THE REPRESENTATION AND PARTICIPATION OF PROVINCES IN INTERNATIONAL RELATIONS IN SOUTH AFRICA, CASE STUDY: WESTERN CAPE PROVINCE

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Declaration

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<u>Abstract</u>

With globalization the world has become a much smaller place and there has been an increase in the types of actors that take part in international relations. Even though foreign policy is normally the domain of the national government, sub-national governments have also started to make their mark in the international arena. The study of the role that sub-national governments play in the international arena, as well as how they are represented nationally has been narrowed down to South Africa and one of its nine provinces, namely the Western Cape Province. The thesis looks at how the provinces in South Africa are able to play a role internationally and what powers they are given by the Constitution. In South Africa provinces are allowed to sign Twinning agreements; although these agreements are not legally binding in terms of International Law. For this thesis I use a 'case study' design to focus the study, the case study for this thesis is the Western Cape Province. In terms of the research methodology for data collection, I conducted interviews with Minister Ivan Meyer who is the Minister responsible for international relation in this province. I also interviewed Mr. Roderick Thyssen who is part of the Directorate of International Relations which forms part of the Office of the Premier. Further primary data used in this study includes government documents, speeches, documentation on the agreements signed by the Western Cape Province, and the Constitution of South Africa. Secondary sources include books, journal articles and internet sources.

The study uses the theory of micro-diplomacy to show the "awareness of universal interdependence." Micro-diplomacy is not, however, a new concept but since interdependence across different levels of government has become increasingly more prevalent it has developed into an important phenomenon, requiring study. The concept implies that international relations are no longer the sole domain of national government, but that international relations and agreements are entered into on the provincial level as well, where provincial governments have taken responsibility for the "well-being of their respective territorial communities and for their own political survival in them" (Duchacek, 1984:15). The thesis found that even though the constitution of South Africa does not specifically give provinces the right to enter into international relations it also has not been clearly defined, which means there is room for interpretation. The Western Cape Province is a very active province in the international arena

and market themselves in order to get more investments in the province for more funding to make it possible to deliver services more effectively.

Provinces however are encountering obstacles such as, not being financially empowered, as well as lacking some important resources. Opportunities are however given in the form of support by institutions, such as the National Council of Provinces (NCOP), Consultative Forum of International Relations (CFIR), Ministers and Members of the Executive Council (MinMecs) and the President's Co-ordinating Council (PCC), created to represent the provinces where they can express their specific needs and where they can also coordinate with the national sphere of government. There has been a realisation by the national government that they are no more the only actors internationally and they have started encouraging provinces to promote themselves

Opsomming

Met globalisering het die wêreld baie kleiner geword en was daar 'n toename in die tipes akteurs wat deelneem aan internasionale betrekkinge. Alhoewel buitelandse beleid normaalweg binne die domein van die nasionale regering val, het sub-nasionale regerings ook begin deel neem in die internasionale arena. Die bestudering van sub-nasionale regerings se rol in internasionale betrekkinge, as ook hoe hulle op nasionale vlak verteenwoordig word, is vereenvoudig na die voorbeeld van Suid-Afrika en een van die land se nege provinsies, naamlik die Wes-Kaap Provinsie. Die studie kyk na hoe die provinsies in Suid-Afrika 'n rol speel op internasionale vlak en watter magte aan die provinsies gegee word deur die Grondwet. In Suid-Afrika word provinsies toegelaat om "Twinning" ooreenkomste te onderteken. Hierdie ooreenkomste is egter nie wettiglik bindend in terme van Internasionale Wetgewing nie. Vir hierdie tesis gebruik ek 'n gevalle studie om die studie te fokus. Die gevalle studie vir hierdie tesis gebruik die Wes-Kaap Provinsie as die fokus. In terme van die navorsingsmetodologie vir die insameling van data, het ek onderhoude gevoer met Minister Ivan Meyer. Minister Meyer is verantwoordelik vir die hantering van internasionale verhoudings in die provinsie. Ek het ook 'n onderhoud gevoer met Mnr. Roderick Thyssen, wat deel is van die Direktoraat van Internasionale Verhoudings wat deel uit maak van die Kantoor van die Premier. Verdere primêre data wat gebruik word vir die studie, sluit regeringsdokumente, toesprake, dokumentasie oor die ooreenkomste wat geteken is deur die Wes-Kaap Provinsie en die Grondwet van Suid- Afrika in. Sekondêre bronne sluit boeke, joernaal artikels en internet bronne in.

Mikro-diplomasie teorie word gebruik om te wys dat daar 'n bewustheid is van universele interafhanklikheid. Die konsep van Mikro-diplomasie is nie nuut nie, maar aangesien die interafhanklikheid tussen die verskillende regeringsvlakke besig is om toe te neem vereis dit verdere studie. Die konsep dui daarop dat die internasionale verhoudings nie net hanteer word deur die nasionale regering nie, maar dat internasionale betrekkinge en ooreenkomste ook op provinsiale vlak geteken word deur provinsiale regerings wat verantwoordelikheid geneem het vir die welstand van hulle gemeenskappe en politieke oorlewing (Duchacek,1984:15).

Die tesis het gevind dat alhoewel die Grondwet van Suid-Afrika nie spesifieke regte gee aan provinsies wat internasionale verhoudings betref nie, is dit ook nie duidelik uitgelê en gestipuleer in die Grondwet nie, wat dit oop los vir interpretasie. Die Wes-Kaap Provinsie is baie aktief in die internasionale arena

en bemark die provinsie op 'n internasionale vlak met die oog om buitelandse belegging te lok na die provinsie om dienslewering te verbeter.

Provinsies ondervind struikelblokke soos geen finansiële bemagtiging en die ontbreking van belangrike hulpbronne. Daar is egter bystand geleenthede wat deur instellings soos die Nasionale Raad van Provinsies, Konsulterende Forum vir Internasionale Verhoudings, Ministers en Lede van die Uitvoerende Raad en die President se Koördinerende Raad gegee word, dit is die doel van die instellings om provinsies te verteenwoordig en waar provinsies hulle behoeftes kan voorlê en skakel met die nasionale sfere van regering. Daar is 'n duidelike besef by die nasionale vlakke van regering, dat hulle nie meer alleen deel neem op die internasionale verhoog nie en dus moedig hulle provinsies aan hom hulself te bemark.

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LIST OF ACRONYMS

ANC	African National Congress
ACDP	African Christian Democratic Party
CODESA	Convention for a Democratic South Africa
CFIR	Consultative Forum of International Relations
DA	Democratic Alliance
DP	Democratic Party
DIRCO	Department of International Relations and Cooperation
IFP	Inkatha Freedom Party
MINMECs	Ministers and Members of the Provincial Executive Council
MPNP	Multi-Party Negotiating Process
NCOP	National Council of Provinces
NP	National Party
NNP	New National Party
OAU	Organisation of African Unity
PCC	President's Coordinating Council
SACP	South African Communist Party

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CHAPTER ONE: INTRODUCTION

1.1 Background and rationale

Foreign policy is mainly the domain of the National Government of a country, but in these changing times of globalization, is it still possible that there is only one decision-making authority? In this study's case, for instance, these decisions, could directly influence the provinces of a specific country. "Sub national presence on the international scene has become a fact of life in an interdependent world. It is neither a blessing nor a curse" (Duchacek, 1984:30). As stated by Brand (2001), it might be time for "provinces, states or länder to re-evaluate their role" in international relations. Even though the making of foreign policy in South Africa is, overall, in the hands of the national government as stated in the Constitution, it is the aim of this study to evaluate what the powers given to the provinces of South Africa are, in terms of international relations, and in terms of the representation of the provinces in international relations.

After 1994, following apartheid with many sanctions in place making it impossible for the South African government to have any relations with other countries, it was possible for South Africa once again, to participate in certain international institutions. These events were drastically to change the way in which the South African provinces would see their role in the international arena. "International relations are not any more the exclusive domain of the national or federal level of government in federal systems, but it is evident that provinces are also significant actors in the international arena" (Brand, 2002: xx).

As already stated, foreign relations are mainly the sphere of the national government but that does not mean the provinces of South Africa do not participate in some form of foreign relations, or in how they are represented by the National Council of Provinces (NCOP). There are, however, arguments about the way in which provinces and municipalities take part in "international relations and their role in national treaty negotiations affecting their jurisdiction" (Murray & Nakhjavani, 2007) especially in the context of the South African constitution.

Since 1995 the Western Cape Province of South Africa has had many different co-operation agreements with a range of other regional governments around the world. Some of these regional governments include: Burgundy in France; Bavaria in Germany and Shandong in the People's Republic of China to name just a few. The types of co-operation agreements between the Western Cape Province and the other regional governments range from education, economy, development, tourism, culture and so forth. These types of agreements made between the different regional governments are mutually beneficial and are a way to share knowledge across the world.

In South Africa, as in most countries, foreign policy is primarily the domain of the National Government, however, in the Constitution; powers are also allocated to the provinces authorizing entry into many types of international agreements. These include co-operation agreements, minutes of understanding and protocols with other regional governments worldwide. However, these agreements can only be on issues that pertain to the province's jurisdiction.

With these powers in mind the question arises: How do provinces participate in foreign policy that is made by the National Government? And how are they represented when international agreements are entered into that will affect the provinces directly? A third question is: To what extent are provinces able to operate in their constitutional mandate?

1.2 Literature review

The Western Cape Province is the only province in South Africa with its own constitution. This province has participated and formed many bilateral agreements with other countries around the world. For this thesis I will use this province as my case study to look at the ways in which provinces participate in some form of international relations. The sources I will use to gather information will be government documents, interviews with government officials and journal articles.

The theoretical approach for this thesis, to be discussed in more detail in the second chapter, is what Duchacek (1984) calls global micro-diplomacy. He states that the main cause for global micro-diplomacy is the "awareness of universal interdependence." This interdependence is not, however, a new concept but since it has become important it is now a new phenomenon. The concept has worked

itself down from national government to provincial level where the staff takes responsibility for the "well-being of their respective territorial communities and for their own political survival in them" (1984:15).

A definition for global micro-diplomacy, as put forth by Duchacek (1984:13), describes the subnational micro-diplomacy that looks for "cooperative contacts and compacts" not in close proximity but rather with distant centers of "economic and political power". This global micro-diplomacy thus implies that subnational governments station permanent missions in various parts of the world, but this is only the "tip of the subnational iceberg in foreign relations" (p.13). This ties into what Brand (2002: 677) shows, that provinces have an innate right "based on their constitutional status, their original legislative competencies and their right to legislate on any matter which is 'reasonably necessary for, or incidental to, the effective exercise' of their legislative powers." Another South African scholar also agrees with this argument, Cornelissen (2006: 135) states that; "effectively, the fostering of sub-national relationships leads to the development of economic and political networks, and brings the interface between distant (political and policy) sites far closer." De Villiers (2008: 16) states that it has been experienced internationally that when provinces take part in the decision-making processes of a country it enables them to function more effectively.

In this chapter the concept of micro-diplomacy will be examined with the aid of scholars such as Duchacek (1984), whose ideas form the base of this theoretical approach. Other scholars aiding this study are; Holsti and Levy (1993), Hocking (1999), De Villiers (1999 and 2007), Keating (1999), MacLeod (2001), Brand (2001 and 2002), Mingus (2003), Wollf (2007) and Makoni *et al* (2008).

