removal of apartheid has been accepted, at least intellectually, by those who voted for the

⁶⁹⁸ Melunsky, 92

⁶⁹⁹ Seegers, *The Military in the Making*, 249

⁷⁰⁰ Melunsky, 92

⁷⁰¹ African National Congress, “Pointers towards an initiative aimed at imposing negotiations on the ANC”, 23/7/1987, MCH01-66.2, ANC Archives, Mayibuye Centre, University of the Western Cape

⁷⁰² African National Congress, “Minutes of meeting on 8/9/87 in London Between Ourselves and the Sparrow Comrades”, MCH01-66.3, p6, ANC Archives, Mayibuye Centre, University of the Western Cape

⁷⁰³ Melunsky, 108

National Party, as inevitable. They know white rule has come to an end. The greatest fear now is not black majority rule, but the process through which black majority rule will be achieved and the way it will be manifested.”⁷⁰⁴

Three months later, in October 1987, the ANC adopts two resolutions on negotiations. The first is a public statement on negotiations (discussed in Chapter Five) where the ANC reaffirms that it was ready and willing to enter negotiations provided they were aimed at ending apartheid and transforming South African into a non-racial democracy. The second is a confidential resolution declaring that “a suspension of violence must be negotiated and must involve agreed action on both sides.”⁷⁰⁵

In mid-1988, at a strategizing meeting on Robben Island attended by inter alia PW Botha, Barnard, Coetsee, Fanie van der Merwe and Louw, there was intense debate on strategies to reduce violence and break the impasse. A discussion document advocated the release of Walter Sisulu and other political prisoners as a preparatory step for Mandela’s release and beginning of constructive negotiations.⁷⁰⁶ The document stressed that Mandela’s release be part of a broader process of negotiations. The ANC was able to get information on this meeting. They doubted the government’s bona fides, and believed that the government intended to use Mandela’s release “to trigger a political realignment and start off a sterile negotiations exercise in order to play for time.” The ANC argued that the armed struggle “should not be derailed by the release” and highlighted various obstacles to negotiations.⁷⁰⁷

The turning point for the ANC happens on 22 December 1988 with the signing of the New York Accords. The subsequent closure of MK camps in Angola, and relocation of MK into East Africa effectively rendered the armed struggle obsolete. The ANC would have to negotiate the end of apartheid. This happens at the same time that the government realises they need to negotiate with the ANC. The turning point for the government happens after the

⁷⁰⁴ Cited in *ibid*

⁷⁰⁵ African National Congress, “Decisions of the National Executive Committee Meeting 5th-9th October 1987”, MCH01-51.1, point 14 a,b, ANC Archives, Mayibuye Centre, University of the Western Cape

⁷⁰⁶ Melunsky, 93

⁷⁰⁷ African National Congress, “NM’s possible release – Decisions of the National Working Committee”, 28/10/88, MCH01-51.2, pp1-2, ANC Archives, Mayibuye Centre, University of the Western Cape

May 1987. Therefore, the period between January and August 1989 i.e. the end of the second stage of pre-negotiation, is when the South African pre-negotiation process reaches the point of seriousness where the NP government and ANC reach a *shared understanding* that *negotiated solutions are possible*. This is the perception by each side that the other is serious about finding a negotiated solution – that is, that the other is willing to lose a little to win a little rather than win or lose all in a non-negotiated approach. The contents of three documents indicate this shared understanding: the Mandela Document, the Government Team Document and the Harare Declaration.

The important question is whether this *shared understanding* that a negotiated solution is possible, was a ripe moment i.e. a *mutual* sense of hurting stalemate.

Yes, reaching a shared understanding that a negotiated solution is possible is a ripe moment. The crucial condition in 1989 was the mutual sense of hurting stalemate – both sides felt that they could not win and all would be worse if the conflict was not ended. South African government leaders, faced with a legitimacy crisis, and lack of black popular acceptance of constitutional reform measures, saw negotiations as a way out.⁷⁰⁸ Mandela made this point clear in his position paper to Botha stating that the 1980s political crisis had made it necessary for the ANC and the government to negotiate a political settlement and that his intervention was “influenced by purely domestic issues, by the civil strife and ruin into which the country is sliding.”⁷⁰⁹ And in the aftermath of the New York Accords, the Harare Declaration, drafted by Oliver Tambo and Thabo Mbeki, declared apartheid “an obstacle to peace and an affront to justice and human dignity, and must be abandoned.”⁷¹⁰ The declaration encouraged the negotiated end to the apartheid system.

⁷⁰⁸ The Text, 1989-09-01, 16:39, Prison Service HQ 80668009, MCH01-67.4, ANC Archives, Mayibuye Centre, University of the Western Cape

⁷⁰⁹ The Mandela Document: Full Text of the Document Presented by Nelson Mandela to PW Botha, July 1989. BC 1081 (P32.1) Manuscripts and Archives Department, University of Cape Town

⁷¹⁰ “Declaration of the Organisation of African Unity Ad Hoc Committee on Southern Africa on the Question of South Africa” (Harare Declaration), August 21, 1989. Document 174, in Gail Gerhart and Clive Glaser, *From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882-1990, Volume 6: Challenge and Victory 1980-1990* (Bloomington: Indiana University Press, 2010)

The actors agreed that a negotiated settlement would meet their basic needs. To this end, they agreed on the basic format through which such a settlement would be reached i.e. a two-staged process, first involving a period of talks-about-talks on preconditions, and then the opening of official negotiations. The government saw a two-staged negotiation process, where intensive talks-about-talks on stumbling blocks and obstacles (i.e. preconditions) would precede a formal phase where “participants in the negotiation process [would] be empowered to enter into an agreement if they reach a consensus” (i.e. settlement negotiations). One possibility, the government team argued, would be “for a democratic process to empower people to really become formally involved in a more structured negotiation situation.”⁷¹¹ This mirrored Mandela’s format who wrote in the first stage, the ANC and the government would need to work out preconditions for a proper climate for negotiations; and the second stage would be the actual negotiations themselves that would occur when the climate is ripe for doing so.”⁷¹² The Harare Declaration was also in agreement. It stated that it was essential for a necessary climate of negotiations to be created before any negotiations can take place and placed the responsibility on the South African government to create this climate.

This shared understanding that a negotiated solution is possible did not occur simultaneously for both sides, and did not correspond to a specific moment. For the government, it was the consequence of the constitutional reform process which created a momentum the government found difficult to control. For the ANC, it was the political pressures brought about by the Nkomati and New York Accords that rendered armed struggle obsolete. This is the ripe moment for resolution. However, despite reaching the important shared understanding, it would take another two years for settlement negotiations to commence.

⁷¹¹The Text, 1989-09-01, 16:39, Prison Service HQ 80668009, MCH01-67.4, ANC Archives, Mayibuye Centre, University of the Western Cape

⁷¹² The Mandela Document: Full Text of the Document Presented by Nelson Mandela to PW Botha, July 1989. BC 1081 (P32.1) Manuscripts and Archives Department, University of Cape Town

6.5.3. Why did the NP Government Choose to Negotiate?

NP government chose to negotiate with the ANC in order to legitimise constitutional reform.

By mid-1987 there was a consensus in the government that meaningful constitutional reform needed to provide for all the races at the level of central government. Exactly how this was to come about was unclear. In the face of the de-legitimation of Botha's reform proposals and concessions, negotiation with the ANC was the only feasible alternative as to how such representation would occur. Possibility for negotiations with the ANC arose because the second state of emergency had effectively diminished two of the ANC's three options: mass mobilisation and the creation of alternative structures. Thus while the ANC could continue to prosecute the armed struggle, it would be deploying its weakest arm against the government's strongest point – the military. The government reasoned that the ANC would inevitably run out of options, and would have to negotiate.

The release of political prisoners was central to this process and crucial for the viability of a political solution to legitimise constitutional reform. The government's logic was that without the release of political prisoners, the stability created by the second state of emergency was unsustainable. By releasing political prisoners, space would open to make viable i.e. ensure buy-in from the black population, and legitimise constitutional reform, especially if the ANC was an important part of this process. The strategy of negotiation, therefore, was understood as a continuation of constitutional reform and not the consequence of its failure; negotiation with the ANC was a bilateral solution to their goal of constitutional reform. The release of Nelson Mandela and his political role in taking constitutional reform to its logical conclusion is the crucial government strategy.

6.6. Conclusion

This chapter sought to answer two questions: (1) why the NP government chose to negotiate at all; and (2) why the NP government chose to negotiate with the ANC. In answering this question the chapter used stages one and two of Tomlin's model on pre-negotiation. Tomlin writes that the first stage of pre-negotiation is brought about by an event or change in conditions that causes a restructuring of values attached to alternative outcomes. The stage is characterised by an assessment of the problem produced by changing conditions, and a preliminary evaluation of alternative responses that adds negotiation to the range of policy options. When negotiation is added, a turning point is reached and the process moves to the second stage. In the second stage, a negotiated solution is actively considered. Another turning point is reached if negotiation is chosen as the preferred and necessary policy alternative, moving the process to the third stage.

The chapter concluded by discussing whether indicators of ripeness can assist in answering why the NP government chose to negotiate. The chapter argued that the NP government chose to negotiate in order to legitimise constitutional reform. The strategy of negotiation was understood as a continuation of constitutional reform and not the consequence of its failure; negotiation with the ANC was a bilateral solution to their goal of constitutional reform. The release of Nelson Mandela and his political role in taking constitutional reform to its logical conclusion was the crucial government strategy.

In the unfolding pre-negotiation phase, the NP government and ANC reach a point of seriousness i.e. a shared understanding of the problem, and shared understanding that a negotiated solution is possible. This was when the South African conflict was ripe for resolution; it is the consequence of first and second stages of pre-negotiation. The next stage would involve developing a commitment to a negotiated solution.

CHAPTER SEVEN

The Third Stage of Pre-negotiation

Committing to Negotiate 1990-1991

The aim of this chapter is to discuss how the NP government and the ANC produced a commitment to a negotiated solution. In explaining this process, the chapter will use the third stage of Tomlin's model on pre-negotiation. Tomlin writes that the third stage is the transition from 'whether' to negotiate to 'what' will be negotiated. The policy focus is initially inner-directed as parties consider alternative negotiating scenarios, reflecting varying degrees of scope for the potential negotiation, and successive steps towards increasing commitment toward a negotiated solution. The focus of policy makers then becomes outer-directed as the preoccupation with internal decision dynamics gives way to increased concern for the other parties to the problem. The communication of a desire to negotiate from one party to another is the turning point to stage four.⁷¹³

This chapter is divided into two sections. The first section discusses the processes and issues that served as a background to the period of preliminary pact-making. Attention is paid to the negotiating positions and strategies of the South African government and ANC, and the preconditions that topped the agenda. The second section shows how the parties produced a commitment to a negotiated solution through a series of official agreements that established important rules of interaction, defined the incentive structure for political violence and peace, and locked the parties into an interdependent bargaining relationship.

⁷¹³ Tomlin, 24

7.1. Turning Point: Going Public on 2 February 1990

The transition from secret and informal to open and formal pre-negotiation is signalled by the parties' going public with their intent to replace violence with talking. This is an important turning point; it shows that political leaders are willing to accept the inevitable risks and costs of negotiations. This public acknowledgement radically changes the dynamics of the conflict: "it unleashes a new, uncertain interregnum."⁷¹⁴

De Klerk's seminal address to the Tricameral Parliament that opened the third stage of pre-negotiation was broad in scope. De Klerk responded positively to a number of demands made in the Harare Declaration, signalling a commitment to negotiate. De Klerk announced a series of immediate, short, and longer term initiatives that profoundly changed the course of pre-negotiation.

In the immediate measures, the prohibitions placed on the resistance organisations i.e. the ANC, PAC, SACP and a number of subsidiary organisations were rescinded. Political activists who were serving prison sentences for membership of the above resistance organisations, or who had committed offenses because a ban on these organisations was in place, would be identified and released. This excluded activists who were serving prison sentences for murder, terrorism or arson. Media and education regulations imposed in terms of the state of emergency would be abolished and the emergency restrictions on the radical UDF-aligned National Education Crisis Committee (NECC), the South African National Students Congress, the UDF, COSATU, and 33 organisations were rescinded.

⁷¹⁴ Timothy Sisk, *International Mediation in Civil Wars: Bargaining With Bullets* (Oxon: Routledge, 2009), 66

The short-term measures included the unconditional release of Nelson Mandela. Mandela, De Klerk stated, could make a constructive contribution to a peaceful political process in South Africa.

Long-term measures included a request to the South African Law Commission to examine suitable constitutional models for a new South Africa that could safeguard the government's mix of individual and minority rights.

De Klerk stated that while the government accepted the principle of the recognition and protection of individual rights, and that the most practical way of protecting those rights was vested in a declaration of rights justiciable by an independent judiciary, a system for protection of the rights of individuals, minorities, and national entities had to form a well-rounded and balanced whole:

The South African Law Commission's task was thus directed at "the balanced protection in a future constitution of the human rights of [all South Africans], as well as collective units, associations, minorities and nations. This investigation [would] also serve the purpose of supporting negotiations towards a new constitution."⁷¹⁵ At the same time, De Klerk stressed that the government remained committed to its vision of law and order.⁷¹⁶ As De Klerk saw it, "the process of unbanning was not coupled to the right to political expression per se, but rather to facilitate participation in politics geared towards a negotiated settlement."⁷¹⁷

The government's intention was to negotiate with all political leaders who sought peace and the unconditional lifting of the prohibitions of the said organisations placed all political players in a position to pursue politics freely:

⁷¹⁵ Ibid.

⁷¹⁶ Ian Phillips, "Political Developments in 1990", *South African Human Rights Year Book*, Vol. 2 (1991)

⁷¹⁷ Ibid., 182

“The time for talking has arrived and whoever still makes excuses does not really wish to talk... Walk through the open door; take your place at the negotiating table together with the Government and other leaders who have important power bases inside and outside of Parliament. Henceforth, everybody’s political realism will be tested against their realism, their workability and their fairness. *The time for negotiation has arrived.*”

De Klerk further stated that the government had laid the table for political leaders to “begin talking about a new dispensation, to reach an understanding by way of dialogue and discussion.” In these initiatives, “Mr Mandela could play an important part. The Government has noted that he has declared himself to be willing to make a constructive contribution to the peaceful political process in South Africa.”⁷¹⁸

De Klerk writes that he had opted to make such far-reaching announcements because they would surprise his opponents, provide the government with an early initiative, and enable them to seize the moral high-ground early.⁷¹⁹ De Klerk also realised that Botha’s incremental reforms were dangerous: “it gave the reforms’ intended beneficiaries the impression that the government was responding to their pressures, which, in turn, sharpened their demands.”⁷²⁰

Mandela was released on 11 February 1990 after 27 years in prison. His release was accompanied by a wave of township demonstrations reflecting both the excitement at political liberalisation and the impatience for an end to the hardships of life under apartheid.⁷²¹ Protests were held on the Reef in Thokoza (80,000 residents), Daveyton (60,000), Alexandra (50,000), and Tembisa (20,000).⁷²² These demonstrations highlighted local grievances, and targeted the

⁷¹⁸ F.W. De Klerk’s speech at the opening of Parliament 2 February 1990. Document 16 in Hassen Ebrahim, *The Soul of a Nation: Constitution-Making in South Africa* (Cape Town: Oxford University Press, 1998), 480-481

⁷¹⁹ De Klerk, 161

⁷²⁰ David Welsh, *The Rise and Fall of Apartheid* (Jeppestown: Jonathan Ball, 2009), 384

⁷²¹ Anthea Jeffery, *People’s War: A New Light on the Struggle for South Africa* (Johannesburg: Jonathan Ball Publishers, 2009), 236

⁷²² *Ibid.*, 237

discredited system of black local authority. Mandela's release was also accompanied by a wave of unrest in the homelands.⁷²³

It was in KwaZulu and Natal where political violence intensified, transforming the conflict in that region effectively into a low-intensity civil war. In the weekend of Mandela's release, more than fifty people were killed as armed gangs rampaged through urban townships, fighting, looting and burning homes.⁷²⁴ The violence was particularly intense in the Edendale Valley outside Pietermaritzburg, with the body count reaching 700 by the beginning of March 1990.

7.2. Preparing the First Bilateral: The Parties' Positions

Despite the mounting violence, preparations for public and formal pre-negotiation gathered apace with a third ANC-NIS meeting later in February, this time at the Bellevue-Palace Hotel in Berne, the Swiss capital. The agenda was to lay the ground for the return of exiles, and to prepare the first official meeting that would take place between the South African cabinet and ANC leaders.

At the end of the meeting, the NIS and ANC agreed to form a Steering Committee, charged with arranging the first round of parleys. Headed by Fanie van der Merwe (for the government) and Jacob Zuma (for the ANC), the Steering Committee would work through the details of the first official pre-negotiation meeting i.e. the agenda, location, size and composition of the delegates, security and related procedural issues.⁷²⁵ The Steering Committee's first task was to negotiate

⁷²³ In Bophuthatswana, marches and rallies under the banner of the ANC demanded Lucas Mangope's resignation and the reincorporation of that territory into South Africa. As the demands intensified, the protest action became violent with government property set ablaze and police opening fire with live ammunition into crowds. Mangope soon declared emergency rule in Bophuthatswana, but violent protest simply intensified. Ciskei and Venda experienced military coups, and Gazankulu, Lebowa and QwaQwa experienced mass protests.

⁷²⁴ Jeffrey, *People's War*, 240

⁷²⁵ Timothy Sisk, *Democratization in South Africa: The Elusive Social Contract* (Princeton: Princeton University Press, 1995), 90

indemnity; although the ANC was legalised, individual members had not yet been indemnified against prosecution for their violations of security laws. In order to do its work, the ANC members of the committee had to be smuggled into South Africa by the NIS. The committee set 11 April as the date for the first meeting between the government and the ANC.

7.2.1. The NP Government Position and Strategy

The government negotiating team was essentially the cabinet. The Department of Constitutional Development was transformed into a structure that would initiate, direct and support the government negotiations team and strategy.⁷²⁶ De Klerk appointed Gerrit Viljoen as its minister and Roelf Meyer as his deputy. Barnard was removed from the NIS and appointed the director-general of constitutional development. Viljoen, Meyer and Barnard's task was to "develop the government's negotiation's policy into more detailed concepts" in order to "put well-considered proposals and fall-back positions on the table when the real negotiations began."⁷²⁷

For the broader negotiating team, De Klerk appointed cabinet ministers on the assumption that their portfolios would be involved in different aspects of the negotiation process. Stoffel van der Merwe, the minister of education and development aid, "was responsible for black education in the white areas and for relations with the six self-governing black states." Pik Botha, the minister of foreign affairs, "was responsible for relations with the four 'independent' black states – Transkei, Ciskei, Bophuthatswana and Venda." Hernus Kriel was responsible for provincial affairs. And the three security ministers, Kobie Coetsee (justice), General Magnus Malan (defence), and Adriaan Vlok (law and order), were responsible for matters such as the release of political prisoners, the return of exiles, the lifting of the state of emergency, and the ANC's suspension of the armed struggle.⁷²⁸

⁷²⁶ De Klerk, 176

⁷²⁷ Ibid.

⁷²⁸ Ibid.

The government's negotiating strategy rested on five assumptions: "that the NP could stay united and hold off the far right during the process; that Western countries would accept some notion of group rights and lift sanctions; that sufficient numbers of conservative black leaders would rally to an anti-ANC alliance to destroy the ANC claim to majority representation; that state power could be used to sap the demands of the ANC negotiators, forcing them into compromise; and finally that the ANC was controlled by strong leaders who could command compliance from their radical constituents." The foundation of their constitutional strategy was based on the 1989 Broederbond guidelines: "[each] 'component unit' of the population would control its 'own affairs', with 'general affairs' decided by consensus between the majority of each such unit in the national legislature."⁷²⁹ The Broederbond had constructed various arguments and scenarios on these principles through comparative constitutional studies of countries marked by racial and ethnic imbalances such as Fiji, Canada, and Singapore.⁷³⁰

Four principles that formed the basis of an envisioned constitutional dispensation emerged from this internal NP debate.

First, the 'group' rather than the individual would provide the basis for political representation, and would be the primary repository of constitutional rights and protections.⁷³¹ Second, South Africa was understood to be a country of minority groups with no majority. Third, a system of minority protection was fundamental. And fourth, all racial groups should be allocated separate legislative institutions to decide their 'own' affairs. In short, the basic notion was that the South African population "would be statutorily differentiated into a variety of groups (white, 'coloured', Indian, urban black, ethnic homeland, national state). The groups would participate in

⁷²⁹ Dan O'Meara, *Forty Lost Years: The Apartheid State and the Politics of the National Party, 1948 – 1994* (Randburg: Ravan Press, 1996), 404-405

⁷³⁰ *Ibid.*, 405

⁷³¹ Price, 142

central government through representation in an executive institution, within which the principle of ‘co-determination’ (or mutual veto) would govern decision-making.”⁷³²

The NP’s 1987 and 1989 electoral manifestos had “recognised the logic of a common voters’ roll in a shared state” and NP documents soon “began to refer to the concept of maintenance of community life.”⁷³³ The party’s 1987 manifesto stated that the NP was “committed to striving for ‘full participation for all’, ‘freedom’, ‘prosperity’ and ‘security’.”⁷³⁴ The manifesto stated that the party would promote reform by “broadening the democratic base of the government.”⁷³⁵

The party’s 1989 Five-Year Plan of Action, which outlined the government’s vision for a future South Africa, and adopted at the party’s 1989 conference, was the key document.⁷³⁶ The document moved from the premise of ‘group rights’, articulated within the existing distinction between ‘own’ and ‘general affairs’, and argued that every South African would have the right to participate in decision-making at levels of government that affected their interest, subject to the principle of ‘non-domination’. Accordingly, the document rejected the principles of unitarism and majoritarianism. Viljoen stated that these principles were unacceptable to the NP: “The practical realities of our country require an effective form of protection for minorities as a component of any new power dispensation.”⁷³⁷ Thus any negotiation for a system guaranteeing full political participation would move from the premise of group rights, and the protection of minorities, which was argued to be a move away from rigid race classification.⁷³⁸

⁷³² Ibid., 143

⁷³³ Sisk, *Democratization in South Africa*, 134

⁷³⁴ South African Institute of Race Relations (SAIRR), *Race Relations Survey, 1987/1988* (Johannesburg: Institute of Race Relations, 1988), 1040

⁷³⁵ Ibid.

⁷³⁶ The document can be found in South African Institute of Race Relations (SAIRR), *Race Relations Survey, 1988/1989* (Johannesburg: Institute of Race Relations, 1989), 691

⁷³⁷ Cited in South African Institute of Race Relations (SAIRR), *Race Relations Survey, 1989/1990* (Johannesburg: Institute of Race Relations, 1990), 217

⁷³⁸ Ibid., 548

The NP, however, did realise that the new concept was troublesome. They had to deal with an inherent problem: given that the new path was justified as a move away from race classification, how could they articulate the notion of ‘the group’ as a concept that did not simply restate race classification in a different form? The Plan of Action dealt with this through a clumsy “circuitous logic” that illustrated the dilemma and quandary a group rights ideology produced. First, ‘groups’ were “defined and recognised through negotiation with ‘existing groups’.” Second, “protection for continued, legally sanctioned, effective racial discrimination i.e. a right to ‘disassociation’” was entrenched. Third, “a group [could] be non-ascriptive, such that a person [could] change ‘groups’ if accepted by the ‘recipient group’.” And fourth, the plan allowed for the creation of a ‘non-group’.⁷³⁹ Because of the terminological difficulties that arose from the group rights discourse, the NP began to relax its call for statutory group rights. As the public pre-negotiation gathered apace, Viljoen acknowledged that the NP would no longer insist on the concept: “If groups are no longer to be *essential* building blocks of the constitution, of the whole system as such, it should nevertheless remain available as one *option* for those requiring its protection.”⁷⁴⁰

NP insiders thus saw the process of negotiations as an extension of the old ‘consociation’ approach: “[through] a process of bargaining, trade-offs and compromise, representative racial and ethnic elites would come to a ‘pact’ about South Africa’s future.” This process was envisaged as a “series of stages to a settlement” as well as some kind of “grudging joint rule with the ANC.”⁷⁴¹ A few days after De Klerk’s speech, Viljoen predicted a political settlement in ten years where “South Africa would have ‘some kind of coalition of parties’ with the NP no longer in sole control.”⁷⁴² Describing the process that would follow, Viljoen stated that “[the] first phase [would] be to clear away perceived obstacles to negotiations.” The next phase would be to “deal with how the negotiation process should be structured and who should be there.” The phase after that “would involve actual negotiation on a new constitution.” Viljoen also stated that “negotiations proper” could begin at the end of 1990; that the “entire negotiation process should

⁷³⁹ Sisk, *Democratization in South Africa*, 135

⁷⁴⁰ Ibid.

⁷⁴¹ O’Meara, 405

⁷⁴² SAIRR, *Race Relations Survey 1989/1990*, 729

be completed in about two years”; and that a “general referendum would have to be held for the whole country to give legitimacy to any new constitutional proposals.”⁷⁴³

7.2.2. The ANC Position and Strategy

The lifting of restrictions happened at a time when the ANC was floundering.

On 18 January 1990, Alfred Nzo had mistakenly read a confidential document in a press conference admitting the ANC no longer had the capacity to intensify the armed struggle in any meaningful way.⁷⁴⁴ This statement contradicted a public statement by Nzo a week before. A week later, Joe Modise maintained that the ANC “was still determined to ‘escalate’ the armed struggle but confirmed that ‘some problems’ had caused a reduction in military operations.”⁷⁴⁵

The movement of guerrillas from Angola to Zambia and then finally to East Africa confirmed that MK’s war had failed to achieve its primary purpose i.e. the generation of a popular insurrection, and given that this process coincided with the inauguration of public pre-negotiation, rendered the armed struggle option obsolete. As this realisation sunk in, it created a climate of confusion and anxiety. Mbokodo agents further dented morale; according to Jacob Zuma, deputy director of NAT, in early 1990, Mbokodo already had over 100 people detained in a new Ugandan detention camp who “had instruction to sow discord within our forces.”⁷⁴⁶ This climate of uncertainty had serious organisational implications; according to Maharaj, the ANC consequently became bogged down in factional disputes, poor communication lines and mixed

⁷⁴³ Ibid.

⁷⁴⁴ Tom Lodge, “The African National Congress in the 1990s” in Glen Moss and Ingrid Obery, *South African Review 6: From Red Friday to CODESA* (Braamfontein: Ravan Press, 1992), 50

⁷⁴⁵ Ibid.

⁷⁴⁶ Cited in Ibid.

messages. Personnel management in sensitive areas such as special operations and information gathering, dissemination and evaluation became extremely poor.⁷⁴⁷

While the prospects in continued exile darkened rapidly, the ANC was not in a position to come home let alone negotiate. Further, since it was not its creation, the 1980s uprising had nurtured several groups of rival claimants to the key positions of authority in the resistance against apartheid. The most important one for the next round of pre-negotiation was the Reception Committee for released political prisoners headed by Cyril Ramaphosa and it included prominent UDF activists who were dominant in the 1980s uprising.⁷⁴⁸

To prepare for the new terrain brought about by De Klerk's announcements, and manage the post-Tambo succession process, the ANC decided on a collective internal leadership group. This group was chaired by Walter Sisulu and comprised of Robben Islanders, UDF regional leaders, ANC department heads from Lusaka, and all members of the NEC who could be sent to South Africa.⁷⁴⁹

To consider the changing situation arising from De Klerk's announcements, the NEC met between 14 and 16 February in Lusaka. In a statement released after the NEC meeting, the ANC stated that the government had not met the conditions of the Harare Declaration, and that the ANC would suspend hostilities only once the government had done so. Specifically, the ANC called for the release of all political prisoners and detainees, the end of the state of emergency, the repeal of all repressive legislation, the end of political trials and the removal of all troops from the townships as preconditions.⁷⁵⁰

⁷⁴⁷ Cited in O'Malley, 343

⁷⁴⁸ Anthony Butler, *Cyril Ramaphosa* (Auckland Park: Jacana, 2007), 246

⁷⁴⁹ O'Malley, 340

⁷⁵⁰ African National Congress, Statement of the National Executive Committee of the ANC, 16 February 1990, Lusaka, Zambia

The ANC highlighted “the need for MK to continue operating” given the escalating political violence.⁷⁵¹ The argument was that MK had a responsibility to defend the people until the government took “all necessary measures to end this violence and thus create the situation when the present obligation on our part to act in defence of the people, arms in hand, will fall away.”⁷⁵² The ANC’s policy was thus neither one of peace nor war; “it emphasised that it was not continuing with violence in order to overthrow the state ... but rather that the armed struggle was being maintained in order to pressure the government into submitting to the terms of the Harare Declaration.”⁷⁵³ The strategy was to perpetuate the notion that MK was an effective fighting force in order to sustain the claim that negotiations had been achieved through its actions and that it was entering talks on its own terms.

Two weeks after his release, Mandela flew to Lusaka to meet and brief the NEC. At the meeting, the national executive elected Mandela as the ANC’s deputy president, and Nzo as the acting president. The NEC also agreed that Thabo Mbeki and Jacob Zuma would provide Mandela with political assistance for an upcoming bilateral with the NP government. Penuell Maduna and Mathews Phosa, both from the ANC’s legal department in Lusaka, would provide Mandela, Mbeki and Zuma with technical assistance. Thus, the ANC’s representatives in the Steering Committee would comprise the ANC’s core negotiating team.

The ANC’s constitutional policy can be traced back to the principles laid out in the Freedom Charter. Albert Luthuli writes that the Freedom Charter was not only a product of its time but also the most agreed-upon articulation of an alternative South Africa.⁷⁵⁴ It presented an unambiguous non-racial alternative to Verwoerdian apartheid.⁷⁵⁵ The ANC’s constitutional proposals for going into a formal negotiation process were contained in a document called the

⁷⁵¹ Simpson, “Toyi-Toyi-ing to Freedom”, 515

⁷⁵² African National Congress, Statement of the National Executive Committee of the ANC, 16 February 1990, Lusaka, Zambia

⁷⁵³ Simpson, “Toyi-Toyi-ing to Freedom”, 515

⁷⁵⁴ Albert Luthuli, *Let My People Go: An Autobiography* (London: Fontana Books, 1962), 157

⁷⁵⁵ Hugh Corder and Dennis Davis, “The Constitutional Guidelines of the African National Congress: A Preliminary Assessment”, *South African Law Journal* 106 (1989), 635

‘Constitutional Guidelines for a Democratic South Africa’, that was published by the Constitutional Committee chaired by Zola Skweyiya.

The Constitutional Guidelines was an extension of the Freedom Charter, “a partial conversion of that document from a vision for the future into a constitutional reality.”⁷⁵⁶ According to Skweyiya, the Constitutional Guidelines were an illustration of a paradigm shift in the ANC in preparation for negotiations: “It is an ideological instrument, a morale booster and a clarification of our objectives in our present struggle against apartheid.”⁷⁵⁷ Where the two documents differ, it must be assumed that the Freedom Charter is authoritative. According to the guidelines:

“The constitution shall include a Bill of Rights based on the Freedom Charter. Such a Bill of Rights shall guarantee the fundamental human rights irrespective of race, colour, sex or creed and shall provide appropriate mechanisms for their enforcement.”⁷⁵⁸

The guidelines guaranteed freedom of association, expression, thought, worship and the press. These freedoms were subject to the qualification that the “advocacy or practice of racism, fascism, Nazism or the incitement of ethnic or regional exclusiveness or hatred shall be outlawed.”⁷⁵⁹ They guaranteed social and economic rights – “the state would be obliged to protect the right to work, to guarantee education and social security, and to take active steps to eradicate, speedily, the economic and social inequalities produced by racial discrimination.”⁷⁶⁰ The guidelines also made the case for a Workers’ Charter, protecting the right to strike and collective bargaining, to be incorporated into the constitution, and provided for affirmative action to redress past inequalities.⁷⁶¹ The NP’s proposals on the constitutional protection of group rights

⁷⁵⁶ Ibid., 638

⁷⁵⁷ Zola Skweyiya, “The ANC Constitutional Guidelines – A Vital Contribution to the Struggle Against Apartheid” (Unpublished paper presented at Harare Conference, 1989), 5

⁷⁵⁸ African National Congress, Constitutional Guidelines for a Democratic South Africa, reprinted in *South African Journal on Human Rights* 5 (1989), 131 [hereinafter Constitutional Guidelines]

⁷⁵⁹ Ibid.

⁷⁶⁰ John Dugard, “A Bill of Rights for South Africa?” *Cornell International Law Journal* 23 (1990), 451

⁷⁶¹ Constitutional Guidelines, 132

were denounced with the argument that such protection would simply perpetuate apartheid.⁷⁶² Simultaneously, the guidelines did declare that “the state shall recognise the linguistic and cultural diversity of the people and provide facilities for free linguistic and cultural development.”⁷⁶³

While the guidelines reflected the ANC’s first order preferences, the Harare Declaration outlined the preconditions to official negotiations and contained a brief section describing the ANC’s view of a future state. The Declaration called for negotiation but with conditions; the bottom line would be the creation of a non-racial majoritarian democracy. The Mandela Document to Botha, however, showed flexibility in the ANC’s position; the importance of addressing white fears, an outcome of secret talks with Barnard’s team, poured cold water over the Declaration’s bottom line. After Mandela was released, he began to emphasise addressing minority concerns in the constitution, to the consternation of many in the ANC.⁷⁶⁴

7.3. Getting to the First Official Meeting: The Issues

Three main issues shaped the process leading to the first official meeting between the South African government and the ANC: the issue of indemnity (the release of political prisoners and return of exiles), the political violence in Natal, and the escalation of violence beyond Natal’s borders.

⁷⁶² Dugard, 451

⁷⁶³ Constitutional Guidelines, 131

⁷⁶⁴ Cited in Sisk, *Democratization in South Africa*, 152

7.3.1. The Indemnity Issue: The Release of Political Prisoners and Return of Exiles

As discussed, the Steering Committee, formed as a result of the ANC-NIS bilateral in Switzerland, had been tasked with putting together the details of the first formal talks i.e. the agenda, location, size and composition of the delegations.⁷⁶⁵ The committee also dealt with the details of possible agreements that would remove the remaining obstacles in the way of negotiation. The ANC team made it clear that these developments did not signal the beginning of settlement negotiations; the ANC was only prepared to enter such negotiations only after preconditions set out in the Harare Declaration had been met, the most important being the unconditional release of all political prisoners. By contrast the government team wanted to ensure that the ANC renounce violence in exchange of lifting the state of emergency.⁷⁶⁶

In response to the ANC's demands, the government conceded that it was willing to release select political prisoners as a gesture and in particular those serving sentences merely because they were members of a banned organisation or because they committed an offense because a prohibition on the respective organisation was in force.

While the government's intention was to break a logjam, it created another impasse; the government position, articulated in the February 2 announcement, fell short of the Harare Declaration. This is because political prisoners who committed offenses in the category affected by De Klerk's announcements essentially committed 'pure' or 'absolute' political offenses. These are offenses that do not involve the commission of common law crimes. Essentially, they are aimed directly at the government, do not involve injury to private individuals and property, and include treason, sedition and espionage.⁷⁶⁷

⁷⁶⁵ Ibid., 90

⁷⁶⁶ Ebrahim, 39

⁷⁶⁷ Gay McDougall and Carl Soberbergh, "The Release of South Africa's Political Prisoners: Definitions and Expectations" *Temple International and Comparative Law Journal* 4 (1990), 5

The problem was that given the nature of the South African conflict, the majority of political prisoners were convicted of common offenses such as murder, assault, robbery, public violence, malicious damage to property etc.⁷⁶⁸ However, these offenses were committed within a political context or with some sort of political motive. These are called ‘related’ political offenses, but because of their composite character, it was difficult to distinguish between those that were essentially political and those that weren’t.⁷⁶⁹ What complicated matters was the nature of these offenses given the South African conflict; they frequently involved elements of extreme violence against private individuals.⁷⁷⁰ To avoid the impasse standing in the way of the first bilateral, the Steering Committee came to a compromise; the category of political prisoner release would be negotiated, defined, and placed on the agenda of the first formal pre-negotiation bilateral. This was acceptable to both parties.

7.3.2. The Roots of Political Violence

Preparations for the first ANC-Government bilateral also provided a glimpse of trends to follow.

The first trend was that it became clear that the ANC and government were not the only role-players in the unfolding political process; the sustainability of the process would also depend on the alliances and relationships that these two players were able to develop. The most important role-player in this regard was Inkatha, and its leader Chief Mangosuthu Buthelezi.

Inkatha had an awkward relationship with the ANC. On the one hand, Inkatha had fought running battles with the UDF in Natal in the 1980s, effectively transforming Natal’s midlands region into killing fields. At the same time, Inkatha had refused to negotiate with the South

⁷⁶⁸ Raylene Keightley, “Political Offences and Indemnity in South Africa” *South African Journal on Human Rights* 9 (1993), 336

⁷⁶⁹ Ibid.

⁷⁷⁰ Ibid., 337

African government until the ANC was legalised and all political prisoners released. To compound matters, Inkatha was also essentially a regional political organisation, trapped in ethnic mobilisation, and formed to preserve Zulu cultural traditions.⁷⁷¹ While this ‘ethno-nationalist’ character fitted very well with its relationship with the government, it did not sit well with the ANC and UDF, especially its Natal midlands leadership.

The second trend was that political violence regularly interrupted the political process, but at the same time drew the parties closer together in their commitment to negotiation. There were two sources of this violence.

The first is rooted in the UDF-Inkatha relationship. The political direction of Inkatha in the 1980s, particularly its consolidation as a Zulu ethnic movement entrenched as a regional (Bantustan) and local government, set it on a path that led to regionalism, federalism and increasingly to militant Zulu ethnic mobilisation.⁷⁷² This set it apart from the UDF, which was riding on a post-Soweto uprising wave of popular revolt, directed at the very regional and local government and the ethnic divisions of apartheid that Inkatha became entrenched and sought to defend.

The 1980s uprising intensified the UDF versus Inkatha conflict, transforming these two movements into enemies; when it appeared that the state would lose all control over the structures it had created among African people, when township councils came under massive political and physically violent attack, when revolt spread to the Bantustans, Inkatha defended those structures, attempted the incorporation of even more people under its jurisdiction, and extended its repressive apparatus through the formation of the notorious Zulu Police.⁷⁷³

⁷⁷¹ Gerhard Maré, “History and Dimension of Violence in Natal: Inkatha’s Role in Negotiating Political Peace” *Social Justice* 18 (Spring-Summer 1991)

⁷⁷² *Ibid.*, 195

⁷⁷³ For a good analysis on the evolution of the UDF-Inkatha conflict see Jane Berret, “Bus Drivers under Attack by Vigilantes” *South African Labour Bulletin* Vol. 13, No. 2 (1988), 45-52; Martin Murray, *The Revolution Deferred:*

The second source of violence is rooted in the networks of the government's security services, notably the South African Police and to a lesser extent the SADF. These networks became known as the Third Force. While the idea of the Third Force can be located in the 1960s counter-insurgency strategies of the South African security forces, its 1990s manifestation can be traced to senior security service official discussions in the 1980s. Between 1985 and 1986, the State Security Council (SSC) discussed the establishment of a Third Force as a parallel structure to the SADF and SAP on a number of occasions.⁷⁷⁴ The most important was a document circulated by the Secretariat of the SSC on 9 May 1986 entitled 'Creation of a Special Counter-Revolutionary Capacity (Including a Third Force)'. The document "defined 'special capacity' as 'specifically organised, equipped and trained to plan, co-ordinate and set up counter-revolutionary actions to fight internal unrest and terrorism'."⁷⁷⁵ A close relationship between Inkatha and the Third Force soon developed.

The third trend was that the government wanted to ensure that it had allies in the negotiation process. To this end, government strategists began to apply to South Africa the techniques drawn from the decolonisation process in Namibia where SWAPO's electoral power had been considerably reduced.⁷⁷⁶ Government strategists calculated that they could form a right-of-centre alliance with conservative homelands leaders which could defeat the ANC at the polls. Viljoen was identified as a key architect and leading advocate of this strategy.⁷⁷⁷

The Painful Birth of Post-Apartheid South Africa (London: Verso, 1994); Anthony Minnaar, "Patterns of Violence: An Overview of Conflict in Natal during the 1980s and 1990s", in Anthony Minnaar (ed.) *Patterns of Violence: Case Studies of Conflict* (Pretoria: Human Sciences Research Council, 1992); Anthony Minnaar, *Conflict and Violence in Natal/KwaZulu: Historical Perspectives* (Pretoria: Human Sciences Research Council, 1991); Nkosinathi Gwala, "Political Violence and the Struggle for the Control of Pietermaritzburg" *Journal of Southern African Studies* Vol. 15, No. 3 (1989), 506-524; Mike Morris and Doug Hindson, "The Disintegration of Apartheid: From Violence to Reconstruction", in Glen Moss and Ingrid Obery, *South African Review 6: From Red Friday to CODESA* (Braamfontein: Ravan Press, 1992).

