

CHAPTER 5

A MODEL FOR INTERGOVERNMENTAL RELATIONS PERTAINING TO CONSERVATION MANAGEMENT

5.1 INTRODUCTION

The composition and functions of various structures and institutions for intergovernmental relations were explained in a previous chapter but not all of these structures and institutions are applicable to intergovernmental relations between the South African National Parks and the selected provincial conservation authorities (*Supra* paragraph 1.11). A large number of the structures for intergovernmental relations focuses on the promotion of intergovernmental relations in general and not necessarily on national-provincial intergovernmental relations. It is however necessary to analyse relevant structures and institutions for intergovernmental relations to be able to explain whether the structures contribute directly or indirectly to the promotion of intergovernmental relations pertaining to conservation management, with specific reference to the statutory organs of state concerned with the management of national parks and provincial protected areas (such as the South African National Parks and the selected provincial conservation authorities). Because of the very small and indirect role that some of the structures for intergovernmental relations play in promoting intergovernmental relations pertaining to conservation management in particular, no further attention is given to the following structures, namely the President's Co-ordinating Council, the Mediation Committee, the Public Service Commission and the Financial and Fiscal Commission. In this chapter a model for intergovernmental relations pertaining to conservation management is developed to assist legislatures, officials and practitioners in co-ordinating the management of national parks and provincial protected areas. The demarcation of the study, as described in the

introductory chapter, guides the focus of the recommendations and suggestions in the development of a model for intergovernmental relations pertaining to conservation management. Before the proposed model for intergovernmental relations pertaining to conservation management is however described, it is necessary to analyse the relevance of current structures for intergovernmental relations with regard to conservation management in particular.

5.2 THE RELEVANCE OF STRUCTURES FOR INTERGOVERNMENTAL RELATIONS PERTAINING TO CONSERVATION MANAGEMENT

Emphasis will have to be on the effectiveness and relevance of structures for intergovernmental relations in order to promote co-operation between the selected statutory organs of state specifically concerned with the management of national parks and selected provincial protected areas. The study of national-provincial intergovernmental relations pertaining to conservation management is necessary because of the stipulations in Section 44(1)(a)(ii) together with Section 104 (1)(b)(i) of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) that provide for concurrent national and provincial legislative competencies, including nature conservation. These stipulations imply that the national and provincial spheres of government should co-operate and interact with one another to promote intergovernmental relations. Although the management of national parks is excluded from Schedule four of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) and is only regarded as a national competence, the mere existence of spheres of government necessitates intergovernmental relations. Statutory organs of state, responsible for the management of national parks and provincial protected areas, should interact with one another and encourage joint decision-making, consultation and co-ordination and develop intergovernmental structures to assist with the process of interaction and co-ordination. The current structures for intergovernmental relations and their relevance to conservation management are analysed in the following paragraphs.

5.2.1 The National Council of Provinces

The National Council of Provinces, as a House of Parliament, could serve as an important instrument in the promotion of intergovernmental relations in South Africa (*Supra* paragraph 1.3.1). Section 42 (4) of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) states the following concerning the National Council of Provinces:

“the National Council of Provinces represents the provinces to ensure that provincial interests are taken into account in the national sphere of government. It does this mainly by participating in the national legislative process and by providing a national forum for public consideration of issues affecting the provinces”.

The National Council of Provinces therefore has an important role to play in the legislative process especially concerning matters of concurrent legislative competence of the national and provincial spheres of government (including nature conservation). With regard to Schedule four matters, stipulated in the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996), the National Council of Provinces may veto a national bill in the absence of a two third majority in the National Assembly. The view of the National Council of Provinces is important when there is a conflict between national and provincial legislation (Sections 76 and 146 [4] of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]). The role of the National Council of Provinces with regard to promoting intergovernmental relations pertaining to conservation management in particular, is aimed at introducing and approving legislation regarding conservation issues. If structures for the promotion of intergovernmental relations pertaining to conservation management, and the management of provincial protected areas in particular, are included in bills that serve before the National Council of Provinces, the approval of such bills could directly impact on

intergovernmental relations concerning conservation management. Institutions involved in the management of national parks and provincial protected areas (such as the South African National Parks, KwaZulu-Natal Nature Conservation Service and KwaZulu-Natal Nature Conservation Board as well as the Mpumalanga Parks Board) contribute towards the formulation of certain legislation pertaining to conservation management through other macro structures such as the National Council of Provinces. For consideration by the National Council of Provinces, the role of the selected statutory organs of state is acknowledged very indirectly through their contribution in providing input.

The National Council of Provinces also has a review function pertaining to subordinate legislation that emanated originally from national or provincial legislation (Section 146[6-8] of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]). Such legislation may include legislation pertaining to conservation management and may also impact on the promotion of intergovernmental relations between statutory organs of state concerned therewith. Where a province cannot or does not fulfil an obligation and where the national executive assumes responsibility for that function, the National Council of Provinces should be notified and approve the intervention within a specified period of time (Section 100 [2] of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]). Such an intervention may also occur when institutions concerned with the management of provincial protected areas cannot or do not fulfil their obligations. The National Council of Provinces does, however, not address the need for a formal micro structure for intergovernmental relations pertaining to conservation management. The role of the National Council of Provinces in promoting intergovernmental relations on a macro level has been criticised by the Audit Report on Intergovernmental Relations (1999:45). Some of the criticisms are listed in Table 5/1.

Table 5/1: **Criticisms aimed at the National Council of Provinces**

The National Council of Provinces had not been effective in applying itself sufficiently to its primary concern, namely to focus on provincial issues.
The National Council of Provinces was unfocused which resulted to some extent in a duplication of roles between the National Assembly and the National Council of Provinces.
The relationship of the National Council of Provinces had not been satisfactory resulting in technical and organisational difficulties in briefing the legislatures properly.
Permanent delegates of the National Council of Provinces did not function optimally as they lacked the capacity and resources to interrogate the practical and policy implications of bills.
The role of the special delegates in the National Council of Provinces is unclear and they do not contribute much to bringing matters to the National Council of Province's table.
The Members of Executive Councils of the provinces are not participating in the National Council of Provinces to their fullest potential and do not value the actions of the National Council of Provinces.
The three component parts of the National Council of Provinces, namely the provincial legislatures, the permanent delegates and organised local government do not function optimally.

Source: Department of Provincial and Local Government. *The Intergovernmental Relations Audit: Towards a Culture of Co-operative Government*. December 1999. p. 45.

These above-mentioned criticisms need to be investigated and addressed further to enable the National Council of Provinces to function effectively as a house of Parliament. The National Council of Provinces can only become a more effective institution by being reinforced and by becoming more focused in playing an intergovernmental relations role by promoting its legislative and oversight functions (Audit Report, 1999:50). The National Council of Provinces faces the challenge of promoting the interests of the provinces. This task should be emphasised by addressing the criticisms against it and strengthening the capacity of all its members.