1.3 Problem statement

The research question for this thesis is as follows: What are the powers given to sub-national government structures, for example, provinces in South Africa, to participate in international relations and how are provinces represented on the national level? A subsequent question is: To what extent are provinces able to operate in their constitutional mandate? The aim is to look at alternative or better

ways in which the provinces could be more engaged and make a bigger impact in the decision-making process of certain agreements - especially in terms of international agreements.

It is argued that sub-national governments should have more power and autonomy to enter into foreign relations. With globalization, the world has become a smaller place and even within countries, it has become easier and necessary for all levels of government to become more involved in international relations - especially when it affects their specific jurisdiction. Following this the thesis will investigate how provinces in South Africa participate in international relations and how they are represented on national level, if at all.

1.4 Research methodology

This study will be a qualitative study, as explained by Creswell (1994: 145). A qualitative study focuses on the following aspects: there is a focus on process, there is an interest in meaning and the researcher is the main instrument in the collecting of data. The research will be descriptive and exploratory. It is also inductive, which can be explained as follows; in an inductive study one starts with "specific observations and measures, begin to detect patterns and regularities, formulate some tentative hypotheses that one can explore, and finally end up developing some general conclusions or theories" (Trochim, 2006).

The nature of this study will be exploratory. According to Babbie and Mouton (2006: 80), exploratory studies are done for a number of reasons; "(1) to satisfy the researcher's curiosity and desire for better understanding, (2)to test the feasibility of undertaking a more extensive study, (3) to develop the methods to be employed in any subsequent study, (4) to explicate the central concepts and constructs of a study, (5) to determine priorities for future research, and (6) to develop new hypotheses about an existing phenomenon." The research design is a case study; namely, an investigation of the Western Cape Province. My unit of analysis is thus provinces which fall under what Babbie and Mouton states, the concept of a "World 1 object" (2006: 84).

I aim to explore the extent to which provinces are involved in international relations and discuss whether it is necessary for provinces to be more involved in international relations. With the

information gathered, I hope to find ways in which the provinces will be able to take part in foreign policy while being represented more on the national government level, for example through the NCOP.

The research methodology includes key informant interviews and the reviewing of primary and secondary data. Primary resources include: government papers and documentation on the agreements and protocols entered into by the Western Cape Province; structured interviews with government officials and other experts that work in this field; and the South African Constitution. The secondary resources that I use are books, journal articles as well as internet resources.

For the interviews, I have compiled a list of questions which would be aiding me in possibly answering the question posed in my problem statement. These questions are:

1. In terms of international relations on national level how much consideration is given to provinces when decisions are made?
2. In terms of international relations as set out by the constitution what are the powers of the provinces?
3. In which way are provinces represented on national level?
4. Are the bodies that represent the provinces sufficient and effective?
5. Does party-politics have any influence in the "real" representation of provinces on national level?
6. What is the nature of the international agreements signed by provinces?
7. How much autonomy do the provinces have in the final stages of these kinds of agreements?
8. Is it possible to increase the representation and participation of provinces in international relations?
9. What will be the effect on the country if the provinces could get more power in participating in international relations?

These findings form the basis for observations to be discussed in the final chapter.

1.5 Limitations and delimitations

This study has a few limitations: firstly, it is a mini thesis which makes it difficult to do an in-depth study on the subject as one is limited by the length and detail required. Secondly, time is a limitation in this study, not only for the writing of the thesis but also for information-gathering from certain individuals. Thirdly, there is a limitation in terms of information due to the fact that little has been written on this specific topic and much reliance is placed on primary information gathered from interviews with government employees whose individual perceptions might make it somewhat difficult as the information could be a little biased.

A delimitation is the use of only one case study namely, the Western Cape Province. The main focus of research will be on the question of how provinces, in this case the provinces of South Africa, are represented on national level - specifically their participation and representation in international relations. The study will look at some of the "agreements" entered into by the Western Cape Province, how these agreements were managed and what some of the outcomes were. The example of such types of agreements with other provinces internationally could serve as a way to examine the impact they have had on the province, and possibly serve as a reason why provinces should have more power, representation and more participation in foreign policy on national level.

The time frame of the study is another delimitation. The time frame of the case study, as discussed in chapter four, will be from 1995 as it will focus on the agreements that the Western Cape Province has undertaken since then until 2007.

1.6 Structure of study

This study will have Five Chapters, which are outlined below:

Chapter One: Introduction

This chapter provides the introduction and gives a general background to the study. The problem statement, objectives, and the methodology used are outlined in this chapter.

Chapter Two: Theoretical foundation

This chapter discusses the theory of Global Micro-diplomacy and how this demonstrates the way in which provinces can, and already do, take part in international relations on different levels.

Chapter Three: The development of the South African Constitution

This chapter looks at the rationale behind South Africa's more unitary system, as well as the influences behind this decision. I also look at the influence of the German Constitution and other government systems on the creation of South Africa's Constitution especially with the creation of the provinces and the powers given to them.

Chapter Four: South Africa's provinces: The Western Cape Province

This chapter looks at the powers of the provinces in terms of international relations. I also look at the Western Cape Province and the types of agreements that they have undertaken. Then I look at how the province is represented on the National Government level. I do this with the help of the interviews that I had with government employees. At the end of this chapter I will discuss my findings, in terms of what I have discovered during this study.

Chapter Five: Conclusion

In this final chapter I will summarize what I have done in this thesis and then discuss the main findings of this thesis.

1.7 Conclusion

With foreign policy traditionally being the domain of the national government of a country it is not expected that provincial governments would take part internationally. However in the time of globalization it has become necessary and a fact of life that provinces become actors in the international arena. Thus this study explores how provinces take part in international relations with the help of theory of micro-diplomacy as example of how it is possible for them to take part. In the following chapter I will look at the theoretical foundation of this study, namely global micro-diplomacy.

CHAPTER TWO: THEORETICAL OVERVIEW

2.1 Introduction

As debated by Keating (1999), there are several reasons for the increasing involvement of provinces in international relations. The reasons given are: the changes on state level as well as in the international system; and the changes in "political and economic developments within regions themselves" (Keating, 1999: 1). According to Keating, the rise of globalization and transnational regimes have made it difficult to see the difference between "domestic and foreign affairs". This, in turn, has changed the distribution of responsibilities "between state and subnational governments". The concept of provinces being more active in the international relations of a country is not such a strange concept, especially not for scholars such as Duchacek, Makoni, Meiklejohn and Coetzee , Wollf, Mingus, Brand, De Villiers, Keating and so forth, who have done research in the field of micro-diplomacy. In this chapter there will be references to the 'region', defined by Makoni *et al* (2008) as "the level below the nation-state and above the local authority."

In this study the terminologies micro-diplomacy as stated above, as well as para-diplomacy[1] will be used to describe the concept of regions or provinces taking part in international relations. The aim of the literature review is to show that the concept of provinces being more involved in international relations is a very realistic aim and it is something that would happen naturally, especially in this time of globalization. "Given its strategic positioning within a globalised context, the region has been canonized as a critical space for distilling supra-national and local socio-economic, and environmental processes" (Makoni, Meiklejohn & Coetzee, 2008:297).

The aim of this chapter is to show how the theory of para-diplomacy makes it is possible for provinces to be involved in the international relations of their national governments. My purpose is to look at the different ways in which provinces can further participate, and have participated, in international relations. In this chapter we will be focusing specifically on the article; *The International Dimension of Subnational Self-Government*" by Ivo D Duchacek (1984) as the base of the theoretical overview. I rely on the article by Duchacek the most because his theory of micro-diplomacy has been used by

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[1] The term "new regionalism" is also sometimes used, but should not be confused with another theory by the same name.

many other scholars that has come after him and he can be seen as the main theorist when it comes to micro-diplomacy. This study will also include other authors such as; Wolff (2007), Mingus (2003), Makoni *et al*. (2008) who have written on the subject of para-diplomacy/ micro-diplomacy.

2.2 Understanding the development of micro-diplomacy

Mingus (2003:3) states that with globalization changes have come with a rise of subnational governments and, as a result, a possible "weakening of the state". He states that the exchanges across national borders are very complex and that a variety of different actors are involved with these exchanges, for example, "nation-states, subnational governments, quasi-governmental organizations and an array of private and non-profit organizations" (Mingus, 2003:3). Duchacek (1984:5) explains that interdependence and domestic issues are the reasons why many regional governments have gone into international relations themselves, particularly into matters mostly regarding their own jurisdictional powers, such as "trade promotion, foreign investment, employment and rights of foreign workers, environmental and energy issues, and tourism".

This development is both practically and conceptually challenging, according to Stefan Wolff (2007:1). He states it is conceptually challenging because international relations as a discipline does not see regional governments as "subjects of international relations". Practically it is challenging because there is a claim for external sovereignty by states, which is a "unique right". This somehow gets "hollowed out" if and when they have to "share this essential prerogative of stateness" (Wolff, 2007: 1).

Duchacek identifies two forms of the resulting para-diplomacy; the first being, "transborder regional regimes" and the second "global micro-diplomacy". He states the initiatives taken by regional governments in foreign relations have had mixed reactions from the national governments. These reactions range from positive to that of no concern, or negatively, in terms of their activities being "politically marginal, complementary with, redundant to, or conflicting with national foreign policy" (1984:5). Duchacek (p.6) uses the term micro-diplomacy which describes the "concept and practice of such international ramifications of autonomous territorial politics." With interdependence on both the

regional and global level, officials of regional governments have seen the need to put forward their interests on the international scene. In other words, "provincialism has been internationalized" (p.6). Duchacek uses the examples of provinces in Canada, states in the United States and so forth and he explains that some authors have used different terms, such as "low politics" to describe the social, economic and cultural interchanges in opposition to the more "traditional" concept of foreign policy, which is seen as "high politics" - like actions of national security and diplomatic status.

Duchacek uses examples of states and provinces that have made their presence known on the international scene. He mentions some of the provinces of Canada which have established offices in "foreign political, industrial, and financial centers" (1984: 6). Another example is that states of the United States maintain many foreign offices around the world. Some of the German länder are also taking part in interchanges with other countries - mainly based on culture, language, shared history, and also trade and so forth. These are only some of the examples given by Duchacek to explain the general characteristics of sub-national micro-diplomacy.

I will now look at the characteristics of sub-national micro-diplomacy as discussed by Duchacek. The first characteristic he identifies has not been around for very long - the "visibility and intensification" of the initiatives undertaken by sub-national governments in the international arena. This, he states, has only become more prevalent in the early years of the 1970s, due to the world recession and export trade deficit, as well as other reasons. The second characteristic is that of transborder regionalism and "global micro-diplomacy" which have become two types of activities taken on by subnational governments outside their national borders. These subnational governments take part in either one or both of these activities. Duchacek states that "their principal goal is self-help" (1984: 8). However, according to Duchacek in one of his later writings: *The Territorial Dimension of Politics Within, Among, and Across Nations* (1986), he states that there are four types of "noncentral diplomacy" (1986: 240) and that these four initiatives, while different from each other in some sense, are somehow also interconnected.

Except for the previously named initiatives, viz: transborder regionalism, and global micro-diplomacy, he refers to two more initiatives: "global para-diplomacy" and "proto-diplomacy." These four initiatives will be discussed briefly in the following section.