⁷⁷⁴ Saunders, 256

⁷⁷⁵ Ibid., 257

⁷⁷⁶ Stephen Ellis, "The Historical Significance of South Africa's Third Force", *Journal of Southern African Studies*, Vol. 24, No. 2 (June 1998), 283

⁷⁷⁷ Hermann Giliomee and Lawrence Schlemmer, *From Apartheid to Nation-Building: Contemporary South African Debates* (Cape Town: Oxford University Press, 1989), 200

Viljoen argued that this would be achieved “by negotiating full citizenship rights for all in a constitution with strong guarantees for minority rights and a powerful second chamber.”⁷⁷⁸ The strategy depended crucially on Inkatha, as this was the only organisation outside of the Chartersist movement, with which the NP government could reasonably hope to build an alliance.⁷⁷⁹ Not only did Inkatha have a substantial power base in Natal, but it had a long historical presence and pedigree in that region.

7.3.3. Escalation of Violence

By early March, the Steering Committee had set aside 11 April as the date for the first bilateral between the ANC and the government. However, political violence after Mandela’s release escalated in scope and intensity, putting enormous pressure on these preparations. Two incidents are significant, both occurring towards the end of March.

The first happened in the Edendale Valley in the Pietermaritzburg area and was the worst violence at the time in the conflict between the UDF and Inkatha.⁷⁸⁰ This fresh outbreak of violence signalled a new phase of major, calculated escalation of fighting.⁷⁸¹

The violence began on 25 March 1990 after an Inkatha-political rally in Durban addressed by Buthelezi. In the emotionally charged post-rally environment, Inkatha warlords organised and mobilised an army of 12,000 militants from the outlying Inkatha-controlled areas, and divided

⁷⁷⁸ Ibid., 284

⁷⁷⁹ Ibid.

⁷⁸⁰ This section on the Edendale Valley is paraphrased from Anthea Jeffery, *The Natal Story: Sixteen Years of Conflict* (Johannesburg: South African Institute of Race Relations, 1997), 218-219

⁷⁸¹ The dispute was for the control of the main bus and taxi route running through the Edendale Valley to the outlying areas of Mpumuza, Sweetwaters, Taylor’s Halt and Elanskop. While the Edendale Township, on the western outskirts of Pietermaritzburg, was historically a UDF/ANC stronghold, the outlying areas were Inkatha-controlled and under the authority of the KwaZulu Bantustan. UDF activists and Inkatha militants had engaged in various skirmishes for control of this route, and it became common for each to stone and intimidate buses and taxis carrying supporters of the other party.

into separate battalions armed with shotgun rifles and spears. These legions, numbering several thousand a piece, “mounted a full-scale assault from the KwaZulu territory on ANC [residential] strongholds in the embattled Edendale complex.”⁷⁸² In what was to become known as the ‘Seven Days War’ (25 – 31 March 1990), “Inkatha battalions, which were ferried by bus from place to place by the KwaZulu Police [KZP], fought pitched battles with UDF/ANC supporters.” By the time the fighting subsided, “whole communities lay in ruins, dozens of houses had been set ablaze, hundreds killed or seriously injured, and thousands of people had fled for their lives.” In terms of the body count and levels of destruction, Inkatha scored an impressive victory; “over 200 people were killed and 20,000 were made refugees, almost all of them UDF supporter or people not prepared to show allegiance to Inkatha.”⁷⁸³

In response, Mandela and Buthelezi scheduled a joint peace rally on 2 April at Taylor’s Halt, an Inkatha stronghold, where both leaders were meant to share a platform. However, the UDF/ANC’s Natal leadership rejected Mandela’s peace gesture to Buthelezi and summarily cancelled the Mandela’s participation. In a public show of defiance, Harry Gwala led a 70-strong delegation from the Edendale ‘Valley of Death’ to lobby against the meeting arguing that “the intensity of the war [with Inkatha] is such that an ANC-Inkatha rally could reduce Taylor’s Halt to a battleground.” The prevailing atmosphere, Gwala continued, was not ideal for a joint peace rally in Natal.⁷⁸⁴ Gwala had the support of influential power-brokers in the ANC’s Natal leadership such as Archie Gumede (the national UDF co-president) and Diliza Mji, the ANC’s Natal secretary. The issue created major divisions in the ANC about how to manage and resolve the Inkatha matter; with Mandela argued for a rapprochement with Inkatha, while Gwala insisted that this was counter-productive when it was ANC members filling the mortuaries. In the face of the peace rally cancellation, Mandela addressed a 2,500 audience in Edendale and stated that Inkatha was not the enemy, and that Inkatha had to know that the ANC wanted to make peace.⁷⁸⁵

⁷⁸² Murray, *Revolution Deferred*, 99

⁷⁸³ Ibid.

⁷⁸⁴ Cited in Jeffery, *The Natal Story*, 219

⁷⁸⁵ Ibid.

The second incident occurred in Sebokeng, in the Vaal Triangle. On 26 March, police opened fire on an unarmed crowd of 50,000 people; an incident that became known as a second Sharpeville. The UDF had called a March to protest against the chronic housing shortage, unaccountable councils, rentals, and a persistent education crisis. 60 rounds of buckshot ammunition, one of the most lethal, were fired in 2 second, 5 people were killed, and 161 injured, and all were shot from behind. As a result of these developments, the ANC's suspended its participation in the Steering Committee. Mandela was livid:

“This sort of action angered me like no other, and I told the press that every white policeman in South Africa regarded every black person as a military target. After consultation with the NEC, I announced the suspension of our talks and warned Mr de Klerk that he could not ‘talk about negotiations on the one hand and murder our people on the other’.”⁷⁸⁶

De Klerk was dismayed with the ANC's decision:

“In my response, I expressed my astonishment at the ANC's decision. I said that it was difficult to understand why an organisation which claimed to be interested in peace, refused to talk about that very issue. They had wanted to discuss their perceptions of the obstacles in the way of negotiations, and so did we. I added that a continuing commitment to violence and peaceful negotiations were mutually exclusive.”⁷⁸⁷

Despite the suspension of talks, Mandela met privately with De Klerk on 5 April at Tuynhuys. Both leaders discussed their perceptions of the obstacles in the way of negotiations and agreed that violence and negotiations were mutually exclusive. Mandela and De Klerk resolved the deadlock. De Klerk promised a judicial inquiry into the Sebokeng shootings. The two also agreed that the first round of talks would go ahead on 2 May.

⁷⁸⁶ Mandela, 568

⁷⁸⁷ De Klerk, 180

7.4. The Groote Schuur Minute

7.4.1. The Proceedings and Agreement

The first formal bilateral between the ANC and the NP government began on 2 May 1990 at Groote Schuur. The meeting lasted three days. There were eleven delegations on each side. The government delegation was headed by De Klerk and included Gerrit Viljoen, Kobie Coetsee, Pik Botha, Hernus Kriel, Roelf Meyer, Adriaan Vlok, Dawie De Villiers, the minister of energy and public enterprises, Barend du Plessis, the minister of finance, and Stoffel van der Merwe. The ANC delegation was led by Mandela and included Thabo Mbeki, Joe Modise, Alfred Nzo, Joe Slovo, Walter Sisulu, Ahmed Kathrada, Ruth Mompati, the head of the ANC's religious affairs, Cheryl Carolous, the publicity secretary of the Western Cape UDF, Beyers Naudé and Archie Gumede, the national co-president of the UDF, and UDF Natal leader.

Comparison between the ANC and NP government negotiating teams shows important differences. The ANC side consisted of senior political figures. This was to be a dominant theme; ANC teams comprised of high-powered political figures, representing broad constituencies, and thus were able to manage the ANC's broad interests. By contrast, NP government teams comprised of cabinet ministers and government officials whose roles in the process were not delegated based on political seniority, but for the mere fact that their portfolios were involved in the different parts of the negotiation process. Niel Barnard identified this as a strategic weakness on the part of the government:

“In my view, Mr de Klerk never, never really understood the strategic issue of the whole negotiation process. Its tough words but I believe that. De Klerk was very good intellectually and tactically understanding small, minor

tactical moves like playing cards or whatever. He was not really, in my view, a chess player knowing when to move the big pieces at what stages.”⁷⁸⁸

Government officials were allocated sensitive political roles in the pre-negotiation process, and senior politicians were allocated junior roles either on minor constitutional matters, or were not involved in the process at all. As a result, government teams were never capable of strategically managing government and NP interests.⁷⁸⁹

The first day of the bilateral was exploratory and was spent getting acquainted.⁷⁹⁰ Journalists who observed the mood on the first day of the first encounter wrote about the cordiality of the talks, as participants mingled freely and socialised openly.⁷⁹¹

On the second day, the parties discussed a range list of issues in order to define mutual differences, lay the foundations for compromise solutions, and thus clear the obstacles to negotiations. The ground work for these matters was laid by the Steering Committee, and included the release of political prisoners, the safe return of exiles, the lifting of the state of emergency, the suspension of political trials, and withdrawal of troops from the townships and the steps to be taken to curb political unrest in the townships.

The most urgent matter for the ANC was the release of all political prisoners, and the safe return of all exiles. The ANC also demanded the immediate release of all detainees who had not been charged or convicted of any offence, and the repealing of apartheid security legislation in terms of which the detainees were held in prison.⁷⁹² However, given that no register of political prisoners existed, reaching agreement as to who constituted a political prisoner was a crucial

⁷⁸⁸ Transcript of Niel Barnard interview with Pdraig O'Malley, 17 September 1998

⁷⁸⁹ Ibid.

⁷⁹⁰ Mandela, 570

⁷⁹¹ Rich Mkhondo, *Reporting South Africa* (London: James Currey, 1993), 40-41

⁷⁹² Kate Savage, “Negotiating the Release of Political Prisoners in South Africa” Research Report written for the Northern Ireland Programme at the Kennedy School of Government at Harvard (2000), 2

precursor to any further negotiations. Consequently, the primary issue discussed was the definition of political prisoners.

The government, consistent with the February 2 announcement, argued for a narrow definition of political prisoners, essentially defined as those who had committed ‘pure’ or ‘absolute’ political offenses. By contrast, the ANC, in demanding the release of all political prisoners, argued for a broad definition, defined as those who had also committed ‘related’ political offenses. The parties’ positions on the issue were strategic; the government wanted to restrict the number of people who would qualify for an indemnity, and negotiate the release of the remainder, thus using the political prisoner release issue as leverage, which would enable them to gain a strategic advantage. The ANC wanted “any person who was convicted for an offence that was politically motivated [to] qualify for an indemnity.”⁷⁹³ Essentially, they wanted all their supporters out of prison. The parties agreed on the general question of whether political prisoners should be released. However, they deadlocked; they could not agree on a mutually satisfactory definition of ‘politically motivated’ crimes, which would primarily affect the identification, number and time-scales of political prisoner releases. To manage the deadlock, the ANC and the government established a ‘working group’ with a mandate to develop a definition of political offence and a plan for indemnity for political prisoners and exiles.

The meeting produced a working agreement known as the Groote Schuur Minute, which committed both parties towards the resolution of the existing climate of violence and intimidation, to political stability, and to a peaceful process of negotiations. Flowing from this commitment, the parties agreed to five points.

First, following the disagreement and deadlock on the definition of political prisoners and exiles, the parties agreed to establish a ‘Working Group on Political Offences’ to make recommendations on a definition of political offences, to discuss timescales, and to advise on

⁷⁹³ Mandela, 570

norms and mechanisms for dealing with the release of political prisoners and the granting of immunity in respect of political offences.⁷⁹⁴ The working group was instructed to “bear in mind the experiences of Namibia” and was given a deadline of 21 May 1990. Two offences were to receive immediate attention: “[the] leaving of the country without a travel document”; and “[any] offences related merely to organisations which were previously prohibited.”

Second, temporary immunity from prosecution for political offences committed by ANC national executive committee (NEC) members, and selected exiles, would be considered on an urgent basis to enable them “to return and help with the establishment and management of political activities, to assist in bringing violence to an end and to take part in peaceful political negotiations.”

Third, the government undertook to review the existing security legislation to bring it into line with the unfolding liberalisation process.

Fourth, the government committed to work towards the lifting of the state of emergency. In this context, the ANC would work towards the resolution of political violence and commit to political stability so as to assist the government in this regard.

Fifth, channels of communication between the parties were established in order to curb violence and intimidation.⁷⁹⁵

⁷⁹⁴ The following two paragraphs are paraphrased exclusively from: The Groote Schuur Minute reprinted in *South African Journal on Human Rights* 6 (1990), 318 [hereinafter Groote Schuur Minute]

⁷⁹⁵ Ibid.

7.4.2. Significance of the Minute

The Groote Schuur Minute was important in that it illustrated the South African government was in firm control of the third stage of the pre-negotiation process, with a favourable balance of power. Important features of this agreement stand out.

First, the Groote Schuur Minute committed the parties to working towards a common definition of political crimes.⁷⁹⁶ While it did not provide much description on the form this would take, it awarded the government considerable discretion in considering other “political parties and movements and other relative bodies.”⁷⁹⁷

Second, the reference to Namibia’s experience pointed the working group to consider the Norgaard Principles, which used the approach of extradition law to define political crimes.⁷⁹⁸ Within these principles, it was unclear “whether serious human rights violations would be treated as political due to their gravity and the proportionality test.”⁷⁹⁹

Third, Paragraph 1 stipulated that individuals who left the country illegally and joined the prohibited organisations would immediately receive attention for these offenses, “which were

⁷⁹⁶ Louise Mallinder, “Indemnity, Amnesty, Pardon and Prosecution Guidelines in South Africa”, Working Paper No. 2 From *Beyond Legalism: Amnesties, Transition and Conflict Transformation* (Belfast: Queen’s University, 2009), 16

⁷⁹⁷ Groote Schuur Minute, Paragraph 1

⁷⁹⁸ Norgaard outlined six principles for determining the political nature of a crime: the motive of the offender; the context in which the offence was committed (i.e. whether the offence was committed in the course of, or as part of, a political uprising or conflict); the nature of the objective; the legal and factual nature of the offence (including the gravity); the object of the offence (i.e. whether it was against the state or private property; and the relationship between the offence and the pursued political objective (i.e. the proportionality test). See Emily McCarthy, Symposium Note, “South Africa’s Amnesty Process: A Viable Route toward Truth and Reconciliation?” *Michigan Journal of Race and Law* 3 (1997), 214-238

⁷⁹⁹ Mallinder, 17

deemed to be purely political.”⁸⁰⁰ This corresponded to February 2 indemnity announcement and was heavily biased in favour of the older generation, and a select group, of ANC leaders.

Fourth, the Groote Schuur Minute granted immunity from prosecution of political offences committed before 4 May, to enable the ANC leadership to return to South Africa and participate in the negotiations.⁸⁰¹ ANC members who continued their involvement in activities ‘related’ to the armed struggle would be acting in violation of the agreement and would thus not be entitled to protection under its terms.⁸⁰²

The Minute thus strengthened the pro-negotiation lobby and more moderate grouping close to Mandela in the ANC, and began to create a central government-ANC coalition in favour of negotiation.

7.4.3. The Indemnity Act and the Working Group on Political Offenses

Immediately following the Groote Schuur Minute, two important developments occurred. First, the NP government successfully passed the Indemnity Bill through parliament on 7 May, and the Indemnity Act was signed by de Klerk on 15 May. This new piece of legislation was needed to permit the return of ANC exiles that had yet to be charged as per the 2 February announcement and Groote Schuur Minute.⁸⁰³

The act gave the president enormous discretion in granting immunity “either conditionally or on conditions he may deem fit.” The effect of the indemnity was that no civil or criminal

⁸⁰⁰ Ibid.

⁸⁰¹ Groote Schuur Minute, Paragraph 2

⁸⁰² Simpson, “Toyi-Toyi-ing to Freedom”, 516

⁸⁰³ Peter Parker, “The Politics of Indemnities, Truth Telling and Reconciliation in South Africa: Ending Apartheid without Forgetting”, *Human Rights Law Journal* 17 (1996), 4

proceedings would be instituted against any person granted the indemnity “during the period stipulated in such notice in respect of him, in respect of anything done or omitted by him any date prior to the announcement of that period, and such person shall not be detained during such periods of immunity.”⁸⁰⁴ This provision implemented paragraph 2 of the Groote Schuur Minute by “permitting ANC operatives to return to South Africa to participate in the negotiations without facing legal sanctions.”⁸⁰⁵

On 19 May, the government indemnified 38 ANC leaders for a period of six months. Those granted indemnity included senior exile leaders such as Oliver Tambo, Chris Hani, Thabo Mbeki, Alfred Nzo, Joe Slovo, Joe Modise, and Jacob Zuma.⁸⁰⁶

Second, following the Groote Schuur Minute, the Working Group on Political Offences began functioning with members drawn from both the government and the ANC.⁸⁰⁷ The Working Group submitted its report on 21 May as per the Groote Schuur Minute.

The Working Group followed the Norgaard Principles in approaching the contentious issue of political crimes recommending that they “form the basis of guidelines to meet the South African situation.”⁸⁰⁸ The Working Group, however, added an additional criterion to the Norgaard Principles: “The question on whether the act was committed in the execution of an order or with

⁸⁰⁴ Cited in Mallinder, 18

⁸⁰⁵ Indemnity, however, was not permanent; the government reserved the right to prosecute at a later stage. The act did provide provisions for a permanent indemnity, but this was at the sole discretion of the president. The indemnity provisions would expire after one year, unless they were renewed annually by the president by proclamation in the Government Gazette, and following the second renewal, only if all three houses of parliament consented.

⁸⁰⁶ SAIRR, *Race Relations Survey 1989/1990*, 679

⁸⁰⁷ Report of the Working Group Established Under Paragraph 1 of the Groote Schuur Minute reprinted in *South African Journal on Human Rights* 6 (1990), 319 [hereinafter Working Group Report]. From the ANC, the members included Zuma, Maduna, Joe Nhlanhla, Aziz Pahad, Mathews Phosa and Curnick Ndlovu (from the UDF). From the government, the members were Kobie Coetsee, Roelf Meyer, Messrs van der Merwe, Swanepoel, Louw and Viall, Major-General Knipe and Brigadier Kok.

⁸⁰⁸ Antje Pedain, “Was Amnesty a Lottery? An Empirical Study of the Decisions of the Truth and Reconciliation Commission’s Committee on Amnesty”, *South African Law Journal* 121 (2004), 785

the approval of the organisation, institution or body concerned.”⁸⁰⁹ The report acknowledged that ‘related’ political offenses may be regarded as political: “In certain circumstances, a ‘common crime’, even a serious one such as murder, may be regarded as a political offence.”⁸¹⁰

The Working Group created enough space for the indemnity to cover the crimes of both state and anti-apartheid agents:

“[The government] shall be free to formulate its own guidelines which it will apply in dealing members of such organisations, groupings or institutions, governmental or otherwise, who committed offences on the assumption that a particular cause was being served or opposed.”⁸¹¹

The Working Group further stated that indemnity would be assessed and implemented individually: “Whether or not an offence is political depends on the facts and circumstances of each individual case. The question is thus approached on a case by case basis.”⁸¹² In granting the indemnity, the Working Group suggested that “a mechanism” be established that would “provide the executive with wise advice and to demonstrate that the interests of all parties are being taken into account in an objective a manner as possible.”⁸¹³ These “mechanisms” should consist of “a convener with ad hoc appointments from concerned groups when dealing with particular offences.”⁸¹⁴ These mechanisms and the Working Group, however, “were only intended to have advisory roles and the government would retain discretion for granting indemnity.”⁸¹⁵ Significantly, “neither the Indemnity Act nor the mechanism established following the Working Group’s report required individuals to renounce violence in order to gain indemnity.”⁸¹⁶

⁸⁰⁹ Working Group Report, 6.5.2 (c) (vii)

⁸¹⁰ Ibid., 6.5.2 (c)

⁸¹¹ Ibid., 6.6.2

⁸¹² Ibid., 6.5.2 (a)

⁸¹³ Ibid., 8.1

⁸¹⁴ Ibid., 8.2

⁸¹⁵ Mallinder, 21

⁸¹⁶ Ibid.

7.5. Breakdown: The Escalation of Violence

Despite the timely tabling of the Working Group report, and the resultant raised expectations of a major breakthrough toward settlement negotiations, political violence increased, politics became increasingly uncertain, and mutual suspicion and mistrust remained. The main culprit was the escalation, and spill-over, of Natal's violence into the Reef.

7.5.1. Natal's War on the Rand

The 'Seven Days War' had a significant impact on the country's political landscape. In particular, it created important differences within the ANC on how to manage the Inkatha question. Two groups emerged. One group, sympathetic to Mandela's views and included Zuma and Mosiuoa Lekota (the ANC's Natal coordinator), and COSATU, wanted immediate peace talks with Inkatha. According to Lekota, the ANC believed in multiparty democracy and tolerated all political views, including Inkatha. Lekota said that the ANC "was totally opposed to the use of armed force to solve its differences with Inkatha, and that Inkatha members were 'ordinary men and women who were [also] suffering under apartheid'." He stated that "a solution could be found if 'poor communication' between Inkatha and the ANC could be improved."⁸¹⁷

The second group was sympathetic to Natal midlands leader, Harry Gwala. According to Gwala, the non-violence Mandela and his team of negotiators preached was misguided. Gwala saw no merit in sending an olive branch to Inkatha:

⁸¹⁷ Cited in Jeffery, *The Natal Story*, 222-223

“At times of crisis opinions differ sharply. Some people fear an insurrectionist and they deal in academic discussions of the lives of the people who are suffering. I am a black person. I enjoy no privilege and struggling is not an option, but something I have to do to survive.”⁸¹⁸

The war with Inkatha, as Gwala saw it, was not between the ANC and Inkatha, nor was it between the government and the ANC, but rather between those who wanted to preserve apartheid (which included Inkatha) and those who wanted a democracy:

“Now the whole conflict here was not between UDF and Inkatha, nor is it between the ANC and Inkatha. The conflict is between apartheid on one side, which doesn't want the people to advance and the people on the other side who are trying to push forward to liberate themselves. Organisations like Inkatha, the impis, are merely used as a pawn by the ruling class in this country to uphold their apartheid institutions. The real problem is between the people and the apartheid regime.”⁸¹⁹

Jabulani Nxumalo, a senior ANC strategist, was sympathetic to Gwala. He argued that talking to Buthelezi was futile as he “had little ability to stop the conflict.” Moreover, the violence could not be ended “without recognising that ‘the South African police and army were at its centre’.” For Nxumalo, “the only realistic, meaningful and long-term solution was to arm the people in self-defence” and to “bring about the total elimination of apartheid and its structures.” This, according to Nxumalo, was “not war talk but logic.”⁸²⁰ The immediate strategy against Inkatha, Gwala therefore added, was not to talk peace but to fight back:

“Make no mistake, we will kill Inkatha warlords. Why be apologetic about it, when they come to attack us, we offer them no Bibles. We believe in a just war. The difference between us and Inkatha is that we do not kill women and children. We hit hard on those who target us.”⁸²¹

⁸¹⁸ Cited in Mkhondo, 134

⁸¹⁹ Transcript of Harry Gwala interview with Pdraig O'Malley, 8 January 1993

⁸²⁰ Cited in Jeffery, *The Natal Story*, 225

⁸²¹ Cited in Mkhondo, 134

As the violence spiralled out of control, with Gwala creating a vast network of highly armed and trained self-defence units in Natal's townships, ANC regional leaders descended into the Natal Midlands to learn how Gwala and his units repelled Inkatha attacks. De Klerk's introduction of the South African Special Forces, 32 Buffalo Battalion, into the Natal Midlands escalated the conflict. As the body count mounted, with academics, churchmen and lawyers becoming the targets of Inkatha assassination squads, the ANC began to take a harder position towards Inkatha, weakening Mandela's group.⁸²²

With no end to the violence in sight, the ANC alliance decided to raise the temperature. On 25 June, COSATU mounted a successful nation-wide work-stoppage in order to draw attention to the violence in Natal and isolate Inkatha. The demands included an end to the state of emergency in Natal, the disbanding the KwaZulu Bantustan, the withdrawal of 32 Buffalo Battalion from the townships and the arrest of Inkatha warlords. Over 3 million workers stayed at home, and tens of thousands of people marched through South Africa's cities and towns in support of COSATU's demands.

The strategy backfired horribly. COSATU's call for a national stayaway had coincided with an Inkatha political strategy of realignment; in a calculated manoeuvre designed to adapt to the changing circumstances of 1990, Buthelezi sort to remould Inkatha from an ethnic-based regional movement into a national political party, the Inkatha Freedom Party (IFP). In particular, the idea was to extend Inkatha's constituency into the greater Johannesburg region. The first step towards this end was a massive recruitment drive targeting the 56 single-sex hostels in the region, housing Inkatha's natural social and political base – over 175,000 Zulu-speaking migrant men who had come to Johannesburg from Natal in search of work.⁸²³ The new IFP's intention was clear: “to reclaim its self-professed mandate to speak on behalf of Zulu-speakers, despite the diaspora that left them stranded on the fringes of the Rand townships.”⁸²⁴ ANC supporters resented this attempt by the IFP to establish permanent base in traditional, and predominantly,

⁸²² Ibid., 135

⁸²³ Murray, *Revolution Deferred*, 101

⁸²⁴ Ibid.

ANC strongholds. It was a matter of time before the ANC-IFP vendettas, spawned in Natal's killing fields, "were transported like an airborne virus to South Africa's industrial heartland as the power struggle between the two organisations assumed a wider, national political significance."⁸²⁵

The violence exploded on 22 July, after an IFP rally in Sebokeng. Armed IFP militants went on a rampage in a residential area killing over 30 people in a very gruesome attack.⁸²⁶ The violence spread like wildfire and very quickly developed a logic and momentum of its own.⁸²⁷ The fighting primarily involved Zulu-speaking migrants in hostels and residents of squatter camps in the established townships, both were desperately seeking permanent and stable working and living space in the cities.⁸²⁸

Murray writes that labour-market segmentation created deep divisions between professionals and skilled workers with a modest stake in the system and unskilled workers and the unemployed who competed for temporary and casual work.⁸²⁹ The resulting competition for scarce resources "led to social tensions" that "coalesced around 'tribal' identities, political affiliations, and geographical (home-boy) affinities."⁸³⁰ The dynamic of the ensuing conflict followed a very clear logic: "As the battle lines were hastily drawn, Inkatha loyalists in the squalid hostels forcibly evicted non-Zulu speakers and those who refused to swear allegiance to the IFP. The hostels became paramilitary staging areas from which vigilantes planned and executed their forays into the townships. When young comrades mounted counter-attacks, the hostels became fortresses in which to retreat."⁸³¹

⁸²⁵ Ibid.

⁸²⁶ Mandela, 579

⁸²⁷ Rupert Taylor, "The Myth of Ethnic Division: Township Conflict on the Reef", *Race and Class*, Vol. 33, No. 2 (1991), 8

⁸²⁸ Murray, *Revolution Deferred*, 103

⁸²⁹ Ibid.

⁸³⁰ Ibid.

⁸³¹ Ibid., 104

7.5.2. Bilateral Talks Continue: Drawing the Battle-lines

In the midst of the escalation of violence, and spill-over of Natal's killing fields into South Africa's industrial heartland, stage three of pre-negotiation continued. Public debate arose on three questions: whether an interim government was necessary to oversee an election before drafting a new constitution; whether the new constitution should be drafted by a constituent assembly, in particular whether it should happen before or after an election; and whether the notion of group rights had a place in a new constitution. There were two competing scenarios.

The perspective of the NP government was that "the present government would remain intact while a Great Indaba [i.e. a conference] representing different parties would negotiate a new constitution."⁸³² The Tricameral Parliament would then pass this constitution. On constitutional issues, the NP government argued forcibly on the issue of the protection of minority rights; Viljoen stated this "could be used as a temporary nation-building measure rather than being permanently enshrined in the constitution" and their argument "was an assurance for minority groups that they will have a particular say in the new constitutional system, by way of representation and decision-making, in spite of the fact that they are not part of the majority."⁸³³ Viljoen further added that the NP government would go to formal roundtable negotiations to negotiate the protection of minority rights, and that this was a significant departure from the original group rights preference:

Viljoen added that the NP government was not setting itself apart from the ANC; rather, its demands complimented ANC preferences: "Minority protection is not a cancellation of majority rule, but a qualification of it."⁸³⁴ The Department of Constitutional Development subsequently began to develop the government bottom-line for negotiations. By June 1990, the department,

⁸³² Ebrahim, 50

⁸³³ SAIRR, *Race Relations Survey 1989/1990*, 734

⁸³⁴ Ibid.

working with the cabinet, produced an important charter of six principles for a new society, intended as a precondition for all parties intending to participate in negotiation:

“There should be efficient government and administration at national, regional and local levels at all times, before and during the process of negotiating a new constitutional dispensation... There should be economic growth and development... Intimidation and political and other violence should cease... Peaceful protest as a political method should be used sparingly... [All] political entities and interests committed to peaceful solutions and having a proven base of support should be involved in negotiating a constitution... The real negotiation for a new constitution should be the highest priority, and should start as soon as possible.”⁸³⁵

The ANC’s perspective was premised on the Harare Declaration. Thabo Mbeki explained that the Groote Schuur Minute set into motion a process of removing obstacles to negotiations. The next step was to determine the participants at the negotiating table. The ANC wanted an elected constituent assembly, which would decide who should sit together to draw up a new constitution. Mbeki added that “before a new constitution is adopted, and before political structures change on the basis of it, there would need to be an interim government which [enjoyed] the confidence of all political groups.”⁸³⁶

The question of the suspension of the armed struggle, a key government demand, remained very tricky for the ANC; despite the closure of MK’s Angola camps, and resultant endgame for the military wing, MK remained a symbolic hope for the ANC. Yet MK’s circumstances revealed the hard truth that political power would not come from the ‘barrel of a gun’. Sticking to this trump card invited more problems after the Groote Schuur Minute; the government inevitably became more hesitant in allowing exiles to return and in releasing political prisoners while the ANC maintained its policy of armed struggle. The ANC soon began to recognise that it was not possible for the government to address all obstacles identified in the Harare Declaration, and that it needed to be flexible in its demands. The review of this position came in the form a publication

⁸³⁵ Cited in Ebrahim, 54

⁸³⁶ Cited in SAIRR, *Race Relations Survey 1989/1990*, 680

written by Raymond Suttner, the head of the ANC's Political Education section, entitled *Road to Peace* in July 1990:

“In the present situation, it seems that we need to consider some of these questions afresh or in greater depth. *Do all our preconditions need to be met before there can be negotiation?* Must all apartheid laws be scrapped before the democratic forces can negotiate with the forces of apartheid? We need to be more precise and examine which preconditions need to be met immediately to ensure participation of authentic leaders acting with a mandate from organisations in an atmosphere where consultation is possible. *What is suggested here is a shift in the way we tackle preconditions.* In no way do we abandon our demand for the total abolition of apartheid laws... We cannot conduct a struggle in some pure form where one tactic serves us all the time, or where we use only one weapon. *We must change if the struggle needs it. What we need now is to reorient ourselves towards the question of negotiation.*”⁸³⁷

7.6. The Pretoria Minute: Breaking the Logjam

In the context of the tactical issues and suggestions put forward by Suttner, and before the next scheduled bilateral between the government and the ANC, the ANC announced the unilateral suspension of the armed struggle. Slovo had privately approached Mandela before a national executive meeting and suggested that the ANC voluntarily suspend the armed struggle to create a positive climate to move the pre-negotiations forward. Slovo told Mandela that de Klerk “needed to show his supporters that his policy had brought benefits to the country.”⁸³⁸

This was a major breakthrough for the political process as it dealt with the government's core demand. This was also a strategic move by the ANC on two counts.

First, while the Working Group on Political Offences had produced a final report on 21 May, concerns over its content had delayed an ANC-government meeting scheduled to consider the

⁸³⁷ Cited in Ebrahim, 57. Emphases added

⁸³⁸ Mandela, 577-578

report. By August, “there had been little or no progress towards resolving the form and timescale for meeting these commitments.” As a result, those affected political prisoners and exiles began the pressure the ANC negotiators to deliver results.⁸³⁹

Second, in order to resolve the issue with a favourable concession from the government, the ANC needed to meet a core government demand. But this had to appear not at government insistence in order to save face. The suspension of the armed struggle was thus made unilaterally before the scheduled meeting, and was intended to give the ANC the moral high ground in the process, thus setting a positive tone to the meeting.

7.6.1. The Agreement

The ANC and government met at the Presidency in Pretoria on 6 August. The meeting lasted 13 hours, and gave birth to the Pretoria Minute. In the meeting, the Groote Schuur Minute and the Working Group report were accepted by both parties. The Working Group report had made provisions for the formulation of guidelines to be applied in dealing with members of all organisations who committed political offences.⁸⁴⁰ However, the Working Group report was subsequently amended; the previous acknowledgement that murder could be a political crime was left out, an omission that caused significant problems later.⁸⁴¹

The Pretoria Minute generated a joint working group on indemnity, and this new group was instructed to draw up a plan “for the release of ANC-related prisoners and the granting of indemnity to people in a phased manner and to report before the end of August.”⁸⁴² The minute

⁸³⁹ Nicholas Haysom, “Negotiating a Political Settlement in South Africa”, in Glen Moss and Ingrid Obery, *South African Review 6: From Red Friday to CODESA* (Braamfontein: Ravan Press, 1992), 29

⁸⁴⁰ Working Group Report, 1990

⁸⁴¹ Keightley, 338

⁸⁴² The Pretoria Minute reprinted in *South African Journal on Human Rights* 6 (1990), 322-324 [hereinafter Pretoria Minute], Paragraph 2

also agreed on specific target dates. The mechanism to implement the indemnity process, recommended by the report of the Working Group on Political Offences, would be created by 31 August 1990. The release of political prisoners was scheduled to start on 1 September 1990, and for the granting of indemnities as from 1 October 1990. Indemnity for categories of persons was to be completed by the end of 1990, and on an individual basis by April 1991.⁸⁴³

The ANC suspended the armed struggle, with the Minute stating that “no further armed actions and related activities by the ANC and its military wing Umkhonto we Sizwe will take place.”⁸⁴⁴ The minute established another working group, the Armed Action Working Group, to resolve all outstanding questions arising out of this decision to report by 1 September 1990.⁸⁴⁵

The government undertook to lift the state of emergency in Natal and to review the Internal Security Act. Both parties also committed themselves to steps and measures aimed at “normalising and stabilising the situation in line with the spirit of mutual trust obtaining among the leaders involved.”⁸⁴⁶ Paragraph 8 of the Pretoria Minute reasserted a strong commitment by the parties to the goal of negotiated change:

“We are convinced that what we have agreed upon today can become a milestone on the road to true peace and prosperity for our country. In this we do not pretend to be the only parties involved in the process of shaping the new South Africa. We know there are other parties committed to peaceful progress. All of us can henceforth walk that road in consultation and cooperation with each other. We call upon all those who have not yet committed themselves to peaceful negotiations to do so now.”⁸⁴⁷

⁸⁴³ Ibid., Paragraph 2

⁸⁴⁴ Pretoria Minute, Paragraph 3

⁸⁴⁵ The ANC delegates included Joe Modise, Thabo Mbeki, Jacob Zuma, Joe Nhlanhla, Pallo Jordan and Chris Hani. The government team included Adriaan Vlok, Roelf Meyer, General BJ Beukes of the Security Police, Johan Geyser of the Department of Justice, Dr HP Fourie of the Department of Foreign Affairs, and Maritz Spaarwater of the NIS.

⁸⁴⁶ Pretoria Minute, Paragraph 4

⁸⁴⁷ Ibid., Paragraph 8

Finally, in order to facilitate movement on substantive issues, paragraph 9, the concluding section of the agreement, stated” “Against this background, the way is now open to proceed towards negotiations on a new constitution. Exploratory talks in this regard will be held before the next meeting which will be held soon.”⁸⁴⁸ To give expression to this clause, another joint working group, the Paragraph Nine Working Committee, was established to discuss procedural and agenda items for an as-yet-defined constitutional conference.⁸⁴⁹

7.6.2. Consequences of the Pretoria Minute

The Pretoria Minute was the beginning of the most complex phase in the pre-negotiations. Three issues deserve attention: the political fall-out emanating from the ANC’s suspension of the armed struggle; continue dispute and uncertainty around the indemnity process; and the escalation of violence.

7.6.2.1. The Fall-Out

After the unilateral suspension of the armed struggle, Joe Slovo told Patti Waldmeir that 98% of ANC supporters, both in and outside the NEC, “thought the decision was a sell-out.” Mandela was convinced that “time was not on our side that the longer the process stretched out the more time would be given to those who would like to sabotage the process.”⁸⁵⁰

ANC’s authoritative perspective of the Pretoria Minute was explained by Zola Skweyiya, the ANC’s chief constitutional lawyer. According to Skweyiya, the suspension of the armed struggle was a necessary compromise not unique:

⁸⁴⁸ Ibid., Paragraph 9

⁸⁴⁹ Sisk, *Democratization in South Africa*, 95

⁸⁵⁰ Waldmeir, 166

“The same can be found in the history of the Algerian war of independence, in Vietnam and other countries. Democratic international law recognises ceasefires as agreements between belligerent forces for a temporary cessation of hostilities. It does not bring an end to the conflict between parties. The negotiations between the ANC and the South African government aimed at a general ceasefire. It is a temporary agreement. If the duration of the ceasefire is not fixed in an agreement, as in the Pretoria Minute, it continues in force for a reasonable period.”⁸⁵¹

Skweyiya conceded that the signing of the Pretoria Minute was a departure from the Harare Declaration as the ANC “unilaterally suspended the armed struggle without the South African government’s removing all the obstacles [i.e.] repressive legislation still exists, the State of Emergency in Natal is still fully in place.”⁸⁵² It was therefore unsurprising that the rank-and-file had raised serious questions whether “the failure of the Pretoria Minute to adhere strictly to the provisions of the Harare Declaration means that we have made an unacceptable compromise.” However, the aim of the negotiating team was to “avoid a permanent blockage of the negotiation process.”⁸⁵³

Skweyiya reasoned that while the Pretoria Minute effectively closed the armed option, it opened “new possibilities for [non-violent] mass struggles” such as “consumer boycotts and industrial strikes and a wide variety of actions which are judged normal in any Western democracy.”⁸⁵⁴ The ANC, however, reserved the right to revive the armed struggle, should the government fall short of its obligations.

The ANC’s anxiety found its way into the Armed Action Working Group; the group could not arrive at a definition of ‘armed action’. The ANC contended that the “training and recruitment of soldiers were not armed activities, and that the cessation of armed activities did not bind the

⁸⁵¹ Zola Skweyiya, “A Post-Apartheid Constitution: Towards a Negotiated Solution”, *Sechaba*, Vol. 24, No. 11 (November 1990), 14

⁸⁵² *Ibid.*, 13

⁸⁵³ *Ibid.*, 14

⁸⁵⁴ *Ibid.*

organisation to reveal arms caches inside the country or hand those over to the authorities.”⁸⁵⁵ According to Ivan Pillay, a senior ANC intelligence officer, his reading of the Pretoria Minute was that “*it doesn't say we will stop shipping weapons*, it says we will stop, we won't carry out armed action.”⁸⁵⁶ Pillay admitted that he and his commanders continued to ship arms into South Africa, and train and arm the ANC's self-defence units.⁸⁵⁷

By contrast, government security officials within the committee continued to pressure the ANC to reveal armed caches, “arguing that the release of trained MK personnel could not take place as long as their arms were still readily available to them.” In this way, the government “sought to use the frustration of political prisoners awaiting release as a pressure on the ANC to extend its definition of armed actions to incorporate the delivery and surrender of arms to the authorities.”⁸⁵⁸ The ANC countered and insisted that the government first disband covert security force units if it was to reveal arms caches and stop recruiting and training soldiers. The ANC also objected to the government linking the release of political prisoners and indemnity of exiles to the suspension of the armed struggle in order to force further concessions from the ANC.⁸⁵⁹

7.6.2.2. Frustrations with the Indemnity Process

As discussed, the Pretoria Minute stated that the mechanism to implement the indemnity process, recommended by the Working Group on Political Offences, would be created by 31 August 1990. However, there were difficulties assembling a group of experts as while the group was meant to “consist of three government and three ANC-appointed judges, the ANC nominees refused to participate because of a ruling that deliberations had to be held in secret and they felt

⁸⁵⁵ Haysom, “Negotiating a Political Settlement”, 29

⁸⁵⁶ Transcript of Ivan Pillay interview with Padraig O'Malley, 11 December 2002. Emphasis added

⁸⁵⁷ Ibid.

⁸⁵⁸ Haysom, “Negotiating a Political Settlement”, 29

⁸⁵⁹ Ebrahim, 66

they could be compromised if the ANC rejected an application.”⁸⁶⁰ Nonetheless, and following the Pretoria meeting and the Working Group’s recommendations, the Department of Justice published its *Guidelines for Defining Political Offences in South Africa* in the Government Gazette. There were some important changes.