5.2.2 The Cabinet Cluster and Budget Forum

The Cabinet Cluster and Budget Forum are so far removed from the statutory organs of state concerned with conservation management and do not serve as structures for intergovernmental relations that have a direct influence on conservation management (*Supra* paragraph 1.11.2). The Ministers of Environmental Affairs and Tourism as well as Provincial and Local Government, serving in various Cabinet Cluster Committees, have an indirect connotation to the statutory organs of state concerned with conservation management. The Minister of Environmental Affairs and Tourism is the political head of the Department of Environmental Affairs and Tourism that facilitates the role of the Committee of Ministers and Members of Executive Councils: Environment and Nature Conservation (*Supra* paragraph 4.6 and *Infra* paragraph 5.2.5). The Minister of Provincial and Local Government is responsible for formulating legislation pertaining to intergovernmental relations in general. The Minister of Finance and the Members of the Executive Councils concerned with finance, that serve in the Budget Council, are only connected to the statutory organs of state by means of the transfers that the South African National Parks, the KwaZulu-Natal Nature Conservation Service and the Mpumalanga Parks Board receive from the Department of Environmental Affairs and Tourism and the provincial departments of Agriculture and Environmental Affairs of KwaZulu-Natal and Agriculture, Conservation and the Environment of Mpumalanga respectively (*Supra* paragraph 4.5). The Minister of Finance incorporates the budget of the Department of Environmental Affairs and Tourism into the national budget while the Members of the Executive Councils concerned with finance decides on the transfer payments to the provincial department from which the statutory organs receive some of their funds. Because of the fact the Cabinet Clusters and Budget Council are so far removed from structures for intergovernmental relations pertaining to conservation management, no further explanation regarding these structures is given (*Supra* paragraph 1.11.2).

5.2.3 Forum for South African Directors-General (FOSAD)

The value of the Forum of South African Directors-General for intergovernmental relations pertaining to conservation management lies only in the role that the Directors-General of Environmental Affairs and Tourism and of Provincial and Local Government can play in the meetings of the Forum. These two Directors-General are in contact with statutory organs of state concerned with conservation management through their respective departments. The Department of Environmental Affairs and Tourism facilitates, through its Technical Committee for the Environment and Nature Conservation and its working groups, meetings in which the South African National Parks, the KwaZulu-Natal Nature Conservation Service and the Mpumalanga Parks Board are represented (*Infra* paragraph 5.2.5). The Director-General of Provincial and Local Government is responsible for the formulation of legislation pertaining to intergovernmental relations in general and this legislation will have an impact on intergovernmental relations pertaining to conservation management as well.

5.2.4 The Intergovernmental Forum (IGF)

The Intergovernmental Forum is a structure for intergovernmental relations and was established to promote co-operation and joint decision-making between Ministers and Premiers on any matter of common interest and may therefore also impact on conservation management. The functions, composition and shortcomings of the Intergovernmental Forum are described in a previous chapter with the main functions being the establishment and implementation of an integrated and co-ordinated intergovernmental relations policy framework addressing issues such as multi-sectoral or lateral policy issues, finance and fiscal matters and constitutional concerns (*Supra* paragraph 1.11.2). It is important to notice, however, that the Minister of Provincial and Local Government presides over meetings of the Intergovernmental Forum and is also

responsible for the co-ordination of the activities of this Forum. The Minister of Provincial and Local Government is also closely involved with a focus group on intergovernmental relations by means of the fact that the Director-General of the Department of Provincial and Local Government, as the chair of the focus group, has to report to the Minister regarding the consideration of policy matters relating to intergovernmental relations (Discussion Document, 1999:7).

The relevance of the Intergovernmental Forum to this study in particular, is with regard to the involvement of the Intergovernmental Forum in the formulation of policy regarding intergovernmental relations in general, which will necessarily also impact on intergovernmental relations pertaining to conservation management. Although the statutory organs of state, such as the South African National Parks, KwaZulu-Natal Nature Conservation Service and the Mpumalanga Parks Board, are not directly involved in the meetings of the Intergovernmental Forum, decisions of the Intergovernmental Forum will have an influence on their activities with regard to the Forum's contribution to the drafting of legislation pertaining to intergovernmental relations in general. The Intergovernmental Forum is however a macro forum and cannot contribute towards the promotion of conservation management and in particular the management of national parks and provincial protected areas.

An Act of Parliament must establish or provide for structures and institutions to promote and facilitate intergovernmental relations, but the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) does not envisage that government be undertaken by intergovernmental forums (Section 42[2] of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]). The Intergovernmental Forum has no legal basis for decisions and suggestions made and can only furnish the Department of Provincial and Local Government, who is responsible for the drafting of legislation regarding intergovernmental relations, with advice and support. The Intergovernmental Forum focuses on the

promotion and management of co-operation at the macro level and is the intergovernmental structure with the closest link between Cabinet and other decision makers at the executive level of government (Levy and Tapscott, 1999:8). Despite its important role in the promotion of intergovernmental relations, criticisms aimed at the Intergovernmental Forum are numerous and its future role need to be addressed (*Supra* paragraph 1.11.2). A clearer description of the issues that the Intergovernmental Forum should address, for example whether they should address policy, administrative, social or economic issues, are also important to increase its role in the promotion of intergovernmental relations and co-operative government (Levy and Tapscott, 1999:9). The role of the Intergovernmental Forum in terms of monitoring and co-ordinating policy regarding intergovernmental relations need to be strengthened and its decisions should be more deliberative than informative. If the decision-making authority of the Intergovernmental Forum is increased, it may lead to greater attendance and participation of the Ministers in meetings.

5.2.5 Committee of Ministers and Members of Executive Councils (MINMEC)

Another structure created to promote executive intergovernmental relations are the Committee of Ministers and Members of Executive Councils which consist of national line function Ministers (such as the Minister of Environmental Affairs and Tourism) and provincial Members of Executive Councils (such as the Members of the Executive Councils of KwaZulu-Natal and Mpumalanga concerned with conservation management) (*Supra* paragraph 1.11.2). The purpose of the respective Committees is to harmonise sectoral policies and strategies and to formulate intergovernmental policies and strategies which may serve as guidelines to the various governments in the formulation of their own policies and strategies (Discussion Document, 1999:62).