2.2.1 Transborder regionalism

The term transborder regionalism, Duchacek (p.9) explains, refers to the different "formal institutions or compacts" as well as informal networks that have made it possible for subnational authorities to become a part of "binational or trinational cooperative associations" across national boundaries. He states that interactions between bordering communities is not a new concept but it is the intensity and the impact politically that has changed, so making it much more complex. These cross-border interactions go back to the interchanges at the time of the Peace of Westphalia[2] with the creation of new states. The borders of the states then did not make sense generally due to the industrial and technological developments. In recent times, contiguity still plays an important role in the interactions of subnational governments, one of the reasons being the speed and volume of movement of people, products and pollutants.

On a federal level these transactions taking place are seen as confederal associations or, as Duchacek suggests, combining the "consociational process with the confederal form" which then could be seen as "consociations of subnations" that reach decisions not by majority rule but "micro-diplomatic agreement" (1984: 9). It is not the aim of these co-operating subnational governments to weaken its membership to the respective nation-states. In Duchacek's (1984:12) study of the different transborder

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[2] Westphalia or Westphalian state: "Term used in international relations, supposedly arising from the Treaties of Westphalia in 1648 which ended the Thirty Years War. It is generally held to mean a system of states or international society comprising sovereign state entities possessing the monopoly of force within their mutually recognized territories… the term implies a separation of the domestic and international spheres, such that states may not legitimately intervene in the domestic affairs of another, whether in the pursuit of self-interest or by appeal to a higher notion of sovereignty, be it religion, ideology, or other supranational ideal". (Mclean & McMillan, 2009:563)

regional configurations, he finds it strikingly important that the "informal inter-elite" framework can function easily without formal institutions, and that it is sometimes as easy as a telephone call to adapt or coordinate "national policies to borderland realities".

2.2.2 Global micro-diplomacy

Global micro-diplomacy describes the subnational micro-diplomacy that looks for "cooperative contacts and compacts" not in close proximity but rather with distant centers of "economic and political power" (Duchacek, 1984:13). This global micro-diplomacy thus implies that subnational governments station permanent missions in various parts of the world, but this is only the "tip of the subnational iceberg in foreign relations" (p.13). Duchacek (p. 14) refers to nine aspects that are also "important instruments of local globalism". These are as follows:

1. Sending fact-finding missions for short-term visits abroad.

2. Trips by state governors and provincial premiers abroad for the specific purpose of promoting subnational interests.

3. Hosting foreign dignitaries and trade representatives for the same purpose.

4. Trade and investment shows.

5. State-paid promotional campaigns in foreign media.

6. Foreign trade/banking zones.

7. Special relationships with foreign territorial communities abroad.

8. Various important, though elusive, operations inside the country but with eyes directed overseas, such as; lobbying at the national capital - especially at the departments of commerce and external affairs - as well as the briefing and training of state or provincial officials for the conduct of foreign relations.

9. Many other fragmentary actions of subnational officials.

The main cause for global micro-diplomacy as stated by Duchacek is the "awareness of universal interdependence." This interdependence, however, is not a new concept but the fact that it has become so consciously important is a new phenomenon. This not-so-new concept of interdependence has worked itself down from national government to provincial level and their staff who are the ones to take responsibility for the "well-being of their respective territorial communities and for their own political survival in them" (1984: 15).

This type of global interdependence, according to Duchacek, applies to both socialist and capitalist national governments. The mixing of international and domestic politics and economics has been named by some scholars, such as Lecours (2008) and Keating (1999), as "intermestic politics". Duchacek states that it should be understood that underlying the term "intermestic" is a "subnational dimension" (1984: 16). When it comes to global micro-diplomacy, the basic argument made by Duchacek is that those subnational governments and their leaders depend on making foreign connections in order to ensure their well-being as well as to meet the "demands pressed upon them by their electorates" (1984:16).

Brand (2002) in his article: *The Role of Provinces in International Relations* ties in with the concept of micro-diplomacy as put forward by Duchacek. Brand (2002: 677) states that even though foreign relations are technically the domain of the national government, it is not impossible for provinces to take part in some form of international relations and to "conclude agreements other than international law treaties with other regions, states and local governments on subjects that are of interest to them". These types of agreements are also named differently and fall under a lower status according to international law and are also called "minutes of understanding, protocol, and co-operation agreements" (2002: 677). Brand states that however much these agreements are of a "public relations nature" there are some that, owing to a "particular wording", have more substance. Brand (2002: 677) states that according to De Villiers, provinces have an innate right "based on their constitutional status, their original legislative competencies and their right to legislate on any matter which is 'reasonably necessary for, or incidental to, the effective exercise' of their legislative powers".

2.2.3 Global para-diplomacy and proto-diplomacy

According to Duchacek (1986: 246), global para-diplomacy is "political-functional" contacts with nations around the world which make it possible for subnational governments to come in contact with "trade, industrial, or cultural centers in other countries". This also enables the subnational governments to find connections with other "agencies of foreign national governments" (1986: 247). The fourth initiative of what Duchacek calls "non-central diplomacy" is Proto-diplomacy. He says this can be explained as those "initiatives and activities" by subnational governments internationally that attach a more "separatist" approach to their social, cultural, and economic links with other nations across the world. This happens if subnational governments establish what are called "proto-embassies or proto-consulates" in other countries to help some of their own missions (1986: 248).

Duchacek (1986: 251) uses an illustrative diagram (Figure 2.1) based on "David Easton's simplified model of a political system in which people's demands and supports (*inputs* into the system) are converted by the authority into actions and policies – *outputs*".

Figure 2.1 (Adapted from Duchacek, 1986: 252)

Intergovernmental Relations and Interference

① Interference (Aim: Inflating Demands)
② Interference (Aim: Deflating Supports)
③ Transborder Regional Microdiplomacy
④ Transregional Microdiplomacy
⑤ Paradiplomacy
⑥ Secessionist Protodiplomacy
⑦ Traditional (center-to-center) Diplomacy
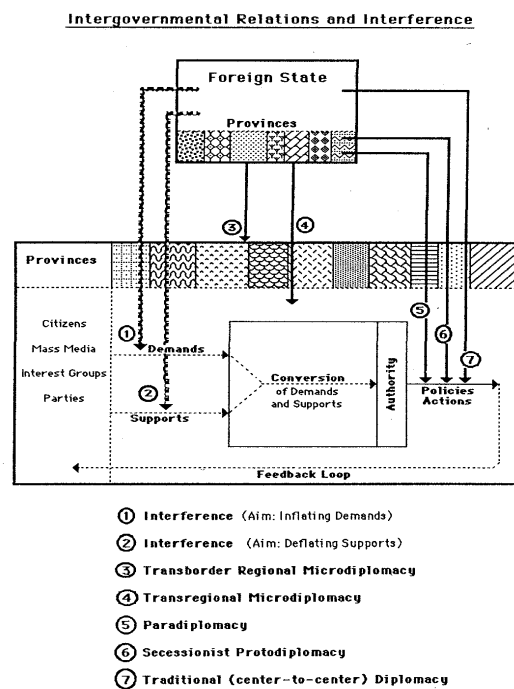
The diagram is explained as follows:

"The feedback loop indicates the effects of government policies and actions upon further demands and supports that, in part, are shaped by the responses of the central authority" (1986: 251). Easton's model has been modified because of the international arena has been entered into by both the national and the regional spheres of government.

Line 1 indicates that a foreign state was added as a "source of activities that pass through the national boundaries" so that there is more pressure on the national government, however Line 2 shows that it might be to undermine and deflate "popular or sectional supports" (1986: 251). "Second, territorial components (provinces, states, cantons, Lander, regions, etc.) were added to both systems (Easton's national system and the added foreign state). Provinces of unequal size (and clout) are represented by various geometric patterns. It is assumed that similar input/output dynamics characterize the inner workings of the various territorial components" (Duchacek, 1986: 251).

"Line 3, representing transborder regional micro-diplomacy, symbolizes the informal and formal interactions between provinces on both sides of the border. Line 4 (transregional micro-diplomacy) illustrates the provincial "diplomatic leapfrogging" over the frontier into distant areas but still within the neighboring state" (Duchacek, 1986: 251). "Line 5 (para-diplomacy) denotes direct links between provinces and foreign central governments for the purpose of influencing general trade, investment, and other policies and actions. Line 6 (proto-diplomacy) represents a direct link with foreign national governments, as does line 5, but the contents and goals are political (separatist) in support of future independent statehood" (1986:251). Lastly, Line 7 "(macro-diplomacy) illustrates traditional center-to-center diplomacy, which is usually concerned with issue-areas that are related to national security and status" (Duchacek, 1986: 251).

The concept of global micro-diplomacy, in the case of this thesis, is chosen as the theoretical tool for analysis. It explains that it is not a new or unusual idea that provinces look for ways to engage in foreign agreements. Duchacek goes on further in his article to explain that there are several other reasons why there is an increasing subnational presence on the international scene.

2.3 Reasons for participation in international relations by subnational governments

Duchacek (1984: 17-20) lists several reasons for why there has been an increase in subnational presence internationally. Firstly, he states that there has been antagonism towards "bigness and distance". What this entails is that subnational leaders criticize the central government as big, dehumanized and "over-bureaucratized" as well as far too distant when it comes to issues concerning local and regional difficulties.

The second reason is the extension of the foreign policy monopoly. This means that in a federal system a question has arisen concerning the expansion of the central governments "foreign policy monopoly in the fields of diplomacy, foreign trade regulation, and defense into areas considered to be partly or fully within the domestic jurisdiction of the federal components" (1984: 17). The specific complaint is that in areas such as international dealings, aspects such as human rights, energy flow, cultural exchanges and so forth, should have more to do with the concerns of subnational governments but there is no formal structural way for interaction between subnational and national governments. Holsti and Levy (1976: 295- 296) also agree with this reason: they state that the increased interaction by provinces is because the need to "collaborate" is within their jurisdictional powers.

A third reason for the increase in subnational presence on the international scene is "separatism". Duchacek (1984: 18) states that the "politics within and among nations has often been determined by nationalist sentiment rather than economic calculation". The last reason is "Me-Tooism" meaning that states and local governments copy the type of foreign contacts of other governments so that they can attract the same type of foreign investments. In many cases, such investments obtained through attracting these contacts are good, especially in the long-term.

Keating (1999) also looks at the region's point of view and finds that there are three reasons for entering into the international arena: "economic, cultural and political." He says that economically

subnational governments look for "investment, markets for their products, and technology for modernization" (1999: 4). At the same time these subnational governments promote themselves as tourist destinations. Apart from the inward investment that these governments try to attract, they are also trying to "increase the internationalization of their economies" and to develop their local firms and markets through "outward investment" (1999: 4).

The second reason why subnational governments move into the international arena, as mentioned above, is because of culture. Keating says that some regions with their own culture and language look for support internationally, especially if and when, their national governments are not sympathetic towards them. He uses the example of the Quebec government which sought support from France and other French speaking countries to encourage the promotion of their language and culture. Lastly there are a variety of political reasons for regions entering into international relations. Some reasons include regions that seek acknowledgment and legitimacy that they are more than just regions. A second reason is that with the projection of subnational governments to the international arena it could also help with nation-building in their own countries. Following this, we will now look at the reactions of national governments to subnational foreign policies and the measures taken to deal with them.