First, in contrast to the working group report, the Guidelines did not recognise ‘related’ political offences as ‘political’. This meant that the definition of political violence was “conditional on the progress of negotiations rather than a preconditions to them, and the issue of political prisoners and the return of exiles was ... set to become a bargaining counter.”⁸⁶¹ Consequently, the timescales of granting indemnity and releasing political prisoners were linked directly to the progress in pre-negotiation, particularly regarding the definition of armed struggle and related activities.⁸⁶²

Second, the individual applications for indemnity were particularly controversial: “applicants were required to furnish sufficient particulars of the event(s) in respect of which indemnity is sort; to describe their political motivations for committing such actions; and to give details of any pending prosecutions or sentences being served. They were further required to confirm that they subscribed to ‘peaceful solutions and development’.”⁸⁶³

This form became problematic as both prisoners and exiles felt that it bore strong resemblance to a confession in respect of past crimes committed.⁸⁶⁴ The resistance to applying for indemnity “centred on the argument that to do so would imply an acceptance of guilt for the ‘crimes’ they committed in opposition to apartheid, which was unacceptable for some members who argued

⁸⁶⁰ South Africa, *Truth and Reconciliation Commission Report Vol. 1* (Cape Town: Government Communications and Information Systems, 2003), Chapter 4, Paragraph 13 [hereinafter TRC Report]

⁸⁶¹ Parker, 5

⁸⁶² Human Rights Index in *South African Journal on Human Rights* 7 (1991), 140

⁸⁶³ Cited in Mallinder, 24

⁸⁶⁴ Haysom, “Negotiating a Political Settlement”, 30

that they had been fighting a just war.”⁸⁶⁵ Exiles and political prisoners simply refused to fill out forms and sharply criticised the ANC members of the working group.⁸⁶⁶ ANC representatives in the working group in turn claimed that agreements reached in meetings with the government “had been drafted in broad principle and had been left to lower-level bureaucrats” who drove a hard bargain “insisting on the government’s final veto and control of the indemnity and release process.”⁸⁶⁷ Nicholas Haysom, Mandela’s legal advisor, stated that the ANC was criticised for failing to negotiate its accords in tighter form:

“Negotiation processes require swans and swine. Swans may sail through the troubled waters of conflict securing agreements in principle. The swine move in holding the ground and tying up the detail without conceding an inch. Some trade unionists suggested that the ANC negotiating style boasted too many swans and not enough swine. The government, supported by a barrage of negotiators and lawyers, had their swine fully in place to ensure concessions granted in principle would be clawed back in detail.”⁸⁶⁸

The Groote Schuur Minute, Pretoria Minute, and the indemnity process that flowed through them, contained one political problem; whether indemnity would be applied to all political prisoners or just high-profile political prisoners needed for pre-negotiations. While the ANC simply wanted all their people out of prison and back into the country, the government only wanted to release select high-profile and senior ANC leaders needed to legitimise their strategy of pre-negotiation.⁸⁶⁹

7.6.2.3. Escalating Levels of Political Violence

Political violence flared immediately after the signing of the Pretoria Minute. It began in the Vaal Triangle and further attacks brought the death toll in the East Rand to 140 within a few

⁸⁶⁵ Mallinder, 28

⁸⁶⁶ Haysom, “Negotiating a Political Settlement”, 30

⁸⁶⁷ *Ibid.*, 30-31

⁸⁶⁸ *Ibid.*, 31

⁸⁶⁹ Mallinder, 13

days, with more than 300 injured.⁸⁷⁰ In the coming weeks, political violence grew in intensity and brutality. 24 ANC supporters died in the Crossroads shack settlement.⁸⁷¹

By late August, security forces were brought in to stem the slaughter. Designating 27 townships ‘unrest areas’, and providing the police with extensive powers of search and arrest without a warrant, “a police dragnet of the hostels and [informal settlements] produced an awesome armoury of deadly weapons ranging from primitive spears and axes to limpet mines, machine guns and hand grenades.”⁸⁷² The killings however, intensified and Mandela demanded to meet de Klerk.

The two met on September 11. On the agenda was the situation in Natal, which, Mandela argued, was the source of the violence in the Reef. In his opening statement to de Klerk, Mandela stated that the Natal violence is a result of “acts of commission and omission on the part of members of the KwaZulu police, the South African police and the South African Defence Force.”⁸⁷³ The government, Mandela continued, “has utterly failed to respond to this situation, thus encouraging the commission of further crimes and compelling the people to take the law into their own hands.” Therefore, the government bears huge responsibility for the conflict.

In order to end the violence in Natal and related killings in the Transvaal, the ANC compiled a list of six demands. First, the KwaZulu police had to be disbanded and cease to exist. Central government should be responsible for security in Natal. Second, security forces should be impartial. Third, a liaison and monitoring machinery between the ANC and the government should be established to monitor the outbreak of violence. Fourth, individuals who are alleged responsible for earlier incidents of violence should be prosecuted. Fifth, the state of emergency

⁸⁷⁰ On Saturday the 11 August, 11 gunmen armed with AK-47 rifles fired inside two rooms in the Sebokeng Hostel, killing 7 ANC activists. On the same day, informal settlement residents of Phola Park in Thokoza burnt the IFP-strong hostel of Khalanyoni.

⁸⁷¹ Jeffery, *People's War*, 257

⁸⁷² Murray, *Revolution Deferred*, 105

⁸⁷³ African National Congress, Opening Statement by ANC Deputy President Nelson Mandela, at a meeting with President de Klerk on the situation in Natal, 11 September 1990, Pretoria

should be lifted. And finally, a high-level joint working group of representatives of the government and ANC “should be established to oversee the implementation [of] such agreements.”

The primary responsibility, Mandela concluded, rested with the South African government: “these political efforts will fail unless that question of law and order is dealt with as a matter of urgency.”⁸⁷⁴ De Klerk was defensive and rejected without qualification that the government was ever behind the violence:

“We, from our side, regarded many of Mandela’s representations as the height of hypocrisy – given the ANC’s own deep involvement in the violence in Natal and throughout the country – as well as its apparent unwillingness to rein in members and supporters who were clearly involved in the violence. If Mandela was so concerned about violence why would he not agree to meet with Chief Minister Buthelezi to try to resolve the issue?”⁸⁷⁵

De Klerk’s argument was why would he instigate violence which would jeopardise the initiative into which he had sunk all his moral and political capital?⁸⁷⁶

On 15 September, de Klerk ordered a massive security crackdown. Codenamed Operation Iron Fist, the crackdown involved “the large-scale deployment of SADF and police riot units to the war-torn townships, the cordoning off of migrant workers’ hostels with razor wire, and the imposition of night-time curfews.”⁸⁷⁷ These measures bore strong resemblance to the states of emergency and drew the ire of ANC activists.⁸⁷⁸ Township residents accused the police of favouring Inkatha, “providing them with armed escorts, and allowing them to brandish what

⁸⁷⁴ Ibid.

⁸⁷⁵ De Klerk, 203

⁸⁷⁶ Ibid.

⁸⁷⁷ Murray, *Revolution Deferred*, 105

⁸⁷⁸ Philippa Garson, “South Africa: The Killing Fields”, *Africa Report*, Vol. 35, Issue 5 (November – December 1990), 47

were euphemistically termed ‘traditional weapons’, such as spears, axes, pangas and clubs known as knobkerries, while tear-gassing and disarming their opponents.”⁸⁷⁹

The intervention of the security forces failed to explain why the violence spread so quickly, why it affected specific townships, and why the political violence was essentially between the most impoverished township communities, particularly those in informal settlements and hostel dwellers.

The ANC’s suspicions were on point; Colonel Eugene de Kock, the head of the SAP’s counter-insurgency unit, C10 (a.k.a Vlakplaas), told Stephen Ellis that in July 1990, he began selling guns to the pro-Inkatha inhabitants of the hostels on the East Rand.⁸⁸⁰ This was done in collusion with the chairman of the Inkatha Youth Brigade in the Transvaal, Themba Khoza, who was on the ‘Vlakplaas’ payroll as a police informer. The aim was to turn the East Rand into a veritable war-zone. De Kock further told Ellis that he carried out “some offensive actions of this sort on his own authority, and others under direct orders.”⁸⁸¹

As ANC security officers uncovered more security force complicity in the violence, ANC supporters began to cast serious doubt on the negotiating team’s ability to move the government on the ANC’s core demands, in particular the issues of political prisoners, political exiles and violence. The perception grew that “the aged Mandela was getting the run-around from a younger, wily, and politically deft de Klerk.”⁸⁸² By the beginning of December, and after heated public exchanges, the relationship between Mandela and de Klerk deteriorated. In the face of mounting pressure from hardliners in the ANC, a disillusioned Mandela took the gloves off; he told an ANC rally in Johannesburg that the ANC would suspend its participation in the Working

⁸⁷⁹ Murray, *Revolution Deferred*, 105

⁸⁸⁰ Cited in Ellis, 284

⁸⁸¹ Ibid.

⁸⁸² Sisk, *Democratization in South Africa*, 96

Group on Political Offences and set unilateral deadlines for the implementation of the agreement on exiles and political prisoners.⁸⁸³

7.6.3. Intra-Party Configurations: The ANC and NP Congresses

7.6.3.1. The ANC Consultative Congress: The Pretoria Minute Hangover

In the volatile environment of the late 1990s, with stalling pre-negotiations, all frustrations with the ANC's moderation in their negotiation strategy and overall leadership style came to the fore when it held its 'consultative conference' of 1,600 delegates in Johannesburg in December 1990. Tensions between the old guard and younger militant activists came to the fore. Tambo formally opened the conference.

Mandela's main task was to use the conference to hold the ANC together, reassert the authority of the old guard, and reign in all the different components. In the face of mounting criticism over the slow pace of meeting the Harare Declaration, Mandela began to drive a hard bargain. His own speech was an uncompromising attack on the government, in particular De Klerk, "for dragging their feet in clearing way obstacles to negotiation, notably concerning the return of exiles, the release of political prisoners and the removal of the final vestiges of discriminatory legislation"⁸⁸⁴:

"Since the signing of the Pretoria Minute, we have come to recognise that our own commitment to see the process move along as swiftly as possible is not yet matched by that of the government. It is becoming increasingly clear

⁸⁸³ Ibid., 97

⁸⁸⁴ Welsh, *Rise and Fall of Apartheid*, 402

that, in spite of our initiative, the government is dragging its feet in carrying out its undertakings to clear away the obstacles in the path to real negotiations.”⁸⁸⁵

He left his most serious accusation to elements in the state security services who were orchestrating “a campaign of counter-revolutionary violence aimed at weakening the ANC and discrediting the concept of ‘disciplined mass action’”⁸⁸⁶:

“Let there be no mistake! We have through our struggle stripped the apartheid state and its repressive organs of their former capacity to repress the mass movement by detentions, [jailing] and executions. The number of our supporters is such that it has rendered these conventional methods ineffective. In response, elements within the apartheid power bloc, who are opposed to the peace process, are resorting to acts of widespread terror and carnage against the people. These killings have a dual aim: To weaken the ANC and to discredit the concept of disciplined mass action.”⁸⁸⁷

What was being played out, Mandela continued, was a double-agenda. The government, Mandela added, was in effect “extending the meaning” of the ANC’s suspension of the armed struggle “so as to cast [the ANC] in the role of a surrendering belligerent.” Ceasefires, he warned, “whether bilateral or unilateral, are by their nature temporary measures.”⁸⁸⁸

What followed was a conference characterized by militancy and introspection. Divisions emerged over the fruitfulness of negotiating with the government, with most militants arguing for the suspension of talks. Mandela and his negotiating team faced outspoken criticism from delegates, particularly for having failed to consult them during talks with the government.⁸⁸⁹ They argued that the negotiators spent more time with government leaders than the rank and file, engaged in ‘personal diplomacy’, and kept the rank-and-file uninformed.⁸⁹⁰

⁸⁸⁵ Nelson Mandela, Opening Address to the ANC National Consultative Conference in Durban, 14 December 1990

⁸⁸⁶ Welsh, *Rise and Fall of Apartheid*, 402

⁸⁸⁷ Nelson Mandela, Opening Address to the ANC National Consultative Conference in Durban, 14 December 1990

⁸⁸⁸ Ibid.

⁸⁸⁹ Sampson, *Mandela*, 429

⁸⁹⁰ Mandela, 581-582

The conference endorsed the negotiations strategy outlined in the Harare Declaration but left room for flexibility; “whilst the Harare Declaration remains our lodestar, it is not a dogma.”⁸⁹¹ It mandated the NEC to proceed with pre-negotiations but with conditions; the conference resolved that “the NEC serve notice on the regime that unless all the obstacles are removed on or before the 30th of April 1991, the ANC shall consider the suspension of the whole negotiation process [and] will find it difficult to adhere to the agreements entered into with the government, especially paragraph 3 of the Pretoria Minute pertaining to armed action and related activities.” The ANC would continue to recruit and train personnel for MK in order to set up self-defense units “for the purpose of defending our people against enemy orchestrated violence and to prepare ourselves for a central role in a new army whose tasks will be to defend and uphold democratic values.” The ANC saw “no contradiction between the Pretoria Minute and our right to self-defense.”⁸⁹² In a clear indication of their dissatisfaction with Mandela’s team, the conference recommended that a “comprehensive negotiating team composed of chief negotiators, working groups, [and] researchers be created *as a matter of extreme urgency*”, and in the execution of its tasks, “should regularly consult with ANC membership in all regions, on all major issues.”⁸⁹³

A serious divide emerged between the ANC leadership and the general membership over the issue of negotiations with the government. The conference crystallized the growing unease within the rank-and-file that secretly “Mandela was striking deals and making unauthorized compromises and concessions with De Klerk.”⁸⁹⁴ In order to rein in a potential rebellion, Mandela had to accede to some of their demands but at the same time keep the organization on course towards negotiations.

⁸⁹¹ African National Congress, Resolutions of the National Consultative Conference in Durban, 16 December 1990

⁸⁹² Ibid.

⁸⁹³ Ibid., Emphasis added

⁸⁹⁴ David Ottaway, *Chained Together: Mandela, De Klerk, and the Struggle to Remake South Africa* (Toronto: Random House, 1993), 112

However, De Klerk's response to Mandela's predicament was to extract as much political capital, and to squeeze more and more concessions from a shaken ANC leadership on the meaning and fate of its most sensitive internal political issue, i.e. the suspension of the armed struggle.

7.6.3.2. The National Party: February 2 and its Consequences

Given De Klerk's commitment to a negotiation process, it was vital the NP reinvent itself. For De Klerk, the issue of non-racialism was the key:

“A racially based party, as the National Party then was, would simply not be in step with the new South Africa. If racial discrimination and differentiation were removed from the statute book, then the National Party would have to remove them from its own constitution so that it could become a political home for everyone who supported its policy and principles. If we wished to present an effective counterbalance to the ANC, with its Communist allies and socialist tendencies, we would have to find a way of allowing moderate South Africans to join hands in a new non-racial political movement. All these ideas ripened in my mind – just as my thoughts had done prior to my speech of 2 February 1990.”⁸⁹⁵

In August 1990, he told the provincial congress of the Natal NP that the NP “would have to be transformed into a non-racial party and open its membership to all South Africans.”⁸⁹⁶ By October 1990, all the NP provincial congresses voted unanimously to open party membership to all races. Senior cabinet ministers launched a public offensive to justify the move. Kobie Coetsee stated that the party leadership had asked provincial congresses to ratify the position on party membership “since the NP's limitation on membership was contrary to the party's stated anti-discriminatory stance and was a stumbling block in the formation of alliances.”⁸⁹⁷ Other cabinet ministers went further, endorsing negotiated change towards a non-racial political order. Dawie

⁸⁹⁵ De Klerk, 191

⁸⁹⁶ Ibid.

⁸⁹⁷ South African Institute of Race Relations (SAIRR), *Race Relations Survey, 1991/1992* (Johannesburg: Institute of Race Relations, 1992), 196

De Villiers, the NP Cape leader, said that the “the challenge facing political parties was that there was a natural force that would not rest until all South Africans had attained freedom and rights.”⁸⁹⁸ Roelf Meyer, Viljoen’s deputy, added that “the government was determined that black people would participate in the next general election and that there would not be another whites-only election.”⁸⁹⁹

7.7. Tactical Changes

7.7.1. Moving Towards Multiparty Negotiations

On the back of a consultative conference that had imposed new and tight deadlines for the ANC’s negotiating team, Mandela and his negotiators had to move quickly in order to neutralize the militant threat. To this end, the NEC had to take the initiative in the pre-negotiations and alter their tactics.

First, Mandela used the occasion of the ANC’s annual January 8 Statement to propose a political solution; he call for the convening of an All-Party Congress on constitutional negotiations. The proposed All-Party Congress “would constitute the first step in the process leading to the adoption of [a] new constitution.”⁹⁰⁰ The All-Party Congress would only be convened after all obstacles to negotiations had been removed and would have three tasks:

“To set out the broad principles within which the detailed constitutional work would be carried out; to determine the make-up of the body, such as an elected Constituent Assembly, that would draw up the constitution; [and] to

⁸⁹⁸ Ibid.

⁸⁹⁹ Ibid., 196-197

⁹⁰⁰ African National Congress, Statement of the National Executive Committee on the Occasion of the 79th Anniversary of the ANC, 8 January 1991

establish an interim government to oversee the process of transition until a new parliament was elected, and a democratic government formed on the basis [of a new] constitution.”⁹⁰¹

Since the All-Party Congress would not be established by a general election based on a universal franchise, it could not have the power to draw up a new constitution. According to the ANC, only an elected sovereign Constituent Assembly comprising of elected members of the assembly could have such powers. Therefore, having performed the three identified tasks, “the All-Party Congress would then dissolve, unless... it obtained a specific popular mandate to continue as a constitution-making body, an interim government or both.” The installation of an interim government was critical for the ANC:

“The early installation of an interim government, as a body with real power in fact and in law, and in control of all instruments of state power, is critical to the process of the transition to the new order. Quite clearly this process of transition away from apartheid cannot be supervised by an apartheid institution, which is precisely what the present government is.”⁹⁰²

Second, in seeking ways to arrest the escalating violence, the negotiating team decided to reach out to the IFP and arranged a meeting with Buthelezi. This acknowledgement of a role for Buthelezi in the unfolding political process was a political triumph for the IFP; the political standing Inkatha was unable to achieve through diplomacy, “it was able to acquire through an orchestrated campaign of social violence” and in the process “ensured itself a place in negotiating stability in the townships.”⁹⁰³ After behind the scenes preparations, both leaders and their delegations met for an all-day session at the Royal Hotel in Durban on January 29. At the end of 13 hours of talks, a peace accord, the Royal Hotel Minute, was concluded. Both parties called for an end to violence, made a commitment to political tolerance and freedom of activity, and promised to take steps to peacefully reintegrate divided communities. The parties resolved to

⁹⁰¹ Ibid.

⁹⁰² Ibid.

⁹⁰³ Murray, *Revolution Deferred*, 107

create a high-level joint committee to facilitate local level peace initiatives and act as a crisis contact point.

As for the NP government, the cabinet held a meeting on Robben Island in mid-January to review the government's plan and tactics for 1991. Shortly after the Royal Hotel Minute, De Klerk used the occasion of the traditional opening of parliament to unveil further reforms. In his speech, De Klerk announced the imminent repeal of apartheid legislation which categorized people by race, and defined land ownership and occupation of land and property by race: "The Group Areas Act of 1966, the Black Land Act of 1913, the Development Trust and Land Act of 1936 and the Population Registration Act of 1950 were [to be] repealed at the end of June [1991]."⁹⁰⁴ Further, the Internal Security Act of 1982 was amended to restrict the term of detention to ten days.⁹⁰⁵ Despite these attempts, many apartheid laws remained in force. In a major critique of the reforms, Lawyers for Human Rights indicated that "22 apartheid laws remained, including the 1983 constitution and all legislation relating to the Tricameral Parliament as well as pertaining to segregated local authorities and the homelands."⁹⁰⁶

The NP's overall views and strategy towards roundtable talks also shifted a gear. The NP "committed itself to full democracy in a single state and measures to address black economic deprivation."⁹⁰⁷ Consistent with the outcome of the provincial congresses, the NP's future now "lay in alliance with people who shared its values, not necessarily a white skin."⁹⁰⁸ A carrot and stick approach was now used with the ANC. De Klerk welcomed the idea of a multiparty conference. However, their interpretation on its role was that the conference "would work out 'common ground' and 'basic principles' before deciding the composition of the 'more formal body' to draw up the new constitution."⁹⁰⁹ This position offered the prospect of a semantic

⁹⁰⁴ Chantelle Wyley and Ian Phillips, "Political Developments", *South African Human Rights Year Book* 3 (1992), 197

⁹⁰⁵ *Ibid.*, 198

⁹⁰⁶ Nick Smythe, "Race Classification: The Implications of the Repeal of the Population Registration Act", *South African Human Rights Year Book* 3 (1992), 240-241

⁹⁰⁷ O'Meara, 408

⁹⁰⁸ *Ibid.*

⁹⁰⁹ *Ibid.*

compromise on the ANC's preference for a Constituent Assembly; "Parties to the conference would be offered a limited decision-making role in a form of a 'council of state' during the transition process."⁹¹⁰

7.7.2. The DF Malan Accord

Due to the divergent interpretations on the meaning of 'suspension of armed struggle and related activities' contained in paragraph 3 of the Pretoria Minute, bilateral pre-negotiations between the ANC and the government had reached a deadlock by the beginning of 1991. The Paragraph Three Working Group had for months discussed the meaning and implications of the terms. Since the ANC's consultative conference, the government had pressed the ANC on what activities it would have to forgo to give meaning to the idea of an end to armed struggle. This included the establishment of self-defense units in townships, the identification and surrender of arms caches, and the demobilization of MK fighters.

An agreement was brokered on the meaning of the 'suspension of armed action and related activities'. The agreement, the DF Malan Accord, was confirmed at DF Malan Airport in Cape Town on 12 February 1991. In terms of the agreement, the ANC undertook not to carry out armed attacks or infiltrate men or weapons inside South Africa.⁹¹¹ The creation of underground structures and training of fighters inside South Africa would cease. Further, statements inciting violence and threatening armed action would cease.⁹¹² However, there was no agreement on the surrender of ANC weapons, the identification of arms caches, the demobilization of MK or the disestablishment of self-defense units. Membership of MK would continue to be lawful and individual weapons would be licensed.⁹¹³

⁹¹⁰ Ibid.

⁹¹¹ Ebrahim, 71

⁹¹² The DF Malan Accord, 12 February 1991 Document 19 in Hassen Ebrahim, *The Soul of a Nation: Constitution-Making in South Africa* (Cape Town: Oxford University Press, 1998), 493-497

⁹¹³ Ebrahim, 71

7.7.3. Breakdown: The ‘Mandela Ultimatum’

De Klerk felt that the terms of the DF Malan Accord could be a major contribution to the restoration of peace and stability. However, he was apprehensive about the ANC’s role in implementing it: “the ANC was either unwilling or unable to abide by the terms of the DF Malan Accord and dismally failed to carry out its undertakings.”⁹¹⁴ For the ANC, their assumption in the aftermath of the DF Malan Accord was that their concessions would pave the way for their core demands to be met as per the Harare Declaration i.e. loosen the logjam on the release of political prisoners and the return of exiles, in effect setting the stage for the meeting of the 30 April deadline set at the ANC consultative conference.⁹¹⁵

But this was not to be. The major culprit was the implementation of the indemnity process. Under Government Notice 3013 of 18 December 1990, there was a requirement that to obtain indemnity, individuals had to complete application forms. While applications by persons who had committed ‘non-violent’ crimes went relatively quickly, “cases involving more serious acts required greater individual consideration.”⁹¹⁶ The cumbersome procedure of application and review led to persistent delays and resultant tensions. A period of bitter accusations and counter-accusations ensued in which “the government blamed the ANC for failing to meet its commitments to provide lists of prisoners and exiles, and the ANC accused the government of delaying the process to pressure the ANC into further concessions on the armed struggle.”⁹¹⁷ This slow indemnity process was strategic; Mallinder writes that the government had hoped that “individual considerations of amnesty applications would delay the release of senior ANC members from prison, undermine ANC credibility among its support base and stall the transition

⁹¹⁴ De Klerk, 205

⁹¹⁵ Jo-Ann Collinge, “Launched on a Bloody Tide: Negotiating the New South Africa”, in Glen Moss and Ingrid Obery, *South African Review 6: From Red Friday to CODESA* (Braamfontein: Ravan Press, 1992), 11

⁹¹⁶ Mallinder, 27

⁹¹⁷ Ibid.

to universal suffrage.”⁹¹⁸ This would ensure a favourable power balance once settlement negotiations begun.

As the 30 April deadline drew nearer, only 900 prisoners had been released and 364 had been refused release because of the seriousness of their offenses. Approximately “5,900 applications from exile had been processed, of which close to 100 had been refused or referred to a committee for review.”⁹¹⁹ The Human Rights Commission stated that by April 2, over 1,300 political prisoners were still in prison.⁹²⁰ The slow pace of the political prisoner release process finally took its toll; ANC political prisoners went on a hunger strike, raising the tension between the government and the ANC, and between the ANC leadership and the political prisoners.”⁹²¹

The ANC’s negotiating strategy was bearing no fruit; the organization had essentially interpreted its commitments regarding the fate of MK as dependent on sufficient progress in removing obstacles towards constitutional negotiations and they were nowhere near the removal of such obstacles. For his part, De Klerk failed to empathies with a moderate ANC coalition, under pressure from militants, who were willing and anxious to begin official negotiations. According to an observer of the times, De Klerk was pursuing “a myopic strategy of going for maximum short-term gains at ANC expense, seemingly oblivious to the eroding effect this tactic was having in prospects for obtaining a larger settlement.”⁹²²

Frustrated by his inability to rein in militants who began challenging his authority, and disappointed by De Klerk’s non-commitment to meet the core conditions of the Harare Declaration, the escalating violence in the township was the last straw for Mandela.

⁹¹⁸ Ibid.

⁹¹⁹ Collinge, 11

⁹²⁰ Ibid.

⁹²¹ Ibid.

⁹²² Ottaway, 113

The turning point came on 3 April when Mandela, as the featured speaker, spoke to a symposium organised by the Aspen Institute for members of the US Congress and their aides. According to journalists who attended, Mandela stated that De Klerk “had betrayed his trust, spurned his requests for help, and done nothing to curb the violence in the townships.”⁹²³ According to Ottaway, “he listed by date, and recounted in great detail various occasions over the past year when he had asked De Klerk for help in rendering justice to the latest ANC victims of the township violence.”⁹²⁴ By ignoring Mandela’s pleas for help, De Klerk had undermined Mandela’s credibility in the eyes of his constituency. Mandela came to the conclusion that De Klerk’s inaction was a betrayal and that he was intent on “exploiting his goodwill for purely personal political gains.” Consequently, he “had made a fundamental error of judgment about De Klerk and had been duped into believing the two of them had similar agendas and objectives in mind.”⁹²⁵ What particularly hurt for Mandela was that he felt he had gone out on a limb for De Klerk by defending him as an honest reformer in the face of ANC militant leaders, who had consistently questioned Mandela’s judgement.

Mandela’s change of attitude was felt immediately. The ANC’s NEC held a two-day meeting on 4 April, at which Mandela formally apologised for misleading the organisation for calling De Klerk ‘a man of integrity’, and that he had tried to get through to De Klerk but had failed.⁹²⁶ Suddenly Mandela was the ‘hawk’ “calling for the suspension of all contacts with the government until it did something concrete to dampen the violence.”⁹²⁷ At the end of the meeting, the NEC issued an ultimatum in the form of an open letter:

“The ANC is of the view that the government’s equivocal attitude to the cycle of violence reflects either an attitude of cynical irresponsibility or is evidence of connivance at acts of organised terror in the hope that they will succeed in destroying or seriously crippling the ANC.”⁹²⁸

⁹²³ Ottaway, 132

⁹²⁴ Ibid.

⁹²⁵ Ibid., 133

⁹²⁶ Ibid.

⁹²⁷ Ibid.

⁹²⁸ Cited in Collinge, 12

The ANC charged that the violence reflected a pattern of State/IFP collaboration designed to paralyse the ANC and kill ANC political activists and members:

“It is the considered opinion of the ANC that it is inconceivable that the authorities lack the capacity or the skill to prevent the violent deeds we have enumerated. We suspect that, at best, the feeble response on the part of the state betrays an absence of will to take measures adequate to avert violence, detect and bring the guilty parties to justice because the perpetrators of this violence are providing a line of defence for government institutions that would otherwise have been rendered dysfunctional.”⁹²⁹

The ultimatum then listed seven demands:

“the immediate dismissal of defence minister Magnus Malan and law and order minister Adriaan Vlok...; legislative action to outlaw the carrying of cultural weapons (spears, shields, knives etc.) used in township violence; the visible, public dismantling and disarming of certain units in the SADF such as 32 Battalion... and Koevoet...; the immediate suspension of all police who were involved in the Sebokeng shootings...; assurances that the SADF would use restraint in crowd control; the phasing of single-sex worker hostels and their transformation into family housing; [and] the establishment of an independent commission to hear complaints about security-related issues.”⁹³⁰

If these demands were not met by 9 May, the ANC would suspend all talks with the government. The ANC now realised that negotiations could no longer be driven by an apparent ‘chemistry’ between Mandela and De Klerk or abstract talks about a future democratic country, while low-intensity civil war waged in the townships. Whereas months earlier Mandela had depicted De Klerk as a man dedicated to a new South Africa, “now he was being depicted... as a crafty and

⁹²⁹ Cited in Haysom, 33

⁹³⁰ Cited in Sisk, *Democratization in South Africa*, 104

ruthless rival, prepared to give free rein to elements within the state security apparatus which sought to destabilise government opponents.”⁹³¹

Buthelezi denounced the ANC’s demands as unreasonable and provocative: “The ANC is ... making the kind of demands which would precipitate ... civil war.”⁹³² De Klerk rejected the ANC’s demands. He insisted that “he had moved steadily to fulfil the pledges his government made in the Pretoria summit in August 1990, to release all political prisoners and ease the return of exiles by the end of April, thus opening the way to negotiations.”⁹³³ The ultimatum, De Klerk continued, was an attempt by the ANC to cover-up divisions in its own ranks.⁹³⁴

However, as relations between the government and the ANC worsened, and the body count climbed, De Klerk decided to unilaterally develop a strategy to end the violence. In particular, he was keen to address the ultimatum demands in such a way that would not appear as a sign of weakness. He called for a tripartite meeting between himself, Mandela and Buthelezi and “suggested the appointment of a standing commission to investigate all forms of violence originating from whatever source.”⁹³⁵ He also announced that he would convene a conference on violence and intimidation “to cut the root causes of conflict.”⁹³⁶

Responding to calls to disband traditional weapons, De Klerk set about trying to persuade the IFP to accept restrictions on cultural weapons. By early May, following several shuttle diplomacy meetings and a direct meeting at Tuynhuys, De Klerk had an agreement with Buthelezi; Zulu traditional weapons would only be carried at so-called cultural functions.⁹³⁷ However, as this agreement was not enforced, the issue would recur, and as the ultimatum deadline approached, “it was clear that the government would be unable (in part the result of a

⁹³¹ Mkhondo, 100

⁹³² Cited in *ibid.*, 101

⁹³³ *Ibid.*, 100

⁹³⁴ Cited in *ibid.*

⁹³⁵ De Klerk, 206

⁹³⁶ *Ibid.*

⁹³⁷ Sisk, *Democratization in South Africa*, 106

flood of indemnity applications just prior to the 30 April deadline) or unwilling to meet the deadlines set out by the ANC and the agreements included in the Pretoria Minute.”⁹³⁸

The ANC rejected the government’s proposals and on May 18, after a belated effort by the South African Council of Churches to broker an agreement, announced that they were pulling out of constitutional talks with the government and would not participate in the proposed peace summit. The ANC particularly objected to De Klerk calling the peace conference. As Slovo explained; “implicit in this is the inference that the state is an impartial body standing above the violence and is calling all those connected with it plus a broader section of the community to discuss it.”⁹³⁹ De Klerk had made a tactical error; “He called the conference unilaterally and without consultation. And he virtually declared himself the referee, though clearly, in the eyes of other parties, he is a participant, even an ‘accused’. It was an invitation to breakdown.”⁹⁴⁰ The ANC called for mass protests, a consumer boycott, a two-day general strike and a day of fasting in solidarity with the political prisoners’ hunger strike.⁹⁴¹

The ANC, however, did not sever all contact with the government. The ANC and government had met in a top-level summit on the day of the ultimatum deadline. After a gruelling six-hour session, the parties agreed to continue talking through the working groups about the return of exiles and political prisoners, and armed action. The government also agreed to “act legislatively on the display of cultural weapons and to step up to curb violence in the townships.”⁹⁴² Despite De Klerk’s patent refusal to dismiss the contentious cabinet ministers, a key ultimatum demand, the working groups were firmly in place through which pre-negotiation would continue.

⁹³⁸ Ibid.

⁹³⁹ Cited in Ebrahim, 78

⁹⁴⁰ Ibid.

⁹⁴¹ African National Congress, Press Statement: Solidarity with the Political Prisoners Strike, 12 May 1991

⁹⁴² Sisk, *Democratization in South Africa*, 107

7.8. Theoretical Implications: Pre-negotiation and Ripeness

7.8.1. Implications for Pre-negotiation

As discussed in Chapter Two, Tomlin writes that third stage of pre-negotiation begins the shift from ‘whether’ to ‘what’ will be negotiated. This stage is characterised by the consideration of alternative negotiating scenarios, reflecting varying degrees of scope for the potential negotiation, and by successive steps towards increasing commitment to a negotiated solution. The focus of the major actors becomes outer-directed; “the preoccupation with internal decision dynamics gives way to increased concern for the other parties.”⁹⁴³ Druckman’s framework emphasised the monitoring activity as the parties attempt to define the scope of the negotiation. This involves “determining the interests of various parties, including those of domestic agencies within the principals.”⁹⁴⁴

This is the most complex of pre-negotiation stages; parties have to judge whether a negotiated solution would be better than continuing the present situation, whether a fair settlement could be fashioned, whether the other side could accept, and whether the balance of forces would permit agreement on such a settlement.⁹⁴⁵ Thus the complexity of this stage is that it involves a series of interrelated judgements. Tomlin writes that it is the communication of a desire to negotiate from the parties on one side to those on the other that marks the turning point to stage four in the pre-negotiation process.⁹⁴⁶

The third stage of pre-negotiation in South Africa to a certain extent features factors analogous to Tomlin’s third stage.

⁹⁴³ Tomlin, 259

⁹⁴⁴ Ibid., 260

⁹⁴⁵ Saunders, 257

⁹⁴⁶ Tomlin, 260

7.8.1.1. Steps towards Increasing Commitment

The ANC and South African government took for successive steps towards increasing commitment towards a negotiated solution once they reached a shared understanding of the possibility of a negotiated solution. First, De Klerk's 2 February speech was a clear intention to open official negotiations:

“The time for talking has arrived and whoever still makes excuses does not really wish to talk... Walk through the open door; take your place at the negotiating table together with the Government and other leaders who have important power bases inside and outside of Parliament. Henceforth, everybody's political realism will be tested against their realism, their workability and their fairness. The time for negotiation has arrived.”⁹⁴⁷

Second, the Groote Schuur Minute committed the ANC and the South African government towards the resolution of the existing climate of violence and intimidation, to political stability, and to a peaceful process of negotiations. Flowing from this commitment, the parties agreed to establish a ‘Working Group on Political Offences’ to make recommendations on a definition of political offences, to discuss timescales, and to advise on norms and mechanisms for dealing with the release of political prisoners and the granting of immunity in respect of political offences.⁹⁴⁸ The government also undertook to review the existing security legislation to bring it into line with the unfolding liberalisation process, and committed to work towards lifting the state of emergency. The ANC in turn would work towards the resolution of political violence and commit to political stability so as to assist the government in this regard. Fifth, channels of communication between the parties were established in order to curb violence and intimidation.⁹⁴⁹

⁹⁴⁷ F.W. De Klerk's speech at the opening of Parliament 2 February 1990. Document 16 in Hassen Ebrahim, *The Soul of a Nation: Constitution-Making in South Africa* (Cape Town: Oxford University Press, 1998), 480-481

⁹⁴⁸ Groote Schuur Minute, 318

⁹⁴⁹ Ibid.

Third, in the Pretoria Minute, the ANC suspended the armed struggle, with the Minute stating that “no further armed actions and related activities by the ANC and its military wing Umkhonto we Sizwe will take place.”⁹⁵⁰ The agreement also contained specific target dates with regard to resolving the contentious indemnity issue. In order to facilitate movement on substantive issues, paragraph 9 stated that the way was open to proceed towards negotiations on a new constitution and another joint working group, the Paragraph Nine Working Committee, was established to discuss procedural and agenda items for an as-yet-defined constitutional conference.⁹⁵¹

Fourth, in the DF Malan Accord, the ANC undertook not to carry out armed attacks or infiltrate men or weapons inside South Africa, the creation of underground structures and training of fighters inside South Africa would cease and statements inciting violence and threatening armed action would cease.⁹⁵² However, there was no agreement on the surrender of ANC weapons, the identification of arms caches, the demobilization of MK or the disestablishment of self-defense units. Membership of MK would continue to be lawful and individual weapons would be licensed.⁹⁵³

Therefore, the parties institutionalized their commitment to a negotiated solution through a series of pacts and agreement aimed at assuring the protection of their interests. These pacts and agreements established important benchmarks and rules of interaction that locked the ANC and South African government into an interdependent bargaining relationship.

⁹⁵⁰ Pretoria Minute, Paragraph 3

⁹⁵¹ Sisk, *Democratization in South Africa*, 95

⁹⁵² The DF Malan Accord, 12 February 1991 Document 19 in Hassen Ebrahim, *The Soul of a Nation: Constitution-Making in South Africa* (Cape Town: Oxford University Press, 1998), 493-497

⁹⁵³ Ebrahim, 71

7.8.1.2. Consideration of Alternative Negotiating Scenarios

Consistent with Tomlin's expectations, the parties also considered various alternative scenarios and, in the process, reflecting varying degrees of scope, issues and points for the potential negotiation. Two issues stand out: the parties' positions on issues and strategies; and the format that the settlement negotiations would take. Both parties had opposing views on these points.

With regards to the position on issues and strategies, the government's initial views were based on the 1989 Broederbond Guidelines: "[each] 'component unit' of the population would control its 'own affairs', with 'general affairs' decided by consensus between the majority of each such unit in the national legislature."⁹⁵⁴ Four principles formed the basis of their envisioned constitutional dispensation. First, the 'group' rather than the individual would provide the basis for political representation, and would be the primary repository of constitutional rights and protections.⁹⁵⁵ Second, South Africa was understood to be a country of minority groups with no majority. Third, a system of minority protection was fundamental. And fourth, all racial groups should be allocated separate legislative institutions to decide their 'own' affairs. For the NP any negotiation for a system guaranteeing full political participation would move from the premise of group rights, and the protection of minorities, which was argued to be a move away from rigid race classification.

The NP thus saw the process of negotiations as an extension of the old 'consociation' approach: through a process of bargaining, trade-offs and compromise, representative racial and ethnic elites would come to a 'pact' about South Africa's future.

⁹⁵⁴ Dan O'Meara, *Forty Lost Years: The Apartheid State and the Politics of the National Party, 1948 – 1994* (Randburg: Ravan Press, 1996), 404-405

⁹⁵⁵ Price, 142

By contrast, the ANC views were contained in the Constitutional Guidelines for a Democratic South Africa. This document stated that a future South African constitution would have a Bill of Rights that would guarantee fundamental human rights, freedom of association, expression, thought, worship and the press. The Bill of Rights would also guarantee social and economic rights.

During the unfolding political process, the parties sharpened their views considerably. Public debate between the parties narrowed on three questions: whether an interim government was necessary to oversee an election before drafting a new constitution; whether the new constitution should be drafted by a constituent assembly, in particular whether it should happen before or after an election; and whether the notion of group rights had a place in a new constitution. This debate drew the battle lines for future talks. There were two competing scenarios.

The perspective of the NP government was that the present government would remain intact while a conference representing different parties would negotiate a new constitution.”⁹⁵⁶ The Tricameral Parliament would then pass this constitution. The ANC wanted an elected constituent assembly first, which would then decide who should sit together to draw up a new constitution.⁹⁵⁷

By early 1991, the parties had formalised their negotiating scenarios. In January, Mandela proposed a political solution; the convening of an All-Party Congress on constitutional negotiations. The proposed All-Party Congress would constitute the first step in the process leading to the adoption of [a] new constitution.⁹⁵⁸ This would only be convened after all obstacles to negotiations had been removed.

⁹⁵⁶ Ebrahim, 50

⁹⁵⁷ Cited in SAIRR, *Race Relations Survey 1989/1990*, 680

⁹⁵⁸ African National Congress, Statement of the National Executive Committee on the Occasion of the 79th Anniversary of the ANC, 8 January 1991

While the NP welcomed the idea of a multiparty conference, their interpretation of its role was that the conference “would work out ‘common ground’ and ‘basic principles’ before deciding the composition of the ‘more formal body’ to draw up the new constitution.”⁹⁵⁹ This position offered the prospect of a semantic compromise on the ANC’s preference for a Constituent Assembly.

7.8.1.3. Preconditions as a Barrier

The South African pre-negotiation process highlights the importance of preconditions as a barrier to passage to stage four, a factor that Tomlin does not consider in his framework. Conditions applicable to the opening of settlement negotiations usually cover three broad areas: the negotiation itself, including details such as the site and the level of representation, the political climate while official negotiations are in progress, and the substance of the negotiated settlement.⁹⁶⁰ These subjects influence the shape of the negotiated settlement that emerges, influence each side’s bargaining position, and help determine how long it will take to reach a negotiated agreement.⁹⁶¹ In the South African case, preconditions related to the political climate which the settlement negotiation would be in progress. For the ANC, these preconditions were contained in the Harare Declaration and primarily related to issues of indemnity. For the South African government, the main precondition was that the ANC renounce the armed struggle. When political violence accompanied political liberalization, a peace process was identified as an important precondition to the opening of settlement negotiations.