Based on the outline of the respective Committees of Ministers and Members of the Executive Councils, a specific Committee of Ministers and Members of Executive Councils was established to function as an intergovernmental structure for conservation management (the MINMEC: Environment and Nature Conservation). The aim of this Committee of Ministers and Members of Executive Councils: Environment and Nature Conservation is to reach agreement at political executive level on issues of environmental and nature conservation concern to the provinces and national government (Department of Environmental Affairs and Tourism, 1996:1). This Committee of Ministers and Members of Executive Councils will act as the focal point for the Minister of Environmental Affairs and Tourism as well as the various provincial Members of the Executive Councils responsible for the environment and nature conservation. Although the statutory organs of state (such as the KwaZulu-Natal Nature Conservation Service and the KwaZulu-Natal Nature Conservation Board in KwaZulu-Natal and the Mpumalanga Parks Board in Mpumalanga) are not under the guardianship of the respective provincial departments responsible for the environment and nature conservation, they do however receive transfer payments from the provincial departments (Chief Executive Officer, 1999). The link of these statutory organs of state to the Department of Agriculture and Environmental Affairs in KwaZulu-Natal and the Department of Agriculture, Conservation and the Environment in Mpumalanga is strictly financial because of the part of the provincial departments' budget that are transferred to the statutory organs of state to promote and manage conservation in their provinces. The respective organs of state have a direct line of communication to the two Members of the Executive Councils responsible for the environment and conservation in KwaZulu-Natal and Mpumalanga through their Chief Executive Officers (*Supra* paragraph 3.5). The Members of the Executive Councils who are represented in the Committee of Ministers and Members of the Executive Councils for the Environment and Nature Conservation (MINMEC: Environment and Nature Conservation) are therefore indirectly also representative of the

various statutory organs of state in this Committee. This particular Committee of Ministers and Members of the Executive Councils wanted to be advised by administrative staff for the rendering of functions and therefore a Technical/Heads of Departments Committee (Technical/HOD MINMEC), consisting of the Director-General and two Deputy Directors-General of the Department of Environmental Affairs and Tourism, heads of provincial departments responsible for conservation management as well as the Chief Executive Officers of the South African National Parks and National Botanical Institute was established (Director: Biodiversity and Heritage, 1999). The role, procedures and administration of this above-mentioned Committee are explained in Table 5/2.

Table 5/2: The role, procedures and administration of the MINMEC: Environment and Nature Conservation

ROLE	PROCEDURES AND ADMINISTRATION
Discussion of the following matters:	Politicians may place items on the agenda.
current , proposed and new policies;	The Technical Committee (Technical MINMEC) should recommend items to be placed on the MINMEC agenda.
current, proposed and new legislation, regulations and standards;	The Technical Committee (Technical MINMEC) will support and advise MINMEC.
matters relating to the funding of the environment and nature conservation competency;	The Department of Environmental Affairs and Tourism will provide administrative support to MINMEC.
proposed signing and implementation of international conventions;	Agendas will be circulated to members not later than two weeks before meetings.
human resource development and improvement of environmental management system through overseas assistance;	Minutes will be circulated no later than one week after MINMEC meetings.

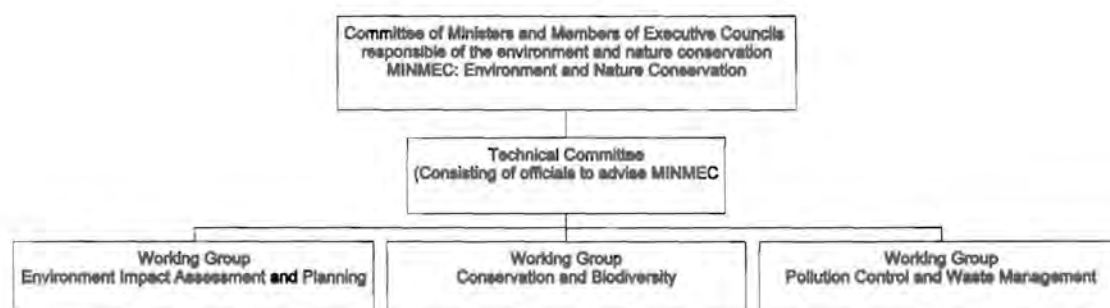
overseas experts in South Africa who may wish to meet with provinces of the national department;	The Minister of Environmental Affairs and Tourism will chair the meetings and the chair should be neutral.
major conferences and workshops to be held in South Africa which require national or provincial input; and	Meetings should be held at least every five weeks or more frequently if necessary and every effort should be made to reach consensus.
overseas visits by delegations assembled by the Department of Environmental Affairs and Tourism.	Meetings venues will be rotated between the provinces and an agenda for meeting dates should be drawn up six months in advance.

Source: Department of Environmental Affairs and Tourism. *Internal memorandum*. September 1996.

At a meeting towards the end of 1998, the Technical Committee of the Committee of Ministers and Members of Executive Councils decided that all intergovernmental co-ordination in the environment and nature conservation sector of government, should be managed by three working groups, namely the Working Groups for Conservation and Biodiversity, Environmental Impact Assessments and Planning as well as Pollution Control and Waste Management (Department of Environmental Affairs and Tourism, 1998:1). The main purpose of the working groups, established as sub-units of the Committee of Ministers and Members of Executive Councils, was for the national Department of Environmental Affairs and Tourism and its provincial counterparts to properly arrange and co-ordinate their concurrent environmental responsibilities and functions. Each of the working groups should be chaired by an official at least at Chief Director level in the Department of Environmental Affairs and Tourism and should meet on a regular basis. The provincial representatives to working groups, including officials of the KwaZulu-Natal Nature Conservation Service and the Mpumalanga Parks Board, should be formally identified in writing by their Heads of Departments or Chief Executive Officers (Department of Environmental Affairs and Tourism, 1998:2). Chairpersons of the various working groups are required to attend the Technical Committee meetings to

report on their progress and should also ensure that detailed minutes are kept at every working group meeting and made available to the Technical Committee members in time. Figure 5/1 indicates the relations between the Committee of Ministers and Members of Executive Councils and its Technical Committee for environment and nature conservation as well as the working groups.

Figure 5/1: **Committee of Minister and Members of Executive Councils**



Source: Adapted from Department of Environmental Affairs and Tourism.
Internal Memorandum. December 1998.

For the purpose of this study, focus is on the functioning of the specific Committee of the Ministers and Members of Executive Councils: Environment and Nature Conservation as a whole, but also on the Working Group: Conservation and Biodiversity. The reason for this particular focus is a result of the case study dealing with intergovernmental relations between institutions concerned with conservation management, in particular the South African National Parks and the provincial conservation authorities of KwaZulu-Natal and Mpumalanga. It is in the Working Group: Conservation and Biodiversity that the South African National Parks as well as the different provinces are represented.

The purpose of the working groups is to address and discuss problems between the Department of Environmental Affairs and Tourism, the South African National

Parks and the conservation authorities in the provinces, such as the KwaZulu-Natal Nature Conservation Service and the KwaZulu-Natal Nature Conservation Board as well as the Mpumalanga Parks Board. Because of the fact that the South African National Parks is also included in the Working Group: Conservation and Biodiversity, areas which require co-ordination pertaining to conservation management between the Department of Environmental Affairs and Tourism, the South African National Parks as well as the provinces can be identified. Information and experience-sharing, consultation and communication are necessary in fulfilling the concurrent national and provincial legislative competencies and functions (Schedule four of the *Constitution of the Republic of South Africa*, 1996 [Act 108 of 1996]). Even though national parks are excluded from the concurrent national and provincial legislative competencies as being an exclusive national competence, the implication is still that other conservation issues should be the responsibility of provincial governments. The Working Group: Conservation and Biodiversity however, recognised the importance of co-ordination between national and provincial institutions by including the South African National Parks and provincial conservation authorities as members (Department of Environmental Affairs and Tourism, 1998:2).