2.4 Central government and subnational activities: fears and supports

In interviews with national government employees Duchacek found seven reasons for national opposition towards subnational micro-diplomacy. Firstly, it is "opposition in principle"- in other words, they oppose the fact that central power is being diluted. Secondly, there is fear of anything new, the fact that it is a break in the normal and established routine. Thirdly, there is a fear of a more "complex and complicated pattern". Fourthly, there is a fear of what the consequences might be of the "relative inexperience, diplomatic gullibility, and lack of negotiating skills" (1984: 21) of the local and subnational personnel. The fifth reason is a fear that the central government has "political-administrative chaos" and the effectiveness of the national operations will be compromised. It is feared that other nation-states could exploit this fact, and use a "back entrance into a nation-state" (1984: 21). The sixth reason is a fear of "subnational egocentrism" which means that it could be detrimental to some of the other "federal components" and could lead to possible tension between these components.

Lastly, there is a fear of a "secessionist potential in some subnational initiatives" (1984: 22). Wolff (2007:12) in his concluding remarks on para-diplomacy also states that the participation by regional governments has led to some obvious suspicion by the central governments. He states that they see it as a potential way in which the state's sovereignty could be undermined in the "pursuit of the broader national interest".

These are the main fears that the central government has about subnational governments in international relations. What we can conclude is that the central government's biggest fears are change and not having the monopoly on foreign policy. Although states have these fears there are also many times that international relations conducted by the regional governments do not undermine the foreign policy of the government but often complement and benefit both themselves and the central government (Wolff, 2007:13).

With his explanations of what the fears are, Duchacek goes on to look at what the logical and most conceivable scenarios would be in the area of foreign policy in terms of the relationship between the national and subnational governments.

He provides two scenarios of how a relationship could be between central and subnational government. The first scenario is "centralization". This is when the national government expands its power far "beyond the traditional, constitutional monopoly of foreign policy" (1984: 22). This expansion is over a wide range of aspects such as social, cultural and humanitarian areas. The reason for the centralization would be to promote a balanced interest of both the national and subnational, so as to speak with one voice to the international world.

The second scenario is "federal segmentation – separating defense from non-security areas of international relations and then even subdividing these" (1984: 23). According to Duchacek, this clearly recognizes the role of autonomous subnational governments, which is then justified with the

concept of "participatory democracy and the territorial division of power" (1984:23). He then states it is not possible in present times for the power of subnational entities to stop at international borders. However, Duchacek makes a clear statement that federal segmentation should not be confused with "functional sectorialization." This is different as it refers to dividing international roles according to specific expertise in specific governmental departments and agencies. An example he gives of functional sectorialization is; "the presence of commercial or science attachés at a consulate or embassy abroad." An example of federal segmentation would be someone who acts as a representative for a subnational government in an "all-national embassy."

Duchacek argues, however, that both of these scenarios are too simplistic for "practical politics" as he puts it. He states that with the ever-changing trends it is probable that it will continue along the lines of "continuing duplication with coordination" which falls in the middle of the previous two scenarios but also continuously shifts closer to, and from the two scenarios. Furthermore, he explains, this new measure is in the middle ground of duplication of coordination, which is the main concern of governments, as they feel it will create chaos or friction between national and subnational authorities and their respective international activities. Fragmentation could also be an outcome of this duplication. This duplication of coordination realistically assumes that subnational declarations of their territorial interests would move onto "the national and international plateaus", and at the same time the national power will filter through "intra-federal boundaries" (1984: 24).

Despite the increasing coordinative steps that have been taken by national and subnational governments towards the different subnational activities no real action has been taken and no disasters have occurred. Duchacek states that the reason for the absence of coordination is mainly because of the "lack of awareness." The reason for this is that "national policymakers and administrators often do not know what is actually going on in the borderlands or in other subnational networks abroad" (1984:24). Another reason for the lack of coordination is that national administrators see subnational arrangements as only being marginally important. According to Duchacek, the only reason for coordination is the fear that micro-diplomatic initiatives and activities could get out of control.

Apart from the sometimes negative response towards subnational international initiatives, there are also some positive views. An example used by Duchacek is that of the United States which encourages the subnational governments to promote "foreign trade, reverse investment, and cultural exchanges." Thus they believe that these subnational activities are complementary though somehow differently defined.

Duchacek asks the question: "Do regional and global micro-diplomacy matter?" He states, in this case, that two questions should be asked, firstly: "*Do subnational activities change important outcomes in international relations from what they would have been, had the contacts been confined to the traditional sovereign-center-to-sovereign-center level?*" (1984: 18-19). The second question is: "*Is the foreign policy monopoly at the center eroded, especially its effectiveness to speak to the external world with one clear voice?*" (1984:19). In terms of the first question, he states it is an intrinsic problem of political science: it is however not possible to do an experiment repeatedly as one would in the "hard sciences" or add and subtract subnational participation to measure the outcome. There is no real way to answer this specific question. Duchacek then goes on to say that in terms of the second question, the only way to really answer this, at least in that framework, is to "observe and estimate national governments and foreign governments and their reactions and responses to the various forms of subnational entries upon the international scene" (1984:19). With the various studies that Duchacek used in this article, such as Canada, the United States and Germany to name a few, it has been demonstrated that these "territorial components" of these national governments have made their voices and needs heard on the international scene. Thus, as he states, the modern-day nation-state speaks with "more than one voice" internationally.

National governments, however, have been listening to more than one voice in most foreign governments, mainly because it is necessary - specifically in places where there is political turmoil or where there is a "pluralistic society". The examples given by Duchacek are that national governments create contacts with opposition parties of some foreign governments; or ethnic communities; or specific unions as these groups could be the next government. These examples make it clear that "the image of a nation-state speaking abroad with a single legitimate voice is replaced by a concept of a multivocal state actor" (1984: 19).

According to Lecours (2008: 12) there is something positive to be said for para-diplomacy in the argument that it "strengthens democracy because it brings some elements of foreign affairs closer to the people." Following this discussion, he states there are four types of coordinative measures that have been considered or taken on by subnational and national governments so that they can coordinate their international activities.

2.5 Instruments of co-ordination

The first of the co-ordinative measures described by Duchacek is; a new "high-level" channel of consultation where coordination and information sharing have been established between the "top echelons" of both the national and the subnational. Another way of ensuring this coordinative measure would be to include, for instance, one or more subnational representatives in "delegations and negotiating teams abroad" (1984:27).

A second coordinative measure is "inter-administrative links". This entails a spectrum of different devices and instruments such as "liaison offices in the ministries of external affairs" to ensure that important information flows freely between central and subnational governments. Duchacek mentions that there is, however, a slight unwillingness from subnational governments to have their personnel trained by "national officials" because there is a fear that there would be unwanted control by the national government. The third measure he talks about is "constitutional changes and reinterpretations." The line drawn by a constitution that separates "foreign policy from domestic politics" is much clearer than some people assume. Most constitutions forbid any federal components to take any action when it comes to foreign relations.

This is why, for example, Austria has amended its constitution requiring the federal government to consult the federal components before any international treaties are concluded - especially if these treaties affect the "regional jurisdiction." The last possible coordinative measure is "a direct link of a subnational component with nonpolitical inter-sovereign organizations (IGOs)", which rarely happens.

2.6 Conclusion

Duchacek concludes his article with the statement that the presence of subnational governments internationally has become a "fact of life in an interdependent world" (p.30). He says that micro-diplomacy carried out by subnational entities "sometimes contributes to harmony among nations" but it sometimes has the opposite effect. Finally he states, the fact remains that nation-states will speak with more than one voice and that will not fade in the future. Wolff (2007: 13) also agrees with this by stating that participation in international relations has become part of the "individual government portfolio" and is no longer just the realm of foreign ministries. However, no matter how much autonomy regional governments have in foreign policy, the central government has the most authority over the direction of the participation by the regional governments.

Wolff states that para-diplomacy "is, at best, a competence devolved to autonomous entities and hence it is the sovereign state that decides how much of its power it shares" (2007:13). Hocking (1999: 18) says that traditional foreign policy is being taken apart and reformed by pressure from the domestic and international arena and policy makers have had to respond by adjusting government machinery to manage these changes.

In the case of the South African provinces, Brand (2002: 680) states that even though foreign relations and the making of treaties are reserved for the national government, the provinces are indirectly involved in the consent of treaties to be made through the representation of the National Council of Provinces (NCOP). This chapter serves as the theoretical foundation for the thesis as it explains how other regions around the world already participate in international relations on many levels. It also offers some suggestions on how it is possible for provinces to further involve themselves in international relations. In this study I will work with the concept of global micro-diplomacy as discussed by Duchacek. The chapter to follow will look at the development of the South African Constitution.

CHAPTER THREE: THE DEVELOPMENT OF THE SOUTH AFRICAN CONSTITUTION

3.1 Introduction

"A constitution is forged in circumstances of intense and immediate pressure, in the face of a threat or even reality of civil war. Yet it is designed for the very long term, to endure for decades or even centuries" (Venter & Landsberg, 2006: 86). The development of the new South African Constitution was the beginning of a new start in South Africa, not only in politics but for all the people of the country. It was a difficult time for leaders of the old Apartheid government to let go of all the power and it was a new challenge for the leaders of the parties that had no say in the previous government to now make their voices heard. The constitution negotiations took place against a difficult background of political upheaval and violence, which made the process somewhat longer and stressful for the leaders involved. Yet, despite all the obstacles, there was triumph in the end with the interim constitution of 1993 and the final constitution of 1996 and the certainty that this was not only the start of a new South Africa but also that under the constitution, every person in this country was subject to its rules and authority and its rights and protection.

In this chapter I will look briefly at the foregoing circumstances which led to the drawing up of the new constitution of South Africa; what the different parties wanted at the start of the negotiations; and the successes and failures that occurred during this time. I will then look at what was finally agreed upon for the constitution to be accepted by all parties, but more specifically, I will look at how the provinces were created and why. Focus will be given to the range and limitations of the provincial powers as endorsed by the constitution.

3.2 Negotiating the new constitution

- The apartheid system was made official in 1948 but with an increase in the pressure from the local and international communities, it was not possible for this system to be maintained in the

long-term. These pressures from the outside world and domestically were also the reasons why South Africa moved towards a negotiated settlement. International factors include the following:

- The continued regional belligerence by the South African government, which made the USA take action with the 1986 Anti-Apartheid Act, passed by the Congress of the USA, meant the application of economic sanctions.

- There was further pressure on the apartheid government from the African continent by the Organisation of African Unity (OAU) in 1989, which called for the "total abolition of apartheid". This statement later became known as the "Harare Declaration" which "urged the people of South Africa to 'get together to negotiate an end to apartheid' and to agree on a formula that would transform South Africa into a 'non-racial' democracy" (Deegan, 2001:74).

- In addition, the collapse of the Soviet Union ended their funding and military support to the African National Congress (ANC) and the South African Communist Party (SACP), pushing the liberation movement towards negotiations (Deegan, 2001: 73-74). As Deegan states, with the end of the Cold War, political negotiations was the only way in which regional conflicts could be resolved successfully, and the ANC took note of that.

The first meeting between Nelson Mandela, who represented the ANC, and the National Party-led South African government was driven by the National Intelligence Service. These meetings were held in secret as the first step was to reach an understanding and find common ground for possible future peace talks (Thompson, 2001: 247).