Overcoming these preconditions was a key feature of stage three and defined the bargaining relationship between the ANC and the government during the process. While the Pretoria Minute and DF Malan Accord met the government’s precondition on the suspension of the armed

⁹⁵⁹ O’Meara, 408

⁹⁶⁰ Paul Pillar, *Negotiating Peace: War Termination as a Bargaining Process* (Princeton: Princeton University Press, 1983), 69

⁹⁶¹ Ibid.

struggle, the issues of indemnity and political violence were the most controversial; the government failed to meet the expectations of the ANC on both issues.

Therefore, despite the fact that the ANC communicated the desire to negotiate in the January 8 Statement i.e. the call for an All-Party Congress, this did not mark the turning point to stage four. What accompanied this communication was not a turning point, as suggested by Tomlin, but a crisis i.e. a breakdown and threat to talks.⁹⁶² Progression to stage four would depend on how the ANC and South African government overcame the problem of the ANC's preconditions. In scenarios where preconditions become barriers to official talks, two methods usually break the logjam. One is to initiate settlement negotiations with an ostensibly limited agenda. The other is to "reach an agreement that is subtle or ambiguous enough for neither side to have to admit that it backed down."⁹⁶³ However, if both sides are willing to negotiate, then a pre-negotiation process can acquire sufficient momentum to survive many of the hazards that are capable of preventing the opening of settlement negotiations. Disagreements over conditions that previously appeared as formidable obstacles can be shoved aside.⁹⁶⁴

7.8.2. Implications for Ripeness

Zartman provides us with a set of indicators to look for: a sense of a hurting stalemate; a sense of a moment in the future that will worsen if negotiations fail; a sense that the tide of the combat has changed; the mediators' need for leverage; and the development of a political solution.

⁹⁶² Druckman, "Stages, Turning Points and Crises", 333

⁹⁶³ Pillar, 83

⁹⁶⁴ Ibid., 84

7.8.2.1. Major Actors

Who are the major actors in stage three and what are their goals?

The major actors and decision units in stage three are in contrast to stages one and two. Whereas in the first two stages the major actors and decision units were predominant leaders with advisory groups, in stage three, participation and decision-making was broadened; the major actors and decision units were single groups on both sides.

For the South African government, the single group that was tasked with managing the process in stage three was the cabinet. De Klerk was the principal. The Department of Constitutional Development was transformed into a structure that would initiate, direct and support the government negotiations team and strategy.⁹⁶⁵ Three people were important; Gerrit Viljoen (the Minister of Constitutional Development), Roelf Meyer (the deputy Minister of Constitutional Development) and Niel Barnard (the director general of the Department of Constitutional Development). Viljoen, Meyer and Barnard developed the government's negotiation policy into detailed concepts in order to put proposals and positions on the table in preparation for official negotiations. Other cabinet ministers played supporting roles in the process.

For the ANC, the single group tasked with managing the process did not reside within an institution, but was accountable to the national executive. The principal was Mandela, the ANC deputy president. Additional members were Thabo Mbeki (the Director of International Affairs), Jacob Zuma (the deputy director of NAT), and Penuell Maduna and Mathews Phosa (attorneys in the ANC's Department of Legal and Constitutional Affairs). Mandela's team were all members of the Steering Committee formed in Berne, Switzerland.

⁹⁶⁵ De Klerk, 176

7.8.2.2. Third Parties

The only period in the third stage where mediation played an important role was in May 1991 when talks breakdown and the pre-negotiation process reaches crisis. During most of the stage, interventions of the major principals, i.e. the rapport between Mandela and De Klerk, and interventions by Mandela in particular, were sufficient in turning crises into breakthrough.

For example, the 5 April 1990 meeting in Tuynhuys between Mandela and De Klerk after the Sebokeng killings resolved the subsequent deadlock and ensured that the Groote Schuur meeting went ahead. On the eve of the Pretoria Minute, Mandela was able to persuade the national executive to suspend the armed struggle in order to create a positive climate to move pre-negotiation forward. Mandela was also to convince a hostile and critical consultative conference on the merits of continuing negotiation, despite the ANC imposing important conditions for their support. And at the point of breakdown and crisis, an in an attempt to avert a complete breakdown in pre-negotiation after the failed intervention by the South African Council of Churches, the ANC did not sever all contact with the government despite the ultimatum; the ANC and government had met in a top-level summit on the day of the ultimatum deadline.⁹⁶⁶

7.8.2.3. Hurting Stalemate and Way Out

Do the actors perceive the situation to be a hurting stalemate?

Yes, the parties still believed they were in a hurting stalemate, and still believed that there was a moment in future where they would be worse off if negotiations failed. What sustained this perception was the escalation of political violence, and the parties' response to this confirmed

⁹⁶⁶ Sisk, *Democratization in South Africa*, 107

this perception. It was the fear and presence of political violence that kept the pre-negotiation on track. The escalating levels of political violence showed that the unthinkable was at the doorstep, and this was reflected in the parties' responses to it. The violence kept the two main parties together. The moments of breakdown and crisis were crucial to the dynamic of continuity; after each crisis, the ANC and the government came back, taking a new step forward, and they came back because they appreciated the constraints and opportunities of the situation.⁹⁶⁷ Both sides were in a hurting stalemate and realised that only a negotiated agreement could resolve the conflict. The Mandela-De Klerk meeting in Tuynhuys on 5 April 1990, the Groote Schuur Minute, the Pretoria Minute, the Royal Hotel Minute, the DF Malan Accord, and the top-level summit on the eve of the ultimatum expiry date all illustrate this commitment to negotiated solutions as a result of perceptions of a stalemate. This perception would continue through stages four and five and during the progression of official negotiations.

During this period, there was no reversal of fortune among the players. The perceived balance, however, was in favour of the government which controlled the process during this stage to a large extent. The bargaining process over preconditions is a good illustration of this balance of power. The series of agreements and pacts left an important ANC precondition (the definition of political offenses, crucial for the identification and release of political prisoners and return of exiles) unresolved. While the Groote Schuur Minute committed the parties to working towards a common definition of political crimes, Paragraphs 1 and 2 of the Minute restricted the numbers of ANC members to be indemnified. Further, the Indemnity Act only provided for temporary indemnity; the government reserved the right to prosecute at a later stage. While the act did provide provisions for a permanent indemnity, this was at the sole discretion of the president. The indemnity provisions also expired after a year, unless they were renewed annually by the president by proclamation, and following the second renewal, only if all three houses of parliament consented. The slow and bureaucratic nature of the process further drew the ire of the ANC; by the time of the ultimatum, over 1,000 political prisoners were still in prison.

⁹⁶⁷ Zartman, "Negotiating the South African Conflict", 109

This perceived balance of power, however, would change considerably. Most importantly, it would be changes in this perceived power balance that would create the environment in which disagreements over preconditions that appeared formidable at the point of the ultimatum would be overcome.

7.9. Implications for the South African Literature

The analysis of the South African case thus far, using ripeness and pre-negotiation as theoretical frameworks, highlights the shortcomings of, and fills an important gap in, the scholarship about why multiparty negotiations began in South Africa. As discussed in Chapter Two, this literature has important strengths and weaknesses.

The strength of this literature is that it provides invaluable insights on the complexity of the end of apartheid. Multivariable analyses highlight the importance of macro-political and macro-economic factors. The argument is that multiple pressures of great intensity were brought to bear on the apartheid state until such time that the pressures became too great, leading to the beginning of negotiations. The start of negotiations is either seen as an elite response to pressure or an elite initiative in anticipation of changing circumstances.

Dominant-variable approaches acknowledge many factors as important subsidiary pressures, but highlight one variable as crucial. Important works that fall into this category emphasise the role played by the civil society and social movements, especially trade union, arguing that they were at the heart of the political changes that led to the beginning of negotiations.

Single variable approaches analyse a particular factor; but that factor is not necessarily claimed to be the most important. They seek not to replace other explanations but rather compliment

them by giving weight to one factor. For the beginning of negotiations, literature tends to highlight the impact of the end of the cold war, and the role of secret talks.

Theoretical explanations use political and sociological theories to explain the beginning of negotiations. Important accounts use institutional rational choice theory, draw on comparative studies of democratisation in Latin America and Southern Europe, and use Marxist analysis to explain the beginning of negotiation.

The literature, however, has important shortcomings; the argument on ‘why negotiate at all’ is stronger than the argument on ‘why the NP government ended up negotiating with the ANC’. They are two reasons for this.

First, the literature dates the beginning of negotiation as 2 February 1990 and identifies De Klerk as the central actor for the beginning of the process. While the literature acknowledges the importance of political changes and events in the 1970s and 1980s, the important pre-negotiations that happen during this period are not sufficiently discussed. The dissertation has shown that the first stage of the negotiation process begins in the mid-1980s and involved confidential conversations between the ANC leadership in exile and the South African government’s National Intelligence Service (first indirectly and then directly), and a second set of confidential conversations between Nelson Mandela and a team of senior government officials. The dissertation has demonstrated that some of these conversations were not just secret or informal chats, as depicted by the literature; they represented the first stage of the negotiation process and set the stage for De Klerk’s announcements of 2 February 1990.

Second, of those studies that do consider the conversations mentioned in the dissertation, particularly those that highlight the importance of secret talks, there is no critical analysis of pre-

negotiation *as a process*; the studies simply highlight the important role played by select individuals and the bonds that developed between them.

With regard to the theoretical literature, particularly the arguments put forward by Sisk, Sisk does not deduce explanations from his theoretical framework despite providing an excellent chronology and description of the beginning of negotiations. This is most evident in his explanation on why negotiations begin. David Howarth's critique of Sisk in this regard is important: "Sisk presupposes what he must demonstrate, as he provides no explanation of the 'shared common destiny' and 'interrelatedness' which he posits as the (necessary) conditions from a zero-sum to a positive-sum perception."⁹⁶⁸ The dissertation has shown that a balance of power between the main political forces, and a mutually hurting stalemate, does not automatically translate into recognition of a shared destiny, and is not, therefore a sufficient condition for the beginning of negotiations. Moreover, Sisk does not show how, and in what form these conditions resulted in altered perceptions amongst the major actors. While Sisk does mention ripeness and pre-negotiation as important for his study of the South African negotiations, these are not sufficiently developed.

The dissertation has thus filled the gap in the literature by drawing attention to the nature and importance of pre-negotiation. It examined the conditions conducive for the beginning of pre-negotiation and outlined the different stages and functions. Ripeness was a function of this political process.

⁹⁶⁸ David Howarth, "Paradigms Gained? A Critique of Theories and Explanations of Democratic Transition in South Africa" in David Howarth and Aletta J. Norval, *South Africa in Transition: New Theoretical Perspectives*. (New York: Macmillan Press, 1998), 194

7.10. Conclusion

This chapter discussed how the NP government and the ANC produced a commitment to a negotiated solution. The chapter used the third stage of Tomlin's model on pre-negotiation. Tomlin writes that the third stage is the transition from 'whether' to negotiate to 'what' will be negotiated. The policy focus is initially inner-directed as parties consider alternative negotiating scenarios, reflecting varying degrees of scope for the potential negotiation, and successive steps towards increasing commitment toward a negotiated solution. The focus of policy makers then becomes outer-directed as the preoccupation with internal decision dynamics gives way to increased concern for the other parties to the problem. The communication of a desire to negotiate from one party to another is the turning point to stage four. This stage is the first phase of preliminary talks towards settlement negotiations.

The chapter showed that the third stage of pre-negotiation in South Africa to a certain extent features factors analogous to Tomlin's third stage. Consistent with Tomlin's expectations, the ANC and South African government took successive steps towards increasing commitment towards a negotiated solution. De Klerk's 2 February speech was a clear intention to open official negotiations. The Groote Schuur Minute committed the ANC and the South African government towards the resolution of the existing climate of violence and intimidation, to political stability, and to a peaceful process of negotiations. In the Pretoria Minute, the ANC suspended the armed struggle and contained specific target dates with regard to resolving the contentious indemnity issue. And in the DF Malan Accord, the ANC undertook not to carry out armed attacks or infiltrate men or weapons inside South Africa, the creation of underground structures and training of fighters inside South Africa would cease and statements inciting violence and threatening armed action would cease. The parties institutionalized their commitment to a negotiated solution through a series of pacts and agreement aimed at assuring the protection of their interests. These pacts and agreements established important benchmarks and rules of interaction that locked the ANC and South African government into an interdependent bargaining relationship.

The South African pre-negotiation process however highlights the importance of preconditions as a barrier to the opening of official negotiations, a factor that Tomlin does not consider in his framework.

CHAPTER EIGHT

The Final Stages of Pre-negotiation

Overcoming Preconditions

The aim of this chapter is to discuss the final stages of pre-negotiation. The chapter will use stage four and five of Tomlin's pre-negotiation model. Tomlin writes that in the fourth stage, the parties agree to pursue a negotiated solution to the problem. The focus is outer-directed as they come to terms on the desirability of negotiation as an approach to the problem while reserving any commitment as to the scope of the negotiation itself. The achievement of an agreement to negotiate marks the turning point to the final stage of the pre-negotiation process. In the fifth stage, parties define the scope of the proposed official negotiation and establish parameters for the negotiation process to follow. This stage provides parties with an important opportunity to assess the extent of congruence in their perspective agendas. Even though parties may not reach an agreement on appropriate parameters, their agreement to proceed with settlement talks will mean that this final stage of the pre-negotiation phase imply merges into settlement negotiations.

The chapter is divided into three sections. The first section discusses the conditions that led to the turning point that facilitated the process of overcoming the problem of preconditions, which was brought about by a crisis of legitimacy for the government. The second section discusses how the government's crisis of legitimacy led to a process of convergence between the government and the ANC. The third section discusses the issues involved in the preparations for settlement negotiations.

8.1. Breakthrough: The June 1991 ANC National Conference

The discussion thus far has shown that the decision to open settlement negotiations is complex. While the decision in part depends on the balance of power in the conflict, this is not in any simple and easily describable way. Moreover, since agreement of both sides is required to begin settlement negotiation, each side must consider when the other would be receptive, and this adds a new dimension.⁹⁶⁹

The ANC and NP government had conflicting interests in determining exactly when to open settlement negotiations. But because both were enduring the continuing costs of the conflict, albeit from different vantage points, both had a common interest in seeing that settlement negotiations do open. The presence of these elements meant that the opening of settlement negotiations was essentially a bargaining problem. The difficulty was that preconditions had become a barrier to their opening. The Inkathagate Scandal that irreparably damaged the credibility of the NP government provided sufficient conditions for overcoming the problem of preconditions.

As the planned ANC National Conference approached without the ultimatum demands met, the ANC faced critical choices. Mandela and his team came to the realisation that to keep postponing talks because of rising levels of political violence and De Klerk's failure to meet ANC preconditions was futile. Postponements simply gave veto powers to those who were opposed to constitutional negotiations. From this perspective, the ultimatum was counter-productive.

The July National Conference was the first inside South Africa in 30 years and was attended by over 2,000 delegates representing 760,000 members. These included returned exiles from foreign ANC missions, fighters from MK camps, UDF activists, and old guard political prisoners.

⁹⁶⁹ Paul Pillar, *Negotiating Peace: War Termination as a Bargaining Process* (Princeton: Princeton University Press, 1983), 53

Because it was the first major conference in decades, and widely believed that another conference would not be held until a new South African constitution had been negotiated, the conference had to consider a number of important decisions, including leadership elections, negotiations, constitutional questions, and a proposed alliance with the PAC. All these issues would have a bearing on the negotiation process i.e. who sits at the table and under what brief, the agenda, the procedure, the strategy, and what happens after.

Mandela's opening address signalled an important shift in the ANC's thinking. Given that the ultimatum had gone unmet, and with considerable anxiety for a return to pre-negotiations, he argued that the ANC needed to reconsider its attitude toward negotiations; "negotiations constitute a victory of our struggle and a defeat for the ruling group which thought it could exercise a monopoly of political power forever."⁹⁷⁰ Because the government was not defeated militarily such negotiations were a new theatre, and the most appropriate continuation, of struggle toward the primary objective, the transfer of power. Thus, Mandela continued, the political violence that was being perpetuated by security forces was opposed to negotiations, precisely because the theatre of negotiations presented the ANC with an opportunity to gain a strategic advantage. Consequently, the slowing down of the pre-negotiation process by perpetrators of political violence simply prolonged the apartheid system.⁹⁷¹

The ANC needed to provide a comprehensive strategy toward negotiation. It would not hold back on negotiations; rather, it would seek to *expedite it*:

"[The ANC] must evolve a clearer idea on such questions as the composition of [the All-Party Congress], its agenda, and the manner of its functioning and the length of time we should propose that it should sit. Conference should bear in mind the fact that we ourselves said that the All-Party Congress should convene when the obstacles to

⁹⁷⁰ Nelson Mandela, Opening Address to the 48th National Conference of the African National Congress in Durban, 2 July 1991

⁹⁷¹ Ibid.

negotiations have been removed. Accordingly, we must calculate on the congress taking place sooner rather than later and therefore approach all preparations for our own participation with some urgency.”⁹⁷²

Mandela’s address set the tone of the conference. This was also the beginning of a tactical shift in the ANC’s thinking on negotiations. The ANC’s short term objective would be the replacement of the De Klerk government by a multiracial interim government of national unity:

“The importance of the matter cannot be overemphasised. Among ourselves we are agreed that it would be incorrect and unacceptable that during this transitional period one of the parties to the negotiations, in this case the National Party should continue to govern the country on its own. An interim government would have to be formed and constituted in such a manner that it is broadly acceptable to the various political formations in our country. To that extent, it will take on the character of a transitional government of national unity. Once this government is formed, we will have reached a situation whereby, for the first time this century, South Africa will cease to be ruled by a white minority regime. In this regard we must provide the lead on all major questions that will affect the constitution of an Interim Government as well as its lifespan.”⁹⁷³

Mandela rearranged the ANC’s priorities and converted perceptions of negotiations from being a ‘defeat’ into a ‘victory’. Negotiations were the most effective path towards the primary objective, the transfer of power. Mandela’s reasoning was that “the mere fact the government was engaged in negotiations at all was a sign that they did not have the strength to sustain apartheid.”⁹⁷⁴ The ANC therefore needed to start viewing negotiations as a ‘moment of opportunity’ and not a compromise strategy.

Mandela’s ideas were put to the test on the first item for the conference: leadership elections. This process would define the team to represent the ANC at the official negotiations. Tambo

⁹⁷² Ibid.

⁹⁷³ Ibid.

⁹⁷⁴ Mandela, 583

stood down as president and Mandela was elected unanimously as his successor.⁹⁷⁵ Walter Sisulu was elected as the deputy president after an unusually tense stand-off between Mbeki and Hani.⁹⁷⁶ UDF activists, the SACP, and COSATU secured the election of the trade union leader, Cyril Ramaphosa.⁹⁷⁷

The conference witnessed the ascension of an important group of SACP and MK leaders also joined by ‘Young Turks’ in the national executive. Chris Hani, Joe Slovo, Ronnie Kasrils and Harry Gwala (the core of the militant SACP and MK leaders) received more than 80% support. The national executive now included important senior UDF activists close to Ramaphosa, such as Mosioua Lekota (UDF publicity secretary), Popo Molefe (UDF general-secretary), and Mohammed Valli Moosa (UDF Transvaal secretary).

The conference then turned to policy issues. Among the resolutions adopted was an endorsement of the strategy of negotiations and a commitment to a negotiated settlement:

“[The] speedily realisation of a democratic settlement requires that negotiations which constitute an additional terrain of struggle should be linked to a continuing mass struggle and international pressure. This is because the gains made in the mass struggle will be reflected at the negotiating table. Negotiations do not win our freedom, but represent the recognition of the victories we win on the ground.”⁹⁷⁸

Consequent to the “removal of all obstacles”, the conference “reaffirmed the crucial importance of the following steps: the convening of the All-Party Congress; the installation of an Interim

⁹⁷⁵ But given Tambo’s experience in the early phase of pre-negotiations, delegates created a new position for him in the party, national chairman, to serve as an advisor to Mandela

⁹⁷⁶ As a prominent Robben Islander, Sisulu’s election was crucial in securing Mandela’s authority.

⁹⁷⁷ As the secretary-general of the National Union of Mineworkers, Ramaphosa had established a reputation as a tough and shrewd negotiator. He was the first of an emerging generation of UDF-aligned trade union bosses with formidable constituencies, who would become influential power-brokers in ANC and trade union politics. Mandela described him as “the most accomplished negotiator in the ranks of the ANC” and “a worthy successor to a long line of notable ANC leaders.”

⁹⁷⁸ African National Congress, Adopted Resolutions on Negotiations at the ANC 48th National Conference in Durban, July 1991, Paragraph 4

Government; the election of a democratic Constituent Assembly; and the adoption of a democratic constitution and the election of a parliament representative of all the people of South Africa.”⁹⁷⁹ The new NEC was instructed to “take immediate steps to ensure that a comprehensive and representative team comprising all chief negotiators, working groups and researchers, which shall function under the supervision and direction of the NEC, is established.”⁹⁸⁰ The NEC was mandated to “continue with the process of talks-about-talks”, and invested with discretionary powers.⁹⁸¹

Butler points out that these resolutions were indicative of a seismic shift where Mandela’s negotiators were in the process of having their powers removed.⁹⁸² As the UDF, SACP and trade union leaders took up their leadership positions in the ANC, internal competition became inter-generational; the central issue was whether the old guard or the ‘Young Turks’ would be in overall charge of the negotiation process, in all its envisaged stages.

8.2. Turning Point: Inkathagate and the Moment of Convergence

The new ANC strategy was put to the test immediately. Barely two weeks after the conference the Weekly Mail published an explosive series of articles revealing the existence of a secret state project for funding the IFP. The articles revealed that, with the knowledge of senior cabinet ministers, the security police in Natal had provided R250,000 to the IFP to help it organise and finance mass rallies. The informant, Brian Morrow, was a disillusioned security branch warrant officer who by chance was able to get his hands on the most secret police documents contained in the ‘Stratcom’ (Strategic Communications) files in a heavily protected room. Citing top-secret memorandums, bank receipts, and internal police communications, the Weekly Mail showed how the security branch in Natal “funnelled cash from a secret slush fund for massive rallies... to

⁹⁷⁹ Ibid., Paragraph 16

⁹⁸⁰ Ibid., Paragraph 19

⁹⁸¹ Ibid., Paragraph 22

⁹⁸² Butler, 260

show the international community that Buthelezi, who opposed sanctions, had a strong base.”⁹⁸³ Controversially, one of the rallies on 25 March 1990 had sparked the Seven Day War in the Edendale Valley. The documentary evidence also revealed the arming and training of IFP members in offensive actions against ANC activists, and the SADF Special Forces’ involvement in death squads.

The smoking gun of police collusion with Inkatha had been discovered and details spread through the domestic and international press with lightning speed.⁹⁸⁴ What made matters worse for the government and the IFP was that Adriaan Vlok, the Minister of Law and Order, acknowledged the payments, and Buthelezi, De Klerk and Vlok didn’t make it clear whether or not the funding had ceased.⁹⁸⁵

The documents leaked decisively altered the balance of power perception in favour of the ANC in the final stages of pre-negotiation. It presented the NP government with a legitimacy crisis with perceptions that they were not honest negotiators. The ANC viewed Inkathagate as the decisive moment in pre-negotiations, and led to a strategic shift on their part. According to Cyril Ramaphosa, “prior to Inkathagate” the ANC’s approach had been to “remove all obstacles” prior to the opening of formal multiparty talks as per the Harare Declaration i.e. “prisoners must be released, exiles must come back, violence must be eliminated, stop trials, remove repressive legislation.” Inkathagate changed all that:

“So after Inkathagate it became clear to us that that was the obstacle, the main obstacle is the government and you’ve got to remove the government because once you remove the government then all the other obstacles are removed. It’s like a jigsaw puzzle, so you solve one and everything else falls into place... Inkathagate has actually

⁹⁸³ Sisk, *Democratization in South Africa*, 110

⁹⁸⁴ *Ibid.*, 111

⁹⁸⁵ Ottaway, 164

given much more proof... that this government is so corrupt, so much more illegitimate that it can never hope to continue, it shouldn't be allowed to continue governing even through the period of transition."⁹⁸⁶

The issue for the ANC were the twin questions of sovereignty and legitimacy of the government i.e. they had to be taken away before the commencement of constitutional negotiations:

"We are saying we must have a sovereign government that will be charged with the responsibility of ushering us peacefully, neutrally through the period of transition because transition, this big wide road that we see in front of us, has a lot of potholes and we want to be steered properly on this road and avoid potholes... We believe that if we are going to have fundamental changes in this country as the government argues we are, this is the time when the government should entrust the future of this country not in one political party and trust it in itself, the ANC and Inkatha and the whole other organisations so that we all take joint responsibility."⁹⁸⁷

The government's chief negotiator, Gerrit Viljoen, also conceded that the balance of power had shifted: "I think the main beneficiaries [of Inkathagate] are the ANC and the main losers are the government, and particularly because the thing has been structured to reflect on the personal integrity of the President, which is one of the strongest building blocks."⁹⁸⁸ Viljoen did not think the revelations would halt the pre-negotiation process:

"The alternative was tried out by both sides. The ANC tried it out by way of the armed conflict. We tried it out by way of armed and legal repression. Both sides acknowledge that the other side is not a complete devil and completely wrong. You cannot have negotiations unless you accept that the other side also has a point somewhere."⁹⁸⁹

Buthelezi gave the revelations a cynical shrug:

⁹⁸⁶ Transcript of Cyril Ramaphosa interview with Pdraig O'Malley, 16 August 1991

⁹⁸⁷ Ibid.

⁹⁸⁸ Transcript of Gerrit Viljoen interview with Pdraig O'Malley, 26 July 1991

⁹⁸⁹ Ibid.

“Do you know that, the argument, of course, was that, because the budget of KwaZulu comes from the central government I was therefore a puppet of the government. So when they turn around now and say that because it was 250,000 rands, I’m a puppet of the government. I mean, it’s ridiculous without saying, what is new? I mean, all along, I was labelled long ago as a puppet of the government but I say to them, what are the established standards? I mean they themselves have been funded, most substantially by the government.”⁹⁹⁰

The ANC was certain that the Inkathagate revelations would make the government more eager to give concessions. Subsequently, the NWC held an emergency session and released a statement. Echoing Ramaphosa’s hard bargain, the NWC stated that “the expose underscores the pressing need for an Interim Government so structured as to enjoy the confidence of the majority of South Africans. It is clear the incumbent regime cannot be trusted to preside over the transition from apartheid to democracy.”⁹⁹¹ The ANC put forward a list of six demands: the dismissal of ministers Vlok and Malan; the establishment of a multi-party commission of enquiry to investigate the full extent of government involvement in the violence; the dismantling of the SADF and SAP counter-insurgency forces; the opening to public scrutiny of the secret fund; to encourage public servants to reveal all about covert operations in exchange for immunity from prosecution; and the prosecution of police officers and SADF personnel involved in political violence.⁹⁹²

A full plenary of the NEC convened shortly after to discuss the full implications of the Inkathagate revelations. The NEC endorsed the demands put forward by the NWC.⁹⁹³ Sensing a strategic advantage, the ANC sought to capitalise on Inkathagate by speeding up the process toward an All-Party Congress, and extracting as many concessions from the government to ensure a favourable balance of power at the congress. To this end, there was a shift in focus from the obstacles identified in the Harare Declaration and the demands contained in the April

⁹⁹⁰ Transcript of Mangosuthu Buthelezi interview with Pdraig O’Malley, 28 August 1991

⁹⁹¹ African National Congress, Press Statement: The NWC of the ANC on state-sponsored violence and funding of Inkatha, 22 July 1991

⁹⁹² Ibid.

⁹⁹³ African National Congress, Press Statement: Consultative Meeting, 29 July 1991

Ultimatum to the issue at hand.⁹⁹⁴ For the ANC, the Inkathagate revelations shifted the order of the ANC's preferences and "moved the issue of an interim government to the top of the agenda."⁹⁹⁵

Ramaphosa stated that the government was the obstacle that "stands between us and the resolution of South Africa's problems", and the best way to remove that obstacle was "the removal of the government itself."⁹⁹⁶ Signalling a change in ANC thinking, Slovo further added that there were now no longer any obstacles to the ANC's participation in an All-Party Congress: "we will be faced with obstacles until the end of time. Subject to consultation with our allies, we are clearly prepared to move towards an all-party conference and that all-party conference must discuss the creation of an interim government."⁹⁹⁷

De Klerk realised that he could no longer keep Ministers Malan and Vlok in their high profile security portfolios – the revelations "had made their removal unavoidable."⁹⁹⁸ Instead of firing the ministers, De Klerk chose to reshuffle his cabinet. Roelf Meyer, the deputy minister of constitutional development, replaced Malan, and Hernus Kriel, the minister of planning, replaced Vlok. There were two reasons for this. First, De Klerk wished to avoid any impression that he was "surrendering to the ANC's demands." And second, the cabinet reshuffle "helped clear the decks" for his response to the Inkathagate revelations.⁹⁹⁹

De Klerk's response to Inkathagate was presented at a press conference on 30 July 1991 at the Presidency in Pretoria. In what he described as "one of the most difficult press conferences I have ever had to face", De Klerk justified the government's covert programmes against the ANC before 1990 arguing that they had been implemented while the ANC and PAC "were the enemy

⁹⁹⁴ Ebrahim, 80-81

⁹⁹⁵ Ibid., 81

⁹⁹⁶ Cited in *ibid.*

⁹⁹⁷ Cited in *ibid.*

⁹⁹⁸ De Klerk, 209

⁹⁹⁹ Ibid., 210

which had to be fought.”¹⁰⁰⁰ However, after 2 February 1990, he had “taken action to normalise the role of the security forces and had ordered a review of secret projects.”¹⁰⁰¹ De Klerk didn’t make it clear whether such funding of secret projects had ceased:

“As we moved into a new era attention was given by the cabinet in the same spirit to covert state activities. The decision was taken to review these activities with a view to limiting them. Steps were also taken to ensure better control and management of these covert in addition to the ordered control measures which were already in place. In this context I remind you of my speech in parliament on 1st March 1990 when I disclosed information about an investigation of secret projects which I had instituted in November 1989. As a result of it numerous secret projects were cancelled.”¹⁰⁰²

In his biography, he is also less clear:

“As a result, numerous secret projects had, by the second half of 1990, been terminated, including assistance to Inkatha’s trade union movement, UWUSA, and many of our projects to circumvent international sanctions.”¹⁰⁰³

However, De Klerk committed the government to levelling the political playing fields, and confirmed that the government had no desire to be both player and referee. Significantly, he gave the clearest indication that the government was willing to make concessions on the ANC’s position on an interim government thus clearing the path to settlement talks. To this end, he endorsed the need for “transitional measures”:

“Tonight I wish to commit myself once again to transitional arrangements which will ensure in a constitutionally acceptable manner that the government is unable to misuse its position of power to the detriment of its discussion partners in the negotiation process. I have an open mind on alternative methods. However, any steps in this

¹⁰⁰⁰ Transcript of President FW De Klerk Press Conference at the Presidency, 30 July 1991, The O’Malley Archives

¹⁰⁰¹ De Klerk, 211

¹⁰⁰² Transcript of President FW De Klerk Press Conference at the Presidency, 30 July 1991, The O’Malley Archives

¹⁰⁰³ De Klerk, 211

connection have to result from negotiation. As far as I am concerned the subject of transitional arrangements may be the first item on the agenda of a multi-party conference.”¹⁰⁰⁴

De Klerk also supported the ANC’s position on a speedy path toward a multi-party congress:

“I therefore conclude with an appeal to every leader to help us get the multi-party conference started expeditiously. I appeal to them, stop the perpetual positioning and abandon the politics of confrontation and ultimatums. Let us begin with real negotiations. That is what [South Africa] asks of us. The government is ready and able and willing to start tomorrow.”¹⁰⁰⁵

Inkathagate had important consequences for pre-negotiations.

First, Inkathagate was the beginning of the parting of ways between the government and IFP. In the process, the government “lost its only possible black partner with significant support and thereby its chances of building a substantive conservative alliance”, an important strategic goal.¹⁰⁰⁶

Second, for the ANC, the revelations were proof why an interim multi-party government should preside over the constitutional negotiation process and not the NP government; as Ramaphosa pointed out, it “confirmed the ANC’s suspicion that the [government] was prone to abusing state resources to bolster its position [for the roundtable talks].” Consequently, ANC pressure for an interim government grew immensely.¹⁰⁰⁷

¹⁰⁰⁴ Transcript of President FW De Klerk Press Conference at the Presidency, 30 July 1991, The O’Malley Archives

¹⁰⁰⁵ Ibid.

¹⁰⁰⁶ Christi van der Westhuizen, *White Power and the Rise and Fall of the National Party* (Cape Town: Zebra Press, 2007), 191

¹⁰⁰⁷ Ibid.

Third, Inkathagate undercut the government's ability to control the pre-negotiation process; it could no longer claim that it could negotiate a transition away from apartheid while "keeping its hands firmly on the tiller of the ship of state." While it had to a large extent drove the pre-negotiation process since 2 February 1990, its strategy was now fully exposed; "it could not be a player in the process and a legitimate referee too. An interim government framework, which the ANC had been demanding, became an imperative."¹⁰⁰⁸

As the power balance rapidly changed, the ANC took the initiative. First, Mandela sensed, particularly after De Klerk's press conference, that the ANC and the government were converging and began to apply the pressure:

"We are happy if the government is optimistic about the all-party conference, because despite all the problems that have arisen, we still feel that negotiation is the correct solution for South Africa. But we are not going to go into negotiation blindly. The government must carry out its responsibility and it must agree to a mechanism which will ensure that we'll not have a similar scandal to the Inkathagate scandal. And the only mechanism we see which will give this assurance is the immediate installation of an interim government... De Klerk has said he is prepared to discuss interim arrangements along the lines of a government which embraces the major parties in the negotiation process. We are not satisfied with that. We want him to go further. The idea of an interim government with sovereign powers over all organs of the government and not co-opting certain individuals is our demand... We want a transfer of power from this government to an interim government."¹⁰⁰⁹

Second, and in response to the new circumstances, the NWC resolved the issue of whether Mandela (the old guard) or Ramaphosa (the young Turks) was best suited to be in charge of overall negotiations and which collective was most appropriate to see the process to the All-Party Congress. Smelling blood, the NWC capitalised on the government's weakness and selected a strong UDF team with SACP influence.¹⁰¹⁰

¹⁰⁰⁸ Sisk, *Democratization in South Africa*, 112

¹⁰⁰⁹ Cited in Ebrahim, 81-82

¹⁰¹⁰ The putsch happened at the first full meeting of the NEC on 31 July 1991, the day after De Klerk's press conference, and as Mandela departed for an overseas trip. Ramaphosa convened the meeting. Jacob Zuma was

The key decision involved the conference's mandate for a new negotiation commission, which would be the ANC's formal negotiating team. Ramaphosa was selected as head of the new Negotiation Commission, making him the ANC's new chief negotiator. The new team would include Thabo Mbeki (who was also reappointed as the DIA director), Joe Slovo and Mohammed Valli Moosa (the former UDF Transvaal secretary).¹⁰¹¹

These changes were motivated by a number of interwoven factors. First, as evident in the Durban Consultative Conference, there was a growing frustration at the limited achievements of the ANC negotiating team after 1990. The Pretoria Minute and the DF Malan Accord all involved ANC concessions without extracting comparable concessions from the government. As a result, they compromised the chances of reaching a larger overall, and acceptable, settlement to the South African conflict.

Second, Mandela and Mbeki were seen as obstacles to the speedy progress of pre-negotiation. The younger generation reasoned that Mandela's personality "was not suited to the compromise and detailed work that negotiations required." He was better used as a big gun held in reserve; a crisis manager and power-broker brought in to resolve deadlocks and stalemates.¹⁰¹² While Mbeki was very able in managing the logistical and technical side of negotiations, "he lacked the negotiating experience and human skills the task demanded; ... [his] approach was to dominate his team intellectually rather than encourage and energise autonomous working groups."¹⁰¹³ However, Mbeki was the only old guard survivor. As the ANC's chief diplomat and 'point negotiations man' for over half a decade, he had invaluable skills as an ideas man, and was a master backroom operator. Mbeki had the right contacts in the right places in the most influential capitals in the Western world.

relieved of his position as deputy director of NAT and replaced by Mosiuoa Lekota, the former UDF publicity secretary. Zuma was appointed deputy Secretary General.

¹⁰¹¹ African National Congress, Press Statement: Restructuring of the Departments of the organisation and the allocation of portfolios to members of the National Working Committee of the ANC, 2 August 1991

¹⁰¹² Butler, 262-263

¹⁰¹³ Ibid., 263

The wider implication of the constitution of the new negotiating team was that in the changed circumstances after Inkathagate, there was a belief that it would give the pre-negotiation process fresh impetus, and exploit the ANC's new favourable power balance. The reading of the situation by senior government strategists was accurate: "They thought Thabo Mbeki was too subtle... They thought, 'Perhaps the way to tackle these Boers is through an abrasive labour man'".¹⁰¹⁴

Valli Moosa explained that there was a significant paradigm shift in the way in which the team assessed the government's role in the pre-negotiations. Valli Moosa stated that the new ANC leadership had "lost confidence in De Klerk" and accused him of pursuing a double agenda.¹⁰¹⁵ The new strategy, Valli Moosa continued, was to "mobilise the strength we have to bring [the government] to the point where they would have no choice but to adhere to agreements arrived at. That is the point at which we think negotiations can make sense."¹⁰¹⁶ De Klerk, in their eyes, was not a man of integrity, and they never had trust in the government. However, Ramaphosa added, that did not mean that negotiations were impossible:

"Negotiations are usually between adversaries, people who have two interests that are conflicting and when you contest for state power you always find that negotiations are between enemies. Enemies don't usually trust each other and they don't really respect each other but you see that grows out of the process. As you go on you build relationships, you cut deals on small little issues that may be insignificant and as you both deliver, as your stature grows in the eyes of the other then you become more trustful of the other."¹⁰¹⁷

Hani also added that mistrust in pre-negotiations is inconsequential, and it was not their concern:

¹⁰¹⁴ Barnard cited in Gevisser, 604

¹⁰¹⁵ Transcript of Mohammed Valli Moosa interview with Padraig O'Malley, 25 July 1991

¹⁰¹⁶ Ibid.

¹⁰¹⁷ Transcript of Cyril Ramaphosa interview with Padraig O'Malley, 16 August 1991

“We are negotiating with this government because we want a new government in this country. And we are convinced that their schemes to undermine and weaken us will fail, they will fail definitely, and we know that we have got the strength to push them to the negotiating table.”¹⁰¹⁸

These responses to Inkathagate revealed how great the pressures for a settlement were. Some, but not all, of the ANC’s demands were met, but it nevertheless returned to pre-negotiations. The ANC’s core power-brokers, Mandela and Ramaphosa, implied that returning to pre-negotiation towards an All-Party Congress was necessary because violence and mayhem would persist for as long as the NP government remained in power. Therefore, “only an interim government, in which the ruling [NP] would be forced to share power, could address the problem, and only negotiation could achieve that.”¹⁰¹⁹ For its part, the government conceded that such “transitional arrangements [would have to] result from negotiations.”¹⁰²⁰ The government and the ANC had reached a point of convergence. This is the point when the ANC and the government commit to begin settlement negotiations. This marks the end of stage three.

8.3. Stage Four: Agreement to Negotiate

Stage four was characterised by a process of convergence. Three developments consolidated this process of convergence: consensus on the issue of political prisoners and exiles; the resolution of the agenda for the All-Party Congress; and the political dynamics of participation at the roundtable talks.