The Working Group: Conservation and Biodiversity is an issue-orientated group that addresses issues such as co-ordination; information-sharing; capacity building; conservation management training; management of funding including foreign funding and conventions and international agreements (Department of Environmental Affairs and Tourism, 1999:3). The Department of Environmental Affairs and Tourism acts as the co-ordinator of the working group meetings and services the provinces through co-ordination, communication and facilitation of meetings. Conclusions reached at the Working Group: Conservation and Biodiversity meetings should be passed on to the Technical Committee of the Committee of Ministers and Members of Executive Councils: Environment and

Nature Conservation for discussion. The Technical Committee will then advise the Committee of Ministers and Members of the Executive Councils (MINMEC: Environment and Conservation) on conservation and biodiversity issues. The process of sharing information and communicating in the Working Group: Conservation and Biodiversity and the reporting of its findings to the Committee of Ministers and Members of Executive Councils of provinces is outlined in Table 5/3.

Table 5/3 The process of information-sharing in the Working Group: Conservation and Biodiversity

Step 1	Committee of Ministers and Members of the Executive Council of provinces for the Environment and Nature Conservation (MINMEC: Environment and Nature Conservation) requests the Technical Committee to advise them on particular issues pertaining to conservation.
Step 2	The Technical Committee requests the Working Groups on Conservation and Biodiversity to make recommendations to them pertaining to the mentioned issues regarding conservation.
Step 3	The Working Group on Conservation and Biodiversity discusses conservation issues in their meetings and reports their findings and suggestions to the Technical Committee.
Step 4	The Technical Committee discusses the findings and suggestions of the Working Group on Conservation and Biodiversity.
Step 5	The Technical Committee advises the Committee of Ministers and Members of Executive Councils of the provinces (MINMEC: Environment and Nature Conservation) on the particular matters discussed.

Source: *Adapted from the Minutes of the Working Group Conservation and Biodiversity*. 23 March 1999, p. 4.

Although the three working groups all focus on different aspects of the environment and conservation, they are still sub-units of the specific Committee of Ministers and Members of Executive Councils: Environment and Nature

Conservation. There is however a large number of Committees of Minister and Members of Executive Councils (MINMECS), each one addressing different functions.

In a previous chapter, the shortcomings of the Committees of Ministers and Members of the Executive Councils, as structures for the promotion of intergovernmental relations, are explained (*Supra* paragraph 1.11.2). Although the contributions of the Committees of Ministers and Members of Executive Councils to intergovernmental relations and co-operation have been substantial, the contributions are not without deficiencies and constraints. Policy formulation in the Committees of Ministers and Members of the Executive Councils is fragmented because of the fact that the latter are mainly sectorally focused and do not pay enough attention to related functional areas (Levy and Tapscott, 1999:8). Because of the large number of meetings held by the various Committees of Ministers and Members of Executive Councils, attendance of and technical support for meetings are poor. A clearly defined organisational and administrative infrastructure is necessary to support and promote the growing number of functions of these Committees because their functions range from the harmonisation of legislation and negotiation on national norms and standards to the monitoring and development of joint projects and defining the roles and responsibilities of the national and provincial spheres of government (Levy and Tapscott, 1999:8). The capacity of the Committees of Ministers and Members of Executive Councils could be strengthened by creating an office and secretariate to distribute agendas of meetings to relevant parties well in advance and to allow for national and provincial representatives to formulate their viewpoints and require the necessary mandates to participate successfully in meetings. If representatives of members serving in the Committees of Ministers and Members of Executive Councils do not have the proper mandate from their respective Ministers or Members of Executive Councils of the provinces for participating in the meetings, lengthy follow-up debates occur. Members have

to return to either their Ministers or Members of the Executive Councils to provide feedback regarding decisions made (Ramatlhodi, 1999:3). Regulations for the requirement of mandates should address the above-mentioned problem. The Committee of Ministers and Members of the Executive Councils should be a consensus-seeking structure and Ministers and Members of Executive Councils should be encouraged to participate on an equal basis to avoid domination of national government in the meetings (*Supra* paragraph 1.11.2). Decisions taken in the meetings of the various Committees of Ministers and Members of Executive Councils should be communicated, by means of an office and secretariate, to all national and provincial departments and statutory organs of state affected by the decisions.

The Committee of Ministers and Members of Executive Councils (the MINMEC: Environment and Nature Conservation) consists of political office-bearers (*Supra* paragraph 1.11.4). The Technical/Heads of Departments Committee and members serving in the various working groups however, consist of appointed officials such as the Director-General of the Department of Environmental Affairs and Tourism and officials within that Department, as well as Chief Executive Officers of statutory organs of state (for example Chief Executive Officers of the South African National Parks, KwaZulu-Natal Nature Conservation Service and the Mpumalanga Parks Board). Other appointed officials include the heads of provincial departments responsible for the environment and conservation. A shortcoming in the present system of governance is uncertainty concerning the responsibilities of Ministers and Members of Executive Councils of provinces and the senior officials respectively (Presidential Review Commission, 1998:22). The latter is addressed in the following paragraph.

5.2.5.1 The political-administrative interface

In a democratic state, such as the Republic of South Africa, there is a

need for both elected and appointed officials to ensure effective governance and the implementation of legislation. It is therefore necessary to define and explain their respective distinctive but complementary roles (See Table 5/4).

Table 5/4: **The role of elected and appointed officials**

The role of the elected official is to:	The role of the appointed official is to:
provide vision and policy direction;	inform and advise elected officials accurately completely and on time;
oversee and monitor the implementation of policy;	implement policy and ministerial decisions efficiently and effectively;
secure support from colleagues in the form of necessary resources for their ministries and departments to effectively carry out policy;	be fully accountable to Ministers and Members of Executive Councils and, where appropriate, Parliament;
represent the ministry in Cabinet and Parliament or the Members of Executive Councils of provinces to represent the provincial department in the Provincial Legislature;	utilise, in the carrying out of functions, all relevant sources of data and advise to give their Ministers/Members of Executive Councils the broadest possible basis for policy consideration and determination;
account publicly for the performance of the Ministry;	co-ordinate, control, manage and communicate within their departments.
take collective responsibility for Cabinet/ Executive Council decisions and to be accountable to the legislature for their actions.	

Source: Presidential Review Commission. *Report on the Reform and Transformation of the Public Service in South Africa*. February 1998. p.22.

Elected officials need to transfer the concerns of the people of South Africa into implementable policies and should possess political debating and public presentation skills. Elected officials should be able to bring to

their offices the authority given to them by the democratic process as well as political leadership to be able to address the needs of the people of South Africa. Appointed officials need the professional and technical skills in administration and management to be able to interpret and implement the policies made by the elected officials as well as the ability, knowledge and experience to render services to society (Presidential Review Commission, 1998:23). Both elected and appointed officials should also adhere to the guiding principles of public administration (*Supra* paragraph 1.8). It is therefore necessary to clearly define the role and functions of elected and appointed officials and to promote a common understanding among all of the principles and practices of government, administration and management.