In 1988, the Justice Minister Kobie Coetsee, after a request by Nelson Mandela for an interview, put together a committee, which included himself, Neil Barnard (the director of the National Intelligence) as well as two prison officers. They had a number of meetings with Mandela where they tried to convince him to put a stop to the ANC'c armed struggle. They also requested that the ANC cut their ties with the Communist Party and move away from the idea of a majority rule. Mandela, however, refused these requests (Thompson, 2001: 245).

Nevertheless, these secret meetings were eventually to have some success. In February of 1990 in his historic speech to parliament, F.W de Klerk announced the unbanning of the ANC and all other previously banned organizations. He also announced the release of Nelson Mandela from Robben Island. These actions, de Klerk knew were the only way that a negotiated settlement between the parties was possible (Thompson, 2001: 246).

The initial negotiations started with the Groote Schuur minute, which took place on 4 May, 1990 between the ANC and the National Party government. The two parties made a commitment to resolve the ongoing climate of violence and protest. The minute also aimed to remove any obstacles such as a guarantee that the people returning from exile would not be prosecuted. With these discussions the government also cancelled the state-of-emergency and "repealed the remaining apartheid laws" (Thompson, 2001: 248). On 14 September, 1991 the National Peace Accord was signed by as many as twenty-seven political representatives. This first multi-party agreement paved the way for the creation of the Convention for a Democratic South Africa (CODESA) (Deegan, 2001: 78).

The first meeting of CODESA started on 21 December, 1991. This body was given the task of writing the interim constitution "in terms of which elections would be held for a Constituent Assembly, which would write a final constitution in accordance with principles laid down in the interim document" (Thompson, 2000: 252). However, CODESA, was boycotted from all sides during the process. There was still debate on what kind of constitution would be the best for South Africa considering that it was a country which had a "deeply divided society in which, for some, racial and ethnic divisions were entrenched and had to be accommodated within the constitution" (Venter & Landsberg, 2006: 87).

There were many different models under consideration for the new constitution in the new South Africa and there were many external pressures on the decisions. One system influencing some of the negotiators was the German Federal system, "in which the provinces enjoy considerable autonomy and co-operate with the federal government according to consensual principles" (Venter & Landsberg, 2006:87). Others were influenced by the United States' system from where a "bastardized Separation

of Powers was borrowed" (Venter & Landsberg, 2006: 87). The United Kingdom was the closest system to that which South Africa has today, a unitary system.

The two main negotiating parties - the ANC and NP - each favored different systems, mainly because they felt it would benefit them more. The NP for example, favored a "consociation settlement" where "veto powers and proportional representation in the public service would be guaranteed to all designated ethnic groups" (Venter & Landsberg, 2006: 87). They also felt that power should be shared between the main political parties, that power should be divided between the national and provincial governments and that the "constitution should be extremely difficult to amend" (Thompson, 2000: 253). The ANC, however, opted for a more unitary system; they saw the suggestion for "strong regional government as a form of neo-apartheid" (Murray, 2001: 68). They were also disciples of Marxist ideologies as well as the "principles of British parliamentary government" (p.68). This meant that they believed a more centralized state would be the strongest system to facilitate the enormous economic and social transformation that was ahead. They felt that if power was decentralized it would undermine the decisions that were needed to ensure smooth development and reconstruction (Murray, 2001: 68).

Between 25-28 October 1993, the ANC and the NP finalized the different agreements pertaining to the interim constitution. These agreements included the formation of a Government of National Unity, which meant that there would be two deputy Presidents with the right to membership in the cabinet. On the 16 November there was a last- minute meeting between the NP and ANC where they reached final agreement on some of the issues of the interim constitution. On 19 November, final ratifications to the interim constitution were made by the Negotiating Council at a meeting where they also negotiated an "Electoral Act and the removal of all apartheid laws, and they were presented for endorsement at the Multi-Party Negotiating Process (MPNP) plenary session" (Deegan, 2001: 85). The outcome of the interim constitution negotiations was a liberal democratic constitution using some ideas from Europe and the United States for application in a South African context. It was made very difficult to make amendments without going through a range of different processes. The country was divided into nine provinces and they were given a range of powers but still not as much as in a federal government like

the United States. In essence, South Africa's Constitution embodies the language of German federalism with the reality of executive dominance in a unitary state.

Just before the first democratic elections, President F.W. de Klerk asked parliament to make further amendments to the constitution that would give the provinces more legislative powers over a wider range of issues, as well as to permit them to draw up their own constitutions. This amendment to the interim constitution was granted and became part of the final constitution. In many other countries it has been proved that regional governments could aid the national government in the even-handed distribution of "development resources and ensure a greater participation in the democratic process from below" (Butler, 2004: 103). "The Constitutional Court certified the [Final] Constitution in December 1996" (Steytler & Mettler, 2001:6). After it was signed off by the Constitutional Court the new Constitution came into operation on 4 February, 1997 (Steytler & Mettler, 2001:6).

3.2.1 The differences between a unitary and a federal system of government

I will look briefly at the differences between unitary and federal systems of government and consider which of these systems best reflects the South African Constitution. Federalism according to Heywood (1997:405) is "a territorial distribution of power based on the sharing of sovereignty between central bodies and peripheral ones". Federalism is a system that works on the concept of power-sharing in order for regional governments to function on a co-ordinated basis as well as on a sovereign basis. The two spheres of government cannot govern in isolation because of the overlap in political and administrative functions. Interdependency and overlapping is unavoidable especially in areas of concurrent powers (Coetzee &Wessels, 2003: 115).

The constitution in a federal system ensures that every level of government is sovereign in its own capacity. The relationship between the central and peripheral spheres of government are put forth in a formal constitutional framework, where there is an understanding of the equality in status between the spheres of government and where one is not subordinate to the other (Coetzee &Wessels, 2003: 115).

Labuschagne (2004, 90) looks at South Africa in the post-1993 era. This was the time when the interim constitution was accepted. In line with federal characteristics, the interim as well as the final

constitution embodies the principle of separation of powers, resulting in a judicial authority which could be truly "independent and impartial". In other words, there was now a system of checks and balances (Labuschagne, 2004:90).

The second system I will look at is a unitary system. In a unitary state the most important characteristic is that the central government is supreme. The other spheres of government are subordinate to the central government with their power, functions and responsibilities set out by the central government. The lower spheres of the government's survival and the implementation of functions are dependent on the central government. The power that is given to local and regional spheres is delegated to them by the central government. In a unitary state these lower spheres of government only receive administrative functions and are only responsible for the implementation of policy (Coetzee &Wessels, 2003: 115 - 116). A unitary state as defined by Van Vuuren (1983:145) is "one organized under a single central government; that is to say, whatever powers are possessed by the various districts within the area administered as a whole by the central government, are held at the discretion of the government, and the central is supreme over the whole without any restrictions imposed by any law granting special powers to its parts."

According to Labuschagne (2004: 87) there is a fusion of the legislative and the executive branches of government which is "institutionalized power in parliament" (2004: 87). This fusion then results in a dominant and centralized power in the government system which, in turn, restricts the power of the judicial branch of government to review the executive powers. All of which highlights the disadvantages of a system where power is too centralized and where, once a decision is made, there is little chance to change it.

Coetzee and Wessels (2003: 129 – 130) look at the characteristics of the South African constitution in terms of unitary and federal characteristics and point out the following:

- The unitary characteristics, in short, are the bicameral parliament

- There is a subordination of the National Council of provinces (NCOP) towards the National Assembly

- There is a domination of the National Assembly

- The sovereignty of the provinces is limited

- There is a financial dependency of the provinces towards the national government

- There is only one police force.

The federal characteristics are listed as follows:

- There is a definite division of spheres of government and each sphere of government has its areas of competency, according to the constitution

- There is a specific exposition of the relationship between all spheres of government with each sphere of government functioning independently

- Provinces are allowed to have their own constitutions

- The constitution is not easily amended

- The national government is not allowed to make an independent change to the borders of provinces (Coetzee &Wessels, 2003: 115 - 116).

As previously stated, the ANC and NP each preferred different systems of government. However, by the end of the negotiation period, the ANC accepted the concept of a multi-level government system. The reason for their acceptance of this method of government was that they saw the advantages of regional governments in terms of "delivery of services and for the empowerment of citizens" (McLean, 2004: 158). The federal system of Germany made them aware that it was possible to combine a regional government with strong leadership from the centre. South Africa has a very unique design when it comes to the governmental system, which can be best described as "decentralized or regional with strong central control" (McLean, 2004: 158).

3.3 The National Council of Provinces and the provincial governments

3.3.1 The National Council of Provinces (NCOP)

The NCOP was established to act as a representative body for the provinces and have their interests taken into consideration in the national sphere of government. It takes part in the "national legislative process" where it is provided with a "national forum for public consideration of issues affecting the provinces" (Murray & Simeon, 2001:74). The NCOP is composed of delegations from each province and each delegation is usually headed by the premier of the specific province. A delegation is made up of six permanent delegates and three "special delegates" (p.74). In terms of the powers of the NCOP, the specific legislation being passed or discussed has varied impact on the provinces. The powers vary in two situations; if the legislation is something that has no real direct impact on the provinces, then the members in the NCOP will vote as individuals, or " along party lines" (p.75). Even though the NCOP can "support, amend, or reject bills" in this situation, it can simply be over-ridden by the National Assembly when it has a majority. The second instance where the NCOP can actually support, amend, or reject a bill is when the bill has a direct impact on the concurrent powers of the provinces. In this instance, each province has one vote but it takes six of the nine provinces to support a decision.

3.3.2 The creation of the provinces and their powers

The nine provinces that were created by the new Constitution of South Africa form the second sphere of the three spheres of the government of South Africa. The provinces were intended to be "effective developmental but also political units" (Venter & Landsberg, 2006: 99). The negotiators of the constitution knew that when they created the borders of the provinces, some of the regions would be much more underdeveloped than others. The way wealth and resources were distributed across the nine provinces was very disproportional. This includes infrastructure, "administrative capacities", education and so forth (Venter & Landsberg, 2006: 99).