¹⁰¹⁸ Transcript of Chris Hani interview with Pdraig O’Malley, 15 August 1991

¹⁰¹⁹ Steven Friedman, *The Long Journey: South Africa’s Quest for a Negotiated Settlement* (Johannesburg: Ravan Press, 1993), 16

¹⁰²⁰ Transcript of President FW De Klerk Press Conference at the Presidency, 30 July 1991, The O’Malley Archives

8.3.1. Consensus: The Political Prisoner and Exile Matter

As a stated precondition in the Harare Declaration, the procedures for the release and indemnification of political prisoners, and the return of exiles, had always been contentious. Releases in the first five months of 1991 had occurred at a slow pace. The individual indemnity application process had received criticism due to the composition and operation of the indemnity committees. The committees had “the mandate to investigate matters raised in indemnity applications and submit written reports to the president.”¹⁰²¹ The controversy with these bodies is that they were unaccountable; they “consisted of government-appointed judges acting in great secrecy.”¹⁰²² ANC nominees intended to serve on the committees had withdrawn in protest “because the next meeting on ‘borderline cases’ was scheduled for 11 June, some 40 days after some of the prisoners had begun their hunger strike.”¹⁰²³ Further, the legal guidelines and deliberations of these bodies were not clear or transparent. Keightley writes that when their guidelines no longer satisfied political powers locked in negotiations, “they were simply swept away and replaced by new definitions.” Thus, from a legal point of view, the indemnity process was arbitrary in its implementation.¹⁰²⁴

The situation was complicated by De Klerk granting “a one third remission of sentence to all first-time offenders other than sex offenders, child abusers and those with life sentences.”¹⁰²⁵ Between December 1990 and 31 July 1991, the government took “‘extraordinary’ measures to release 57,000 prisoners, unconditionally or on parole.”¹⁰²⁶ This included two policemen who were convicted of murder. De Klerk’s rationale was that “the release of non-political first offenders would redress the imbalance created by the release of political prisoners.”¹⁰²⁷ These remissions were not negotiated with the ANC. Lawyers for Human Rights argued that “the

¹⁰²¹ Mallinder, 29

¹⁰²² Kieran McEvoy, “Prisoner Release and Conflict Resolution: International Lessons for Northern Ireland”, *International Criminal Justice Review* 8 (1998), 35

¹⁰²³ Human Rights Index in *South African Journal on Human Rights* 7 (1991), 358

¹⁰²⁴ Keightley, 356

¹⁰²⁵ Human Rights Index in *South African Journal on Human Rights* 7 (1991), 358-359

¹⁰²⁶ *Ibid.*, 359

¹⁰²⁷ *Ibid.*

government was attempting to hide the release of political prisoners whose status was disputed among the thousands of other releases.”¹⁰²⁸ It therefore became impossible to determine the number of political prisoners released by the government during this early period.¹⁰²⁹

By March 1991, 4,804 people had been granted indemnity, and despite this large number, only 270 prisoners had been released with a further 760 being “at an advanced stage.”¹⁰³⁰ By the end of April 1991, 933 political prisoners had been released and by May 1991 “all but a few prisoners had been released from Robben Island.”¹⁰³¹ Despite these releases, by mid-July 1991, the ANC and Lawyers for Human Rights claimed that there were still over 800 political prisoners still in incarceration.¹⁰³² The Human Rights Commission put the number at 972 political prisoners. De Klerk put the number at below 200, and in May he stated that he was satisfied all prisoners who “clearly qualified for release” had been released.¹⁰³³ The complicating factor was the political prisoners incarcerated in the homelands; by July 1991, there were over 166 political prisoners in homeland jails.¹⁰³⁴ And the ANC at the time had continued to stress that their incarceration was an obstacle to negotiation as per the Harare Declaration.

Inkathagate changed all of this. Responding to the revelations, the ANC departed from the Harare Declaration and, as discussed, identified the government as the primary obstacle to negotiations.¹⁰³⁵ As emphasised by Ramaphosa, the ANC’s efforts in this regard would be focused on the installation of an interim government of national unity through an All-Party Congress, and the removal of the remaining obstacles to negotiation would be expedited by such an interim government.¹⁰³⁶ By the end of July 1991, and as the guard changed, ANC lawyer Penuell Maduna stated that the ANC was re-examining several hundred political prisoner cases

¹⁰²⁸ Mallinder, 29

¹⁰²⁹ Ibid., 29-30

¹⁰³⁰ Savage, 4

¹⁰³¹ Ibid.

¹⁰³² Human Rights Index in *South African Journal on Human Rights* 7 (1991), 358

¹⁰³³ South African Institute of Race Relations (SAIRR), *Race Relations Survey, 1991/1992* (Johannesburg: Institute of Race Relations, 1992), 950

¹⁰³⁴ Human Rights Index in *South African Journal on Human Rights* 7 (1991), 358

¹⁰³⁵ Collinge, 13-14

¹⁰³⁶ Ibid., 14

to determine whether they could be classified as political.¹⁰³⁷ While the ANC still regarded the release of all political prisoners as an obstacle to negotiations, Maduna continued, the ANC did not want negotiations further delayed by cases that were found to be non-political on closer scrutiny.¹⁰³⁸ On 29 July 1991, Maduna told *Business Day* that that almost all the clearly identifiable political cases had been resolved.¹⁰³⁹ The preferences of the ANC had changed; the All-Party Congress could not wait for the removal of the other obstacles to negotiations. The two processes could proceed at the same time.

The issue of the return of political exiles reached resolution. The resolution of this matter involved the United Nations High Commissioner for Refugees (UNHCR) as it was the appropriate international agency to perform this task, and had also worked extensively with the ANC in Southern Africa in the administration of its various exiled communities. According to the High Commissioner, Sakado Ogata, a UNHCR working group had estimated that there were some 30,000 South African exiles in Southern Africa alone. The main countries of asylum in the region were Angola, Botswana, Lesotho, Mozambique, Swaziland, Zambia and Zimbabwe. As for the rest of the continent, Tanzania and Uganda were the main countries of refuge. MK fighters were concentrated in Angola, Tanzania and Uganda, while the remainder were mostly civilian populated and used as transit areas for MK. West African countries such as Ghana, Liberia, Sierra Leone and Nigeria also hosted South African exiles, as have a number of other countries outside Africa such the United States, Canada and India.

Initially, the repatriation of exiles did not involve the UNHCR; the organisation was unacceptable to the South African government, largely because of the hostility towards the United Nations and its agencies. As a result, the return of exiles happened at a slow pace; by the end of January 1991, Kobie Coetsee revealed that 2,974 people who had left the country illegally had been granted indemnity.¹⁰⁴⁰ By the end of February 1991, 1,092 had been admitted into the

¹⁰³⁷ SAIRR, *Race Relations Survey 1991/1992*, 74-75

¹⁰³⁸ Savage, 4-5

¹⁰³⁹ SAIRR, *Race Relations Survey 1991/1992*, 75

¹⁰⁴⁰ *Ibid.*, 224

country. Given the slowness of the process, enormity of the task, and pressure applied by ANC-aligned civic organisations, the government conceded in later March 1991 and announced that it would allow the UNHCR to assist in the repatriation process.¹⁰⁴¹ Negotiations ensued between the government and the UNHCR but deadlocked on a number of issues. First, the UNHCR disagreed with the government's indemnity procedure arguing that it should be comparable to UN norms. Second, many exiles "did not wish to return to South Africa without strong guarantees that they would not be prosecuted." The UNHCR as a result put enormous pressure on South Africa to gain assurances that indemnity would be "unequivocal and unconditional."¹⁰⁴² Third, the whole issue was complicated by the fact that the government refused to be responsible for people returning to the homelands arguing that the UNHCR would have to negotiate directly with relative homeland government departments to manage repatriation.¹⁰⁴³

Several months of behind the scenes negotiations ensued. Meanwhile, anxious exiles slowly trickled in. By the beginning of June 1991, the Minister of Home Affairs, Gene Louw, stated that the government had issued 8,658 special travel documents to exiles out of a total of 8,837 applications. However, only 720 people returned using these documents.¹⁰⁴⁴ By July only 958 people returned and the UNHCR applied more pressure on the government to grant returning exiles a general amnesty.

The breakthrough happened in the changed political climate of 16 August 1991, when the government and UNHCR reached agreement. In terms of the agreement, the UNHCR was to facilitate the "voluntary repatriation" of returnees. Each person seeking to return was to be interviewed by the UNHCR to ensure that their return was voluntary. The UNHCR would then forward their details to the South African government to establish whether they would be granted

¹⁰⁴¹ Ibid.

¹⁰⁴² Human Rights Index in *South African Journal on Human Rights* 7 (1991), 360

¹⁰⁴³ Ibid.

¹⁰⁴⁴ SAIRR, *Race Relations Survey 1991/1992*, 949

indemnity against prosecution.¹⁰⁴⁵ The South African government would then issue travel documents for those persons cleared to return.

The Memorandum of Understanding between the government and UNHCR applied to unarmed civilians only.¹⁰⁴⁶ The government was willing to grant a conditional amnesty:

“The Government is willing, in the interest of the process of reconciliation and in order to expedite the rate of repatriation, to grant amnesty to returnees in respect of political offences they may have committed before 12.00 on 8 October 1990 and which qualify for indemnity in terms of the guidelines published.”¹⁰⁴⁷

These guidelines were in terms of political offences, and defined ‘political offences’ in accordance with the principles of extradition law i.e. they took into account the motive of the offender, the context in which the offence was committed, the nature of the political objective, the legal and factual nature of the offence, the objective of the offence, the relationship between the offence and the political objective, and whether the act was committed in the execution of an order.¹⁰⁴⁸ In order to ensure that the UNHCR’s repatriation and reintegration of returnees to the homelands was not viewed as implied recognition, the preamble declared that nothing was “to be construed as constituting recognition in any way, on the part of the UNHCR, of any state of affairs not recognised by the United Nations or as constituting a derogation from any United Nations resolutions.”¹⁰⁴⁹ The government in turn undertook “to use its best endeavours to ensure

¹⁰⁴⁵ John Dugard, Introductory Note: South Africa-United Nations High Commissioner for Refugees: Memorandum of Understanding on the Voluntary Repatriation and Reintegration of South African Returnees in *International Legal Materials* 31 (1992), 522

¹⁰⁴⁶ Memorandum of Understanding Between the Government of the Republic of South Africa and the United Nations High Commissioner for Refugees on the Voluntary Repatriation and Reintegration of South African Returnees in *International Legal Materials* 31 (1992) [Hereinafter MOU], Article 1(g)

¹⁰⁴⁷ MOU, Article 3(a)

¹⁰⁴⁸ MOU, Annexure B

¹⁰⁴⁹ MOU, Preamble

that the provisions of the Memorandum of Understanding” would be applied in these homelands territories.¹⁰⁵⁰

The ANC called on its remaining exiles to come home. The repatriation process started at the end of October 1991, and by the end of the year 6,000 to 7,000 of the projected 30,000 repatriates had returned. By 6 March 1992, the UNHCR had repatriated a further 2,228 persons.¹⁰⁵¹

8.3.2. The Parties’ Positions: Structuring the Constitutional Negotiating Forum

As mentioned, the necessity of choosing transitional or interim structures during the pre-negotiations transition became an imperative in the wake of Inkathagate. This was reinforced by the fact that the international community played no assertive role, yet South Africa’s political institutions were no longer perceived as legitimate by a major negotiating actor. Debates on how to structure constitutional negotiating forum became central in the final stages of pre-negotiations. They revolved around two questions: who was to govern during the transition, and by what means would parties get to the negotiating table. At the heart of the debate was the division between legal continuity (the government position) and the creation of interim structures (the ANC position).

In the government’s view, all parties “with a proven basis of support” were entitled to participate in the negotiations, and that during the transition period the existing Tricameral Parliament was to remain sovereign. In addition, Gerrit Viljoen told parliament that the leaders of the organizations most likely to participate would have to reach an understanding on the criteria for qualifying, the guidelines for assessing proven support, methods to persuade unwilling parties to

¹⁰⁵⁰ Letter from the South African Foreign Minister, Mr R.F Botha to the United Nations High Commissioner for Refugees, 1 October 1991 in *International Legal Materials* 31 (1992), 525

¹⁰⁵¹ Dugard, 523

participate, the host calling for the first meeting, and the logistics of the conference.¹⁰⁵² Roelf Meyer expanded on this view, telling parliament that “the definition of political parties and organisations ‘with proven support’ would have to be worked out during the run-up to the conference, since Africans did not participate in parliamentary structures.” Thus, an election “on the basis of participation would create problems as it would require positions being adopted before the talks, making negotiations virtually impossible.”¹⁰⁵³

The ANC rejected this formula, demanding instead that an interim government replace the existing one for the duration of the transition. Comprising the major players in the negotiation process, the interim government would oversee that process and ensure that the next phase, the election of a constituent assembly, is conducted fairly.¹⁰⁵⁴ The constituent assembly was at the heart of the ANC’s proposals for transition; it was to be elected by universal adult suffrage, and the assembly’s main task was to adopt a new constitution under which elections for a new government would be held.¹⁰⁵⁵ This view was consistent with the Harare Declaration which stated that “[the] parties shall agree on the formation of an interim government to supervise the process of drawing up and adoption of a new Constitution; govern and administer the country, as well as effect the transition to a democratic order including the holding of elections.”¹⁰⁵⁶

Mandela made this demand most forcefully in the aftermath of Inkathagate:

“The idea of an interim government with sovereign powers over all the organs of government and not co-opting certain individuals is our demand. We are not prepared to be co-opted into the existing structures of government. We want a transfer of power from this government to an interim government.”¹⁰⁵⁷

¹⁰⁵² SAIRR, *Race Relations Survey 1991-1992*, 231

¹⁰⁵³ *Ibid.*, 232

¹⁰⁵⁴ David Welsh, “The Outlook for a Democratic South Africa”, *International Affairs*, Vol. 67, No. 4 (1991), 743

¹⁰⁵⁵ *Ibid.*

¹⁰⁵⁶ Declaration of the Organisation of African Unity (OAU) ad hoc committee on southern Africa on the question of South Africa; Harare, Zimbabwe (The Harare Declaration) Document 13 in Hassen Ebrahim, *The Soul of a Nation: Constitution-Making in South Africa* (Cape Town: Oxford University Press, 1998), 453

¹⁰⁵⁷ Cited in Sisk, *Democratization in South Africa*, 167

The NP responded that the ANC proposal was “putting the political cart before the constitutional horse.” Viljoen argued that the election of a constituent assembly “would leapfrog the whole negotiation process, would predetermine its outcome. The elected majority will decide and that is where negotiations will end.”¹⁰⁵⁸ This would eliminate broad multiparty participation in the drafting of a new constitution. According to Viljoen, all parties had to be “treated as having an equally legitimate stake in participation and in the outcome, and dominance of one or a few parties over others was to be avoided.”¹⁰⁵⁹

However, as the ANC counter-argued, the government had failed to appreciate the political consequences of Inkathagate; it had created a legitimacy crisis. Zola Skweyiya stated that in the wake of the revelations the government could no longer be trusted to “oversee the whole process of transition” nor “govern alone.” An interim government, as the essential ingredient of transition, was crucial: “It should be a process, a government of national unity.”¹⁰⁶⁰ Skweyiya, however, stated that the ANC approached this issue with flexibility: “We might not necessarily call it an interim government but a government in which everybody participates.”¹⁰⁶¹ There was no consensus in the ANC and power-brokers refused to be moved. Raymond Suttner, the ANC’s head of political education, said that an interim government “was an essential precondition for the election of a constituent assembly and the overseeing of the transitional phase.” Echoing Ramaphosa, he argued that “the government would have to resign.” The interim government, however, should be “representative even though not elected.”¹⁰⁶²

Despite divergent views on the type and nature of the institutions to debate, draft and implement a new constitution, the government and the ANC agreed in principle to an exploratory All-Party Congress to pave the way to official negotiation. Their agendas for this body, however, differed.

¹⁰⁵⁸ Cited in Welsh, *The Rise and Fall of Apartheid*, 429

¹⁰⁵⁹ Ibid.

¹⁰⁶⁰ Transcript of Zola Skweyiya interview with Pdraig O’Malley, 15 July 1991

¹⁰⁶¹ Ibid.

¹⁰⁶² SAIRR, *Race Relations Survey 1991/1992*, 236

For the ANC, the task of the All-Party Congress was to draw up the broad principles of a constitutional framework, to determine the make-up of a constituent assembly and to establish an interim government. According to Skweyiya:

“In this congress we expect at least the acceptance of the broad principles that are supposed to be in the constitution. We expect some discussion of how security should be continued during the period of transition and we expect a deeper analysis generally on the electoral process of a Constituent Assembly. Ofcourse we expect that some agreement out of that, some agreement in which there would be a government of national unity that would come out of the All-Party Congress which will administer South Africa during the time of the whole process of constitution writing.”¹⁰⁶³

The ANC’s core preference was for the election of a constituent assembly on a proportional representation list basis in a single national constituency. This constituent assembly would negotiate and draft a new constitution.¹⁰⁶⁴ Their primary interest was to “prevent minority powers from producing deadlock in the constituent assembly.” As the constituent assembly would provide legitimacy to the new constitution, the assembly would be transformed into a new legislature.¹⁰⁶⁵ Bulelani Ngcuka, a member of the ANC constitutional committee, confirmed that the ANC saw the election of a new constituent assembly as a framework for the first parliament.¹⁰⁶⁶

According to the ANC, the All-Party Congress went beyond the agenda items. They saw it as a process that would “seek the broadest possible consensus within society around the transitional process [i.e. the constituent assembly] and the broad outcome of negotiations [i.e. a new constitution].” The All-Party Congress had to therefore be as inclusive as possible:

¹⁰⁶³ Transcript of Zola Skweyiya interview with Pdraig O’Malley, 15 July 1991

¹⁰⁶⁴ Sisk, *Democratization in South Africa*, 170

¹⁰⁶⁵ Ibid.

¹⁰⁶⁶ Ibid.

“All bona fide political parties and organizations should take part. This will help ensure that the overwhelming majority of political forces pay allegiance to the process. By helping to shape it, they will carry their constituencies along.”¹⁰⁶⁷

The government envisaged a more open-ended process where De Klerk would issue initial invitations, and thereafter the All-Party Congress would be “free to elect its own chairman and determine its own agenda and working procedures.”¹⁰⁶⁸ They anticipated that the Congress would deliberate on two critical issues: “the composition, functioning and decision-making process of the actual constitutional negotiation conference, and the broad principles to be contained in a new constitution.”¹⁰⁶⁹ According to Viljoen:

“These principles could be defined by the conference, because if common ground has been identified beforehand, the actual negotiation process could get started with more confidence and in a more favourable psychological climate in the knowledge that there are not only differences but also a significant degree of consensus.”¹⁰⁷⁰

The government’s core preference was that the All-Party Congress be transformed into a forum for the negotiation of a new constitution. These negotiations would include leaders of all other political parties. The new constitution would then be placed “before the electorate with full enfranchisement in a yes-or-no referendum.” If approved, the constitution “would be enacted by the Tricameral Parliament in order to give it legal force.”¹⁰⁷¹ Only after this process could a founding election take place. The primary interests for the government were that the transitional process had to operate within the prevailing constitutional framework.

There were thus some important points of general agreement. Both sides were ready and willing to formally negotiate in an All-Party Congress. It was agreed that an interim authority had to be

¹⁰⁶⁷ “Negotiations” *Mayibuye: Journal of the African National Congress*, Vol. 2, No. 10 (November 1991), 6

¹⁰⁶⁸ Welsh, “Outlook for a Democratic South Africa”, 743-744

¹⁰⁶⁹ *Ibid.*, 744

¹⁰⁷⁰ Cited in *Ibid.*

¹⁰⁷¹ Sisk, *Democratization in South Africa*, 168

in place while the constitution was negotiated. There was also tacit agreement that the government “could not be both referee and player at the same time.”¹⁰⁷² The differences, however, were more substantial. Three questions had to be addressed: “the constitutional framework within which the interim authority would operate; whether it was necessary for such an interim authority to be elected at all; and what authority such an interim authority would have – whether it should act as a government with effective authority, or only have limited responsibility.”¹⁰⁷³ These issues were to dominate the agenda of the first phase of official negotiation.

8.3.3. Mutual Security Agreement: The National Peace Accord

With pre-negotiation gathering apace, the focus shifted to the Preparatory Committee of the National Peace Initiative. As discussed, De Klerk had convened a two-day conference on 24-25 May on violence. The conference, however, was not a success; the ANC, COSATU, the PAC, AZAPO, the SACC and other civil society organisations refused to attend. They viewed De Klerk as partisan on the issue of violence, regarded his conference as inappropriate as a result, and would have preferred the conference be convened by an independent mediator. Given the centrality of the ANC in the politics of violence, their non-attendance hampered the conference’s ability to constructively deal with the issue of violence. This was a major impediment; the conference’s decisions could not be binding on those not attending.

During discussions on the first day of the peace conference, Professor Johan Heys, a former moderator of the Dutch Reformed Church, proposed that Dr Louw Alberts, a prominent scientist and former chairman of the Atomic Energy Board, and Reverend Frank Chikane, the general secretary of the SACC, act as facilitators for an all-party peace conference to follow the peace summit. The conference agreed to appoint Alberts as a ‘one-man facilitation committee’ for a

¹⁰⁷² Ebrahim, 88

¹⁰⁷³ Ibid., 89

second peace conference with the power to include other members.¹⁰⁷⁴ The ANC welcomed the appointment of Alberts.

Alberts set about establishing the facilitation committee the very next day. He recruited Chikane to assist him in identifying individuals whom the relevant participants in a peace conference would have confidence. Chikane, who had access to influential power-brokers in the resistance organisations, “undertook to find names that would be acceptable to the ANC, the PAC, COSATU, AZAPO, the [SACP], and other like-minded civil society organisations while Alberts sought representatives who would garner the trust of the government and the IFP.”¹⁰⁷⁵ Alberts was particularly interested in involving the church and business leaders “because they interacted with a large proportion of the population.”¹⁰⁷⁶ A facilitation committee of thirteen individuals from church and business was constituted, and decided to work under a rotating chairperson.¹⁰⁷⁷

A turning point happened when the facilitation committee successfully convened a meeting on 22 June at the Barlow Rand headquarters in Johannesburg. The meeting included the ANC, AZAPO, the NP government, the IFP, the SACP, COSATU, the IFP affiliated United Workers Union of South Africa, representatives of parliamentary parties, and various church and business organisations. The meeting decided that Roelf Meyer, Thabo Mbeki and Frank Mdlalose (representatives of the NP government, the ANC, and the IFP respectively), together with representatives of the facilitation committee, “would form a ‘preparatory committee’ which in turn would form working groups to draft proposals on issues identified as necessary to end the violence.”¹⁰⁷⁸ Under the chairmanship of John Hall, the preparatory committee met two days later on 24 June, and formed five working groups to look at the following identified issues:

¹⁰⁷⁴ Peter Gastrow, *Bargaining for Peace: South Africa and the National Peace Accord* (Washington D.C: United States Institute for Peace, 1995), 25

¹⁰⁷⁵ Ibid.

¹⁰⁷⁶ SAIRR, *Race Relations Survey 1991/1992*, 69-70

¹⁰⁷⁷ The members included Louw Alberts, Frank Chikane, Sean Cleary (a Buthelezi confidant), Theuns Eloff (Consultative Business Movement), Bobby Godsell (Chamber of Mines), John Hall (president of the South African Chamber of Business), Johan Heyns, Ray McCauley (head of Rhema Church), Sam Motseunyane (president of the National African Chambers of Commerce), Desmond Tutu (archbishop of Cape Town), Gerrie Lubbe (head of Interfaith), Jabu Mabuza (Federation of African Businesses), and Khoza Mgojo (president of the SACC).

¹⁰⁷⁸ SAIRR, *Race Relations Survey 1991/1992*, 70

working group 1 would look at codes of conduct for political parties; working group 2 would look at codes of conduct for security forces; working group 3 at socioeconomic development; working group 4 at implementation and monitoring; and working group 5 at the peace process, the establishment of a secretariat and the media.¹⁰⁷⁹

Each working group consisted of three members from the NP government, three from the IFP, and three from the ANC, one religious leader, and one business representative from the preparatory committee.¹⁰⁸⁰ Each working group subsequently met on numerous occasions in order to produce a draft consensus document on the issue assigned. These draft documents were then “referred to the various principals for approval before being referred back to the negotiators to seek fresh consensus for a next draft.”¹⁰⁸¹

In the changed political environment after Inkathagate, the work of the preparatory committee gathered pace. In August 1991, the working groups all presented their reports to a meeting of the preparatory committee. The meeting reached consensus on a draft peace accord arising from these reports.¹⁰⁸² The preparatory committee decided to fix 14 September 1991 as the target date by which the five working group reports had to be completed. On that day, a national peace conference would be convened to ratify and sign the combined working group reports, and these would form the basis of a peace agreement.¹⁰⁸³

The reports from the working groups were agreed to only a few hours before the national peace conference was to commence. The reports were collated to form a draft text of a peace agreement.

¹⁰⁷⁹ Gastrow, 32

¹⁰⁸⁰ Ibid.

¹⁰⁸¹ Ibid.

¹⁰⁸² SAIRR, *Race Relations Survey 1991/1992*, 70

¹⁰⁸³ Gastrow, 32

The peace conference was held at the Carlton Hotel in Johannesburg on 14 September 1991. The outcome was the signing of the first ever multi-party agreement in South Africa, the National Peace Accord, which was formally adopted on 16 September at an occasion attended by all the major players and political organizations, parliamentary and extra-parliamentary, church and business groupings, and trade unions. As the first ever multiparty agreement, it laid the foundation for the All-Party Congress. This was most evident in its preamble and chapter one, which related the accord to the process of democratization: “The establishment of a multi-party democracy in South Africa is our common goal. Democracy is impossible in a climate of violence, intimidation and fear.”¹⁰⁸⁴

The accord was built around “legally enforceable codes of conduct” for political organizations and security forces. These legally enforceable codes of conduct were located within a hierarchical set of committees from national to regional to local. A national peace committee assisted by a national peace secretariat stood at the apex of a pyramid based on local dispute resolution committees.¹⁰⁸⁵ The peace accord thus attempted “to make the obligations under the accord enforceable either in terms of legally enforceable obligations or in terms of the political process that violation of the accord would occasion.”¹⁰⁸⁶ The strategy was based on the belief that “a multilateral accord would prove more effective than previous bilateral agreements between the ANC and Inkatha.”¹⁰⁸⁷ A multilateral accord would bind all political players in South Africa into a common agreement, thus increasing the political costs for parties who wished to move in and out of the accord as and when suited them.¹⁰⁸⁸

The important impact of the National Peace Accord was that it allowed violence to be managed. While this management was not perfect, it created conditions for non-violent peaceful protest to continue but not to escalate or otherwise threaten negotiations. This illustrates that pre-negotiation cannot develop into settlement negotiations if violence is simultaneously escalating

¹⁰⁸⁴ Sisk, *Democratization in South Africa*, 114

¹⁰⁸⁵ Haysom, “Negotiating a Political Settlement”, 34

¹⁰⁸⁶ Ibid.

¹⁰⁸⁷ Ibid.

¹⁰⁸⁸ Ibid.

or becoming widespread. The management of violence is therefore a crucial issue. This responsibility cannot be left to the main actors; each will have too many incentives to use violence to advance their interests.

The signing of the National Peace Accord was a turning point; it signaled the establishment of a detailed set of multiparty transitional arrangements. Most importantly, it signaled the end of the phase of negotiation over preconditions, which had dominated stages three and four. This phase had been drawn out considerably, exposed important weaknesses in the ANC's negotiation strategy, and had confirmed the pre-eminence of the ANC and the NP government as the principal players in the negotiation process.¹⁰⁸⁹ The negotiation process would now primarily be a multiparty process, with the ANC and NP government serving as important anchors of the process.

8.4. Stage Five: Setting Parameters

8.4.1. Political Alliances for the Roundtable: The Patriotic Front and Aftermath

With the peace accord signed, the pre-negotiation phase moved to stage five and the focus shifted to the building of political alliances for the round-table talks. The ANC in particular was keen to bolster its bargaining power. It sought to cobble together a tactical alliance of 'pro-constituent assembly' organisations called the 'Patriotic Front'. The PAC and AZAPO were important for this initiative. The problem was that both these organisations were traditionally opposed to negotiations with the government. The turning point for the PAC occurred with the election of Dikgang Moseneke as the organisations deputy president. Moseneke, a charismatic and articulate Robben Islander, was arguably the most accomplished black senior advocate in South Africa, and represented the moderate and largely intellectual group in the PAC. For

¹⁰⁸⁹ Ibid.

Moseneke, multiparty negotiations were inevitable and the PAC could do more inside rather than outside the roundtable.

In mid-1991, Moseneke's views prevailed. In interviews in mid-July and August, Moseneke stated that the PAC was in favour of an All-Party Congress as a means towards an elected constituent assembly.¹⁰⁹⁰ In particular, Moseneke attached great importance to the idea of holding a patriotic front of liberation movements and had been involved in extensive bilateral talks with Mandela over the issue since April 1991.¹⁰⁹¹ In August 1991, Moseneke held another bilateral with Mandela and agreed on a transitional authority as an essential part of the transition process.¹⁰⁹² This position brought the PAC closer to the government and the ANC; although they attached different meanings to the names, they were essentially referring to similar sets of institutional arrangements.¹⁰⁹³ AZAPO was in a similar situation. The rise of Pandelani Nefolovhodwe and Aubrey Mokoape, associates of revered Black Consciousness leader Steve Biko, led to a rethink of the new political terrain of negotiations. As leaders of a moderate tendency, they did not see any viable alternative to negotiations; while AZAPO's armed wing, the Azanian National Liberation Army, could threaten to plunge the country into a reign of terror, it was never in any position to move beyond the rhetorical.¹⁰⁹⁴

In September 1991, after a successful Mandela-Moseneke bilateral, the ANC and PAC's national executives engaged in high-level talks in Harare, Zimbabwe. The PAC agreed to join the ANC at the All-Party Congress, and both organisations committed themselves to the formation of a Patriotic Front. The main condition for membership of the Patriotic Front was endorsement of the demand for a democratically elected constituent assembly. According to Maharaj, the PAC and ANC "arrived at a consensus with regard to the All-Party Congress... with regard to the modalities of transition, [and] the agenda, which would include the items: interim government or

¹⁰⁹⁰ Transcript of Dikgang Moseneke interview with Padraig O'Malley, 26 August 1991

¹⁰⁹¹ Ibid.

¹⁰⁹² Ibid.

¹⁰⁹³ Kaizer Nyatumba, "AZAPO and the PAC: Revolutionary Watchdogs?" in Glen Moss and Ingrid Obery, *South African Review 6: From Red Friday to CODESA* (Braamfontein: Ravan Press, 1992), 99

¹⁰⁹⁴ Ibid., 100

transitional authority, modalities for constituting a constituent assembly and principles that would underpin a constitution.”¹⁰⁹⁵

Between 25 and 27 October, “more than 400 delegates representing some ninety-two organisations converged in Durban to launch the Patriotic Front, a loose alliance of parties which had held an anti-apartheid position.”¹⁰⁹⁶ The Patriotic Front’s point of departure was that “an interim government was a necessary element in this transfer of power, as the government, it was argued, did not qualify to oversee the process of democratizing South Africa.” The Patriotic Front confirmed that “only a constituent assembly, elected on a one-person-one-vote basis in a united South Africa, could draft and adopt a democratic constitution.” In committing themselves to speedily convene an All-Party Congress, delegates determined the conduct of Patriotic Front members attending: “on issues that enjoyed support by all members, they would act in accordance with the principles of ‘unity in action’ and ‘unity of purpose’, but when there was no consensus, each member would act independently.”¹⁰⁹⁷

In a paper presented to the meeting, the ANC argued that the All-Party Congress was necessary because “neither parliament nor the government could legitimately make decisions ‘about such critical questions as the body to negotiate the new constitution, and how the country should be governed during the transitional period.’”¹⁰⁹⁸ The All-Party Congress was thus the only way to achieve a constituent assembly.¹⁰⁹⁹ It seemed that unprecedented unity had been achieved and that a solid block of organisations would be setting their sights on attending the roundtable negotiations with agreed key objectives.¹¹⁰⁰

¹⁰⁹⁵ Cited in Ebrahim, 90

¹⁰⁹⁶ Ibid., 93

¹⁰⁹⁷ Ibid., 94

¹⁰⁹⁸ Friedman, 16

¹⁰⁹⁹ Ibid.

¹¹⁰⁰ Collinge, 15

To build on the success of the conference, the ANC engaged in intensive bilateral diplomacy with organisations which had a direct stake in multiparty negotiations. Meetings were held with MDM organisations, the NP, PAC, AZAPO, the DP and homelands leaders. It was agreed that preparatory multiparty talks be held on 29 and 30 November. The agenda for the talks would include “a climate for free political participation, general constitutional principles, the constitution-making body, an interim government, the future of the [homelands], the role of the international community, if any, and relevant time-frames.”¹¹⁰¹

The formation of the Patriotic Front had an important impact on the pre-negotiations; in further tilting the political balance of forces in favour of the ANC, it changed the shape of the negotiation roundtable. There were two consequences. First, the government made more concessions; it “was obliged to concede the need for joint control over the transition” and was prepared to consider the amendment of the constitution to make this possible.¹¹⁰² This, however, would need a referendum. Second, confronted with the reality that it may have to relinquish power it had enjoyed for over forty years, the government “feared that the Patriotic Front would seize the initiative in negotiations.”¹¹⁰³ Viljoen described the Patriotic Front as “a ‘ganging up’ of parties against the government shortly before the talks”.¹¹⁰⁴

8.4.2. Defining the Agenda: The Road to the All-Party Congress

Following the Patriotic Front conference, preparations for the All-Party Congress began in earnest. Three issues initially dominated. First, by the end of October 1991, the debate shifted to which parties should be invited to the All-Party Congress. The consensus was that all parties represented in parliament, political parties that controlled homeland government and ‘independent’ territories, and the extra-parliamentary structures (i.e. the ANC, PAC, AZAPO,

¹¹⁰¹ Ebrahim, 94

¹¹⁰² Ibid., 95

¹¹⁰³ Ibid.

¹¹⁰⁴ Collinge, 15

SACP and the Indian Congresses) had to be invited.¹¹⁰⁵ Second, the government began to consider the idea of an interim constitution that would ensure a ten-year government of national unity. This proposal revealed an anxiety in government thinking; while a democratically elected constituent assembly “might have denied the NP the ability to secure constitutionally entrenched guarantees to safeguard its interests” a ten-year interim government of national unity “would secure a role for the NP as well.”¹¹⁰⁶ By contrast, the Patriotic Front wanted the drafting of the constitution in six months, and an interim government of no longer than eighteen months.

Third, the treatment of constitutional principles dominated the debate over defining the agenda. The Patriotic Front argued that multiparty talks “should only negotiate broad, internationally accepted principles of democracy”, whereas the government “insisted on greater detail.” For the NP-government, “it was necessary to secure guarantees should it not enjoy sufficient influence in a democratically elected constituent assembly. While the [NP-government] tentatively accepted the possibility of an interim government and an elected constituent assembly, the battle was not lost, for it was still possible for the party to achieve objectives it has set for itself.”¹¹⁰⁷

Following the signing of the National Peace Accord, a steering committee chaired by Chief Justice Michael Corbett was established, through which details of the All-Party Congress would be negotiated. The committee agreed that the NP-government, the ANC and the IFP convene a preparatory meeting of all parties to discuss the All-Party Congress. Set for 29 and 30 November, some twenty political parties, including homeland government representatives, attended. The parties and organisations included the PAC, the government and the NP (as separate delegations; the former as non-voting), ANC, IFP, Labour Party, Inyadza National Movement (KaNgwane), Transvaal and Natal Indian Congresses (joint delegation), Venda government, Bophuthatswana government, United People’s Front (Lebowa), Solidarity, DP, Transkei government, National People’s Party (opposition party in the Indian House of Delegates), Ciskei government, Kikwankwetla Party (QwaQwa), Itando Yesizwe Party

¹¹⁰⁵ Ebrahim, 95-96

¹¹⁰⁶ Ibid., 96

¹¹⁰⁷ Ibid.

(KwaNdebele), Ximoko Progressive Party (Gazankulu), and the SACP.¹¹⁰⁸ In prior NP-ANC bilateral talks, agreement was reached on the decision-making rules for the All-Party Congress: the principle of ‘sufficient consensus’. This meant that if the NP-government and ANC reached agreement, sufficient consensus existed.¹¹⁰⁹

The preparatory meeting agreed that the All-Party Congress would be called the ‘Convention for a Democratic South Africa’ (CODESA). The meeting also agreed upon CODESA’s nine-point agenda: “the creation of a climate for free political participation; definition of general constitutional principles; agreement on a ‘constitution-making body/process’; creation of ‘transitional arrangements’; decision about the future of ‘independent’ (TBVC) homelands; agreement on the role of the international community in negotiation; selection of a time frame; creation of mechanisms for implementation; and discussion of other issues.”¹¹¹⁰

On the second day of the preparatory meeting, the PAC walked out of the talks over the issue of sufficient consensus. The PAC argued that a clear pattern had emerged in which proposals made by either the NP-government or the ANC would be supported by either party, while homeland and Tricameral parliamentary leaders would without question give support to either the ANC or the NP government. This decision-making arrangement, the PAC continued, where it only required agreement between the NP government and the ANC to reach decision was not real multiparty negotiation. The PAC pointed out that a secret pact had been made between the NP government and ANC where every point of importance had been agreed in advance.¹¹¹¹ The PAC’s grievance was based on leaked minutes of a confidential meeting between the ANC and the Front Line States. The minutes showed that the ANC and NP government had finally reached convergence, and had agreed for rapid progress in formal and substantive negotiation: “Both planned to participate in an interim authority which would have control over elections, security, the electronic media, finance and foreign affairs, [and both] were anxious for such an interim

¹¹⁰⁸ Sisk, *Democratization in South Africa*, 203

¹¹⁰⁹ Friedman, 25

¹¹¹⁰ Sisk, *Democratization in South Africa*, 203

¹¹¹¹ Jeffery, *People’s War*, 300

administration to be established as soon as possible.”¹¹¹² Further, the ANC and NP government had made significant concessions on their preferences: the ANC “accepted that it might have to defer its demand for an elected constituent assembly if this would delay agreement on an interim administration”, and the NP government was “willing to agree to such a constitution-making process, provided agreement could be reached on a set of constitutional principles laying down the parameters for the new text.”¹¹¹³

Despite the convergence, important points of disagreement remained unresolved. First, the NP government was adamant that MK disband, while the ANC was determined to retain MK. Second, the NP government wanted a transitional administration to remain in place for a number of years while CODESA draw up a constitution. Alternatively, “if the task of writing a final constitution were to be given to an elected constituent assembly, the NP government wanted the deliberations of this body to be subject to guiding principles so firm and so precise” as to ensure the inclusion of guarantees of power-sharing, minority protection and respect for free enterprise.¹¹¹⁴ By contrast, the ANC “wanted the interim administration to hold power for a brief period only, for no longer than was necessary to give this body decisive influence over security forces, the electronic media, financial transfers to the homelands, and the overall electoral process.”¹¹¹⁵ The election of a constituent assembly would follow the completion of this process. The ANC wanted the guiding principles the constituent assembly to comply with the spirit of the Harare Declaration, but otherwise wanted it left free to write a constitution as it saw fit.

8.4.3. Multiparty Negotiations Begin: The Declaration of Intent

The first plenary session of CODESA took place on 20 and 21 December 1991 and was chaired by Justices Ismail Mohamed and Piet Schabort. There were three important outcomes to this first

¹¹¹² Ibid., 299

¹¹¹³ Ibid.

¹¹¹⁴ Ibid., 300

¹¹¹⁵ Ibid.

historic formal round-table. The first was the Declaration of Intent. The Declaration is an exceptionally important and historic document in South Africa's political history. The Declaration established a set of principles and purposes to guide CODESA, and all signatories declared and committed themselves to be bound by the agreements of CODESA. The parties and organizations declared their "solemn commitment" to "bring about an undivided South Africa with one nation sharing a common citizenship", to establish "a free and open society based on democratic values", to ensure "equal opportunities and social justice for all", to "create a climate conducive to peaceful constitutional change", and to "set in motion the process of drawing up and establishing a constitution."¹¹¹⁶

All the parties present endorsed the Declaration except for the IFP and the homeland governments of Bophuthatswana and Ciskei. The IFP believed that the use of the words 'undivided South Africa' precluded them from raising the federal option during the constitution-making process.¹¹¹⁷ However, after an amendment was secured confirming that the offending term 'undivided' did not commit CODESA to a unitary state, both the IFP and the Ciskei government signed.¹¹¹⁸ As for the government of Bophuthatswana, its leader, Lucas Mangope, argued that CODESA "could not enter into any agreements affecting its territory without the formal agreement of the government of Bophuthatswana."¹¹¹⁹

The second important outcome was the creation of five working groups to negotiate broad sets of issues: "the principles and structures of a new constitution; the creation of a climate conducive to peaceful political participation; the form of transitional or interim government and the future path of the transition; the constitutional future of the four homelands that had accepted nominal independence; and the implementation of agreements."¹¹²⁰ The working groups served as the engines of the substantive and formal negotiation process. Working Group 1 considered the

¹¹¹⁶CODESA 1 – Declaration of Intent, 21 December 1991. Document 22 in Hassen Ebrahim, *The Soul of a Nation: Constitution-Making in South Africa* (Cape Town: Oxford University Press, 1998), 529

¹¹¹⁷ Haysom, "Negotiating a Political Settlement", 40

¹¹¹⁸ Ebrahim, 103

¹¹¹⁹ Ibid.

¹¹²⁰ Sisk, *Democratization in South Africa*, 205

creation of a climate for free political participation and the role of the international community in the transition process. The ANC and like-minded groups “were concerned to raise the issue of the ongoing violence, the role of the security forces, and the role of the international community in the transition process.” For its part, the government “was concerned to raise the continuing existence of MK, and trade and other sanctions as barriers to the creation of an appropriate climate.”¹¹²¹

Working Group 2 was mandated to explore constitutional principles and the constitution-making body. There was agreement in regard to the basic principles governing any conventional democratic state including “a bill of rights, independent judiciary, universal adult suffrage, and common voters roll etc.”¹¹²² The most important points of disagreement were on proposals for federalism, property protection, and the participation by political minorities in executive and legislative structures (i.e. proposals for enforced coalitions and proportional representation in the executive, legislature, and ‘disguised’ minority vetoes in a second legislative chamber). The NP-government had replaced its notion of ‘group’ rights with the notion of ‘political minorities’. For its part, the ANC “framed its position as a proposal for strong regional government” but stopped short of federalism.¹¹²³

Working Group 3 dealt with an interim government. The NP government gave a major concession discussed below; it was in favour of a democratically-elected interim government which would also be charged with drafting the new constitution. Working Group 4 was tasked to debate the future of the homelands. All parties, save Bophuthatswana, the South African government and KwaZulu delegations, supported reincorporation. And Working Group 5 dealt with time frames.