One of the shortcomings of the Committees of Minister and Members of Executive Councils and the Intergovernmental Forum is the confusing relations between these two structures. The relations between the Intergovernmental Forum and the Committees of Ministers and Members of Executive Councils are therefore further investigated.

5.2.5.2 Relations between the Intergovernmental Forum (IGF) and the Committees of Ministers and Members of Executive Councils (MINMECS)

Deliberations in the various Committees of Ministers and Members of Executive Councils are, according to the Presidential Review Commission (1998:36) less overarching, detailed and sectoral in nature (such as issues of conservation management dealt with in the meetings of Committee of Ministers and Members of the Executive Councils: Environment and Nature Conservation) than the issues discussed in the Intergovernmental Forum. The Committees of Ministers and Members of

the Executive Councils are responsible for co-ordination of line function matters between the national and provincial departments. Consequently relatively little remains for the Intergovernmental Forum to do. While the Intergovernmental Forum is responsible for the promotion of intergovernmental relations and co-operation at the macro level (management of co-operative governance), the Committees of Ministers and Members of Executive Councils are important for improving intergovernmental relations at the micro level (between national and provincial departments) (Levy and Tapscott, 1998:8). These two intergovernmental structures therefore need to co-ordinate their activities and functions in order to share information and communicate the respective decisions to one another. Decisions taken should be adequately monitored and it is evident from the shortcomings of the Intergovernmental Forum as well as the Committee of Ministers and Members of Executive Councils that it is not the case in either of the two structures. The present informal nature of governmental relations in South Africa does not provide for formal description of the objectives of either the Intergovernmental Forum or Committees of Minister and Members of the Executive Councils. Relations between the above-mentioned Forum and Committees can be promoted by allocating the responsibility of co-ordinating intergovernmental structures to the Office of the Deputy President (*Supra* paragraph 1.11.2). A further important intergovernmental structure for conservation management is the Committee for Environmental Co-ordination.

5.2.6 The Committee for Environmental Co-ordination (CEC) and the National Environmental Advisory Forum

The establishment of a Committee for Environmental Co-ordination was first outlined in accordance with the *Environmental Conservation Act, 1989 (Act 73*

of 1989). The functions of the Committee for Environmental Co-ordination were to co-ordinate actions of departments which will have an impact on the protection and utilisation of the environment; promote co-operation between departments concerned with environmental and conservation management and advise departments about matters affecting the environment (Section 13 of the *Environmental Conservation Act*, 1989 [Act 73 of 1989]). It is clear that, because of its co-ordinating role, the Committee for Environmental Co-ordination could have contributed significantly to promoting intergovernmental relations pertaining to conservation management. The Committee of Environmental Co-ordination consisted of the Director-General and Deputy Director-General of the Department of Environmental Affairs and Tourism as well as the Directors-General of various national departments and provincial administrations. An executive committee, elected from its members, as well as a number of sub-committees were established by the Committee for Environmental Co-ordination. The following sub-committees were established by the Committee for Environmental Co-ordination: the Sub-committees of Biodiversity, Agenda 21, Climate Change, Environmental Education and Environmental Impact Management (Director: Biodiversity and Heritage, 1999). Statutory organs of state such as the South African National Parks, the then KwaZulu-Natal Parks and Wildlife and the Mpumalanga Parks Board were included as members of the Sub-committee: Biodiversity. Although the sub-committees could have been an important structure for intergovernmental relations, criticisms against their effective functioning were numerous. The sub-committees had no real decision-making power and proposals made to the Committee for Environmental Co-ordination, and its executive committee, could not be evaluated effectively because of the poor attendance by the various Directors-General (Director: Environmental Impact Management, 1999). In a Report of the Committee on the Restructuring of the Council for the Environment and other related matters (1995:4) it was suggested, after numerous inputs from interested parties, that the functions of the Committee for Environmental Co-ordination be reviewed to

ascertain whether there was a need for functions to be performed by a structure of that nature. The Committee for Environmental Co-ordination in its former form, was subsequently dissolved.

The three working groups, forming part of the Committee of Ministers and Members of the Executive Councils: Environment and Nature Conservation, took over the functions of co-ordinating activities of institutions and organs of state concerned with conservation management. The *Environmental Management Act*, 1998 (107 of 1998) however, again provided for the establishment of a new Committee for Environmental Co-ordination but by the time of the completion of this study, it was not yet established (Director: Environmental Impact Management, 1999).

As mentioned in a previous chapter, a National Environmental Advisory Forum may be appointed by the Minister of Environmental Affairs and Tourism as provided for in the *National Environmental Management Act*, 1998 (Act 107 of 1998) (*Supra* paragraph 1.11.4). When established, the National Environmental Advisory Forum will furnish the Minister of Environmental Affairs and Tourism with advice regarding environmental and conservation issues. Member of this Forum are nominated by various parties, but members of statutory organs of state (such as the South African National Parks, KwaZulu-Natal Nature Conservation Service or the Mpumalanga Parks Board) will not automatically be included in the nominations. The National Environmental Advisory Forum will therefore not be the relevant structure to implement intergovernmental relations pertaining to conservation management and, specifically, the management of national parks and provincial protected areas.

5.3 A MODEL FOR INTERGOVERNMENTAL RELATIONS PERTAINING TO THE MANAGEMENT OF NATIONAL PARKS AND SELECTED PROVINCIAL PROTECTED AREAS

The research reported thus far, reveals an urgent need for a structure to promote intergovernmental relations between organs of state responsible for the management of national parks and provincial protected areas. *Intergovernmental relations between the statutory organs of state concerned with the management of national parks and provincial protected areas are important because of the interdependence of these organs of state on political resources in order to share information and consult with one another on matters of mutual interest. Matters of mutual interest could include the sustainable utilisation of wildlife; determining measures for protected species; critical habitats that need to be safeguarded; the import and export of protected and other species and the acquisition of land for nature conservation purposes (Hughes, 1998:8). Intergovernmental relations between the selected statutory organs of state are also necessary for development of the socio-economic environment in which they function.*

An area of concern pertaining to conservation management is the large difference in institutional arrangements for environmental and conservation management among the nine provinces (*Supra* paragraph 4.4). Only the provinces of KwaZulu-Natal and Mpumalanga (the Western Cape and North West provinces were in the process of establishing statutory boards) have statutory organs of state responsible for the management of provincial protected areas. National parks are managed by the South African National Parks, which is a statutory organ of state. The different institutional arrangements among provinces, regarding conservation management, currently hampers effective intergovernmental relations pertaining to the management of national parks and provincial protected areas. Uniform institutional arrangements need to exist to

ensure that healthy horizontal and vertical intergovernmental relations can take place. In some provinces, the environment and conservation management component is combined with other portfolios such as agriculture, economic or land affairs. The ideal is that environment and conservation management should exist as an independent department. All provinces should however consider establishing statutory organs of state to manage provincial protected areas and address conservation management issues. Separate provincial departments should exist to address other environmental matters and issues falling outside the competencies of these statutory organs of state.