The powers or functions given to the provinces are set out in the Constitution but this is very vague and mostly unclear. There are some areas where the provinces were given "exclusive responsibility" but mostly their role is to uphold national standards and "securing essentially national goals of economic

development and national security" (Venter & Landsberg, 2006: 99). The powers of the provinces are listed in schedule four and five of the Constitution. I will now look at the listed powers for the provinces in the constitution. They are found under Schedule 4 Part A, of the Constitution, the "Functional areas of concurrent[3] national and provincial legislative competence" and are shown in the table below with the functional areas exclusive to the provincial legislature under Schedule 5 part A of the Constitution:

Table 3.1 Schedule 4 Part A and Schedule 5 part A of the Constitution

The functional areas of concurrent national and provincial legislative competence	The functional areas exclusive to the provincial legislature
• Administration of indigenous forests • Agriculture • Airports other than international and national airports • Animal control and diseases • Casinos, racing, gambling and wagering, excluding lotteries and sports pools • Consumer protection • Cultural matters • Disaster management • Education at all levels, excluding tertiary education • Environment • Health services • Housing	• Abattoirs • Ambulance services • Archives other than national archives • Libraries other than national libraries • Liquor licenses • Museums other than national museums • Provincial planning • Provincial cultural matters • Provincial recreation and amenities • Provincial sport • Provincial roads and traffic • Veterinary services, excluding regulation of the profession

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[3] "Concurrent legislative competence" means simply that Schedule 4 allows legislation concerning the functional areas are to be enacted in both the national and provincial spheres" (Arts and culture, 2010: 12)

• Indigenous law and customary law, subject to Chapter 12 of the Constitution • Industrial promotion • Language policy and the regulation of official languages to the extent that the provisions of section 6 of the Constitution expressly confer upon the provincial legislatures legislative competence • Media services directly controlled or provided by the provincial government, subject to section 192 • Nature conservation, excluding national parks, national botanical gardens and marine resources • Police to the extent that the provisions in Chapter 11 of the Constitution confer upon the provincial legislatures legislative competence • Pollution control • Population development • Property transfer fees • Provincial public enterprises in respect of the functional areas in this Schedule and Schedule 5 • Public transport • Public works only in respect of the needs of provincial government departments in the discharge of their responsibilities to administer functions specifically assigned to them in terms of the Constitution or any other law • Regional planning and development • Road traffic regulation	

• Soil conservation					
• Tourism					
• Trade					
• Traditional leadership, subject to Chapter 12 of the Constitution					
• Urban and rural development					
• Vehicle licensing					
• Welfare services					

As previously stated, these powers given to the provinces are sometimes very ambiguous and it is only when the provinces have to implement them that they start interpreting what these powers mean. One of the problems that once did, and still does face the provinces is that they are not financially empowered to perform all the tasks given to them, especially as "interlocutor between national and local government" (Butler, 2004: 105).

Table 3.2 The division of revenue between the spheres of government. (The data is extracted from the 2010 Budget Review)

	2008/09	2009/10	2010/11	2011/2012	2012/2013	
		Revised estimate	Medium-term estimates			
R million						
National department	289 346	346 103	359 106	370 688	393 757	
Provinces	248 286	294 968	322 858	350 547	369 348	
Equitable share	201 796	236 878	260 974	280 689	294 780	
Conditional grants	46 491	53 890	61 884	69 858	74 568	
Local government	44 037	50 146	58 821	66 640	73 187	
Equitable share	25 560	24 356	30 168	33 940	37 234	
Conditional grants	18 477	18 990	21 111	24 169	26 995	
Total	581 670	687 017	740 785	787 875	836 292	
Percentage shares						

National department	49.7%	50.1%	48.5%	47.0%	47.1%	
Provinces	42.7%	42.7%	43.6%	44.5%	44.2%	
Local government	7.3%	7.3%	7.9%	8.5%	8.8%	

In addition, with the unevenly developed resources of provinces, some provinces would find it more difficult to perform their own tasks as well as those tasks set out by the national government. Even today, after many years of democracy with an established constitution, the ruling ANC still debates the need for a second sphere of government as they did at the start of the negotiating process.

The President of the Inkatha Freedom Party (IFP), Mangosuthu Buthelezi, had suggested that "provinces should give the widest possible interpretation to their powers and functions under the Constitution by not confining themselves to merely implementing their own regional policy but should develop it as well" (Butler, 2004: 105). Under the Constitution provinces are given the right to have their own constitution but although two provinces took this as an option, only the Western Cape was successful. Its success was due to the fact that it did not conflict with the National Constitution and was thus certified by the Constitutional Court.

3.3.3 The powers of provinces to enter into international relations

Chapter 14 section 231 of the Constitution of South Africa discusses international agreements. It states the following:

"International agreements:

(1) The negotiating and signing of all international agreements is the responsibility of the national executive.

(2) An international agreement binds the Republic only after it has been approved by resolution in both the National Assembly and the National Council of Provinces, unless it is an agreement referred to in subsection (3).

(3) An international agreement of a technical, administrative or executive nature, or an agreement which does not require either ratification or accession, entered into by the national executive, binds the Republic without approval by the National Assembly and the National Council of Provinces, but must be tabled in the Assembly and the Council within a reasonable time.

(4) Any international agreement becomes law in the Republic when it is enacted into law by national legislation; but a self-executing provision of an agreement that has been approved by Parliament is law in the Republic, unless it is inconsistent with the Constitution or an Act of Parliament.

(5) The Republic is bound by international agreements which were binding on the Republic when this Constitution took effect." (p.155)

However, these guidelines that refer to international agreements are not clearly defined and do not state that provinces are not allowed to participate in international relations. During my interview on the 7 October, 2010 with Mr. Roderick Tyssen from the Directorate of International Relations of the Western Cape Province, he pointed out that because the Constitution is not clearly defined, it leaves room for interpretation and gives provinces freedom to negotiate the types of agreements into which they enter.

Provinces are allowed to have agreements that are referred to as Twinning agreements. According to the "general guidelines regarding twinning of cities and provinces" as set out by the Department of Foreign Affairs, Twinning agreements cannot be seen as an international agreement. It is an informal arrangement "indicating mutual intentions and goodwill, but which does not entail a legally binding document" (DFA, 2010). This type of agreement is a way of increasing the range of contact between communities in different countries, but there are some considerations that must be taken into account before a province signs such an agreement. These are:

(1) "the Agreement must not be cosmetic, (2) the Agreement must be aimed at real interaction, (3) funding must be available as this increases the effectiveness of projects arising from such an arrangement, (4) the Agreement should promote good relations between local authorities." (DFA, 2010). The last consideration that should be taken into account is that the agreement should "create opportunities for the extension of mutual understanding, visits, contact and co-operation, as well as an exchange of knowledge and information concerning the various activities of the respective cities/provinces" (DFA, 2010). Twinning agreements bring tangible projects within the scope of provinces for the benefit of all parties taking part.

3.3.4 The allocation of funding between the national and provincial governments

The intergovernmental fiscal system of South Africa is based upon the "revenue-sharing model". What this entails is that the national government is largely responsible for the transfers of finances to provinces and this is made clear in the Constitution. The basis of this financial arrangement is that revenue-raising is largely reserved for the national government. However, provinces do have several potential sources of revenue; "an equitable share of national revenue and other conditional grants from the national government, taxes and user charges. The most important source of revenue for provinces is their equitable share to which they are constitutionally entitled to fulfill their executive obligations" (DPSA, 2003: 28 – 29). These equitable shares are unconditional. However, when the national government decides to give additional funds to provinces from their own equitable share there are conditions but the percentage of funds allocated to the provinces are not enough to enable the provinces to maintain most of their functions.

Therefore, if provinces do receive these extra grants, there are conditions attached. One such condition is that provinces must adopt certain policies; another might be that the money can only be used for specific projects as set out by the national government. In addition, provincial governments have the largest spending budgets. "They are responsible for the implementation of major social services, including school education, health (including academic and regional hospitals, as well as primary health care), social grants and welfare services, housing and provincial roads. Since these functions have limited or no cost recovery potential, provinces are largely dependent on transfers from nationally raised revenue" (DPSA, 2003: 29).

3.4 Conclusion

In this chapter it was found that when South Africa moved out of the apartheid era and negotiated a new constitution, an executive-led system with federal features was decided upon. The advantages of such a system are that there are certain built-in checks and balances to keep the central government on the right track. It was found that the creation of the provinces provided a decentralized state with formal institutions, such as NCOP, set up to represent the province in the national government. The

finding was that most of the finances of the provinces come from the national government. These funds must be used for the delivery of services – a purpose for which they are largely insufficient. Provinces, therefore, have taken the initiative to promote themselves internationally.

In the following chapter, I will look at what other powers provinces have in terms of international relations. The Western Cape Province will be used as a case study to explore these powers. I will also examine the different types of agreements this province has undertaken with other countries or regional governments around the world. Then, I will examine how the provinces are represented on the national government level. And finally, I will discuss my findings from the interviews I conducted based on the questions listed in the first chapter of this thesis.

CHAPTER FOUR : CASE STUDY - THE WESTERN CAPE PROVINCE

4.1 Introduction

In this chapter, I look at the Western Cape Province as my case study for the purposes of this thesis. As one of the nine provinces of South Africa it is one of the most active when it comes to international relations. The Directorate of International Relations, which forms part of the Department of the Premier, puts forth the question "Why the need for a Directorate of International Relations?" The answer they give is that with globalization, there have been changes in the inter-state system which has made it necessary for countries to look for "new forms of international economic co-operation and political interaction" (capegateway.gov.za, 2010). With the increase in regionalization and the "interdependence between states and individuals" (capegateway.gov.za 2010) space has been created for provinces to become role-players in the international arena.

In this chapter, I will look at the agreements the Western Cape has signed and with whom they have been signed. In addition, with the help of the interviews I have had, I will look at the some of the institutions where the province is represented on national level, as well as where the province participates in the international arena. In the second half of this chapter, I will discuss the findings of this thesis, by looking at how provinces are represented and how they participate in international relations.

4.2 The Western Cape Province and international relations

The Western Cape Province has been governed by a few different parties since the first democratic elections in 1994. It has been the most closely contested province in the country in all four elections from 1994 to 2004. The outcome of the 1994 elections showed the NP as winners of the Western Cape with a majority vote of 53.3% while in an "adversarial relationship with the ANC" in this province (Southall & Daniel, 2009: 132-133). In the 1999 elections, the ANC received 42% of the votes in the Western Cape while its closest rival, the renamed New National Party (NNP) - formerly the NP -

receiving only 38% of the votes. However, the ANC did not come out the winners in this election in the Western Cape because the NNP found their allies in the Democratic Party (DP), who received almost 13% of the vote, and the African Christian Democratic party (ACDP) with close to 3% of the votes. This meant that the NNP still had the premiership of the Western Cape, but its dominance was faltering (Jeppie, 1999: 2).

During the 2004 elections, there was a new adversary for the ANC in the form of the Democratic Alliance (DA), however the ANC took the majority vote with a 40.2% win, with the DA coming in second with 39.3%. During this election, however, the ANC was not able to get the majority of the municipalities which meant that the Western Cape "witnessed a proliferation municipal-based coalition between the major political actors" (Southall & Daniel, 2009: 136). With the DA becoming a much stronger party, especially in the Western Cape, it emerged as the biggest competitor for the ANC in this province. In the last elections of 2009, the majority vote went to the DA with a percentage of 51.46.

Table 4.1: 1994, 1999, 2004 and 2009 Western Cape ballot (Source: IEC 2010)

Party	1994			1999		
	Votes	%	Seats	Votes	%	Seats
ACDP	25731	1.20%	1	44323	2.79%	1
ANC	705576	33.01%	14	668106	42.07%	18
Cope						
DP/DA	141970	6.64%	3	189183	11.91%	5
ID						
NP/NNP	1138242	53.25%	23	609612	38.39%	17
UDM				38071	2.40%	1
Others	126223	5.90%	1	38683	2.44%	
Totals	2137742	100.00%	42	1587978	100.00%	42

Party	2004			2009		
	Votes	%	Seats	Votes	%	Seats
ACDP	53934	3.44%	2	28995	1.47%	1
ANC	709052	45.25%	19	620918	31.55%	14
Cope				152356	7.74%	3
DP/DA	424832	27.11%	12	1012568	51.46%	22
ID	122867	7.84%	3	92116	4.68%	2
NP/NNP	170469	10.88%	5			
UDM	27489	1.75%	1	14013	0.71%	
Others	58306	3.72%		46785	2.38%	
Totals	1566949	100.00%	42	1967751	100.00%	42

Thus the current governing party of the Western Cape Province is the DA under the leadership of the Premier Helen Zille. I will now proceed to look at how this province participates in international relations.