¹¹²¹ Haysom, “Negotiating a Political Settlement”, 41

¹¹²² Ibid.

¹¹²³ Ibid.

The third important outcome, as mentioned, was a major concession by the NP government. In what was described as a ‘breath-taking policy switch’, De Klerk proposed that the government “would be prepared to consider a compromise to bridge the fundamental differences between the ANC’s position that the new constitution should be drawn up by an elected constitutional assembly, and [the NP government] that it should be written by a multiparty constitutional convention.”¹¹²⁴ De Klerk proposed

“[A] two-phased process of constitutional writing: a new interim constitution would be drafted by the CODESA process, in terms of which the first fully representative Parliament would be elected, which would in turn draft and adopt the final constitution... The negotiating parties would reach agreement on an interim constitution which would be adopted by the Tricameral Parliament, with its National Party majority. A new fully representative Parliament would be elected under the new constitution, which would also act as a constitutional assembly. It would write and adopt a final constitution that would have to comply with pre-agreed immutable constitutional principles. Before the final constitution could come into effect a new Constitutional Court would have to certify that it complied with the constitutional principles. During this period the country would be ruled by an elected transitional multiparty government under the interim constitution.”¹¹²⁵

De Klerk’s acceptance of an elected constituent assembly drafting the final constitution amounted to the NP government effectively ceding its power to exercise control over the final negotiations as the ruling party. This was the political solution that signalled the end of pre-negotiation.

¹¹²⁴ De Klerk, 222

¹¹²⁵ Ibid.

8.5. Theoretical Implications: Pre-negotiation and Ripeness

8.5.1. Implications for Pre-negotiation

As discussed, the communication of a desire to negotiate from one party to another is the turning point to stage four. In the fourth stage, parties agree to pursue a negotiated solution to the problem. The focus is outer-directed as they come to terms on the desirability of negotiation as an approach to the problem while reserving any commitment as to the scope of the negotiation itself. The achievement of an agreement to negotiate marks the turning point to the final stage of the pre-negotiation process. In the fifth stage, parties define the scope of the proposed official negotiation and establish parameters for the negotiation process to follow. This stage “provides parties with an important opportunity to assess the extent of congruence in their perspective agendas prior to formal negotiation.” Even though parties may not reach an agreement on appropriate parameters, “their agreement to proceed with formal talks will mean that this final stage of the pre-negotiation phase imply merges into the first stage of negotiation proper as formal negotiating sessions begin.”¹¹²⁶

While negotiating activity in final stages of the South African case is consistent with Tomlin’s depiction, the sequence differs. In the South African case, the agreement to negotiate and the definition of the scope and agenda for settlement negotiations (stages four and five) happen simultaneously. Further, the communication of the desire to negotiate was not a turning point, marking passage to the final stages. The important issue was the problem of preconditions as a barrier to the opening of settlement negotiations, and how they were to be overcome.

It is important to briefly discuss the closing stages of stage three.

¹¹²⁶ Tomlin, 261

As discussed in the previous chapter, despite the ANC's call for an All-Party Congress i.e. the communication of the desire to negotiate, which according to Tomlin should mark the turning point to the final stages, the process deadlocked. The problem was that the government had failed to meet the ANC's preconditions as spelt out in the Harare Declaration and December Consultative Conference. Therefore, as the political process reached the expiry date of the ANC demands, preconditions were still perceived as a barrier. Consequently, a crisis accompanied the end of stage three as the desire to negotiate was accompanied by unmet preconditions. Progression to stage four would then depend on how preconditions as a barrier were to be resolved.

Three issues provided the means for overcoming the problem of preconditions as a barrier for the opening of settlement negotiations.

The first was Mandela's ultimatum which listed the meeting of seven demands as a condition for the continuation of talks. This ultimatum provided a way out; a positive response to these demands would have ensured continuity and buy-in from ANC hardliners especially since the government was not going to meet the 30 April deadline set by the ANC. While De Klerk's response to the ultimatum (unilateral strategy to end violence) was not met positively by the ANC, it did introduce a peace process that maintained momentum generated by over a year of bargaining. The government and ANC high-level summit on the day of the expiry of the ultimatum fed into this momentum. At this summit, the parties agreed to continue talking through the working groups about the return of exiles and political prisoners, and armed action. Thus working groups were firmly in place through which pre-negotiation would continue. Both sides were committed and willing to negotiate; consequently, by the middle of 1991, the pre-negotiation process had developed sufficient commitment from the parties to survive many of the hazards capable of subverting them. The series of official agreements between the ANC and South African government had established important rules of interaction, defined peace, and locked the parties into an interdependent bargaining relationship. Ripeness was sustained.

The second factor was the agency of Mandela. Mandela's opening address at the ANC national conference is important. He successfully generated consensus in the ANC that they were indeed in a stalemate and as a result, had to expedite the process towards multiparty negotiations. Thus heckling over preconditions was counter-productive; the most important goal was to develop a comprehensive strategy in preparation for an inevitable settlement negotiation process, and push for the installation of an interim government of national unity to oversee a constitutional writing process.

The third factor was Inkathagate, the turning point marking passage to the final stages. Once the government faced its second legitimacy crisis, a window of opportunity opened for the ANC to extract government concessions on the scope, parameters, agenda and procedure of the settlement negotiation process; it could no longer afford to stall the pre-negotiation process over preconditions. Concessions over an interim government became an imperative as settlement negotiations were inevitable.

After Inkathagate De Klerk committed the government to levelling the political playing fields, giving the clearest indication that the government was willing to make concessions on the ANC's position on an interim government thus clearing the path to settlement talks. To this end, he endorsed the need for "transitional measures."¹¹²⁷ De Klerk also supported the ANC's position on a speedy path toward a multi-party congress: "I therefore conclude with an appeal to every leader to help us get the multi-party conference started expeditiously. The government is ready and able and willing to start tomorrow."¹¹²⁸ Both parties thus begin to define the scope of the negotiation and establish its parameters.

¹¹²⁷ Transcript of President FW De Klerk Press Conference at the Presidency, 30 July 1991, The O'Malley Archives

¹¹²⁸ Ibid.

8.5.2. Implications for Ripeness

As discussed, Zartman provides us with a set of indicators to look for: a sense of a hurting stalemate; a sense of a moment in the future that will worsen if negotiations fail; a sense that the tide of the combat has changed; the mediators' need for leverage; and the development of a political solution.

8.5.2.1. Major Actors

Who are the major actors and what are their goals?

The major actors in the final stages are similar to stage three i.e. the major actors and decision units were single groups on both sides. There was no important shift in the composition of the government team. The ANC however formed a new Negotiation Commission. Ramaphosa was selected as head of the new Negotiation Commission, making him the ANC's new chief negotiator. The new team would include Thabo Mbeki, Joe Slovo and Mohammed Valli Moosa and Mac Maharaj also joined the team. Their core objectives were the convening of the All-Party Congress, the installation of an interim government; the election of a democratic Constituent Assembly, and the adoption of a democratic constitution and the election of a parliament representative of all the people of South Africa.

8.5.2.2. Third Parties

Mediation in the final stages happened within the context of the unfolding peace process. De Klerk's failed peace conference led to the emergence of Alberts and Chikane as facilitators of a new peace process. Alberts and Chikane type of mediation was mediation as 'communication'.

A facilitation committee of thirteen individuals from church and business was central to this process. The unfolding and mediated peace process was inclusive; each working group formed by the preparatory committee consisted of three members from the NP government, three from the IFP, and three from the ANC, one religious leader, and one business representative from the preparatory committee. They would meet on numerous occasions in order to produce a draft consensus document on the issue assigned. These draft documents were then referred to the various principals for approval before being referred back to the negotiators to seek fresh consensus for a next draft.

The National Peace Accord, the outcome of this process, was important in that it was the first multiparty agreement and laid the foundation for the All-Party Congress. The signing of the National Peace Accord was a turning point; it signaled the establishment of a detailed set of multiparty transitional arrangements and the end of the phase of negotiations over preconditions. This phase had confirmed the pre-eminence of the ANC and the NP government as the principal players in the negotiation process.

8.5.2.3. Hurting Stalemate and Way Out

Do the actors perceive the situation to be a hurting stalemate?

As discussed, above, the sense of a hurting stalemate was maintained throughout the process. Inkathagate, however, signalled a reversal of fortunes for the South African government i.e. the perception in power relations in the positions of the ANC and South African government were changing and becoming symmetrical. According to Zartman, differences in power relations make an important difference in the way negotiations progress. Seminal scholarship in negotiation theory, in particular the work of Jeffrey Rubin and Bert Brown, and Zartman and Berman, maintain that power symmetry is the condition most propitious for mutually satisfying negotiations.¹¹²⁹ These perspectives found their way into Zartman's original formulation of ripeness theory. The third dimension of the ripe moment, Zartman contends, is when "the upper hand starts slipping and the underdog starts rising [i.e.] when the 'ups' and 'downs' start to shift their relative power positions."¹¹³⁰ According to this proposition, perceptions of equal power among belligerents tend to result in more effective negotiation than unequal power. Years later, Zartman and Rubin investigated this dimension further, and researched more intensively perceived power symmetry and asymmetry as they related to the process of negotiations.¹¹³¹ Their somewhat surprising conclusion was contrary to the dominant school; mutually recognised power asymmetry between partners, they concluded, tends to produce the most effective negotiated agreements, whereas situations of symmetry, or 'near-symmetry', parties were too busy engaging in tough posturing to seek creative but effective ways to increase the value of agreement for them.¹¹³²

¹¹²⁹ Jeffrey Rubin and Bert Brown, *The Social Psychology of Bargaining and Negotiation* (New York: Academic Press, 1975) and I. William Zartman and Maureen Berman, *The Practical Negotiator* (New Haven: Yale University Press, 1982)

¹¹³⁰ Zartman, *Ripe for Resolution*, 272

¹¹³¹ I. William Zartman and Jeffrey Rubin (eds.) *Power and Negotiation* (Michigan: University of Michigan Press, 2002)

¹¹³² Ibid.

At the heart of the analysis is that changes in domestic power relations influence the decision of both sides to come to the negotiating table. Further, the focus is on power as a perceived relation. Perception in any social interaction affects objective reality: “the symmetry or asymmetry of perception is related not only to such elements as force and resources but also reputation and prospects of a party to produce past and future movements on the part of its targets.”¹¹³³ Given the structural dynamics of internal conflicts, issues of power and legitimacy are important in perceptions of, and in the relations between, negotiations and symmetry. Druckman and Green, in their ripeness theory informed analysis of negotiations in the Philippines between the National Democratic Front insurgency and the government of Corazon Aquino argue that the decision to negotiate is located in the changing relationship and intersection between power and legitimacy.¹¹³⁴ From their analysis, three situations are favourable to negotiations: “when the insurgents’ power and legitimacy are decreasing and the government’s legitimacy is increasing, when the reverse obtains, and when the legitimacy of both is stable but the insurgent’s power is increasing.”¹¹³⁵

The South African case is a combination of the second and third. Inkathagate represented the transition towards the symmetrical moment. The government’s power and legitimacy were decreasing and the ANC’s legitimacy was increasing. The government was on the ropes and the ANC was on a roll, and the pre-negotiation process had swung favourably towards the ANC. However, despite the symmetrical moment, both sides were strong and legitimate enough to come to an agreement satisfying to the minimal or reduced demands of both sides i.e. both sides had legitimacy and strength to come to an agreement to begin settlement negotiations.

Inkathagate had a profound impact on the perceived balance of power and legitimacy between the ANC and the government during the pre-negotiations. For the government, Inkathagate led to

¹¹³³ Jeffrey Rubin and I. William Zartman, “Asymmetrical Negotiations: Some Survey Results that may Surprise”, *Negotiation Journal*, Vol. 11, No. 4 (1995), 350

¹¹³⁴ Daniel Druckman and Justin Green, “Playing Two Games: Internal Negotiations in the Philippines”, in I. William Zartman (ed.) *Elusive Peace: Negotiating an End to Civil Wars* (Washington DC: Brookings, 1995)

¹¹³⁵ I. William Zartman, “Conclusion: The Last Mile”, in I. William Zartman (ed.) *Elusive Peace: Negotiating an End to Civil Wars* (Washington DC: Brookings, 1995), 334

the parting of ways with the IFP. In this process, the government lost a partner with credible support and with this, any chance of building a substantive conservative coalition. For the ANC, Inkathagate was proof of the necessity of an interim government presiding over negotiations instead of the NP; Inkathagate “confirmed the ANC’s suspicion that the NP was prone to abusing state resources to bolster its position. ANC pressure for an interim government, a proposal the NP had dismissed, grew immensely.”¹¹³⁶

As a consequence of Inkathagate, and a clear illustration of the legitimacy crisis facing the government, De Klerk tried desperately to repair and the rebuild the government’s image as a legitimate political actor and negotiating partner. First, he moved to placate the ANC. Adriaan Vlok and Magnus Malan were demoted to lower-ranking cabinet portfolios. Second, on the first day of CODESA, De Klerk yielded to the ANC’s demand that a democratically elected government should draft the final constitution. This amounted to the government ceding its power to exercise control over the final negotiations making. The government had lost the initiative.

The process of convergence that was the consequence of Inkathagate, culminating into De Klerk’s “breathtaking policy switch”, should be understood within the context of three important realities. First, Inkathagate “was a political embarrassment, a rude interruption of the NP’s attempt to hold on to some veneer of respectability.”¹¹³⁷ NP leaders did not regard violence as viable and wanted to retain legitimacy and respectability with a view to building the party’s future in the context of a democratic South Africa.

Second, as the government’s crisis of legitimacy persisted, it began to suffer isolation from both the left and right flanks. On its left flank, the ANC began to find and collect partners. The Patriotic Front did not only include the PAC; it also included some Bantustan governments and

¹¹³⁶ Van der Westhuizen, 191

¹¹³⁷ Ibid., 192

the Democratic Party, organisations that the NP government could have aligned itself with. On its right flank, the Conservative Party continued to shun negotiations.

Third, by July 1991, the ANC had settled into its legal post-exile role; its leadership was now more susceptible to influence from its ordinary and more radical membership. As a result, government leaders became “concerned that this would cause a delay during which the more radical viewpoints of the rank and file could sway the ANC leadership.” After the ANC’s ultimatum and Inkathagate, pressure was on the government to save the working relationship with their ANC counterparts “before they drifted too far apart.”¹¹³⁸ Therefore, while the NP government had more power than the ANC by virtue of the fact that they were the governing party and had their hands on the levers of state, “state power became a paradoxical asset.” Inkathagate illustrated that the NP had more to lose than the ANC: “If the NP had hardened its stance and wielded the state apparatus to hold on to political power, it would have had to return to Botha-style militarisation. The levels of social insurrection would have increasingly demanded outright military force.”¹¹³⁹ This was not an option for the government; the decision was to adopt a strategy to attain political legitimacy. As a result, Inkathagate provided sufficient conditions to overcome the problem of preconditions. This cleared the path to settlement negotiations.

¹¹³⁸ Ibid., 193

¹¹³⁹ Ibid.

8.6. Conclusion

This chapter discussed the final stages of pre-negotiation. The chapter used stages four and five of Tomlin's pre-negotiation model. Tomlin writes that in the fourth stage, the parties agree to pursue a negotiated solution to the problem. The focus is outer-directed as they come to terms on the desirability of negotiation as an approach to the problem while reserving any commitment as to the scope of the negotiation itself. The achievement of an agreement to negotiate marks the turning point to the final stage of the pre-negotiation process. In the fifth stage, parties define the scope of the proposed official negotiation and establish parameters for the negotiation process to follow. This stage provides parties with an important opportunity to assess the extent of congruence in their perspective agendas. Even though parties may not reach an agreement on appropriate parameters, their agreement to proceed with settlement talks will mean that this final stage of the pre-negotiation phase implies merges into settlement negotiations.

While negotiating activity in final stages of the South African case is consistent with Tomlin's depiction, the sequence differs. In the South African case, the agreement to negotiate and the definition of the scope and agenda for official negotiation (stages four and five) happen simultaneously. Further, the communication of the desire to negotiate was not a turning point, marking passage to the final stages. The important issue was the problem of preconditions as a barrier to the opening of settlement negotiations, and how they were to be overcome. Overcoming preconditions as a barrier was central to the transition to the final stages and to the beginning of official negotiations. This chapter argued that overcoming the problem of preconditions as a barrier is the point when multiparty negotiations begin.

CHAPTER NINE

Why Negotiations Begin

Ripeness and Pre-negotiation

The central question in this dissertation is why did the South African multiparty negotiations begin? This question has two sub-questions: (1) why did the South African government and the ANC negotiate at all; and (2) why did the South African government end up negotiating with the ANC. The dissertation used ripeness theory and Tomlin's analytical framework on pre-negotiation as a guide in answering these questions. In light of the central questions the dissertation raises, the aim of this chapter is to present how the South African case contributes to ripeness and pre-negotiation theorising and suggest new questions for investigation and specific hypotheses for testing. The chapter will use the discussion of the South African case to qualify specific components of ripeness, and then put forward additional changes based on Tomlin's analytical framework within which the South African pre-negotiation process was explained.

The chapter will argue that the ripe moment is better explained as a period within the pre-negotiation process itself. The case reveals that the ripe moment is when parties reach a shared understanding that negotiated solutions are possible, and that this condition is necessary for producing a commitment to a negotiated solution, but not sufficient for the beginning of settlement negotiations. For settlement negotiations to begin, parties have to overcome the problem of preconditions as a barrier. Therefore, multiparty negotiations in South Africa began because adversaries reached a shared understanding that the South African conflict could be solved through a negotiated solution, produced a commitment to a negotiated solution, and in the process, overcame the problem of preconditions as a barrier to opening of settlement negotiations. Ripeness indicators can assist in explaining why the South African government and

the ANC negotiated at all, and why the South African government ended up negotiating with the ANC.

9.1. Why Negotiations Begin at All: The Shared Understanding

Tomlin writes that the onset of the first stage of pre-negotiation is brought about by an event or change in conditions that “causes a restructuring of values attached to alternative outcomes by one or more parties in a relationship and results in the addition of a negotiated solution to the array of outcomes under consideration by at least one of the parties.” The stage is “characterised by an assessment of the problem produced by changing conditions and a preliminary evaluation of alternative responses that may or may not add negotiation to the range of policy options.” A turning point is reached if the addition does occur, and the process moves to the second stage. In the second stage, parties actively consider a negotiated solution to the problem. If the possibility for negotiation is a subject of controversy, “then this stage might be characterised as ‘thinking the unthinkable’ as some parties attempt to come to terms with the need to negotiate.” Another turning point is reached if negotiation is chosen as the preferred and necessary policy alternative, moving the process to the third stage.¹¹⁴⁰

Tomlin’s detailed description of the first two stages of pre-negotiation is useful. The processes of defining a problem (stage one) and searching for options to resolve the problem (stage two) are crucial. How one defines a problem “begins to determine what he or she will do about it. The definition of the problem begins to determine policy.”¹¹⁴¹ Once parties define a problem, actively search for alternative ways of solving it, and reach a shared understanding of the problem, and a shared understanding that a negotiated solution to the problem is possible, then an important turning point is reached. This turning point need not necessarily occur simultaneously for both sides, and it does not have to correspond to any formal moment in the train of events.¹¹⁴²

¹¹⁴⁰ Tomlin, 258-259

¹¹⁴¹ Saunders, 255

¹¹⁴² Ibid.

Ripeness is better explained using this analytical framework, and these concepts. The South African case illustrates this.

In South Africa, the ANC and South African government chose to negotiate with each other because they reached a shared understanding of the conflict, and a shared understanding that a negotiated solution was possible. This was the result of their political circumstances in the early 1980s. For the ANC, the process of exploring negotiation possibilities begins in late 1983 and is consistent with the first and second stages of pre-negotiation as described by Tomlin. A turning point happens in the 1983-1984 period where the ANC, anticipating political pressure from the Front Line States, examines potential scenarios for negotiations.

The ANC's predictions were on point; the consequences of the Nkomati Accord (i.e. the closure of MK's eastern front), and the Front Line States pressure for a negotiated settlement at the summit in Arusha on 29 April 1984, were the events and change in conditions that brought about the onset of the first stage of pre-negotiation for the ANC. Stage one begins in June 1985 when the Kabwe Conference endorses Tambo's alternative diplomatic option on talks and negotiation. After research and deliberations by the negotiation commission and constitutional committee (between 1985 and 1987), the ANC adds negotiation to the range of policy options in its statement on negotiation on 9 October 1987. Stage one ends with the release of this statement on negotiation.

The second stage begins with the meetings on Henley-on-Thames in England, and ends in August 1989 with the formal tabling of the Harare Declaration at the OAU. The meetings in England involved the active consideration of a negotiated solution. These conversations, even though confidential, were semi-official and involved the ANC putting forward their preconditions for settlement talks to brokers with access to the NIS and government.

The turning point happens in December 1988 with the signing of the New York Accords, bringing a temporary end to the Angolan civil war. These accords effectively served as a resolving formula for the conflicts in Southern Africa: UNITA would lose its South African allies at the moment when the MPLA was losing the Cubans. The ANC would lose its last remaining sanctuary within reach of South Africa just when SWAPO would become free to return home and seek power through elections. South African would put Namibia on the path to independence and begin shedding its interventionist military role in Southern Africa.

This had important consequences for MK.

First, MK lost its Angolan bases and relocated to Zambia. Second, the resulting uncertainty led to a process of implosion in MK, and MK is consequently relocated to East Africa, making it impossible to pursue the armed struggle in any meaningful way. The ANC reaches a stalemate at this point. The drafting of the Harare Declaration occurs during this process, and its presentation to the OAU on 21 August 1988 is the moment when the ANC chooses negotiation as the preferred and necessary policy alternative. This marks the end of the second stage.

The government exploration of negotiation possibilities emerges as part of the process of constitutional reform. Constitutional reform begins in 1973 with the appointment of the Theron Commission. An important turning point in the process happens in September 1984 with the inauguration of the Tricameral Parliament. The government faced two important challenges in this process: to get the support of urban black leaders to accept the exclusion of Africans from the Tricameral Parliament and to persuade them to participate in a negotiating forum on black political rights. The subsequent Black Local Authorities Act, and accompanying legislation, was designed to compensate urban blacks from their exclusion from parliament.

On 3 September 1984 the government loses control of the reform process. The ensuing uprising creates a legitimacy crisis for the government. Important conditions facilitate the restructuring of the values attached to alternative outcomes and the addition of a negotiated solution to the array of outcomes under consideration. Between 1985 and 1987, the government gives major concessions. Two events are of particular importance. First, in September 1985, Botha accepted that some Africans who lived and worked permanently inside South African could be granted citizenship. This was Botha's crucial concession as voting rights follow from citizenship rights.

Second, in 1987, and in a confidential document (*Ons Skrik Vir Niks*) the Department of Constitutional Development proposes constitutional negotiations and the dismantling of apartheid. Senior cabinet ministers' interpretation of the May 1987 NP electoral victory is consistent with the views expressed in this document; the government's official policy in 1987 was constitutional reform which would bring about political power-sharing with blacks at central government level. This is the message that Professor Willie Breytenbach transmits to the ANC representatives in Henley-on-Thames in England in October-November 1987.

By mid-1987 there was a consensus in the government that meaningful constitutional reform needed to provide for all the races at the level of central government. In the face of the delegitimation of Botha's reform proposals and concessions, negotiation with the ANC was the only feasible alternative method to devise how such representation would occur. Possibility for negotiations with the ANC arose because the second state of emergency had effectively diminished the ANC's options. While the ANC could continue to prosecute the armed struggle, it would be deploying its weakest arm against the government's strongest point – the military. They reasoned that the ANC would have to negotiate.

The release of political prisoners was central to this process and crucial for the viability of a political solution to legitimise constitutional reform. The government's logic was that without the release of political prisoners, the stability created by the second state of emergency was

unsustainable. By releasing political prisoners, space would ensure buy-in from the black population, and legitimise constitutional reform, especially if the ANC was an important part of this process. The strategy of negotiation, therefore, was understood as a continuation of constitutional reform and not the consequence of its failure; negotiation with the ANC was a bilateral solution to their goal of constitutional reform. The release of Nelson Mandela and his political role in taking constitutional reform to its logical conclusion is the crucial government strategy. The first stage of pre-negotiations thus ends after the 1987 election for the government. This is the point where negotiation is added to the range of policy options.

For the government, the second stage begins in early 1988 where Botha instructs Barnard to begin more structured discussions with Mandela. Conversations with Mandela begin on 25 May 1988 and end in December 1989. In this process, the government actively considered a negotiated solution. The period May 1988 to mid-1989 was characterised by confidential discussions between Mandela and a government team led by Barnard. Four major issues characterised these discussions: the armed struggle, the ANC's relationship with the South African Communist Party (SACP), and the meaning of majority rule. The period ends with the formal tabling of positions between Mandela and Barnard. While both parties disagreed on the abovementioned issues, both agreed on the need to pursue a negotiated settlement, and on the format that such a process would take i.e. a two-staged negotiation process, where intensive talks-about-talks on preconditions would precede settlement negotiations. It is at this point i.e. on the eve of the Mandela-Botha meeting, where the government and Mandela choose negotiation as the preferred and necessary policy alternative. Mandela's meetings with Botha and De Klerk represent the official acknowledgement of this mutual decision and the end of stage two.

Between January and August 1989 the parties reached a *shared* understanding that a negotiated solution can solve the South African conflict. The three important official documents i.e. the Government Team Document, Mandela Document and Harare Declaration, and meetings in Tuynhuys (between Mandela and Botha, and then Mandela and De Klerk) and Lucerne and Berne in Switzerland (between the ANC and NIS) indicate that the South African government

and the ANC had reached this shared understanding. This turning point did not occur simultaneously for both sides and did not necessarily correspond to any formal moment in the train of events. By December 1989 both the South African government and the ANC were convinced that a mutually acceptable resolution through negotiation to the end of apartheid was possible.

The crucial condition in 1989 was the mutual sense of hurting stalemate – both sides felt that they could not win and all would be worse if apartheid was not ended. The mutually hurting stalemate was not conceptualised in military terms, but rather in political terms. South African government leaders, faced with a legitimacy crisis, and lack of black popular acceptance of constitutional reform measures, saw negotiations as a way out.¹¹⁴³ The ANC, faced with losing control of the unfolding political process inside South Africa, and under pressure from Front Line States leaders to negotiate the end of apartheid, saw negotiations as a way of regaining the initiative.

The actors agreed that a negotiated settlement would meet their basic needs. To this end, they agreed on the basic format through which such a settlement would be reached i.e. a two-staged process, first involving a period of bargaining over preconditions, and then the opening of settlement negotiations. The government saw a two-staged negotiation process, where intensive talks-about-talks on stumbling blocks and obstacles (i.e. preconditions) would precede a formal phase where “participants in the negotiation process [would] be empowered to enter into an agreement if they reach a consensus” (i.e. settlement negotiations). One possibility, the argued, would be “for a democratic process to empower people to really become formally involved in a more structured negotiation situation.”¹¹⁴⁴ This mirrored Mandela’s format who wrote in the first stage, the ANC and the government would need to work out preconditions for a proper climate for negotiations; and the second stage would be the actual negotiations themselves that would

¹¹⁴³ The Text, 1989-09-01, 16:39, Prison Service HQ 80668009, MCH01-67.4, ANC Archives, Mayibuye Centre, University of the Western Cape

¹¹⁴⁴ The Text, 1989-09-01, 16:39, Prison Service HQ 80668009, MCH01-67.4, ANC Archives, Mayibuye Centre, University of the Western Cape

occur when the climate is ripe for doing so.”¹¹⁴⁵ The Harare Declaration was also in agreement. It stated that it was essential for a necessary climate of negotiations to be created before any negotiations can take place and placed the responsibility on the South African government to create this climate.

Agency was an important variable in driving this process. One can classify the major actors and decision unit model for both the ANC and the South African government as predominant leader decision units with an advisory groups i.e. the pre-negotiation process was driven by senior political leaders who used advisors as consultants to provide information and expertise but reserved the right to make the decision.

The dissertation thus agrees with two of Stedman’s refinements on ripeness: (1) neither governments nor revolutionary movements behave as unitary actors; and (2) the perception of a mutually hurting stalemate can be manifested at patron level and be efficacious.

There was one influential mediation attempt; Consolidated Goldfields. Consolidated Goldfield’s mediation through Michael Young happens in stage two after the ANC adds negotiation to its range of policy options. This was an example of the mediator as ‘communicator’, addressing the conflict as a breakdown in the ability of the ANC and South African government to communicate with each other. Young acted as a telephone wire i.e. creating an environment in which the ANC and South African government could establish contact and carry messages. Michael Young’s role was thus completely procedural, with no substantive contribution, and completely passive, and only involved carrying out the parties’ orders for the facilitation of dialogue and delivery of messages. It was successful in that it created a channel of communication between both parties, which was crucial in developing a shared understanding of the issues.

¹¹⁴⁵ The Mandela Document: Full Text of the Document Presented by Nelson Mandela to PW Botha, July 1989. BC 1081 (P32.1) Manuscripts and Archives Department, University of Cape Town

In this light, the dissertation's approach to the role of mediation is crucial and is in agreement with Lederach's critique of ripeness. As discussed, Lederach identified two problematic assumptions on the role of mediation in ripeness theory. First, ripeness assumes that mediation lies in the person and personality of the mediator "as-the-actor" rather than the mediator "as-process" with multiple roles, functions, and activities carried out by a wide array of people. Ripeness stresses the idea that the mediator comes from outside the setting and outside the relationships in conflict and is therefore neutral.

Second, ripeness is based on the belief that the success of mediation is primarily judged by whether it produced an agreement rather than whether it helped create a space for constructive change in people, perceptions and relationships that are not always captured in the confines of a written negotiated document. Thus, ripeness overemphasises content and agreement in conflict resolution at the expense of the building of relationships and process. It consequently places greater emphasis on the mediators and belligerent's actions and perceptions rather than on mediation and conflict resolution as a political process with multiple sets of actions and people.

The dissertation's conceptual approach to the role of mediation i.e. the distinction between mediation as 'communication', 'formulation' and 'manipulation', has resolved this. The dissertation has approached mediation as a long term political process that provides for the building and sustaining of relationships and the multiplicity of roles, activities and functions that are necessary to make a sustained dialogue and change in the relationships possible. The dissertation thus emphasises process, relationships and sustainability in mediation rather than a momentary action.

While the idea of a shared understanding meets some of the requirements of ripeness as articulated by Zartman, there are some qualifications; the parties in South Africa were not ready to begin settlement negotiations at that point. Rather, ripeness as articulated by Zartman is better

understood as that period where parties are convinced that a mutually acceptable resolution of their disagreement is possible. The next step is to find ways of arriving at an agreement to begin settlement negotiations.

Ripeness is therefore the moment when parties reach the perception that the other is serious about finding a negotiated solution. This is a condition necessary but not sufficient for the opening of settlement negotiations.

This theoretical refinement and development of ripeness is the major contribution to the theory and resolves one of its most important limitations and contradictions. As discussed, a major limitation in the ripeness literature is that the dependent variable is unclear. On the one hand, ripeness is implied to be a condition for successful negotiation. Zartman, Mooradian and Druckman, Haas, Stedman, and Lieberfeld explain ripeness in terms of the beginning of negotiations, and in so doing, conflate the decision to negotiate with the outcome i.e. if negotiations begin, a ripe moment was present by definition; if negotiations did not begin a ripe moment was not present or not perceived. On the other hand, the literature explains this as a condition for the initiation of negotiations. Crocker, De Soto and Lederach explain ripeness as key to a settlement with an already established 'negotiation process'. And Bercovitch explains ripeness in terms of the sustainability of a mediation effort in an already established negotiation process.

This is an important lack of consensus; the process of bringing about negotiations presents one set of variables, conditions and strategies, whereas the successful conclusion of a negotiations process presents a different type of endeavour. By focusing exclusively on the pre-negotiation phase, and pointing out that the shared understanding is necessary but not sufficient for the opening of settlement negotiations, the dissertation has redefined ripeness in a way that it cannot be tautological, and in the process provided clarity on the dependent variable.

The discussion on stages one and two of South Africa's pre-negotiation process suggests that the notion of ripeness be enhanced as follows:

1. The ripe moment is a function of a pre-negotiation process when parties reach a shared understanding of the problem and a shared understanding about finding a negotiated solution. This means that parties agree on what the problem is, and that the problem can be solved through negotiation. It does not mean that negotiations towards a political settlement will begin.
2. The ripe moment is necessary but not sufficient for the opening of negotiations towards a political settlement.
3. Mediation is primarily a long-term political process with multiple roles, functions, and activities carried out by a wide array of people.
4. Mediation can assist parties in developing a shared understanding of the problem, and shared understanding about finding a negotiated solution. But mediators are not the most important actors. Rather, political leadership is most important in initiating and driving the process of pre-negotiation in the early stages, and in developing the shared understanding.
5. It is not necessary for all actors in a conflict to perceive a mutually hurting stalemate, but it is necessary for political leaders to perceive it so. A mutually hurting stalemate can be conceptualised in political terms, and this political conceptualisation is more powerful in developing the shared understanding.

9.2. Why Multiparty Negotiations Began

Reaching a shared understanding of the problem and a shared understanding that negotiated solutions are possible was a necessary but not sufficient condition for the beginning of multiparty negotiations. For multiparty negotiations to begin, the South African government and the ANC had to produce a commitment to a negotiated solution and overcome preconditions as a barrier to negotiations towards a settlement. Two issues facilitated this: political pact-making that

institutionalised this commitment; and a peace process that managed political violence and facilitated the transition from bilateral to multiparty negotiations.

9.2.1. Producing a Commitment to a Negotiated Solution

Once the South African government and ANC reach a shared understanding of a problem, and a shared understanding that a negotiated solution is possible, they had to produce a commitment to a negotiated solution. The parties went from “*it can be solved through negotiation*” to “*we are committed to a negotiated solution to the problem*”. For Tomlin, this is stage three of pre-negotiation which is the transition from ‘whether’ to negotiate to ‘what’ will be negotiated. The policy focus is initially inner-directed as parties consider alternative negotiating scenarios, reflecting varying degrees of scope for the potential negotiation, and successive steps towards increasing commitment toward a negotiated solution. It is in this stage that the focus of policy makers becomes outer-directed “as the preoccupation with internal decision dynamics gives way to increased concern for the other parties to the problem.” Druckman’s framework emphasised the monitoring activity undertaken, involving determining the interests of various parties. There is a point in stage three when attention shifts to a consideration of the interests of other parties, mainly because the desire to undertake negotiation is likely to be communicated at this stage. The communication of a desire to negotiate from one party to another is the turning point to stage four.¹¹⁴⁶

This phase was the most complex as it involved a series of interrelated judgments; parties had to judge whether a negotiated solution would be better than continuing the present situation, whether a fair settlement could be fashioned, whether the other side would accept, and whether the balance of forces would permit to a negotiated settlement. Dealing with preconditions and related uncertainties and anxieties is an important part of producing a commitment to a negotiated solution.

¹¹⁴⁶ Tomlin, 260

In the South African case, the ANC and South African government took successive steps towards increasing commitment towards a negotiated solution. Events beyond their control also helped immensely especially the role of civil society in constructing a peace process to manage political violence. The parties institutionalized their commitment to a negotiated solution through a series of pacts and agreements aimed at assuring the protection of their interests. These pacts and agreements established important benchmarks and rules of interaction that locked the ANC and South African government into an interdependent bargaining relationship.

The South African pre-negotiation process highlights the importance of preconditions as a barrier to the opening of settlement negotiations, a point that Tomlin doesn't consider in his framework. Conditions applicable to the opening of settlement negotiations usually cover three broad areas: the negotiation itself, including details such as the site and the level of representation, the political climate while negotiations are in progress, and the substance of the negotiated settlement.¹¹⁴⁷ These issues influence the shape of the negotiated settlement that emerges, influence each side's bargaining position, and help determine how long it will take to reach a negotiated agreement.¹¹⁴⁸

In the South African case, preconditions were with regard to the political climate within which the settlement negotiations would be in progress. For the ANC, these preconditions were contained in the Harare Declaration and primarily related to issues of indemnity. For the South African government, the main precondition was that the ANC renounce the armed struggle. When political violence accompanied public pre-negotiations, a peace process was identified as an important precondition to the opening of settlement negotiations.

¹¹⁴⁷ Paul Pillar, *Negotiating Peace: War Termination as a Bargaining Process* (Princeton: Princeton University Press, 1983), 69

¹¹⁴⁸ Ibid.

Overcoming these preconditions was the main preoccupation with the parties and defined the bargaining relationship between the ANC and the government during the process. While the Pretoria Minute and DF Malan Accord provided a dignified closure of MK, meeting the government's precondition on the suspension of the armed struggle, the issues of indemnity and political violence were the most controversial; the government had failed to meet the expectations of the ANC on both issues. Therefore, despite the fact that the ANC communicated the desire to negotiate in the January 8 Statement i.e. the call for an All-Party Congress, this did not mark the turning point to stage four as Tomlin would expect. What accompanied this communication was not a turning point, as suggested by Tomlin, but a crisis i.e. a breakdown and threat to talks.¹¹⁴⁹ Progression to stage four would depend on how the ANC and South African government overcame the problem of the ANC's preconditions.

Where preconditions become barriers to official talks, two methods usually break the logjam. One is to initiate official negotiations with an ostensibly limited agenda. The other is to "reach an agreement that is subtle or ambiguous enough for neither side to have to admit that it backed down."¹¹⁵⁰ However, if both sides are willing to negotiate, disagreements over conditions that previously appeared as formidable obstacles can be shoved aside.

The continued perceptions of a hurting stalemate (especially at the level of political leadership) were crucial in sustaining the pre-negotiation process and keeping the parties on track. What sustained this perception in South Africa was the escalation of political violence, and the parties' response to this confirmed this perception. It was the fear and presence of political violence that kept the pre-negotiation on track. Through escalating levels of political violence, the major actors felt that they would lose control over the political process. The violence kept the two main parties together. The moments of breakdown and crisis were crucial to the dynamic of continuity; after each crisis, the ANC and the government came back, taking a new step forward, and they came back because they appreciated the constraints and opportunities of the

¹¹⁴⁹ Druckman, "Stages, Turning Points and Crises", 333

¹¹⁵⁰ Pillar, 83

situation.¹¹⁵¹ Both sides were in a hurting stalemate and political leadership on both sides continued to believe that negotiated solutions were possible. The Mandela-De Klerk meeting in Tuynhuys on 5 April 1990, the Groote Schuur Minute, the Pretoria Minute, the Royal Hotel Minute, the DF Malan Accord, the top-level summit on the eve of the ultimatum expiry date, and De Klerk's concessions upon the revelation of Inkathagate all illustrate this commitment to negotiated solutions as a result of perceptions of a stalemate.

During this period, there was no reversal of fortune among the players. The balance, however, was in favour of the government which controlled the process during the third stage to a large extent. The bargaining process over preconditions is a good illustration of this balance of power. The series of agreements and pacts left an important ANC precondition (the definition of political offenses, crucial for the identification and release of political prisoners and return of exiles) unresolved. While the Groote Schuur Minute committed the parties to working towards a common definition of political crimes, Paragraphs 1 and 2 of the Minute restricted the numbers of ANC members to be indemnified. Further, the Indemnity Act only provided for temporary indemnity; the government reserved the right to prosecute at a later stage. While the act did provide provisions for a permanent indemnity, this was at the sole discretion of the president. The indemnity provisions also expired after a year, unless they were renewed annually by the president by proclamation, and following the second renewal, only if all three houses of parliament consented. The slow and bureaucratic nature of the process further drew the ire of the ANC; by the time of the ultimatum, over 1,000 political prisoners were still in prison.

This balance of power, however, would change considerably. Most importantly, it would be changes in the perception of this power balance that would create the environment in which disagreements over preconditions that appeared formidable at the point of the ultimatum would be overcome.

¹¹⁵¹ Zartman, "Negotiating the South African Conflict", 109

The empirical discussion of stage three of the pre-negotiation phase reached an important theoretical conclusion; political pacts institutionalise belligerent parties' commitment to negotiated solutions, and assure the protection of their interests. They establish important benchmarks and rules of interaction that lock these parties into an interdependent bargaining relationship. The dissertation thus confirms the theoretical conclusions reached by the democratization scholars such as Terry Karl, Caroline Hartzell, Guillermo O'Donnell and Philippe Schmitter, Omar Encarnación, Frances Hagopian, and Adam Przeworski.

The discussion on stage three of South Africa's pre-negotiation process suggests that the notion of ripeness can be enhanced as follows:

1. Continued perceptions of a mutually hurting stalemate are a necessary condition for the sustainability of a pre-negotiation process.
2. Political pact-making produces and sustains the commitment to a negotiated solution.
3. Disagreement over preconditions is a barrier for the opening of settlement negotiations.