Advantages of having statutory organs of state to manage national parks and provincial protected areas are that they are managed by a board. The board should comprise a variety of people with the relevant skills and expertise. Statutory boards are in the position to raise and distribute funds and donations at their own discretion. If all provinces have the same institutional arrangements for the management of provincial protected areas there would be no confusion as to who should serve on the structures for intergovernmental relations pertaining to conservation management. Clear lines of communication should exist and vertical intergovernmental relations with the South African National Parks would be promoted because all institutions concerned with the management of national parks and provincial protected areas would be managed by statutory organs of state, sharing mutual objectives.

A centralised or devolved management structure for national parks and provincial protected areas is a contentious issue in South Africa. In a submission of the Chief Executive Officer of the KwaZulu-Natal Nature Conservation Service to the Kumleben Board of Investigation into the Institutional Arrangements for Nature Conservation in South Africa in April 1998, it was stated that “... *the criteria for the management of any protected area must be based on capacity and capacity within an agency and not on an agency's*

hierarchy in government". The biggest national park, the Kruger National Park, should continue to be managed by the South African National Parks. Other national parks and provincial protected areas, falling within the boundaries of a province, should be managed by the statutory board of that province. National government should however provide the provinces with much needed funding, human and other resources in order to enable provinces to manage national parks and provincial protected areas as national treasures.

To protect the Kruger National Park in South Africa during 1926, the South African National Parks system was based on the United States of America model, where certain protected areas (national parks) were isolated from other nature conservation activities run by the states (Hughes, 1989:9). The other national parks were only established after 1926. The Australian, French, German and British model is suggested as being more applicable to the South African situation for the management of national parks and provincial protected areas. A national conservation authority that co-ordinates activities and undertakes international agreements is established, while the management of all conservation activities, including the management of national parks and provincial protected areas are handled by the relevant province or state. The latter model integrates all activities related to nature conservation without creating confusion among national and provincial spheres of government. Board members are local residents with staff being more accessible to the public they serve (Hughes, 1998:10). In South Africa, the implementation of the second model will have to include capacity building in the various provinces and the management of our largest national park will have to be conducted by a statutory organ of state established exclusively for that purpose. The two provinces in which the park is situated will have to be represented by members from each province on the Board.

A structure for intergovernmental relations, focusing exclusively on promoting interaction and co-ordination between statutory organs of state responsible for the management of national parks and provincial protected areas, is necessary to ensure the integration of conservation management and sustainable use. This model for intergovernmental relations pertaining to conservation management is based only on the South African National Parks, the KwaZulu-Natal Nature Conservation Service and the KwaZulu-Natal Nature Conservation Board as well as the Mpumalanga Parks Board, as part of the focus of this study. This proposed model could, however, also be applicable to other provinces that choose to manage category II protected areas by means of a statutory organ of state in the future (*Supra* paragraph 4.2.2). The proposed intergovernmental structure could be named the Forum for Protected Areas Management and would complement the meetings of the current Working Group: Conservation and Biodiversity as part of the Committee of Ministers and Members of Executive Council concerned with the Environment and Nature Conservation. The proposed Forum for Protected Areas Management will however only address issues pertaining to the management of category II protected areas. The three working groups of the Committee of Ministers and Members of Executive Councils: Environment and Nature Conservation, will deal with all issues pertaining to the environment and nature conservation as a whole. Because representatives of the statutory organs of state concerned with the management of protected areas are not represented in the Committee for Environmental Co-ordination, as proposed by the *Environmental Management Act, 1998* (Act 107 of 1998) these statutory organs need their own structure to promote conservation management.

The Forum for Protected Areas Management will consist of the Chief Executive Officers of all statutory organs of state in the national and provincial spheres of government concerned with the management of category II protected areas. A chairman could be elected at the first meeting and the Forum could then also

decide how regularly the Forum for Protected Areas Management should meet. The chairman of the Forum for Protected Areas Management will then submit proposals of the Forum to the Technical/Heads of Departments Committee as part of the Committee of Ministers and Members of Executive Councils for the Environment and Nature Conservation for further consideration.

Criteria for the classification of protected areas may be a sensitive issue among the authorities involved in the management of protected areas. It is recommended that the South African categories remain the same as prescribed by the Commission for Protected Areas of the International Union for the Conservation of Nature (IUCN) (*Supra* paragraph 3.2.2). The Forum for Protected Areas Management should however, in its meetings, also address the updating of the classification of protected areas for the South African situation as some provincial protected areas may be classified as national parks and *vice versa*.

Intergovernmental relations between the South African National Parks, the KwaZulu-Natal Nature Conservation Service and the KwaZulu-Natal Nature Conservation Board as well as the Mpumalanga Parks Board are at present handled more informally than formally. Examples entail informal telephone conversations, e-mail messages and informal meetings. Although the value of informal intergovernmental relations should not be underestimated, a formal structure, such as the Forum for Protected Areas Management, could ensure that suggestions and decisions taken are noticed and taken seriously by policy-makers through the Committee of Ministers and Members of Executive Councils.

5.4 CONCLUSION

The fragmented nature of institutional arrangements for conservation management in South Africa, especially institutions involved in the management

of protected areas, negatively influences intergovernmental relations. Statutory organs of state concerned with the management of protected areas exist on a national level in the form of the South African National Parks and in only a small number of provinces in South Africa. It is recommended that all provinces introduce statutory organs of state which should be responsible for the management of protected areas. These proposed uniform institutional arrangements could promote intergovernmental relations pertaining to the management of protected areas.

Contentious issues regarding conservation management (such as deciding between a devolved or centralised authority for the management of protected areas and the classification of protected areas) are issues that can be addressed in the meeting of the Forum for Protected Areas Management. This Forum should be created to address issues pertaining to the management of category II protected areas only and should consist of statutory organs of state responsible for the management of category II protected areas, as well as provinces that has category II protected areas within their provincial boundaries. Activities of the Forum for Protected Areas Management should compliment the functions of the Working Group: Conservation and Biodiversity of the Committee of Ministers and Members of the Executive Council: Environment and Nature Conservation. Various shortcomings in the functioning of various Committees of Ministers and Members of Executive Councils were identified, and should be addressed. The Department of Provincial and Local Government can play an important role in addressing these shortcomings by formulating policy pertaining to intergovernmental relations. Informal intergovernmental relations exist between various statutory organs of state concerned with protected areas management, but the Forum for Protected Areas Management should serve as a formal structure for the promotion of intergovernmental relations. Although other structures for environmental co-ordination and intergovernmental relations, such as the Committee for Environmental Co-ordination and the National Environmental Advisory Forum, are provided for, the statutory organs of state, such as the South African National Parks, the KwaZulu-Natal Nature

Conservation Service and the Mpumalanga Parks Board play only a minor or no role at all in those structures. The proposed Forum for Protected Areas Management should promote intergovernmental relations pertaining to conservation management, with reference to the management of protected areas in particular, because only issues relating to the management of protected areas will be addressed at its meetings. The need for a structure for intergovernmental relations, such as the proposed Forum for Protected Areas Management, is evident and the implementation thereof should be promoted.