The International Relations Ministry of a province is normally included in the portfolio of the Premier of the province. In the Western Cape, however, Premier Helen Zille changed the composition of her provincial cabinet in her statement on the 3 September, 2010. She appointed Dr. Ivan Meyer as Minister of Cultural Affairs and Sport and also gave him the additional responsibility of being the Minister for International Relations as it pertains to the province. (politicsweb, 2010) The Western Cape government is now the only province with a Minister for International Relations. I had the privilege to conduct an interview with Minister Ivan Meyer as well as Mr. Roderick Thyssen and his colleague from the Directorate International Relations, which forms part of the Office of the Premier.

In the discussion with Minister Meyer, he stated that his mandate as Minister for International Relations is to expand the province's international relations with other provinces. It is also important that it should be managed accountably as it is the aim of the Western Cape Province to attract investments from other regions and businesses from across the world (Meyer 2010). He says that the Western Cape's aim in international relations is inclusive and not only confined to province-to-province relations but also organization-to-organization, university-to-university and person-to-person (Meyer 2010).

In the discussions with Mr. Thyssen and Minister Meyer, I asked the question: What is the nature of the international agreements signed by the provinces? According to them, there are different types of agreements, such as project-specific agreements (which add substantive value), cultural agreements, and symbolic (for example, historical or ceremonial) agreements. The project-specific agreements are usually in the field of education, health, economic development, tourism, and the environment with projects such as green energy and multi-purpose training. The agreements that the Western Cape has signed since 1995 are listed below:

Table 4.2: List of international agreements of the Western Cape Province: 1995 – 2007

(Source: Office of the Premier, 2010)

Subject	Date
• **Upper Austria, Austria:** Agreement on Partnership	15/05/1995
• Protocol to the co-operation agreement	24/02/2000
• **Bavaria, Germany:** Joint Communiqué	11/05/1995
• Protocol	06/11/1998
• Framework agreement – HIV & AIDS	22/02/2006
• Memorandum of Co-operation	10/07/2006
• **Burgundy, France:** Co-operation Agreement	12/09/2002

• Joint Declaration: The Thuthukile Skweyiya Western Cape Burgundy Wine Exchange Programme.	05/05/2006
• **California, USA:** Memorandum of Understanding	23/04/2001
• Protocol to Memorandum of Understanding	23/04/2001
• **Florida, USA:** Sister-State Agreement	22/02/1995
• **Mahrashtra State, India:** Joint Declaration	09/11/2006
• **Melaka, Malaysia:** Declaration of Intent	30/07/2006
• **Madeira:** Co-operation Agreement with the Autonomous Region of Madeira	06/07/1999
• **Monaco:** Memorandum of Understanding	29/12/2005
• **Pusan Metropolitan City, Republic of Korea:** Co-operation Agreement	05/06/2000
• **Regional Leaders Summit:** Letter of Intent – Co-operation in the field of Bio-fuel and Climate Protection	05/12/2005
• Final Declaration	12/07/2006
• **St. Petersburg, Russia:** Co-operation Agreement with the City of St. Petersburg	21/09/2000
• **Shandong, People's Republic of China:** Joint Communiqué	12/03/1998
• Protocol	26/11/1998
• Memorandum of Understanding	12/06/2000
• Joint Declaration	17/06/2004
• Joint Declaration	20/07/2006
• Framework Agreement for further collaborated projects	20/07/2006
• Joint Declaration	31/10/2007

• **South Sulawesi, Indonesia:** Letter of Intent	24/03/2005
• Memorandum of Understanding	09/09/2005
• Memorandum of Understanding – tourism entities	10/09/2005
• **Tunis, Tunisia:** General Co-operation Agreement	27/06/1996
• **Uttar Pradesh:** Joint Declaration	11/11/2006

Although many agreements have been signed, there are many that are either not active or are the type of agreements that are symbolic agreements such as the Declaration of Intent signed with Maleka, Malaysia. The reasons for some agreements being dormant are that either the resources required for the agreement or project are not available from one or both partners or there is no decision on a specific format for the agreement (Thyssen 2010).

A question to be asked is: How does the province decide on which regions to align with?   Mr. Thyssen, stated that there are a few aspects to consider. The first is to identify their needs in the province and look for other regions to fulfill these specific needs while making sure the decisions do not conflict with national government's priorities (Thyssen 2010). (It is important to note that no province will pursue an agreement with a country as a whole as this is the terrain of the national government. They will only pursue agreements with other provinces (or regions) or cities *etc.* Secondly, when setting up an agreement it should go through a process to ensure it is legally correct and that it is within the Provinces' jurisdiction. Thirdly, different Departments, such as Agriculture, Transport and so forth, will participate in the choice of projects - especially if it affects them directly. Fourthly, before any action is taken with projects in other regions, it must be established if both parties have the resources and the funding to see it through. If not, the agreement becomes dormant until these aspects fall into place (Thyssen 2010).

Although the above List of Agreements only reflects those agreements up to 2007, it does not mean there has not been any current action taken internationally. Most of these agreements are still ongoing

and active - the agreements with Bavaria, Germany being the most active. Another currently active partner is Upper Austria in the field of renewable energy and it remains a very active partner in economic relations with knowledge exchanges between universities from both Upper Austria and the Western Cape Province. (www.land-oberoesterreich.gv.at ,2004). Yet another is Burgundy, in France which is active with a Joint Declaration known as "The Thuthukile Skweyiya Western Cape Burgundy Wine Exchange Programme". This latter programme aims at "providing vocational training and social upliftment to wine farm workers with no formal qualification up to NQF level 4 and assists the learners in obtaining a recognized certificate" (http://oda.isoftnet.co.za). These agreements as mentioned above reflects some of the aspects that make out Global micro-diplomacy as discussed in chapter two and also confirms the reasons why provinces take part in international relations. The reasons being, as stated by Keating (1999), "economic, cultural and political." One major way that the Western Cape Province is making its name in the international arena is by being part of the Regional Leaders' Summit.

4.2.1 The Regional Leaders' Summit

The Western Cape Province is one of seven regions (states, federal states and provinces) comprising part of a forum. The other six regions in this forum are; Bavaria, Georgia, Québec, Shandong, Upper Austria, and Jinan. These regions spanning four continents discuss "perspectives and strategies for a sustainable world" (land – oberostereich.de 2010) in the forum. The Western Cape hosted the Fifth Regional Leaders' Summit on 29 September, 2010. The themes of this summit were food security, transport and mobility, and renewable energy. (Business Day 2010). Premier Helen Zille stated that this Summit would "provide a platform for both the public and the private sector to engage on important issues that affect all of us" (Zille 2010). In the opening speech by Minister Ivan Meyer he made the following statement; "The Western Cape is determined to be one of the best- governed provinces in the world. In order to do this it is important that we partner with successful regions" (Business Day 2010).

Clearly then, the Western Cape Province is very active in the international arena. The only issue is the question of the provinces and national government ensuring there is no duplication in visits of government officials to a specific country. Yet another challenge is that with a number of active

projects, the money for funding provincial projects by another region has to be channeled through the National Treasury. This is a setback because the Treasury tends to take a long time to release these funds to the province and this means the implementation of a project is not immediate (Meyer 2010). We now need to examine how provinces are represented in the national government and how much power they have when decisions are made.

4.3 The bodies/institutions that represent provinces on national level

I posed the question, to both Minister Meyer and Mr. Thyssen, on how provinces are represented on the national level of government and how much influence they have in the decision-making process. They pointed out that there are a number of bodies or institutions where provinces are represented and included and where they can raise their specific issues. There is the National Council of Provinces (NCOP), which I looked at in the previous chapter, the President's Co-ordinating Council (PCC), the Ministers and Members of the Provincial Executive Council (MinMecs) and the Consultative Forum of International Relations (CFIR). We need to look briefly at each of these coordinating institutions to see how the provinces operate in them.

4.3.1 President's Coordinating Council (PCC)

This council was formed in October 1999 and is headed by the President who acts as chairperson. The rest of council is made up of the Deputy President, the Premiers from all nine provinces as well as the "Ministers and Deputy Ministers for Provincial and Local Government" (DPSA 2003). In this forum the President is able to discuss and raise matters that are of national interest with the leaders of the provincial and local governments. These include aspects such as national policy and their implementation as well as the "coordination and alignment of priorities, objectives and strategies across the three spheres of government" (DPLG 2010). This council allows provinces to give their input about national policy and the difficulties they face in implementation.

4.3.2 Ministers and Members of the Provincial Executive Council (MinMecs)

The composition of the MinMecs includes national ministers, who have a permanent seat in this council, as well as the members from the provincial councils, who represent all of the nine provinces. Also included is the organized local government. The organized local government is also recognized in the event that the specific MinMec "deals with issues affecting local government in an executive sense" (Mathebula, 2004). The MinMecs, unlike the PCC and the NCOP, is an informal council structure which aims to ensure that there is an improvement in the co-ordination of activities across all three spheres of government. This council gives provinces the opportunity of communicating with their national ministers in specific sectors such as education, agriculture, housing, and health. As this council is an informal structure, provinces are not always "legally or constitutionally obliged to submit to decisions reached in especially informal structures" (Rapoo, 1999).

There has been some debate about the functioning of the MinMecs. Some of the complaints are that this and other informal mechanisms are being used by the central government to "undermine the authority of sub-national entities". The argument here, is that the MinMecs were originally created as a consultative forum for co-ordination between spheres of government, but instead they have become "policy-making forums that routinely make important substantive decisions which they expect provinces to implement without 'consultation' or 'consensus' " (Rapoo 1999). Another complaint is that MECs often are "required by ministers to take policy positions at MinMecs without consulting their premiers or executive councils" (1999).

4.3.3 Consultative Forum of International Relations (CFIR)

The CFIR was established by the Department of International Relations and Co-operation (DIRCO) as a way for the three spheres of government to have a forum for "regular coordination and strategic planning" about the international programmes of the country. This forum is also important in that it "provides the necessary space for information-sharing; foreign policy guidance on international issues; planning and co-ordination of international visits; and discussion of pressing issues" (Nkoana-Mashabane 2010).

The establishment of this forum arises out of the fact that the national government realizes there has been a change in the nature of diplomacy and that there are now more role-players active in the international arena. There is also a realization that interactions between provinces and international role-players are in the interests of South Africa as a whole, and it is of course, most importantly because they are the way in which provinces develop their resources.

According to Mr. Thyssen and Minister Meyer (2010), these institutions make it possible for provinces to have their voices heard. It is also a channel for the creation of good relationships between the spheres of government and adheres to the concept of Intergovernmental Relations, as set out in Chapter 3 of the Constitution. However, while there is space created for provinces to be represented, it is also clear that there is some criticism about some of these bodies as we have seen with the MinMecs.

A possible challenge for these institutions or forums representing the provinces, is that there is always the chance for party-politics to get in the way. The reality is that the ANC governs eight of the nine provinces which could make it somewhat difficult for provincial needs to be heard. The different forums and bodies promoting coordination between the national and provincial spheres, therefore, offer provinces a place to put their interests forward. Minister Meyer (2010) agrees it is important to maintain the relationship between national and the provincial government so that each sphere can fulfill the services they have under their jurisdiction to serve their people in the best possible way.