9.2.2. Overcoming Preconditions

In the fourth stage, the parties agree to pursue a negotiated solution to the problem. The focus is outer-directed as they "come to terms on the desirability of negotiation as an approach to the problem while reserving any commitment as to the scope of the negotiation itself."¹¹⁵² The achievement of an agreement to negotiate marks the turning point to the final stage of the pre-negotiation process. In the final stage, parties define the scope of the proposed official negotiation and establish parameters for the negotiation process to follow. This stage "provides parties with an important opportunity to assess the extent of congruence in their perspective

¹¹⁵² Tomlin, 260

agendas prior to formal negotiation.” Even though parties may not reach an agreement on appropriate parameters, “their agreement to proceed with formal talks will mean that this final stage of the pre-negotiation phase imply merges into the first stage of negotiation proper as formal negotiating sessions begin.”¹¹⁵³

While negotiating activity in final stages of the South African case is consistent with Tomlin’s depiction, the sequence differs. In the South African case, the agreement to negotiate and the definition of the scope and agenda for official negotiation (stages four and five) happen simultaneously. Further, the communication of the desire to negotiate was not a turning point, marking passage to the final stages. The important issue was the problem of preconditions as a barrier to the opening of official negotiations, and how they were to be overcome.

Despite the ANC’s call for an All-Party Congress, which according to Tomlin should mark the turning point to the final stages, the process deadlocked. The problem was that the government had failed to meet the ANC’s preconditions as spelt out in the Harare Declaration and December Consultative Conference. As the political process reached the expiry date of the ANC demands, preconditions were still perceived as a barrier. Consequently, a crisis accompanied the end of stage three as the desire to negotiate was accompanied by unmet preconditions. Progression to stage four would then depend on how preconditions as a barrier were to be resolved.

Three issues provided the means for overcoming the problem of preconditions.

The first was Mandela’s ultimatum which listed the meeting of seven demands as a condition for the continuation of talks. This ultimatum provided for a political solution; a positive response to these demands would have ensured continuity and buy-in from ANC hardliners especially since the government was not going to meet the 30 April deadline set by the ANC. While De Klerk’s

¹¹⁵³ Ibid., 261

unilateral response to the ultimatum was not met positively by the ANC, it did introduce a peace process that maintained momentum generated by over a year of bargaining. The government and ANC high-level summit on the day of the expiry of the ultimatum fed into this momentum. At this summit, the parties agreed to continue talking through the working groups about the return of exiles and political prisoners, and armed action. Thus working groups were firmly in place through which pre-negotiation would continue.

The second factor was the agency of Mandela. Mandela's opening address at the ANC national conference is important. He successfully generated consensus in the ANC that they were indeed in a hurting stalemate and as a result, had to expedite the process towards settlement negotiations. Debating over preconditions was counter-productive; the most important goal was to develop a comprehensive strategy in preparation for an inevitable negotiation process, and push for the installation of an interim government of national unity to oversee a constitutional writing process.

The third factor was Inkathagate (a crisis of legitimacy), the turning point marking passage to the final stages. Once the government faced its second legitimacy crisis, a window of opportunity opened for the ANC to go ahead with Mandela's proposal. Thus, the goal was to get government concessions on the scope, parameters, agenda and procedure of the multiparty negotiation process; it could no longer afford to stall the pre-negotiation process over preconditions. Concessions over an interim government became an imperative.

After Inkathagate De Klerk committed the government to levelling the political playing fields, giving the clearest indication that the government was willing to make concessions on the ANC's position on an interim government thus clearing the path to official talks. To this end, he endorsed the need for "transitional measures."¹¹⁵⁴ De Klerk also supported the ANC's position

¹¹⁵⁴ Transcript of President FW De Klerk Press Conference at the Presidency, 30 July 1991, The O'Malley Archives

on a speedy path toward a multi-party congress. Both parties thus begin to define the scope of the negotiation and establish its parameters.

As discussed, above, the sense of a mutually hurting stalemate was maintained throughout the process. Inkathagate, however, signalled a reversal of fortunes for the South African government i.e. the power relations in the positions of the ANC and South African government were changing and becoming symmetrical. According to the third dimension of the ripe moment, ripeness occurs when “the upper hand starts slipping and the underdog starts rising [i.e.] when the ‘ups’ and ‘downs’ start to shift their relative power positions.”¹¹⁵⁵ At the heart of the analysis is that changes in domestic power relations influence the decision of both sides to come to the negotiating table. The South African case represented the transition towards the symmetrical moment; the government’s power and legitimacy were decreasing and the ANC’s legitimacy was increasing. Despite the symmetrical moment, both sides were strong and legitimate enough to come to an agreement satisfying to the minimal or reduced demands of both sides i.e. both sides had legitimacy and strength to come to an agreement to begin negotiations.

Inkathagate had a profound impact on the balance of power and legitimacy between the ANC and the government during the pre-negotiations. For the government, Inkathagate led to the parting of ways with the IFP. In this process, the government lost a partner with credible support and with this, any chance of building a substantive conservative coalition. For the ANC, Inkathagate was proof of the necessity of an interim government presiding over negotiations instead of the NP.¹¹⁵⁶

As a consequence of Inkathagate, and a clear illustration of the legitimacy crisis facing the government, De Klerk tried desperately to repair and the rebuild the government’s image as a legitimate political actor and negotiating partner. First, he moved to placate the ANC. Adriaan

¹¹⁵⁵ Zartman, *Ripe for Resolution*, 272

¹¹⁵⁶ Van der Westhuizen, 191

Vlok and Magnus Malan were demoted to lower-ranking cabinet portfolios. Second, on the first day of CODESA, De Klerk yielded to the ANC's demand that a democratically elected government should draft the final constitution.

The empirical discussion of the final stages of pre-negotiation reached important theoretical conclusions. First, if there is political will, then a pre-negotiation process can acquire sufficient momentum to survive many of the hazards that are capable of preventing the opening of settlement negotiations. The dissertation is thus in agreement with Zartman and Berman's contention on the importance of political will for the opening of negotiations; "adversaries explore the possibility of negotiations when they see that a problem can only be resolved jointly and when they have the will to end an existing situation that they consider unacceptable, while admitting the other party's or parties' claim to participate in that solution."¹¹⁵⁷ Political will is all important; without the will to reach agreement there will be none, even if the other party's claim to participate in a solution is admitted. Will applies to a number of specific elements such as the unacceptability of the situation, inability to improve the situation alone, and acceptance of the other party.¹¹⁵⁸

Second, changes in power relations influence the decision of both sides to come to the settlement negotiations table. The dissertation, however, emphasised power as a perceived relation i.e. that perception affects objective reality, and that issues of power and legitimacy are important in perceptions of, and in the relations between, negotiation and symmetry. This is thus in agreement with Zartman's third dimension of the ripe moment that settlement negotiation possibilities open when "the upper hand starts slipping and the underdog starts rising – when the 'ups' and 'downs' start to shift their relative power positions."¹¹⁵⁹

¹¹⁵⁷ Zartman and Berman, 66

¹¹⁵⁸ Ibid

¹¹⁵⁹ Zartman, *Ripe for Resolution*, 272

The discussion on stages four and five of the South African pre-negotiation process suggests that the notion of ripeness can be enhanced as follows:

1. Changes in the perception of domestic power relations influence the decision on both sides to begin settlement negotiations.
2. Preconditions are overcome, and parties are ready to begin settlement negotiations, when parties perceive their power relations as changing and becoming symmetrical, but feel both strong and legitimate enough to come to an agreement to begin settlement negotiations. The point is that parties think their relations are symmetrical – not that they are symmetrical. This may involve miscalculations, a lack of realism and self-deception.
3. Agency, particularly political leadership, is a crucial variable in resolving deadlock, and sustaining momentum toward the opening of settlement negotiations.

Therefore, negotiations in South Africa began because the major parties reached a shared understanding of the conflict, and a shared understanding that a negotiated solution was possible. This means that the South African government and ANC agreed on what the problem was (although they had different views) and that it could be solved through negotiations. How they reached this point, and why they choose to negotiate with each other initially, is a result of the political circumstances of their pre-negotiation experiences i.e. their exploration of negotiated possibilities made possible by their political circumstances.

Multiparty negotiations began when the South African government and the ANC, through pact-making, produced a commitment to a negotiated solution, and overcame the problem of preconditions as a barrier to the opening of multiparty negotiations. What made the latter possible was when both parties perceived their power relations as changing and becoming symmetrical, but felt strong and legitimate enough to come to an agreement to begin multiparty negotiations.

9.3. Conclusion

This chapter presented how the South African case contributes to ripeness and pre-negotiation theorising and suggested new questions for investigation and specific hypotheses for testing. The chapter used the discussion of the South African case to qualify specific components of ripeness, and put forward additional changes based on Tomlin's analytical framework within which the South African pre-negotiation process was explained.

The chapter argued that the ripe moment is better explained as a period within the pre-negotiation process itself. The case reveals that the ripe moment is when parties reach a shared understanding that negotiated solutions are possible, and that this condition is necessary for producing a commitment to a negotiated solution, but not sufficient for the beginning of settlement negotiations. For settlement negotiations to begin, parties have to overcome the problem of preconditions as a barrier. Therefore, multiparty negotiations in South Africa began because adversaries reached a shared understanding that the South African conflict could be solved through a negotiated solution, and consequently produced a commitment to a negotiated solution, and in the process, overcame the problem of preconditions as a barrier to opening of settlement negotiations. Ripeness indicators can assist in explaining why the South African government and the ANC negotiated at all, and why the South African government ended up negotiating with the ANC.

CHAPTER TEN

Conclusion

The subject of this dissertation has been the pre-negotiation stage of the negotiation process in South Africa leading to the first plenary session of CODESA. This was that period in the South African conflict when negotiated solutions were considered, and negotiation towards a political settlement was adopted as an option by the major parties, namely the South African government and the ANC. While the CODESA process included other political organisations, the South African government and the ANC were central to the pre-negotiation process. During this period, the respective parties explored the possibility of negotiated solutions, reached a common understanding on the important issues in the South African conflict, developed a commitment to a negotiated settlement, and chose to negotiate a formula for a political settlement.

The central question this dissertation answered was why the South African multiparty negotiations began. This question is important because De Klerk's seminal address to the Tricameral Parliament in 2 February 1990, and the subsequent release of Mandela on 11 February 1990, is often considered as the beginning of the negotiation process in South Africa. This however is not true. As has been shown, negotiations did take place before this date and they were crucial in shaping the path towards multiparty negotiations. The important question therefore is what prepared the ground for 2 February 1990, and the resulting political process that led to multiparty negotiations.

The dissertation thus had two sub-questions: (1) why the South African government and ANC negotiated at all; and (2) why the South African government ended up negotiating with the ANC. To answer these questions, the dissertation used Zartman's theory of ripeness as a guide, and Tomlin's five-staged model of pre-negotiation as an analytical framework. In this respect, the

dissertation is a theoretical single-case study. Using an analytical framework, the dissertation applied an established theory to a case and examined its utility. In the process, the dissertation improved ripeness theory on the basis of its application to the South African case, and used the ripeness theoretical guidelines within the context of Tomlin's analytical framework to better understand the South African case.

The goals of the dissertation were thus three-fold: (1) to contribute to a gap in the South African negotiations literature that has not given sufficient attention to the pre-negotiation stage and its impact in the process of getting to CODESA; (2) to contribute to the very small literature on pre-negotiation whose scholarship has not moved beyond the seminal approaches of Zartman, Saunders, Stein and Tomlin; and (3) to contribute to ripeness theory, which is the most fitting to use as a theoretical guide for the question asked, but also by no means a complete theory.

The dissertation began by reviewing the scholarship that has sought to explain why negotiations in South Africa began. The dissertation organized this literature into four broad categories: multivariable explanations, dominant variable explanations, single-variable explanations and theoretical approaches. The dissertation identified the seminal scholarship within these approaches.

The dissertation identified important strengths and weaknesses in the seminal literature.

The strength of this literature is that it provides invaluable insights on the complexity of the end of apartheid. Multivariable analyses highlight the importance of macro-political and macro-economic factors. They point out that multiple pressures of great intensity were brought to bear on the apartheid state until such time that the pressures became too great, leading to the beginning of negotiations. The start of negotiations is either viewed as an elite response to pressure or an elite initiative in anticipation of changing circumstances.

Dominant-variable approaches acknowledge many factors as important subsidiary pressures, but highlight one variable as crucial. Important works that fall into this category emphasise the role played by the civil society and social movements, especially trade unions, arguing that they were at the heart of the political changes that led to the beginning of negotiations.

Single variable approaches analyse a particular factor; but that factor is not necessarily claimed to be the most important. They seek not to replace other explanations but rather compliment them by giving weight to one factor. For the beginning of negotiations, literature tends to highlight the impact of the end of the cold war, and the role of secret talks.

Theoretical explanations use political and sociological theories to explain the beginning of negotiations. Important accounts use institutional rational choice theory, draw on comparative studies of democratisation in Latin America and Southern Europe, and use Marxist analysis to explain the beginning of negotiation.

Despite these important contributions, the literature has important shortcomings.

First, the literature dates the beginning of negotiation as 2 February 1990 and identifies De Klerk as the central actor for the beginning of the process. While the literature acknowledges the importance of political changes and events in the 1970s and 1980s, the important pre-negotiations that happen during this period are not given sufficient weight.

Second, the literature on ‘why negotiate at all’ is stronger than the literature on ‘why did the NP government end up negotiating with the ANC’. In answering ‘why negotiate at all’, multivariable approaches highlight the role of macro-processes. Dominant-variable approaches emphasise the

role of the trade union movement in applying pressure. Single-variable approaches identify the end of the cold war and the role of secret talks, and theoretical approaches use political and sociological theories.

None of the approaches, however, explain why the NP government ended up negotiating with the ANC. There are two reasons for this.

First, the beginning of the negotiation process is dated as 2 February 1990. Consequently, the politics of pre-negotiation involving why and how parties explore negotiation possibilities is excluded altogether.

The second is that of those studies that do consider pre-negotiation, particularly those that highlight the importance of secret talks, there is no critical analysis of pre-negotiation as a process; the studies simply highlight the important role played by select individuals and the bonds that developed between them.

In order to fill the gap in the literature, the dissertation drew attention to the nature and importance of the pre-negotiation stage, and its contextual conditions i.e. the notion of ripeness. The dissertation examined the conditions conducive for the beginning of pre-negotiation and outlined the different stages and functions. In the process, the dissertation used ripeness theory to answer the central question on why did multiparty negotiations begin in South Africa. Drawing attention to the nature and importance of pre-negotiation and ripeness theory enabled the dissertation to provide a good answer to why the South African multiparty negotiations began. It also provided a good explanation why the parties negotiated at all, and why the NP government ended up negotiating with the ANC.

In this endeavour, the dissertation began with the work of Zartman and his notion of ripeness. This condition is brought about by the perception of two essential elements: a mutually hurting stalemate between the parties, coupled with a formula for a way out. The concept proposes that when parties find themselves on a 'pain-producing path', they begin to look for negotiated alternatives that are less painful and more advantageous. Ripeness is based on two core motives and elements: pain and opportunities to escape from pain. It is portrayed as a state that may or may not exist objectively, but that must be perceived to mutually exist by parties in order for it to motivate. This can occur either naturally, as the result of external events, or be induced, as by active intervention from parties or third parties.

The dissertation identified two important limitations of ripeness.

First, ripeness theory is unclear about the dependent variable. On the one hand, ripeness is implied to be a condition for successful negotiation. On the other hand, the literature explains this as a condition for the initiation of negotiations. This is an important lack of consensus in the literature as the process of bringing about negotiations presents one sets of variables, whereas the successful conclusion of a negotiations process presents a different type.

Second, ripeness theory is unclear about the composition, role and significance of the major actors in the conflict, and views actors as unitary. This is problematic as processes fostering de-escalation occur within each adversary, in the relations between the adversaries, and also among other parties in the social environment. Thus it is both the parties themselves as well as parties with interests in the conflict i.e. third parties who have the potential to take an effective role.

In order to improve ripeness theory as a guide to answer the central question, the dissertation employed two strategies.

First, the dissertation focused exclusively on the role of ripeness in the pre-negotiation stage. In this regard the dissertation used Tomlin's analytical framework on pre-negotiation to structure the South African discussion and ripeness theoretical guidelines.

Second, the dissertation highlighted the important role that political leaders and strategically placed individuals play in the process of bringing about negotiation. To this end, the dissertation was guided Hermann's useful classification of political representatives in decision-making units.

Tomlin's staged-model was crucial in providing for an appropriate analytical framework to answer the central question. The analysis of the South African pre-negotiation process using stages and turning points permitted a reconstruction of the sequence of decisions and interactions that led the South African government and the ANC to negotiate joint solutions. This framework provided for an organising set of concepts for the examination of the pre-negotiation process, and highlighted important stages and events indicating behavioural patterns. The application of the framework to the South African pre-negotiation process permitted the superimposition of these general concepts on the case-specific details. The result will was a detailed, comprehensive and systematic description of the processes and behaviour of the government and ANC actors during the pre-negotiation process as well as the pattern of relations between the two.

The dissertation has shown that the notion of ripeness as a function of pre-negotiation, using Tomlin's staged-model on pre-negotiation provides for a comprehensive and sufficient answer as to why multiparty negotiations began in South Africa. It also provides for a comprehensive answer why negotiations began at all, and why the South African government ended up negotiating with the ANC.

Using Tomlin's stage-model on pre-negotiation, and ripeness as a theoretical guide, the dissertation argued that negotiations in South Africa began, and the South African government

ended up negotiating with the ANC, because they reached a shared understanding of the conflict, and a shared understanding that a negotiated solution was possible. They agreed on what the problem was (although they had different views) and that it could be solved through negotiations. How they reached this point, and why they choose to negotiate with each other, is a result of the political circumstances of their pre-negotiation experiences i.e. their exploration of negotiated possibilities made possible by their political circumstances. Tomlin's first two stages of pre-negotiation successfully assist in explaining how the parties reach this shared understanding.

Once the South African government and ANC reach a shared understanding of a problem, and a shared understanding that a negotiated solution is possible, they had to produce a commitment to a negotiated solution. The parties went from "it can be solved through negotiation" to "we are committed to a negotiated solution to the problem". Multiparty negotiations began because the South African government and the ANC, through pact-making, produced a commitment to a negotiated solution, and overcame the problem of preconditions as a barrier to the opening of multiparty negotiations. What made the latter possible was when both parties perceived their power relations as changing and becoming symmetrical, but felt strong and legitimate enough to come to an agreement to begin multiparty negotiations.

Ripeness indicators were a useful theoretical guide in this endeavour. The idea of a shared understanding meets some of the requirements of ripeness as articulated by Zartman, but with some qualifications; the parties in South Africa were not ready to begin settlement negotiations at that point. Thus, ripeness is better understood as that period where parties are convinced that a mutually acceptable resolution of their disagreement is possible. The next step is to find ways of arriving at an agreement to begin settlement negotiations. Thus ripeness can be enhanced by viewing it as *the moment when parties reach the perception that the other is serious about finding a negotiated solution. This is a condition necessary but not sufficient for the opening of settlement negotiations.*

There are some important implications raised by the argument in this dissertation. I will organize these implications into three categories: those that relate to the South African case; those that relate to pre-negotiation; and those that relate to ripeness. I will then conclude by placing the South African case in a comparative context and suggest the lessons for other pre-negotiations.

10.1. Implications for Why Negotiations in South Africa Began

The dissertation has made an important contribution to the study of why negotiations in South Africa began.

First, the dissertation fills the gap in the South African literature that fails to explain why the South African government ended up negotiating with the ANC. By using Tomlin's stage-model on pre-negotiation, the dissertation highlights the importance of the political dynamics of exploring negotiation possibilities. Thus, the beginning period of pre-negotiation is dated to the early 1980s and the analysis consequently shows how and why the South African government ends up negotiating with the ANC, and sufficiently explains why negotiations began in South Africa.

Second, the dissertation acknowledges the role of important actors rarely identified as shaping the process of negotiation in South Africa. For the South African government, these include former president PW Botha, Mike Louw and Niel Barnard. From this perspective, De Klerk assumes an important role in the negotiation process only after the South African government and ANC have reached a shared understanding of the conflict, and a shared understanding that negotiated solutions are possible. For the ANC, these include Oliver Tambo, Pallo Jordan and Zola Skweyiya. While Mandela's role is generally considered the most significant, the thinking on negotiation for the ANC was considerably shaped by these individuals.

Third, the dissertation points out that the ANC was by no means the only anti-apartheid organization. The dissertation explains why and how the ANC assumed such importance, pointing out that it was the result of political circumstances in the 1980s, and the agency of Oliver Tambo developing a diplomatic alternative as a priority.

Fourth, the answers to the central questions raised in the dissertation highlight the importance of the pre-negotiation stage of the South African negotiation process. This stage shaped the negotiation process in four ways. First, it specifies the boundaries multiparty negotiation. During the process, parties agreed on a comprehensive framework for multiparty negotiation, and committed themselves to a comprehensive strategy. Second, it identified the major actors who played the central roles in the multiparty negotiation process. Third, it set the agenda for multiparty negotiations. Fourth, it built a central pro-negotiation coalition in the South African government and the ANC.

Thus, the dissertation demonstrated that the pre-negotiation stage was the most important and complex stage of the South African negotiation process.

10.2. Implications for Ripeness

The dissertation has made an important contribution to ripeness theory. Five can be concluded from the dissertation.

1. Ripeness as articulated by Zartman is better understood as that period where parties are convinced that a mutually acceptable resolution of their disagreement is possible.

Ripeness is therefore the moment when parties reach the perception that the other is serious about finding a negotiated solution. This is a condition necessary but not sufficient for the opening of settlement negotiations. The ripe moment thus has better utility when viewed as a function of a pre-negotiation process when parties reach a shared understanding of the problem and a shared understanding about finding a negotiated solution. This means that parties agree on what the problem is, and that the problem can be solved through negotiation. It does not mean that negotiations towards a political settlement will begin. This thus removes the potential tautology of the concept.

2. Mediation can assist parties in developing a shared understanding of the problem, and shared understanding about finding a negotiated solution.

But mediators are not the most important actors. Rather, political leadership is most important in initiating and driving the process of pre-negotiation in the early stages, and in developing the shared understanding.

3. It is not necessary for all actors in a conflict to perceive a mutually hurting stalemate, but it is necessary for political leaders to perceive it so.

This mutually hurting stalemate can be conceptualized in political terms, and this political conceptualization is more powerful in developing the shared understanding. The continued perceptions of a mutually hurting stalemate amongst political leadership are also a necessary condition for the sustainability of a pre-negotiation process. Political leadership is also a crucial variable in resolving deadlock, and sustaining momentum toward the opening of settlement negotiations.

4. Political pact-making produces and sustains the commitment to a negotiated solution.

5. Disagreement over preconditions is a barrier for the opening of settlement negotiations.

Preconditions are overcome, and parties are ready to begin settlement negotiations, when parties perceive their power relations as changing and becoming symmetrical, but feel both strong and legitimate enough to come to an agreement to begin settlement negotiations. The point is that parties think their relations are symmetrical – not that they are symmetrical. This may involve miscalculations, a lack of realism and self-deception.

10.3. Lessons for other Pre-Negotiations

The empirical discussion in this dissertation raises important questions and practical lessons for other pre-negotiations. Two are important: the international context of South Africa's pre-negotiations and implications for placing South Africa in a comparative context; and the role of agency in the negotiation process.

10.3.1. The South African Case in Comparative Context

The South African pre-negotiations coincided with unprecedented international structural change, most of which supported the ending of conflicts. The second half of the 1980s was an era of dynamic change in international politics, primarily as a result of Mikhail Gorbachev's ascension to the Soviet leadership in March 1985. Gorbachev's reform programs of perestroika, glasnost and 'new thinking' in Soviet foreign policy had a profound impact on Southern Africa. Gorbachev's 'new political thinking' was based on the belief that because nuclear warfare

possessed such a global threat, any conflict with the potential to escalate should be settled through negotiation.¹¹⁶⁰

In order for Gorbachev's reform to succeed a stable international environment was necessary. For this, relations with the United States had to change and be restructured. Regional conflicts were an obstacle to this; new attitudes and approaches were needed.

The Reykjavik Summit between Ronald Reagan and Gorbachev in October 1986 was the most important for Southern Africa. Reagan and Gorbachev agreed on non-US intervention in Eastern Europe, and the Soviet Union renounced its aspirations to hegemony in Africa.¹¹⁶¹ This indicated a new approach to the Angolan civil war. The Soviet Union, however, would not abandon the MPLA and Cuba; rather, the new emphasis would be diplomatic rather than military. This considerably enhanced the importance of the US mediation through Crocker and his team.

These international developments coincided with Crocker's mediation in the Angolan peace process. This peace process in turn coincided with the famous Battle of Cuito Cuanavale, a military confrontation between South Africa and UNITA one side, and the Cuban and Angolan national armies on the other. US mediation and the loss of prestige of the SADF produced a new regional conjuncture, and a resolving formula for the conflicts in Southern Africa, leading directly to the independence of Namibia. It is rare to have such coincidence and conjuncture that would support and accelerate pre-negotiation towards settlement negotiations.

¹¹⁶⁰ Roni du Preez, *The Impact of the End of the Cold War on Transition in South Africa*, Masters Dissertation (Rhodes University: Grahamstown, 1994)

¹¹⁶¹ *Ibid.*, 39

10.3.2. The Role of Agency in the Negotiation Process

The empirical discussion in the dissertation also highlights the role of agency in pre-negotiation. The dissertation emphasized how political events and the actions of leaders with a hand in these events shaped and reshaped people's preferences and beliefs about the conflict.¹¹⁶² The dissertation pointed out how risk embracing acts of political leadership can produce positive-sum outcomes from zero-sum conflicts.¹¹⁶³ Four leaders took calculated gambles: Mandela and Mbeki (under the tutorship of Tambo) for the ANC, and PW Botha and De Klerk for the South African government. These political leaders reached two important realisations.

First, they realized that the South African conflict was unsustainable and that all sides stood to gain from a political settlement. There were important differences, however, on the terms and conditions of that settlement.

Second, the leaders realized that to resolve the impasse they would have to take calculated risks and move off into a new direction, hoping that in time it will enable both followers and opponents to perceive and act on new political alternatives. Mandela and Botha in particular internalized much of the risk, and in the process, diminished it from their constituencies. They realized that their initial actions could have backfired.

The political leadership thus realized the interdependent nature of pre-negotiation; neither could succeed without the co-operation of the other. All believed that they and their respective constituencies stood to gain or lose together but each also hoped to gain more or less than the other. The empirical discussion in the dissertation this shows how leaders accountable to one constituency can initiate cooperation across the divide and then “persuade their own constituency

¹¹⁶² James Read and Ian Shapiro, “Transforming Power Relationships: Leadership, Risk, and Hope”, *American Political Science Review*, Vol. 108, No. 1 (February 2014)

¹¹⁶³ Ibid.

to start crossing a bridge that is still under construction.”¹¹⁶⁴ Therefore, strategic action by leaders who take such calculated risks is necessary for the beginning of negotiation. The dissertation, however, does not claim that strategic calculated risks are sufficient; factors outside their control, such as accidents, may cause even carefully calculated efforts to fail.

10.4. Recommendation for Future Research about the Pre-negotiation Stage

This dissertation has examined the conditions conducive for pre-negotiation to begin in South Africa, and outlined the different stages and functions of pre-negotiation. The dissertation has suggested that pre-negotiation plays a central role in helping parties reach multiparty negotiations i.e. in providing a foundation for a shared understanding of issues in the conflict, committing belligerent parties to a negotiated solution, shaping the process once they get to multiparty negotiations, defining the parameters, setting the agenda, and selecting participants for the multiparty talks. It has enabled for a better understanding of the political process (i.e. the ripening process) that brings parties in conflict to the negotiating table.

Given the paucity of research on pre-negotiation, and given the importance of the process for settlement negotiations, future research should build on this and treat pre-negotiation as the foundation of the entire negotiation process. One way would be to view the pre-negotiation process as an independent variable that impacts the final negotiation outcome. For the South African case, it would mean investigating the extent to which the process of reaching a shared understanding that negotiated solutions are possible, producing a commitment to a negotiated solution, and overcoming preconditions as a barrier for the opening of multiparty negotiations shaped the outcome of the multiparty negotiating process.

¹¹⁶⁴ Ibid., 46

BIBLIOGRAPHY

Books

James Barber, *Forging the New South Africa* (London: Royal Institute of International Affairs, 1994)

Howard Barrell, *Conscripts to their Age: African National Congress Operational Strategy, 1976-1986* Doctoral Dissertation (Oxford: University of Oxford, 1993)

Terry Bell and Dumisa Ntsebeza, *Unfinished Business: South Africa, Apartheid and Truth* (Cape Town: Redworks, 2001)

Ann Bernstein and Bobby Godsell, "The Incrementalists," in Peter Berger and Bobby Godsell (eds.) *A Future South Africa: Visions, Strategies and Realities* (Boulder: Westview Press, 1988)

Geoff Berridge, *Diplomacy: Theory and Practice, Fourth Edition* (New York: Palgrave MacMillan, 2010)

George Bizos, *Odyssey to Freedom: A Memoir by the World-Renowned Human Rights Advocate, Friend and Lawyer to Nelson Mandela* (Cape Town: Random House, 2007)

Anthony Butler, *Cyril Ramaphosa* (Auckland Park: Jacana, 2007)

Luli Callinicos, *Oliver Tambo: Beyond the Engeli Mountains* (Cape Town: David Philip, 2004)

John Campbell, *Successful Negotiation: Trieste 1954, An Appraisal by the Five Participants* (Princeton: Princeton University Press, 1976)

Xavier Carim, Audie Klotz, and Olivier Lebleu, “The Political Economy of Financial Sanctions”, in Neta Crawford and Audie Klotz (eds.) *How Sanctions Work: Lessons from South Africa* (London: Macmillan Press, 1999)

Gwendolyn Carter and Thomas Karis, *From Protest to Challenge, Volume 1* (Hoover: Stanford, 1971)

Faud Cassim, “Growth, Crisis and Social Change in the South African Economy”, in John Suckling and Landeg White (eds.) *After Apartheid: Renewal of the South African Economy* (London: James Currey, 1988)

Diana Chigas, “Capacities and Limits of NGOs as Conflict Managers,” in Chester Crocker, Fen Osler Hampson and Pamela Aall (eds.) *Leashing the Dogs of War: Conflict Management in a Divided World* (Washington DC: United States Institute for Peace, 2007)

Jo-Ann Collinge, “Launched on a Bloody Tide: Negotiating the New South Africa”, in Glen Moss and Ingrid Obery, *South African Review 6: From Red Friday to CODESA* (Braamfontein: Ravan Press, 1992)

Chester Crocker, *High Noon in Southern Africa: Making Peace in a Rough Neighbourhood* (Johannesburg: Jonathan Ball, 1993)

Chester Crocker, Fen Hampson and Pamela Aall, “Multiparty Mediation and the Conflict Cycle”, in Chester Crocker, Fen Hampson and Pamela Aall (eds.) *Herding Cats: Multiparty Mediation in a Complex World* (Washington DC: United States Institute for Peace, 1999)

Chester Crocker, “Peacemaking in Southern Africa: The Namibia-Angola Settlement of 1988”, in Chester Crocker, Fen Osler Hampson and Pamela Aall (eds.) *Herding Cats: Multiparty Mediation in a Complex World* (Washington DC: United States Institute for Peace, 1999)

Robert Dahl, *Democracy and Its Critics* (New Haven: Yale University Press, 1989)

F.W. De Klerk, *The Last Trek, A New Beginning: The Autobiography* (London: Macmillan, 1998)

Alvaro de Soto, “Ending Violent Conflict in El Salvador”, in Chester Crocker, Fen Osler Hampson and Pamela Aall (eds.) *Herding Cats: Multiparty Mediation in a Complex World* (Washington DC: United States Institute for Peace, 1999)

Louise Diamond and John MacDonald, *Multi-Track Diplomacy: A Systems Approach to Peace* (Washington DC: United States Institute for Peace, 1991)

Daniel Druckman and Justin Green, “Playing Two Games: Internal Negotiations in the Philippines”, in I. William Zartman (ed.) *Elusive Peace: Negotiating an End to Civil Wars* (Washington DC: Brookings Institution, 1995)

Daniel Druckman, "Negotiating in the International Context" in I. William Zartman (ed.) *Peacemaking in International Conflict: Methods and Techniques* (Washington: United States Institute for Peace, 2007)

Andre du Toit, "South Africa as Another Case of Transition from Authoritarian Rule", in Andre du Toit (ed.) *Towards Democracy: Building a Culture of Accountability in South Africa*. (Cape Town: IDASA, 1991)

Harry Eckstein, "Case Studies in Political Science," in Fred Greenstein and Nelson Polsby (eds.) *Handbook of Political Science*, Vol. 7 (Reading: Addison-Wesley, 1975)

Stephen Ellis, *External Mission: The ANC in Exile, 1960-1990* (Johannesburg: Jonathan Ball, 2012),

Stephen Ellis and Tsepo Sechaba, *Comrades Against Apartheid: The ANC and the South African Communist Party in Exile* (London: James Currey, 1992)

Willie Esterhuyse, *Endgame: Secret Talks and the End of Apartheid* (Cape Town: Tafelberg, 2012)

Susan French and Louis Kriesberg, "Strategies for De-escalation", in Louis Kriesberg and Stuart J Thorson (eds.) *Timing the De-escalation of International Conflicts* (Syracuse: Syracuse University Press, 1991)

Steven Friedman, *The Long Journey: South Africa's Quest for a Negotiated Settlement* (Johannesburg: Ravan Press, 1993)

Peter Gastrow, *Bargaining for Peace: South Africa and the National Peace Accord* (Washington D.C: United States Institute for Peace, 1995)

Alexander George and Andrew Bennett, *Case Studies and Theory Development in the Social Sciences* (Cambridge: MIT Press, 2005)

Mark Gevisser, *Thabo Mbeki: The Dream Deferred* (Johannesburg: Jonathan Ball, 2007)

Hermann Giliomee, *The Parting of the Ways: South African Politics 1976-82* (Cape Town: David Philip, 1972)

Hermann Giliomee, "The Afrikaner Economic Advance," in Hermann Giliomee and Heribert Adam (eds.) *Ethnic Power Mobilised* (New Haven: Yale University Press, 1979)

Hermann Giliomee and Lawrence Schlemmer, *From Apartheid to Nation-Building: Contemporary South African Debates* (Cape Town: Oxford University Press, 1989)

Herman Giliomee, *The Last Afrikaner Leaders: A Supreme Test of Power* (Cape Town: Tafelberg, 2012)

Marrack Goulding, *Enhancing the United Nations' Effectiveness in Peace and Security* (New York: United Nations, 1997)

Antonio Gramsci, *Selections from Prison Notebooks* (London: Lawrence and Wishart, 1978)

Stanley Greenberg, *Race and State in Capitalist Development* (New Haven: Yale University Press, 1980)

Adrian Guelke, *South Africa in Transition: The Misunderstood Miracle* (New York: I.B. Tauris, 1999)

Richard Haass, *Conflict Unending* (New Haven: Yale University Press, 1990)

Fen Osler Hampson, "Negotiation" in Keith W. Hipel (ed.) *Conflict Resolution: Encyclopaedia of Life Support Systems Vol. 2* (Paris: UNESCO, 2003)

Frances Hagopian, *Traditional Politics and Regime Change in Brazil* (New York: Cambridge University Press, 1996)

Robert Harvey, *The Fall of Apartheid: The Inside Story from Smuts to Mbeki* (Hampshire: Palgrave, 2001)

Nicholas Haysom, "Negotiating a Political Settlement in South Africa", in Glen Moss and Ingrid Obery, *South African Review 6: From Red Friday to CODESA* (Braamfontein: Ravan Press, 1992)

Richard Holbrooke, *To End a War* (New York: Random House, 1998)

P. Terrence Hopmann, *The Negotiation Process and the Resolution of International Conflicts* (Columbia: University of South Carolina Press, 1996)

Donald Horowitz, *A Democratic South Africa? Constitutional Engineering in a Divided Society* (Berkeley: University of California Press, 1991)

Samuel Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (Norma: University of Oklahoma Press, 1991)

Fred Ilké, *How Nations Negotiate* (New York: Praeger, 1964)

Anthea Jeffery, *The Natal Story: Sixteen Years of Conflict* (Johannesburg: South African Institute of Race Relations, 1997)

Anthea Jeffery, *People's War: A New Light on the Struggle for South Africa* (Johannesburg: Jonathan Ball Publishers, 2009)

Sheridan Johns and R. Hunt Davis, Jr. (eds.), *Mandela, Tambo and the African National Congress: The Struggle Against Apartheid 1948 – 1990, A Documentary Survey* (Oxford: Oxford University Press, 1991)

Herbert Kelman and Steven Cohen, "Resolution of International Conflict: An Interactional Approach", in Stephen Worchel and William Austin (eds.) *Psychology of Intergroup Relations* (Chicago: Nelson-Hall, 1986)

Gary King, Robert Koehane and Sidney Verba, *Designing Social Inquiry: Scientific Inference in Qualitative Research* (Princeton: Princeton University Press, 1994)

Henry Kissinger, *The White House Years* (London: George Weidenfeld and Nicolson, 1979)

Louis Kriesberg, *Constructive Conflicts: From Escalation to Resolution* (Lanham: Rowman and Littlefield, 2007)

Todd Landman, *Issues and Methods in Comparative Politics: An Introduction Second Edition* (London: Routledge, 2003)

John Paul Lederach, "Cultivating Peace: A Practitioner's View of Deadly Conflict and Negotiation", in John Darby and Roger Mac Ginty (eds.) *Contemporary Peacemaking: Conflict, Violence and Peace Processes* (New York: Palgrave Macmillan, 2003)

Daniel Lieberfeld, *Talking with the Enemy: Negotiation and Threat Perception in South Africa and Israel/Palestine*. (New York: Praeger, 1999)

Daniel Lieberfeld, "Contributions of a Semi-Official Prenegotiation Initiative in South Africa: Afrikaner-ANC Meetings in England, 1987-1990," in Ronald Fisher (ed.) *Paving the Way: Contributions of Interactive Conflict Resolution in Peacemaking* (Lanham: Lexington Books, 2005)

Arendt Lijpart, *The Politics of Accommodation: Pluralism and Democracy in the Netherlands* (Berkeley: University of California Press, 1968)

Merle Lipton, *Capitalism and Apartheid: South Africa 1910-1986* (Aldershot: Wildwood House, 1985)

Tom Lodge, *Black Politics in South Africa since 1945* (Johannesburg: Ravan Press, 1983)

Tom Lodge, Bill Nasson, Steven Mufson, Khehla Shubane and Nokwanda Sithole, *All, Here and Now: Black Politics in South Africa in the 1980s* (Cape Town: David Philip, 1991)

Tom Lodge, "The African National Congress in the 1990s" in Glen Moss and Ingrid Obery, *South African Review 6: From Red Friday to CODESA* (Braamfontein: Ravan Press, 1992)

Albert Luthuli, *Let My People Go: An Autobiography* (London: Fontana Books, 1962)

Louise Mallinder, "Indemnity, Amnesty, Pardon and Prosecution Guidelines in South Africa", Working Paper No. 2 From *Beyond Legalism: Amnesties, Transition and Conflict Transformation* (Belfast: Queen's University, 2009)

Nelson Mandela, *Long Walk to Freedom* (Edinburgh: Little, Brown and Company, 1994)

Kathryn Manzo, *Domination, Resistance, and Social Change in South Africa: The Local Effects of Global Power* (Westport: Praeger, 1992)

Hein Marais, *South Africa, Limits to Change: The Political Economy of Transition* (Kenwyn: University of Cape Town Press, 1998)

Jonathan Melunsky, *The Rejection of Silence and Desolation: Explaining Political Transition in Modern South Africa*, Doctoral Dissertation (London: School of Oriental and African Studies, 2002)

Ralph Miliband, *Class Power and State Power* (London: Verso, 1983)

Anthony Minnaar, *Conflict and Violence in Natal/KwaZulu: Historical Perspectives* (Pretoria: Human Sciences Research Council, 1991)

Anthony Minnaar, "Patterns of Violence: An Overview of Conflict in Natal during the 1980s and 1990s", in Anthony Minnaar (ed.) *Patterns of Violence: Case Studies of Conflict* (Pretoria: Human Sciences Research Council, 1992)

Rich Mkhondo, *Reporting South Africa* (London: James Currey, 1993)

Joseph Montville, "Transnationalism and the Role of Track-Two Diplomacy," in W. Scott Thompson and Kenneth Jensen (eds.) *Approaches to Peace: An Intellectual Map* (Washington DC: United States Institute for Peace, 1991)

Mike Morris and Doug Hindson, "The Disintegration of Apartheid: From Violence to Reconstruction", in Glen Moss and Ingrid Obery, *South African Review 6: From Red Friday to CODESA* (Braamfontein: Ravan Press, 1992)

Martin Murray, *South Africa: Time of Agony, Time of Destiny* (London: Verso, 1987)

Martin Murray, *The Revolution Deferred: The Painful Birth of Post-Apartheid South Africa* (London: Verso, 1994)