CHAPTER 6

CONSERVATION MANAGEMENT AND INTERGOVERNMENTAL RELATIONS: AN EVALUATION

6.1 INTRODUCTION

The principles of co-operative government and intergovernmental relations in South Africa, outlined in Section 41 of the *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996), emphasise the importance of co-operation between the three spheres of government. The three spheres of government are distinctive, but interrelated, and should interact and consult with one another whenever new policy and legislation are considered. Intergovernmental relations between various statutory organs of state are also important because such organs of state exercise power or perform functions in terms of the national or provincial constitutions or in terms of other legislation.

This thesis focuses on the study of intergovernmental relations pertaining to conservation management in South Africa, because intergovernmental relations should be promoted at all times, and therefore also where conservation management is concerned. Section 44(1)(a)(ii) together with Section 104(1)(b)(i) of the *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996) provide for concurrent national and provincial legislative competence and according to Schedule four of the *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996), one of the concurrent functions is nature conservation. Although national parks, as part of the case study in this thesis, are mentioned as an exception as being an exclusive national competence, it is implied that other conservation issues are still the responsibility of the provinces. Statutory organs of state responsible for the management of protected areas should therefore, through formal and informal processes as well as structures for intergovernmental relations, interact and consult with one another and

encourage joint decision-making and co-ordination. Although the *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996) provides for exclusive and concurrent competencies for which the spheres of government should take responsibility, it however does not provide guidelines on how national and provincial institutions should co-ordinate and integrate their activities. Various structures for intergovernmental relations were created but shortcomings hamper the effective promotion of intergovernmental relations. The management of intergovernmental relations and the efficacy of current structures for intergovernmental relations and their capacity to influence policy need urgent attention.

6.2 INTERGOVERNMENTAL RELATIONS IN SOUTH AFRICA

Although the study of intergovernmental relations is complex due to the many responsibilities of government and the increasing number of governmental institutions and organs of state, the analysis of intergovernmental relations in South Africa in general is important to be able to understand intergovernmental relations pertaining to conservation management. The nature of interaction between the spheres of government varies constantly in terms of the degree of co-operation. The success of intergovernmental relations is subject to the level and quality of participation by the key role-players in the system of intergovernmental relations. Intergovernmental relations is a mechanism for formal and informal, multi-sectoral and sectoral as well as legislative, executive and administrative interaction that entails joint decision-making, consultation and co-ordination between spheres of government at a vertical and horizontal level.

A main component of intergovernmental relations is co-operation among spheres of government where co-operative government represents the basic values of the government and encourages healthy debate. Co-operative government may take place on a legislative, executive, judicial and administrative level and is

about partnership and abiding by the values connected to it, namely national unity, peace, proper co-operation and co-ordination, effective communication and the avoiding of conflict. Different spheres of government are interdependent because of shared resources such as constitutional, financial, political resources and also on resources for information-sharing and consultation. The spheres of government should therefore be transparent in the formulation of policy and follow an inclusive approach to governing. Intergovernmental relations should also be guided by the normative guidelines of public administration.

An evaluation of the various general structures for intergovernmental relations highlights their contributions towards promoting intergovernmental relations but also emphasises their various shortcomings. Structures such as the Committees of Ministers and Members of Executive Councils are emphasised because of their relevance to the promotion of intergovernmental relations pertaining to conservation management (through its Technical/Heads of Departments Committee and three working groups). Although the Committee of Ministers and Members of Executive Councils is known for being an informal, advisory and implementational executive structure, (which deals with the drafting of intergovernmental line-function policies and strategies), the role of the Committee in harmonising legislation and programmes and its consulting role with regard to the implementation of national minimum norms and standards in the undertaking of joint projects, are also acknowledged. The large number of meetings of the Committee of Ministers and Members of the Executive Councils, as well as poor attendance of these meetings by members and the lack of supporting documentation are shortcomings that need to be addressed by the Department of Provincial and Local Government, when formulating legislation pertaining to intergovernmental relations in South Africa. Other structures for intergovernmental relations pertaining to conservation management that are discussed are the Committee for Environmental Co-ordination and the National Environmental Advisory Forum. Although the *National Environmental*

Management Act, 1998 (Act 107 of 1998) makes provision for the establishment of these structures, no effort has been made for such establishment during the time this study was conducted and completed. The macro role played by the Intergovernmental Forum and the minor indirect role played by statutory organs of state concerned with conservation management within the Intergovernmental Forum, do not make the Intergovernmental Forum the ideal structure for the promotion of intergovernmental relations pertaining to conservation management in particular. An analysis of the current realities of intergovernmental relations in South Africa provides a basis for the evaluation of intergovernmental relations pertaining to conservation management in particular.

6.3 A COMPARATIVE ANALYSIS OF INTERGOVERNMENTAL RELATIONS

Although South Africa is unique in terms of its history and constitutional provisions, an analysis of intergovernmental relations in states such as Brazil and India provides valuable information to South Africa in terms of lessons learnt by these states and a better understanding of intergovernmental relations, in general. A comparison of intergovernmental relations in Brazil and India provides an opportunity for the study of similar trends in intergovernmental relations in other states.

Similarities exist in Brazil, India and South Africa in terms of the existence of a division of power that may exert an influence on intergovernmental relations in the three states. Distinct and concurrent competencies exist between the spheres or tiers of government in Brazil, India and South Africa. Similarities are also found pertaining to the division of revenue when analysing the financial systems of South African and Brazil. Similarities are also found when comparing the role of the Financial and Fiscal Commission in South Africa with that of the Finance Commission in India. These similarities may assist policy-makers in the formulation of policy pertaining to intergovernmental relations in South Africa.

It is however important to note that policy-makers should acknowledge the specific unique situation pertaining to intergovernmental relations in South Africa. Although valuable lessons can be learnt from other states, policy should specifically address the South African situation and need.

6.4 CONSERVATION MANAGEMENT IN SOUTH AFRICA

Conservation management refers to the responsible management of people's utilisation of the natural environment and resources so that it retains the largest, permanent advantages for the present generation. At the same time it should retain the potential to supply the needs and gratify the expectation of future generations (*Supra* paragraph 3.2.2). The value of conservation management in South Africa is determined in terms of its economic, ecological, scientific, cultural, nutritional, medicinal, ethical, aesthetic, recreational and educational value. Therefore the management of conservation is important and should be aimed at the protection of ecological processes and natural systems as well as the conservation and preservation of biological diversity. Institutions, such as statutory organs of state concerned with conservation management, should strive to achieve the goals of conservation and keep the main conservation and environmental policy goals in mind when conserving and managing protected areas.

Governmental bodies and organs of state should support a co-ordinated approach towards conservation management and should incorporate the principles of co-operative government and intergovernmental relations into their policies. The guiding principles for conservation management should be adhered to at all times and the application, assessment and further development of conservation should occur in terms of sustainable development.