4.4 Challenges in international relations for provinces

Although provinces such as the Western Cape have been very active in the international arena they do face several challenges. One major challenge is the lack of resources and funding to get a project going, especially as it is understood that a Twinning Agreement entails that both parties should bring an equal share to the table. Yet another challenge for provinces is the lack of coordination in the South African government's approach to foreign policy. This challenge, however, needs to be eradicated by DIRCO says Mr. Ntsaluba, and there has been a decision to start a process of "establishing a single brand icon for South Africa" (2009).

Another challenge is the delay when another province or organization decides to give funding for a specific programme in the Western Cape Province. The funding given has to go through the National Treasury before it is passed on to the province. This process sometimes gets delayed which means the project is also delayed (Meyer, 2010).

As previously argued, when it comes to international relations there is definitely a gap into which provinces can move, especially with the forces of globalization making the world smaller and creating the need for interaction and interdependence. In fact, in order to survive, it is essential for the provinces to market themselves internationally as the funding they receive from the national government is not sufficient for the services they need to deliver. It is also important for the well-being of the citizens living in the province as these international agreements and projects can create more employment opportunities and knowledge exchange. "Effectively, the fostering of sub-national relationships leads to the development of economic and political networks, and brings the interface between distant (political and policy) sites far closer" (Cornelissen, 2006: 135).

4.5 Conclusion

In this time of change in the international arena it is important for the survival of all spheres of government to promote and attract any investments that they can. This applies particularly to the Western Cape Province used as my case study. In this chapter my findings are that the Western Cape Province is very active in the international arena and that the aspects that make out Global micro-diplomacy can be seen in the agreements made by the Western Cape Province. This Province strives to be the best governed province, not only in South Africa but in the world. It was also found that there are a number of bodies or institutions created - in accordance with the terms of co-operative government in Chapter Three of the Constitution - to represent and state the interests of the provinces. Lastly, is was found that lack of resources, lack of coordination between spheres of government and the delay in clearing international funding are some of the challenges provinces face when it comes to international agreements.

CHAPTER FIVE: CONCLUSION

In this concluding chapter I return to the research findings discussed in Chapter One. Then I look at the relevance of the theoretical framework discussed in Chapter Two. I will move on with an assessment of the findings of my third chapter, where I briefly examine the development of the South African Constitution and then continue with the findings made with my case study set out in Chapter Four. Lastly, there remains an assessment of the relevance of my theoretical framework and the lessons learned during the writing and research process of this thesis.

5.1 Main findings of the study

This study started out with a much broader vision - to look at the representation and participation of nine provinces in international relations but as it progressed it became clear that it was too big an endeavour. So a decision was taken to narrow the field down to a single case study and subject and the broader theme was dropped. I will now discuss my findings.

In Chapter One the aim was to conduct an exploratory and descriptive assessment of the way in which provinces are represented and how they participate in international relations. This was to determine if it is possible for provinces to take part in international relations even though this is largely the jurisdiction of the national government. It was necessary to find out if there are bodies or institutions where provinces get represented on national level. The argument put forward in this chapter is that with changes in the international arena brought by globalization, the world has shrunk with more actors on the international stage. Provinces are well placed to play a bigger role in state-to-state relations.

In the second chapter, I discuss the theoretical framework supporting this study. My finding was that the concept of provinces taking part in international relations is a definite reality and it is something which occurs worldwide. Clearly, this makes the theory of micro-diplomacy, supported by Ivo

Duchacek and many other scholars, a reality. What is certain is that in order to function properly, the world has become interdependent on a regional level with all spheres of government involved. I found different types of Duchacek's "non-central diplomacy" in trans-border regionalism, global micro-diplomacy, global para-diplomacy, and proto-diplomacy (1986). Although described differently, they are all linked as one concept. I also found that the type of "non-central diplomacy" best serving this study was global micro-diplomacy. The reasoning behind this is that it describes the reasons why provinces, such as the Western Cape, enter into the international arena. It is because the leaders of such a sub-national government depend on making these international connections to "ensure their well-being" as well as to meet the "demands pressed upon them by their electorates" (Duchacek, 1984:16).

With any such new developments some fears arise. I found them to be very real fears mostly emanating from the national government. One is that the inexperience of the role players and the novelty of the policy may complicate the current workings of the government and cause administrative chaos. However, it is possible that these concerns hide an underlying fear: the creation of alternative sources of power to the central or national government. Thus, it may be less about practicalities than about control of power. All of these findings served as a baseline for the rest of the thesis.

In Chapter Three I looked at the development of the South African Constitution, especially different aspects of the negotiations for the new constitution, which was important in that this negotiating process established the provinces of South Africa. Another important aspect of the negotiations was the choice and classification of the type of government for South Africa. Two types of government structure had a big influence on the final decision – the federal and unitary systems of government. The final decision for South Africa's government system included aspects of both, - an executive-led system with federal features - described by McLean as "decentralized or regional with a strong central control" (2004: 158).

Another finding was that while there is no indication in the South African Constitution, provinces have the power to enter into international relations. This is because Chapter 14 subsection 231, of the Constitution discusses international agreements but it is not clearly defined - which leaves it open for interpretation. This means provinces can push the boundaries when signing agreements with other

provinces around the world. It was also found that a type of agreement which provinces are allowed to enter into does exist. This is a Twinning Agreement, which is an informal arrangement and which is not legally binding. These types of agreements should "create opportunities for the extension of mutual understanding, visits, contact and co-operation, as well as an exchange of knowledge and information concerning the various activities of the respective cities/provinces" (DFA, 2010). The allocation of funding to the provinces, it was found, was definitely one of the core reasons for provinces entering the international arena. The limited funding from the national government, with few other funding sources available for provinces to access, make it hard to deliver services under provincial jurisdiction. According to recent figures, the division of national revenue between the spheres of government are that 42.7% goes to provinces (Budget review, 2010). The national government contributes 94% of the provincial revenue, which of course means that on a financial level, provinces are very dependent on the national government (Winde, 2010: 6).

So it is critical that provinces find ways to attract investments to gain more funding for the delivery of services to their people. After exploring the background of the formulation of the South African Constitution and the creation of the provinces and then discovering the ways in which provinces are allowed to enter into international agreements, Chapter Four then looked at the Western Cape Province as the case study. Here, I found that the Western Cape Province was ideal as a case study for this thesis because it is very active in the international arena and has signed many agreements with different regions across the world in the period 1995 – 2007. Some agreements are dormant but there are others that are very active and more project specific. The non-active agreements are symbolic agreements due to the historic or religious ties with a specific region. The project-driven agreements that are not active at the moment are usually because of lack of funding or resources from either party. An agreement between regions is like a partnership which means if both parties cannot deliver, the project will be on hold until the necessary funding has been found. Apart from the partnerships in agreements made by the Western Cape Province they have strategic partners in the other six regional government members of the Regional Leaders Forum. This forum is a place where all regions can share their knowledge about different subjects that affect them all. In this way, the Western Cape makes its mark in the international world and becomes a good example of how provinces can make themselves more efficient.

Another finding in this chapter provided the answer to the question of how provinces are represented on national level as well as how they participate in the decision-making process. It was clear that a number of forums and institutions make this possible. There are at least four such forums or institutions where provinces are represented and given the chance to contribute to the decision-making process - they are the PCC, NCOP, MinMecs and the CFIR. In terms of this study, the CFIR is the most relevant as it pertains to International Relations and is a forum which co-ordinates all spheres of government in all international activities in South Africa.

To conclude, the main findings are that it is a reality today that provinces are very active in the international arena in the age of globalization and they find it necessary to participate more. Although international relations remains mainly the jurisdiction of the national government, as in the case of South Africa, the Constitution is not clearly defined. This leaves room for an open interpretation by the provinces. The national government now realizes that they are no more the only stakeholders internationally and they have started encouraging provinces to promote themselves. There are some reservations, the obvious being about the duplication and the lack of coordination that might occur. To obviate these problems, they have created a forum such as the CFIR in South Africa so that there is a constant communication between themselves and the provinces about all international activities.

5.2 Contribution and limitation of the research

This study is qualitative in its nature which is appropriate for an exploratory study seeking information on how provinces participate in the arena of international relations. The theory of global micro-diplomacy has made for a better understanding of international relations today – particularly as it is no longer limited to the dealings of national government. One more realization made by exploring this topic was that this practice is not limited to a single country or type of government system but that it happening worldwide in different guises.

As this is only a mini-thesis, the limitations of the research were that I was not able to make a more in-depth study and could not include the other eight provinces to see how successful they have been in

promoting themselves internationally. Another limitation was that there have not been many scholars who have written on this subject as it is almost a new concept in the world. In addition, although I was successful in obtaining somewhat brief interviews with government officials, their comments were confined to the Western Cape Province. Given more time and resources for this study it would have been interesting to have conducted interviews with national government officials to assess their perspectives on the concept of provinces in international relations, and whether they consider enough is being done to include provinces in the decision-making process. This is, however, something that can be taken into consideration for a future study of this topic.

The contribution of this research is that I was able to show the concept of provinces participating in international relations is not unusual in many other countries around the world. It has also shown that the changing dynamics of globalization make it a necessity for provinces to participate internationally to ensure their survival. In addition, it reveals that there are a number of institutions and forums in place, specifically in South Africa, which ensure that provinces are represented on the national level of government.

5.3 Relevance of the theoretical framework

Chapter Two of this study provided the framework for explaining the concept of global micro-diplomacy and shows how diplomacy has moved down the spheres of government to make it possible for provinces to take part in international relations. The concept of global micro-diplomacy is the work of Ivo Duchacek and it is relevant to this study in that it explores the "awareness of universal interdependence" (1984: 15). It is also relevant because it explains how the staff on the provincial level of government are responsible, like their national counterparts, for the well-being of their province and its people as well as for their political survival in this space.

With the aid other scholars such as Brand and De Villiers, it is shown that it is necessary for provinces in South Africa to use their constitutional right to full capacity while exercising the jurisdiction of their legislative rights. It is argued by Cornelissen (2006) that there is still too much focus on national

entities and not enough attention is paid by international relations scholars to the "nature and consequences" of ties between sub-national entities. Nor are scholars equipped well enough to "analyse the emergence" of these actors (Cornelissen, 2006: 135). "Traditional policy analyses need to be reshaped to incorporate the foreign policy impact of substate units, and the degree to which subnational autonomy interacts or conflicts with broader domestic policies" (Cornelisen, 2006: 135).

5.4 Lessons learnt

Initially in this study, there was a belief that a province such as the Western Cape, was not represented enough on the national levels of government and that there was no platform for them to express their interests. It was found, however, that there are a few different forums - formal and informal - where provinces are represented. Not all forums are perfectly efficient but the fact is - they do exist. During this research I have learnt that there are specific ways in which provinces are allowed to participate in international relations and that there have been many successes - the Western Cape Province is one which has been successful in promoting itself internationally. Finally, in terms of the research and writing-up of this thesis, I have learnt that planning and setting up a timeframe is a very important part of the process.

5.5 Conclusion

This study has shown that the provinces in South Africa, and specifically the Western Cape Province, are very active in the international arena. There are institutions that also represent the interests of the provinces at national government level. Although little attention has been paid to provinces and their role in international relations, it is the hope that this study would be a catalyst for further investigation into the impact of regional governments in the international arena - not only in South Africa but also worldwide.

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