Susan Allen Nan, "Track One and a Half Diplomacy: Contributions to Georgian-South Ossetian Peacemaking," in Ronald Fisher (ed.) *Paving the Way: Contributions of Interactive Conflict Resolution in Peacemaking* (Lanham: Lexington Books, 2005)

Aletta Norval, *Deconstructing Apartheid Discourse* (London: Verso, 1996)

Kaizer Nyatumba, "AZAPO and the PAC: Revolutionary Watchdogs?" in Glen Moss and Ingrid Obery, *South African Review 6: From Red Friday to CODESA* (Braamfontein: Ravan Press, 1992)

Guillermo O'Donnell and Philippe Schmitter, *Transitions from Authoritarian Rule: Tentative Conclusions about Uncertain Democracies* (Baltimore: John Hopkins University Press, 1986)

Padraig O'Malley, *Shades of Difference: Mac Maharaj and the Struggle for South Africa* (New York: Penguin Books, 2007)

Dan O'Meara, *Forty Lost Years: The Apartheid State and the Politics of the National Party, 1948 – 1994* (Randburg: Ravan Press, 1996)

David Ottaway, *Chained Together: Mandela, De Klerk, and the Struggle to Remake South Africa* (Toronto: Random House, 1993)

Marina Ottaway, "The ANC: From Symbol to Political Party" in Helen Kitchen and J. Coleman Kitchen (eds.) *South Africa: Twelve Perspectives on the Transition* (Westport: Praeger, 1994)

Paul Pillar, *Negotiating Peace: War Termination as a Bargaining Process* (Princeton: Princeton University Press, 1983)

Deborah Posel, *The Making of Apartheid, 1948-1961: Conflict and Compromise* (Oxford: Oxford University Press, 1991)

Brian Pottinger, *The Imperial Presidency: PW Botha the First 10 Years* (Johannesburg: Southern Book Publishers, 1988)

Robert Price, "The Meaning of Government-Led Reform," in Robert Price and Carl Rosberg (eds.) *The Apartheid Regime* (Berkeley: Institute of International Studies, 1980)

Robert Price, *The Apartheid State in Crisis: Political Transformation in South Africa 1975-1990* (New York: Oxford University Press, 1991)

Adam Przeworski, *Democracy and the Market* (New York: Cambridge University Press, 1991)

Narissa Ramdhani, *No Easy Walk: Building Diplomacy in the History of the Relationship between the African National Congress of South Africa and the United States of America, 1945-1987*, Doctoral Dissertation (Durban: University of Kwazulu-Natal, 2008)

Richard Rosenthal, *Mission Improbable: A Piece of the South African Story*. (David Philip: Cape Town, 1998)

Jay Rothman, *A Prenegotiation Model: Theory and Training: Project on Prenegotiation Summary* (Jerusalem: Leonard Davis Institute for International Relations, Hebrew University of Jerusalem, 1990)

Jeffrey Rubin and Bert Brown, *The Social Psychology of Bargaining and Negotiation* (New York: Academic Press, 1975)

Jeffrey Rubin (ed.) *Dynamics of Third Party Intervention: Kissinger in the Middle East* (New York: Praeger, 1981)

Jeffrey Rubin, "The Timing of Ripeness and the Ripeness of Timing", in Louis Kriesberg and Stuart Thorson (eds.) *Timing the De-escalation of International Conflicts* (Syracuse: Syracuse University Press, 1991)

Anthony Sampson, *Black and Gold: Tycoons, Revolutionaries and Apartheid* (London: Hodder and Stoughton, 1987)

Anthony Sampson, *Mandela: The Authorised Biography* (London: Harper Collins Publishers, 1999)

John Saul and Stephen Gelb, *The Crisis in South Africa: Class Defense, Class Revolution*. (New York: Monthly Review Press, 1981)

John Saul *Recolonisation and Resistance in Southern Africa in the 1990s* (Trenton: Africa World Press, 1993)

Harold Saunders, "The Pre-negotiation Phase," in Diane B. Bendahmane and John W. McDonald (eds.) *International Negotiations: Art and Science* (Washington D.C: Foreign Service Institute, 1984)

Harold Saunders, "Interactive Conflict Resolution: A View for Policy-Makers on Making and Building Peace," in Paul Stern and Daniel Druckman (eds.) *International Conflict Resolution After the Cold War* (Washington DC: National Academy Press, 2000)

James Saunders, *Apartheid's Friends: The Rise and Fall of South Africa's Secret Service* (London: John Murray, 2006)

Thomas Schelling, *The Strategy of Conflict* (Cambridge: Harvard University Press, 1960)

Robert Schrire, *Adapt or Die: The End of White Politics in South Africa* (London: Hurst and Co., 1991)

Annette Seegers, "The Head of Government and the Executive", in Robert Schrire (ed.) *Malan to De Klerk: Leadership in the Apartheid State* (London: Hurst and Co., 1994)

Annette Seegers, *The Military in the Making of Modern South Africa* (London: Tauris Academic Studies, 1996)

Jeremy Seekings, "The Origins of Political Mobilisation in the PWV Townships, 1980-1984," in William Cobbett and Robin Cohen (eds.) *Popular Struggles in South Africa* (London: James Currey, 1988)

Jeremy Seekings, *The UDF: A History of the United Democratic Front in South Africa 1983-1991* (Cape Town: David Philip Publishers, 2000)

Tor Sellstrom, *Sweden and National Liberation in Southern Africa Volume II: Solidarity and Assistance 1970-1994* (Uppsala: Nordiska Afrikainstitutet, 2002)

Vladimir Shubin, *ANC: A View from Moscow*. (Belville: Mayibuye, 1999)

Sydney Siegel and Lawrence Fouraker, *Bargaining and Group Decision Making: Experiments in Bilateral Monopoly* (New York: McGraw-Hill, 1960)

Thula Simpson, *The People's War of Umkhonto we Sizwe, 1961-1990* Doctoral Dissertation (London: University of London, 2006)

Timothy Sisk, *Democratization in South Africa: The Elusive Social Contract* (Princeton: Princeton University Press, 1995)

Timothy Sisk, *International Mediation in Civil Wars: Bargaining With Bullets* (Oxon: Routledge, 2009)

Theda Skocpol, *States and Social Revolutions: A Comparative Analysis of France, Russia and China*. (Cambridge: Cambridge University Press, 1979)

Steven Spiegel, (ed.), *The Arab-Israeli Search for Peace* (Boulder: Lynne Reiner, 1992)

Stephen Stedman, *Peacemaking in Civil War: International Mediation in Zimbabwe*. (Boulder: Lynne Reiner Publishers, 1991)

Frederik Van Zyl Slabbert *The Quest for Democracy: South Africa in Transition* (London: Penguin, 1992)

South African Institute of Race Relations (SAIRR), *Race Relations Survey, 1984* (Johannesburg: Institute of Race Relations, 1985)

South African Institute of Race Relations (SAIRR), *Race Relations Survey, 1985* (Johannesburg: Institute of Race Relations, 1986)

South African Institute of Race Relations (SAIRR), *Race Relations Survey, 1987/1988* (Johannesburg: Institute of Race Relations, 1988)

South African Institute of Race Relations (SAIRR), *Race Relations Survey, 1988/1989* (Johannesburg: Institute of Race Relations, 1989)

South African Institute of Race Relations (SAIRR), *Race Relations Survey, 1989/1990* (Johannesburg: Institute of Race Relations, 1990)

South African Institute of Race Relations (SAIRR), *Race Relations Survey, 1991/1992* (Johannesburg: Institute of Race Relations, 1992)

Melvin Small and J. David Singer, *Resort to Arms: International and Civil War, 1816-1980* (Beverly Hills: Sage, 1982)

Allister Sparks, *Tomorrow is Another Country: The Inside Story of South Africa's Negotiated Revolution* (Sandton: Struik Book Distributors, 1994)

Janice Gross Stein (ed.) *Getting to the Table: The Process of International Prenegotiation* (John Hopkins University Press, 1989)

Janice Gross Stein, "Preface", in Janice Gross Stein (ed.) *Getting to the Table: The Process of International Prenegotiation* (Baltimore: John Hopkins University Press, 1989)

Berna Suer, *Transformation of Syrian Conflicts with Turkey and Israel in the 1990s: A Comparative Perspective on Ripeness*. Doctoral Dissertation (Ankara: Middle East Technical University, 2011),

Mark Swilling, "Introduction: The Politics of Stalemate", in Philip Frankel, Naomi Pines and Mark Swilling (eds.) *State, Resistance and Change in South Africa* (Johannesburg: Southern Book Publishers, 1988)

Mark Swilling, *Beyond Ungovernability: Township Politics and Local-Level Negotiations* (Johannesburg: Centre for Policy Studies, 1988)

Mark Swilling and Mark Phillips, “The Powers of the Thunderbird: Decision-making Structures and Policy Strategies in the South African State”, in *South Africa at the End of the Eighties* (Johannesburg: Centre for Policy Studies, 1989)

Margaret Thatcher, *The Downing Street Years* (Harpercollins, 1993)

Scott Thomas, *The Diplomacy of Liberation: The Foreign Relations of the ANC Since 1960* (London: Tauris Academic Studies, 1996)

Brian Tomlin, “The Stages of Pre-negotiation: The Decision to Negotiate North American Free Trade Janice Gross Stein (ed.) *Getting to the Table: The Process of International Prenegotiation* (Baltimore: John Hopkins University Press, 1989)

Ben Turok, *Nothing But the Truth: Behind the ANC's Struggle Politics* (Johannesburg: Jonathan Ball, 2003)

Christi van der Westhuizen, *White Power and the Rise and Fall of the National Party* (Cape Town: Zebra Press, 2007)

John von Neumann and Oskar Morgenstern, *The Theory of Games and Economic Behaviour* (Princeton: Princeton University Press, 1944)

Patti Waldmeir, *Anatomy of a Miracle: The End of Apartheid* (New York: Norton, 1997)

Richard Walton and Robert McKersie, *A Behavioral Theory of Labor Negotiations: An Analysis of a Social Interaction System* (New York: McGraw –Hill, 1965)

David Welsh, “The Executive and the African Population: 1948 to the Present”, in Robert Schrire (ed.) *Malan to De Klerk: Leadership in the Apartheid State* (London: Hurst and Co., 1994)

David Welsh, *The Rise and Fall of Apartheid* (Jeppestown: Jonathan Ball, 2009)

Teresa Whitfield, *Paying the Price: Ignacio Ellacuría and the Murdered Jesuits of El Salvador* (Philadelphia: Temple University Press, 1994)

Elisabeth Jean Wood, *Forging Democracy from Below: Insurgent Transitions in South Africa and El Salvador* (Cambridge: Cambridge University Press, 2000)

Robert Yin, “The Abridged Version of Case Study Research: Design and Method” in Leonard Bickman and Debra Rog (eds.), *Handbook of Applied Social Research Methods* (Thousand Oakes: Sage, 1998)

Robert Yin and Darnella Davis, “Adding New Dimensions to Case Study Evaluations: The Case of Evaluating Comprehensive Reforms” in George Julnes and Debra Rog (eds.) *Informing Federal Policies for Evaluation Methodology* (San Fransisco: Jossey-Bass, 2007)

Robert Yin, *Case Study Research: Design and Methods Fourth Edition* (Los Angeles: Sage, 2009)

I. William Zartman, *Ripe for Resolution: Conflict and Intervention in Africa* (New York: Oxford University Press, 1989)

I. William Zartman, "Pre-negotiation: Phases and Functions", in Janice Gross Stein (ed.) *Getting to the Table: The Process of International Prenegotiation* (John Hopkins University Press, 1989),

I. William Zartman, "The Unfinished Agenda: Negotiating Internal Conflicts", in Roy Licklider (ed.) *Stop the Killing: How Civil Wars End* (New York: New York University Press, 1993)

I. William Zartman, "Dynamic and Constraints in Negotiations in Internal Conflicts", in I. William Zartman (ed.) *Elusive Peace: Negotiating an End to Civil Wars* (Washington: Brookings, 1995)

I. William Zartman, "Negotiating the South African Conflict" in I. William Zartman (ed.) *Elusive Peace: Negotiating an End to Civil Wars* (Washington DC: Brookings Institute, 1995)

I. William Zartman, "Bargaining and Conflict Reduction", in Edward Kolodziej and Roger E. Kanet (eds.) *Coping With Conflict After the Cold War* (Baltimore: John Hopkins University Press, 1996)

I. William Zartman, "Conclusion: The Last Mile", in I. William Zartman (ed.) *Elusive Peace: Negotiating an End to Civil Wars* (Washington DC: Brookings, 1995), 334

I. William Zartman, "The Hurting Stalemate and Beyond", in Paul Stern and Daniel Druckman (eds.) *International Conflict Resolution after the Cold War* (Washington: National Academies Press, 2000)

I. William Zartman and Jeffrey Rubin (eds.) *Power and Negotiation* (Michigan: University of Michigan Press, 2002)

I. William Zartman, *Negotiation and Conflict Management: Essays on Theory and Practice* (New York: Routledge, 2008)

I. William Zartman and Maureen Berman, *The Practical Negotiator* (New Haven: Yale University Press, 1982)

Journal Articles

Glenn Adler and Eddie Webster, "Challenging Transition Theory: The Labour Movement, Radical Reform, and Transition to Democracy in South Africa", *Politics and Society*, Vol. 23, No. 1 (March 1995), 75-106

Ramses Amer, "Explaining the Resolution of the China-Vietnam Conflict: How Relevant is Zartman's Ripeness Theory", *Asian Journal of Political Science*, Vol. 12, No. 2, (December 2004), 109-125

Ramses Amer, "The Resolution of the Cambodian Conflict: Assessing the Explanatory Value of Zartman's Ripeness Theory", *Journal of Peace Research*, Vol. 44, No. 6 (2007), 729-742

Howard Barrell, "ANC and Business: The Tactics of Talks", *Work in Progress*, Issue 39 (October 1985)

Howard Barrell, "The Turn to the Masses: The African National Congress Strategic Review of 1978-1979", *Journal of Southern African Studies*, Vol. 18, No. 1 (1992), 64-92

Jacob Bercovitch, "Conflict Management and the Oslo Experience: Assessing the Success of Israeli-Palestinian Peacemaking", *International Negotiation* Vol.2, No. 2 (1997), 233-260

Jane Berret, "Bus Drivers under Attack by Vigilantes" *South African Labour Bulletin* Vol. 13, No. 2 (1988), 45-52

Geoff Berridge, "Diplomacy and the Angola/Namibia Accords", *International Affairs*, Vol. 65, No. 3 (Summer 1989), 478-500

Colin Bundy, "Around Which Corner? Revolutionary Theory and Contemporary South Africa", *Transformation* 8 (1989), 1-23

Peter Coleman, "Redefining Ripeness: A Social-Psychological Perspective", *Peace and Conflict* Vol.3, No. 1 (1997), 81-103

Peter Coleman, Antony Hacking, Mark Stover, Beth Fisher-Yoshida and Andrzej Nowak, "Renconstructing Ripeness I: A Study of Constructive Engagement in Protracted Social Conflicts", *Conflict Resolution Quarterly*, Vol. 6, No. 1 (2008), 3-42

Hugh Corder and Dennis Davis, "The Constitutional Guidelines of the African National Congress: A Preliminary Assessment", *South African Law Journal* 106 (1989), 633-647

John Daniel, "A Response to Guelke: The Cold War Factor in South Africa's Transition", *Journal of Contemporary African Studies*, Vol. 14, No. 1 (1996), 101-104

T.R.H Davenport, "African Townsmen? South African Natives (Urban Areas) Legislation Through the Years", *African Affairs*, Vol. 68, No. 271 (1969), 95-109

T.R.H Davenport, "The Triumph of Colonel Stallard: The Transformation of the Natives (Urban Areas) Act between 1923 and 1937", *South African Historical Journal*, Vol. 2, Issue 1 (1970), 77-96

William Davidson and Joseph Montville, "Foreign Policy According to Freud", *Foreign Policy* 45 (1981), 145-157

Daniel Druckman, "Stages, Turning Points, and Crises: Negotiating Military Base Rights, Spain and the United States," *Journal of Conflict Resolution*, Vol. 30, No. 2 (June 1986), 327-60

Daniel Druckman, "Turning Points in International Negotiation," *Journal of Conflict Resolution*, Vol. 45, No. 4 (August 2001), 519-544

John Dugard, "A Bill of Rights for South Africa?" *Cornell International Law Journal* 23 (1990), 441-466

John Dugard, Introductory Note: South Africa-United Nations High Commissioner for Refugees: Memorandum of Understanding on the Voluntary Repatriation and Reintegration of South African Returnees in *International Legal Materials* 31 (1992), 522

Phil Eidelberg, "South African Apartheid: The Homeland-Township Nexus, 1948-1986", *South African Historical Journal*, Vol. 36, Issue 1 (1997), 88-112

Stephen Ellis, "The Historical Significance of South Africa's Third Force", *Journal of Southern African Studies*, Vol. 24, No. 2 (June 1998), 261-299

Willie Esterhuyse, "Intelligence at Work: Curtain Raisers to 2 February 1990", *The Thinker: For Thought Leaders*, Vol. 13 (2010), 25

John Gerring, "Is There a (Viable) Crucial-Case Method?" *Comparative Political Studies*, Vol. 40, No. 3 (March 2007), 231-253

Philippa Garson, "South Africa: The Killing Fields", *Africa Report*, Vol. 35, Issue 5 (November – December 1990), 47-50

John Gerring, "What Is a Case Study and What Is it Good for?", *The American Political Science Review*, Vol. 98, No. 2 (May 2004), 341-354

Hermann Giliomee, "Survival in Justice: An Afrikaner Debate over Apartheid", *Comparative Studies in Society and History* 36 (July 1994), 527-548

Hermann Giliomee, "Democratisation in South Africa" *Political Science Quarterly*, Vol.110, No. 1 (Spring 1995), pp. 83-104

David Ginsburg, "The Democratisation of South Africa: Transition Theory Tested", *Transformation* 29 (1996), pp. 74-102

Justice Richard Goldstone, "The South African Bill of Rights", *Texas International Law Journal* 32 (1997), 451-470

James Goodby, "When War Won Out: Bosnian Peace Plans Before Dayton", *International Negotiation*, 13 (1996), 501-523

Adrian Guelke, "The Impact of the End of the Cold War on the South African Transition", *Journal of Contemporary African Studies*, Vol. 14, No. 1 (1996), 87-100

Nkosinathi Gwala, "Political Violence and the Struggle for the Control of Pietermaritzburg", *Journal of Southern African Studies* Vol. 15, No. 3 (1989), 506-524

Frances Hagopian, "Democracy by Undemocratic Means? Elite, Political Pacts and Regime Transition in Brazil", *Comparative Political Studies* 23 (July 1990), 147-170

Landon Hancock, "To Act or Wait: A Two-Staged View of Ripeness", *International Studies Perspectives* 2 (2001), 195-205

Caroline Hartzell, "Political Pacts as Negotiated Agreements: Comparing Ethnic and Non-Ethnic Cases", *International Negotiation* 2 (1997), 147-171

Margaret Hermann, "How Decision Units Shape Foreign Policy: A Theoretical Framework", *International Studies Review*, Vol. 3, No. 2, Leaders, Groups and Coalitions: Understanding the People and Processes in Foreign Policymaking (Summer 2001), 47-81

Human Rights Index in *South African Journal on Human Rights* 7 (1991), 140

Terry Karl, "Petroleum and Political Pacts: The Transition to Democracy in Venezuela" *Latin American Research Review*, Vol. 22, No. 1 (1987), pp. 63-94

Terry Karl, "Dilemmas of Democratization in Latin America", *Comparative Politics*, Vol. 23, No. 1 (Oct., 1990), pp. 1-21

Raylene Keightley, "Political Offences and Indemnity in South Africa" *South African Journal on Human Rights* 9 (1993), 334-357

Marieke Kleiboer, "Review: Ripeness: A Fruitful Notion?", *Journal of Peace Research* Vol. 31, No. 1 (February 1994), 109-116

Genevieve Klein, "The British Anti-Apartheid Movement and Political Prisoner Campaigns, 1973-1980", *Journal of Southern African Studies*, Vol. 35, No. 2 (June 2009), 455-470

Philip Levy, "Sanctions on South Africa: What did they do", *The American Economic Review*, Vol. 89, No. 2 (May 1999), 415-420

Daniel Lieberfeld, "Conflict 'Ripeness' Revisited: The South African and Israeli/Palestinian Cases", *Negotiation Journal*, 1 (January 1999), 63-82

Daniel Lieberfeld, "Evaluating the Contributions of Track-Two Diplomacy to Conflict Termination in South Africa, 1984-90", *Journal of Peace Research*, Vol. 39, No. 3 (2002), 355-372

Daniel Lieberfeld, "Promoting Tractability in South Africa and Israel/Palestine: The Role of Semi-Official Meetings," *American Behavioural Scientist* Vol.50, No. 11 (2007), 1544-1570

Tom Lodge, "State of Exile: The African National Congress of South Africa, 1976-86", *Third World Quarterly*, Vol. 9, No. 1, The Politics of Exile (Jan., 1987), 1-27

Hugh Macmillan, "Review: Oliver Tambo: Beyond the Engeli Mountains", *Transformation: Critical Perspectives on Southern Africa* 61 (2006), 119

Paul Maylam, "The Rise and Decline of Urban Apartheid in South Africa", *African Affairs*, Vol. 89, No. 354 (1990), 57-84

Emily McCarthy, Symposium Note, "South Africa's Amnesty Process: A Viable Route toward Truth and Reconciliation?" *Michigan Journal of Race and Law* 3 (1997), 214-238

Kieran McEvoy, "Prisoner Release and Conflict Resolution: International Lessons for Northern Ireland", *International Criminal Justice Review* 8 (1998), 33-60

Gay McDougall and Carl Soberbergh, "The Release of South Africa's Political Prisoners: Definitions and Expectations" *Temple International and Comparative Law Journal* 4 (1990), 5-20

Christopher Mitchell, “Cutting Losses”, *Working Paper 9*, Institute for Conflict Analysis and Resolution (George Mason University, 1995), 1-30

Moorad Mooradian and Daniel Druckman, “Hurting Stalemate or Mediation? The Conflict over Nagorno-Karabakh, 1990-95”, *Journal of Peace Research*, Vol. 36, No. 6 (1999), 709-27

Negotiations” *Mayibuye: Journal of the African National Congress*, Vol. 2, No. 10 (November 1991), 6

Eamonn O’Kane, “When Can Conflicts be Resolved? A Critique of Ripeness”, *Civil Wars*, Vol. 8, No. 3 (September – December 2006), pp268-284

Aziz Pahad, “Nine Days that Shook the World”, *The Thinker: For Thought Leaders*, Vol.13 (2010), 23

Peter Parker, “The Politics of Indemnities, Truth Telling and Reconciliation in South Africa: Ending Apartheid without Forgetting”, *Human Rights Law Journal* 17 (1996), 1-12

Antje Pedain, “Was Amnesty a Lottery? An Empirical Study of the Decisions of the Truth and Reconciliation Commission’s Committee on Amnesty”, *South African Law Journal* 121 (2004), 785-808

Roger Pfister, "Gateway to International Victory: The Diplomacy of the African National Congress in Africa, 1960-1990", *Journal of Modern African Studies*, Vol. 41, No. 1 (2003), 51-73

Ian Phillips, "Political Developments in 1990", *South African Human Rights Year Book*, Vol. 2 (1991), 1-30

Dean Pruitt, "Ripeness Theory and the Oslo Talks", *International Negotiation*, 2 (1997), 237-250

Dean Pruitt, "Whither Ripeness Theory?" *Institute for Conflict Analysis and Resolution*, Working Paper No. 25 (2005), 1-56

Robert Putnam, "Diplomacy and Domestic Politics: The Logic of Two-Level Games", *International Organisation*, Vol. 42, No. 3 (1988), 427-460

Gavin Relly, "The Costs of Disinvestment", *Foreign Policy*, No. 63 (Summer 1986), 132

Robert Rothstein, "The Timing of Negotiations: Duelling Metaphors", *Civil Wars*, Vol.9, No. 3 (September 2007), 262-281

Jeffrey Rubin and I. William Zartman, "Asymmetrical Negotiations: Some Survey Results that may Surprise", *Negotiation Journal*, Vol. 11, No. 4 (1995), 349-364

Nicholas Sambanis, "What is Civil War? Conceptual and Empirical Complexities of an Operational Definition", *Journal of Conflict Resolution*, Vol. 48, No. 6 (December 2004): 829-830

Michael Salla, "Creating the 'Ripe Moment' in the East Timor Conflict", *Journal of Peace Research*, Vol. 34, No. 4 (1997), 449-66

Christopher Saunders, "Why did 'The Boers Give it All Away'?" *South African Historical Journal* Vol. 38, No. 1 (1998), 214-221

John Saul, "South Africa: Between Barbarism and Structural Reform", *New Left Review*, no. 188 (1991), 3-44

Harold Saunders, "We need a larger theory of negotiation: the importance of pre-negotiation phases," *Negotiation Journal* 1 (July 1985), 238-250

Amira Schiff, "Quasi-Track-One Diplomacy: An Analysis of the Geneva Process in the Israeli-Palestinian Conflict," *International Studies Perspectives* 11 (2010), 93-111

Vladimir Shubin, "The Soviet Union/Russian Federation's Relations with South Africa, with Special Reference to the Period Since 1990", *African Affairs*, Vol. 95, No. 378 (1996), 5-23

Thula Simpson, "Toyi-Toying to Freedom: The Endgame in the ANC's Armed Struggle, 1989-1990", *Journal of Southern African Studies*, Vol. 35, No. 2 (June 2009), 508-520

Thula Simpson,, “The Making (and Remaking) of a Revolutionary Plan: Strategic Dilemmas of the ANC’s Armed Struggle, 1974-1978”, *Social Dynamics*, Vol. 35, No. 2 (September 2009), 316-341

Zola Skweyiya, “A Post-Apartheid Constitution: Towards a Negotiated Solution”, *Sechaba*, Vol. 24, No. 11 (November 1990), 14

Nick Smythe, “Race Classification: The Implications of the Repeal of the Population Registration Act”, *South African Human Rights Year Book* 3 (1992), 240-241

Janice Gross Stein, “Getting to the Table: Triggers, Stages, Functions and Consequences”, *Canadian International Journal*, Vol. 44, No. 2, Getting to the Table: Process of International Prenegotiation (Spring, 1989), 475-476

Rupert Taylor, “The Myth of Ethnic Division: Township Conflict on the Reef”, *Race and Class*, Vol. 33, No. 2 (1991), 1-14

Frederick Van Zyl Slabbert, “From Domination to Democracy”, *Leadership SA*, Vol. 9, No. 4 (1990)

Chantelle Wyley and Ian Phillips, “Political Developments”, *South African Human Rights Year Book* 3 (1992), 197-225

I. William Zartman, “Conflict and Resolution: Contest, Cost and Change”, *Annals of the American Academy of Political and Social Science*, Vol. 518, Resolving Regional Conflicts: International Perspectives (November 1991), 11-22

I. William Zartman, “Explaining Oslo”, *International Negotiation* 2 (1997), 195-215

I. William Zartman, “The Timing of Peace Initiatives: Hurting Stalemates and Ripe Moments”, *Global Review of Ethnopolitics*, Vol. 1, No. 1 (September 2001), 8-18

I. William Zartman, “What I Want to Know about Negotiations”, *International Negotiation* 7 (2002), 5-15

Unpublished Papers

Omar Encarnación, “The Legacy of Transitions: Pact-Making and Democratic Consolidation in Spain” Working Paper 2003/193, September 2003

Kate Savage, “Negotiating the Release of Political Prisoners in South Africa” Research Report written for the Northern Ireland Programme at the Kennedy School of Government at Harvard (2000)

Zola Skweyiya, “The ANC Constitutional Guidelines – A Vital Contribution to the Struggle Against Apartheid” (Unpublished paper presented at Harare Conference, 1989)

I. William Zartman, “MEOs and Durable Settlements: A Theoretical and Empirical Evaluation of the Reasons for Durability of Peaceful Settlements in Civil Wars.” Prepared for delivery at the 2004 Annual Meeting of the American Political Science Association, September 2 – September 5, 2004

Official Documents

African National Congress, Fraternal Message from the African National Congress to the FRELIMO Party, 31 January 1984. Folder 54, Part 3, A2675 Karis-Gerhart Collection, Historical Papers, University of the Witwatersrand

African National Congress, "Some Questions Pertaining to the Frontline States/Liberations Movements' Discussion on the Strategy for the Liberation of South Africa." Discussion Memorandum. 15 August 1984, Folder 56, Part 3 Karis-Gerhart Collection, Historical Papers, University of the Witwatersrand

African National Congress, "Summary of Discussions Between Certain Representatives of Big Business and Opinion-Makers in South Africa and the ANC." ANC memorandum, September 14, 1985. Document 126 in Gail Gerhart and Clive Glaser, *From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882-1990, Volume 6: Challenge and Victory 1980-1990* (Bloomington: Indiana University Press, 2010), 576-577

African National Congress, "A Submission on the Question of Negotiations." Internal ANC Policy Paper, Lusaka, November 27, 1985. Document 129 in Gail Gerhart and Clive Glaser, *From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882-1990, Volume 6: Challenge and Victory 1980-1990* (Bloomington: Indiana University Press, 2010), 589

African National Congress, "The Preliminary Nature of the Constitutional Document." Internal ANC Policy Paper Presented to the National Executive Committee, 14 January 1986. BC 1081 (P25.4) Manuscripts and Archives Department, University of Cape Town

African National Congress, Memorandum to the NEC by the Constitutional Committee, September 20, 1986. BC 1081 (P25.5) Manuscripts and Archives Department, University of Cape Town

African National Congress, “The Question of Negotiations.” Statement by the ANC National Executive Committee, Lusaka, October 9, 1987. Document 139 in Gail Gerhart and Clive Glaser, *From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882-1990, Volume 6: Challenge and Victory 1980-1990* (Bloomington: Indiana University Press, 2010)

African National Congress, “Pointers towards an initiative aimed at imposing negotiations on the ANC”, 23/7/1987, MCH01-66.2, ANC Archives, Mayibuye Centre, University of the Western Cape

African National Congress, “Decisions of the National Executive Committee Meeting 5th-9th October 1987”, MCH01-51.1, point 14 a,b, ANC Archives, Mayibuye Centre, University of the Western Cape

African National Congress, “NM’s possible release – Decisions of the National Working Committee”, 28/10/88, MCH01-51.2, pp1-2, ANC Archives, Mayibuye Centre, University of the Western Cape

African National Congress, Report on a meeting held in Henley-on-Thames, England, with three Stellenbosch academics, October 31 – November 1, 1987 (abridged). Document 146 in Gail Gerhart and Clive Glaser, *From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882-1990, Volume 6: Challenge and Victory 1980-1990* (Bloomington: Indiana University Press, 2010)

African National Congress, "Constitutional Guidelines for a Democratic South Africa." ANC policy paper, Lusaka, August 1988. Document 153 in Gail Gerhart and Clive Glaser, *From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882-1990, Volume 6: Challenge and Victory 1980-1990* (Bloomington: Indiana University Press, 2010)

African National Congress, Constitutional Guidelines for a Democratic South Africa, reprinted in *South African Journal on Human Rights* 5 (1989)

African National Congress, 'A Document To Create a Climate of Understanding.' Document forwarded by Nelson Mandela to F.W De Klerk on 12 December 1989

African National Congress, Statement of the National Executive Committee of the ANC, 16 February 1990, Lusaka, Zambia

African National Congress, Opening Statement by ANC Deputy President Nelson Mandela, at a meeting with President de Klerk on the situation in Natal, 11 September 1990, Pretoria

African National Congress, Resolutions of the National Consultative Conference in Durban, 16 December 1990

African National Congress, Statement of the National Executive Committee on the Occasion of the 79th Anniversary of the ANC, 8 January 1991

African National Congress, Press Statement: Solidarity with the Political Prisoners Strike, 12 May 1991

African National Congress, Adopted Resolutions on Negotiations at the ANC 48th National Conference in Durban, July 1991

African National Congress, Press Statement: The NWC of the ANC on state-sponsored violence and funding of Inkatha, 22 July 1991

African National Congress, Press Statement: Consultative Meeting, 29 July 1991

African National Congress, Press Statement: Restructuring of the Departments of the organisation and the allocation of portfolios to members of the National Working Committee of the ANC, 2 August 1991

CODESA 1 – Declaration of Intent, 21 December 1991. Document 22 in Hassen Ebrahim, *The Soul of a Nation: Constitution-Making in South Africa* (Cape Town: Oxford University Press, 1998), 529

“Declaration of the Organisation of African Unity Ad Hoc Committee on Southern Africa on the Question of South Africa” (Harare Declaration), August 21, 1989. Document 174, in Gail Gerhart and Clive Glaser, *From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882-1990, Volume 6: Challenge and Victory 1980-1990* (Bloomington: Indiana University Press, 2010)

Department of Defence, Republic of South Africa, *White Paper on Defence and Armaments Production, 1975* (Cape Town, 1975)

Department of Defence, Republic of South Africa, *White Paper on Defence and Armaments Production, 1977* (Cape Town, 1977)

F.W. De Klerk's speech at the opening of Parliament 2 February 1990. Document 16 in Hassen Ebrahim, *The Soul of a Nation: Constitution-Making in South Africa* (Cape Town: Oxford University Press, 1998)

Final Communique, Front Line States Summit Meeting, Arusha, Tanzania, 29 April 1984 cited in Alves Gomes, "Southern Africa 1984", *Review of African Political Economy*, No. 29 (1984), 144-146

The DF Malan Accord, 12 February 1991 Document 19 in Hassen Ebrahim, *The Soul of a Nation: Constitution-Making in South Africa* (Cape Town: Oxford University Press, 1998)

The Groote Schuur Minute reprinted in *South African Journal on Human Rights* 6 (1990), 318

Letter from the South African Foreign Minister, Mr R.F Botha to the United Nations High Commissioner for Refugees, 1 October 1991 in *International Legal Materials* 31 (1992)

Memorandum of Understanding Between the Government of the Republic of South Africa and the United Nations High Commissioner for Refugees on the Voluntary Repatriation and Reintegration of South African Returnees in *International Legal Materials* 31 (1992)

The Mandela Document: Full Text of the Document Presented by Nelson Mandela to PW Botha, July 1989. BC 1081 (P32.1) Manuscripts and Archives Department, University of Cape Town

Nelson Mandela, Opening Address to the ANC National Consultative Conference in Durban, 14 December 1990

Nelson Mandela, Opening Address to the 48th National Conference of the African National Congress in Durban, 2 July 1991

Report of the Native Laws Commission 1946-48, Department of Native Affairs, Union of South Africa, Pretoria 1948, UG No. 28 – 1948 (Chair: Fagan) – (Fagan Report)

Republic of South Africa, *Report of the Commission of Inquiry into the Legislation Affecting the Utilisation of Manpower* (Riekert Commission Report) (Pretoria: Government Printer, 1979)

Jan Smuts, “The Basis of Trusteeship in African Native Policy.” An address delivered under the auspices of the South African Institute of Race Relations in City Hall, Cape Town, 21 January 1942 (Johannesburg: SAIRR, 1942)

Oliver Tambo, Political Report on the National Executive Committee to the National Consultative Conference of the African National Congress. 17 June 1985, Kabwe, Zambia

Oliver Tambo, Notes for Meeting with Secretary of State, Mr George Schultz. BC 1081 (P14.1) Manuscripts and Archives Department, University of Cape Town

Oliver Tambo, Opening Address to the ANC National Consultative Congress in Durban, 14 December 1990

The Pretoria Minute reprinted in *South African Journal on Human Rights* 6 (1990)

Report of the Working Group Established Under Paragraph 1 of the Groote Schuur Minute reprinted in *South African Journal on Human Rights* 6 (1990), 319

Republic of South Africa, *Truth and Reconciliation Commission Report Vol. 1* (Cape Town: Government Communications and Information Systems, 2003)

The Text, 1989-09-01, 16:39, Prison Service HQ 80668009, MCH01-67.4, ANC Archives, Mayibuye Centre, University of the Western Cape

Minutes of Meetings

African National Congress, ANC National Working Committee minutes, Lusaka, February 22, 1988. Document 143 in Gail Gerhart and Clive Glaser, *From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882-1990, Volume 6: Challenge and Victory 1980-1990* (Bloomington: Indiana University Press, 2010)

Minutes of a Meeting Between President Kenneth Kaunda and South African Representatives, Lusaka, 25 June 1984, Topic 440, Frontline States Joint Monitoring Commission

“The Situation in South Africa: Minutes of Evidence.” Testimony of Oliver Tambo and Thabo Mbeki before the Foreign Affairs Committee of the British House of Commons, October 29, 1985 (abridged) Document 127 in Gail Gerhart and Clive Glaser, *From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882-1990, Volume 6: Challenge and Victory 1980-1990* (Bloomington: Indiana University Press, 2010), 583

Minutes of ANC NWC Special Meeting, 26 April 1986

Report of Meeting Between President of the ANC Oliver Tambo and the U.S. Secretary of State, George Schultz: State Department: 28 January 1987. BC 1081 (P14.1) Manuscripts and Archives Department, University of Cape Town

African National Congress, "Minutes of meeting on 8/9/87 in London Between Ourselves and the Sparrow Comrades", MCH01-66.3, p6, ANC Archives, Mayibuye Centre, University of the Western Cape

Transcripts of Interviews

Transcript of Bill Anderson interview by Howard Barrell, 8 April 1991, Folder 1 Part 1, Karis-Gerhart Collection, Historical Papers, University of the Witwatersrand

Transcript of Neil Barnard interview by Patti Waldmeir, 25 November 1994. Giliommee Papers BC 1070, Manuscripts and Archives Department, University of Cape Town

Transcript of Niel Barnard interview with Pdraig O'Malley, 17 September 1998

Transcript of Niel Barnard interview with John Carlin, 25 May 1999

Transcript of Mangosuthu Buthelezi interview with Pdraig O'Malley, 28 August 1991

Transcript of Kobie Coetsee interview by Patti Waldmeir, 3 March 1995. Giliommee Papers BC 1070, Manuscripts and Archives Department, University of Cape Town

Transcript of Kobie Coetsee interview with Padraig O'Malley, 26 September 1997

Transcript of Kobie Coetsee interview with Padraig O'Malley, 5 September 1998

Transcript of Kobie Coetsee interview with John Carlin, 25 May 1999

Transcript of Kobie Coetsee interview with Padraig O'Malley, 6 November 1999

Transcript of President FW De Klerk Press Conference at the Presidency, 30 July 1991, The O'Malley Archives

Transcript of Harry Gwala interview with Padraig O'Malley, 8 January 1993

Transcript of Chris Hani interview with Padraig O'Malley, 15 August 1991

Transcript of Ronnie Kasrils interview with Howard Barrell, 19 August 1989, Folder 14, Part 1 Karis-Gerhart Collection, Historical Papers, University of the Witwatersrand

Transcript of Ronnie Kasrils interview with Howard Barrell, 13 September 1990, Folder 14, Part 1 Karis-Gerhart Collection, Historical Papers, University of the Witwatersrand

Transcript of Mike Louw interview by Patti Waldmeir. Giliommee Papers BC 1070, Manuscripts and Archives Department, University of Cape Town

Transcript of Mac Maharaj interview with Howard Barrell, 20 November 1990. Folder 18 Part 1 Karis-Gerhart Collection, Historical Papers, University of the Witwatersrand

Transcript of Mac Maharaj interview by Howard Barrell, 30 November 1990, Folder 18, Part 1 Karis-Gerhart Collection, Historical Papers, University of the Witwatersrand

Transcript of Mac Maharaj interview by Howard Barrell, 3 February 1991, Folder 18, Part 1 Karis-Gerhart Collection, Historical Papers, University of the Witwatersrand

Transcript of Peter Mayibuye (Joel Netshitenzhe) interview by Howard Barrell, 11 July 1989, Folder 28, Part 1 Karis and Gerhart Collection, Historical Papers, University of the Witwatersrand

Transcript of Mohammed Valli Moosa interview with Pdraig O'Malley, 25 July 1991

Transcript of Dikgang Moseneke interview with Pdraig O'Malley, 26 August 1991

Transcript of Ivan Pillay interview by Howard Barrell, 20 July 1989, Folder 31, Part 1 Karis-Gerhart Collection, Historical Papers, University of the Witwatersrand

Transcript of Ivan Pillay interview by Howard Barrell, 23 July 1989, Folder 31, Part 1 Karis-Gerhart Collection, Historical Papers, University of the Witwatersrand

Transcript of Ivan Pillay interview with Pdraig O'Malley, 11 December 2002

Transcript of Sue Rabkin interview by Howard Barrell, 7 July 1989, Folder 32, Part 1 Karis-Gerhart Collection, Historical Papers, University of the Witwatersrand

Transcript of Cyril Ramaphosa interview with Pdraig O'Malley, 16 August 1991

Transcript of Zola Skweyiya interview with Pdraig O'Malley, 15 July 1991

Transcript of Garth Strachan interview by Howard Barrell, 28 December 2004, Folder 36, Part 1 Karis-Gerhart Collection, Historical Papers, University of the Witwatersrand

Transcript of Gerrit Viljoen interview with Pdraig O'Malley, 26 July 1991

Transcript of Michael Young interview by John Carlin, 25 May 1999

Newspaper Articles

George Schultz, "This is the Plan", *New York Times*, 18 March 1988