In order to manage conservation effectively and according to the principles of co-operation, conservation managers should acquire or possess the necessary management skills. When used in the context of conservation, management refers to all functions, methods, strategies and techniques devised and used to achieve predetermined conservation goals. Management functions such as planning, leading and control should be studied by conservation managers and their management skills, such as decision-making and conflict management should be developed in order to manage national parks and provincial protected areas successfully. Conservation managers serving in statutory organs of state such as the South African National Parks, the KwaZulu-Natal Nature Conservation Service and the Mpumalanga Parks Board, function in a rapidly changing political, technological, social and economic environment and therefore have to interact and relate to one another when making decisions and policy pertaining to conservation management and the management of national parks and provincial protected areas.

6.5 SOUTH AFRICAN NATIONAL PARKS AND PROVINCIAL PROTECTED AREAS

An explanation of the different national and provincial institutional arrangements for conservation management is necessary for the effective analysis of intergovernmental relations pertaining to conservation management. The focus of this study is on the management of category II protected areas, namely national parks and equivalent reserves. The South African National Parks is a statutory organ of state responsible for the management of national parks in South Africa. The two provinces selected for this study are KwaZulu-Natal and Mpumalanga, because KwaZulu-Natal has the largest number of category II protected areas to manage, while the largest national park is situated in the Mpumalanga Province. National parks refer to parks that have been proclaimed as a result of statutory recognition at national level while a protected area is

defined as a geographically defined area designated and managed to achieve specific conservation objectives which is dedicated primary to the protection and enjoyment of natural and cultural heritage. Provincial protected areas in KwaZulu-Natal is managed by the KwaZulu-Natal Nature Conservation Service through the KwaZulu-Natal Nature Conservation Board and in Mpumalanga by the Mpumalanga Parks Board. Although provincial departments concerned with the management of the total environment exist, the position and prominence given to environmental management differs. The environmental management component in KwaZulu-Natal is part of the provincial Department of Agriculture and Environmental Affairs and in Mpumalanga of the provincial Department of Agriculture, Conservation and the Environment. The only connection that the statutory organs of state, (concerned with conservation management in KwaZulu-Natal and Mpumalanga), have with these provincial departments, is through its financial arrangements. Only a small portion of funds allocated to provincial environmental issues is passed on to nature conservation and another portion is allocated to the conservation management component via the provincial departments. The Chief Executive Officers of the KwaZulu-Natal Nature Conservation Service and the Mpumalanga Parks Board are responsible to the various Members of the Executive Councils concerned with Agriculture and Environment and Agriculture, Conservation and Environment respectively because of the funds allocated to them. The South African National Parks is connected to the Department of Environmental Affairs and Tourism because this national department allocates a portion of its funds to the South African National Parks. The Department of Environmental Affairs and Tourism is also responsible for providing technical support to the Committee of Ministers and Members of the Executive Councils responsible for the Environment and Nature Conservation (MINMEC: Environment and Nature Conservation) and its role in promoting intergovernmental relations pertaining to conservation management cannot be ignored.

6.6 STRUCTURES FOR INTERGOVERNMENTAL RELATIONS PERTAINING TO CONSERVATION MANAGEMENT

In the analysis of structures for the promotion of intergovernmental relations pertaining to conservation management in particular, only one structure can be identified where all relevant parties to this case study is represented, namely the Committee of Ministers and Members of the Executive Councils: Environment and Nature Conservation. It is through the Technical/Heads of Departments Committee of this particular Committee of Ministers and Members of Executive Councils, and specifically one of the three working groups namely the Working Group: Conservation and Biodiversity that the three statutory organs of state (South African National Parks, KwaZulu-Natal Nature Conservation Service and Mpumalanga Parks Board) are represented. This Working Group is the only structure for intergovernmental relations where the management structures of protected areas are able to co-ordinate activities and interact with one another. This structure for intergovernmental relations, that exists as part of the Committee of Ministers and Members of Executive Councils: Environment and Nature Conservation, is not the ideal structure to promote intergovernmental relations pertaining to conservation management due to its own shortcomings. Other matters pertaining to the environment and not only issues concerning the management of protected areas are addressed in this Working Group. Statutory organs of state responsible for the management of protected areas, in particular, need their own structure to promote intergovernmental relations.

6.7 A MODEL FOR INTERGOVERNMENTAL RELATIONS PERTAINING TO THE MANAGEMENT OF NATIONAL PARKS AND PROVINCIAL PROTECTED AREAS

Because there is only one existing structure for intergovernmental relations pertaining to conservation management, where statutory organs of state, namely

the South African National Parks, KwaZulu-Natal Nature Conservation Service and the Mpumalanga Parks Board, are represented, it is recommended that a structure be established to promote intergovernmental relations pertaining to the management of protected areas, in particular. The existing structure does not exclusively address matters of importance for protected areas management, but also issues regarding the environment in general.

A structure for intergovernmental relations, namely the Forum for Protected Areas Management need to be established to address all issues regarding conservation management, in general, and the management of protected areas, in particular. It is further recommended that uniform institutional arrangements for conservation management in South Africa be promoted and that all provinces establish statutory organs of state to be responsible for conservation management in a specific province (such as the KwaZulu-Natal Nature Conservation Service or the Mpumalanga Parks Board). The establishment of statutory organs of state in all the provinces will ensure that the necessary attention is given to conservation management in South Africa by institutions created solely for the purpose of managing protected areas. All Chief Executive Officers of statutory organs of state concerned with conservation management should be represented in the Forum for Protected Areas Management and a chairman should be elected among the members to report to the Technical/Heads of Departments Committee of the Committee of Ministers and Members of the Executive Council: Environment and Nature Conservation. The structure will however not form part of the working groups of the Technical/Heads of Departments Committee, but function as an independent structure. Contentious issues, such as the classification of protected areas and a centralised or devolved management structure for protected areas should be addressed in the meetings of the Forum for Protected Areas Management.

6.8 CONCLUSION

The Department of Provincial and Local Government is preparing for the formulation of policy pertaining to intergovernmental relations in South Africa. Although legislation aimed at intergovernmental relations is required by the *Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)* there is no guarantee that intergovernmental relations and co-operative government will be promoted. Only politicians and officials dedicated to the principles of co-operative government and intergovernmental relations can ensure the effective functioning of intergovernmental structures including structures for intergovernmental relations pertaining to conservation management. The existing informal system and structures for intergovernmental relations, not prescribed by legislation, prove to be ineffective in some instances. The shortcomings of the existing structures for intergovernmental relations need to be acknowledged and addressed by policy makers.

The three spheres (and not tiers) of governments in South Africa imply equality of spheres. Each sphere is described as being distinctive, but also as interrelated and interdependent. Although legislation pertaining to intergovernmental relations is being formulated, the interrelatedness and interdependence of the spheres of government should be based on mutual trust. Informal intergovernmental relations structures will always play a major role in promoting interaction. Intergovernmental relations are dynamic and should adapt to changing political, economical, social and technological environments. Formal legislation pertaining to intergovernmental relations should allow for informal intergovernmental relations to continue, including intergovernmental relations pertaining to conservation management.