

## **CHAPTER 6**

### **6. TOWARDS A NEW SYSTEM OF INTERGOVERNMENTAL RELATIONS: AN ANALYSIS**

#### **6.1 INTRODUCTION**

This chapter seeks to explore and provide alternative approaches towards an understanding of the South African IGR system. The South African IGR system, at the executive level of government, reflects a generic purpose for ensuring that government serves the will of the electorate and therefore, “the people”. In its design, the South African IGR system recognizes that all spheres of government share responsibility for virtually all functions. They should have a co-operative, co-opetitive and collegial relationship. The relationship must not be an adversarial one, and should confirm the long established national resolve that South Africa belongs to all who live in it. The challenge of an IGR form of governance therefore, is meant to ensure a unique South African national consensus of prosperity, democracy, human development and the removal of poverty. The IGR system is co-ordinated in such a manner that the jurisdictional status of the various spheres of government must be respected as this is enshrined in the Constitution of South Africa.

The desired result of such a system would be a sustainable achievement of the developmental policy objectives of a participative and democratic government. The present South African state is in an almost no-choice situation in order to ensure that the

importance of IGR in South Africa rises above political tensions and innuendoes so it may achieve the stability and co-operation.

The central question in the reform and reconstruction of the South African IGR system, in particular and IGR in general is, how effectual such a system should be, and how the implementation of policies should be co-ordinated in order to achieve the developmental priorities of South African society? It is the observation of the author, that the attainment of societal developmental priorities is a collective responsibility of all spheres and organs of state, and therefore relies heavily on the operation of an effectual IGR system. The author further contends that on the basis of the above position, which is congruent with the intent of the study, there should be an investigation into the extent to which a central agency such as The Presidency should be involved in the administration and management of IGR in South Africa.

In this chapter, the author will explore a number of possibilities and will suggest possible options for consideration. The position of The Presidency must be a synergising and strategic office of government. This is undoubtedly one of the few intellectual points of agreement to emerge in the South African Public Administration and public administration landscape. This assertion will be revisited in the concluding chapter of this study.

## 6.2 THE CHARACTER OF THE SOUTH AFRICAN IGR SYSTEM

The evolution of executive IGR between the National and the Provincial spheres of government gave rise to current South African IGR structures as discussed in Chapter 4 of this study. The discussion of IGR structures in Chapter 4 illustrates the fragmented nature of the current IGR system in South Africa, which is indicative of the policy implementation spasms disrupting the flow of policy in government. The IGR structures considered in this study, present a challenge, namely, searching for the nature of the order that exists in the complex relationships amongst national and sub-national units, a relationship typical of a federation. The search, however, should be within a framework that abandons the notion that IGR are unique and random in nature. The design of these structures underscores a belief that government is composed of numerous, independent and fragmented units within its structure (Ostrom and Ostrom, 1965:138). The composition of the Intergovernmental Forum, for instance, is premised on the belief that National government has the monopoly over policy direction, thus fragmenting its course from that of other spheres. Whilst the IGF was potentially well positioned to facilitate planning and co-ordination, its openness to several stakeholders has made the IGF a school-type assembly of the all-in-government within which National government read a policy direction “sermon” that was not open to debate. The founding objective of the IGR, however, should be maintained and developed to the extent that the forum becomes an intergovernmental forum designed to share information on important, often sensitive issues, requiring more intergovernmental consultation, co-operation and co-ordination.

The fact that the various spheres of government and organs of state display similarities in methods required to produce a particular public commodity, leads to the identification of the different government units (spheres and organs) concerned with the production,

distribution and utilization of such public commodities, as being an industry (Ostrom and Ostrom, 1965:139). The fundamental character of an industry is that those involved share a common body of information and knowledge about the nature of outcomes, their delivery process relative to societal needs and their impact. Systemic theory, often associated with the analysis of industries, dictates therefore, that access to a similar body of knowledge will enable industry participants to arrive at effectual decisions thereby facilitating a process driven governance system (Senge, 1990:51-53). The technology utilized in an industry is likely to be based on the gross structure of events lying between the various governance units and the systemic structure of the entire government industry (Senge, 1990:51-53).

The interrelationships within an industry tend to blur existing boundaries, but in no way, constitute an impediment to the use of the concept of an industry for examining regularities that occur in the behaviour of many organizations which perform closely interrelated activities in the production of similar goods and services (Ostrom and Ostrom, 1965:140). This is in sharp contrast to the traditional view of the public sector, and therefore government activity, being composed of governments, parastatals and agencies. This inevitably creates an orientation within and amongst government industry participants to behave in a compartmentalised manner that disregards the outcome or the product. However, it should be stated that whilst the generic industry regulator is the “market”, government industry should be regulated by a different “market”. The author submits that the regulatory framework for the government industry market is composed of regulations, proclamations, laws and policy documents that this study refers to as IGR operating currency. The degree to which these currencies are enforceable within a constitutional framework in a democracy, also operating within the rule of law and which is subject to an independent judiciary guided by the country’s supreme law (in case of South Africa the

Constitution is the supreme law), is an important facet of the separation of powers and intergovernmental independence.

The author is of the view that the historical evolution of South African IGR systems, like most systems of the so called 'Third World' and previously colonized countries of the world, has the disadvantage of being overwhelmingly influenced by foreign systems of government. This is supported by the fact that the Constitutions of most Commonwealth countries reflect a bias towards the British Westminster system, whilst most Francophone African states follow the French model. The South African Constitution, however, propagates the importance of IGR particularly since it prescribes a system of co-operative governance that outlines the requirements of distribution of authority between and amongst spheres. The questions of supra-national versus sub-national monitoring and supervision in cases of executive dysfunctionality as well as the concurrent and exclusive functions of the various jurisdictions, form part of the requirements. The protocol of the South African system has an uncompromisingly centralised IGR system, although it advocates a multi-sphered approach to governance. The South African Constitution provides opportunities for spheres of government to structure their relations formally and informally. In a formal setting, spheres engage in a series of administrative actions, interactions and transactions that can be either statutory or non-statutory in nature (Thornhill *et al.*, 2002:iii). The author submits that the human element that characterizes IGR presents a never-ending opportunity also to engage in informal and non-structured relations. In fact, conventional wisdom attests to the fact that most deals and agreements are struck more easily in non-structured environments.

The influence of the party political system, in the analysis of an IGR system, should be stated as a fact. The party political system of countries is a product of those countries'

history and traditional development. Political systems that use Federalism and Unitarism were developed within particular historical milieus and therefore matured with time, culture and its people. The governing systems of erstwhile-colonized countries, in the past years, have been closely following, and in some instances have been exact copies of, systems that were workable in pre-colonial settings. It is the view of the author that Federations and Unions developed in Africa are not based on indigenous law, but on regions that were designed either from a missionary church station-cum-central business district area or the predominance of a particular European culture as represented by “land owners” organised as self protection units. The opposition by the colonized to such systems of government was generally characterised by the intent of anti-colonial movements to remove the colonizers from positions of political power and replace them with peoples’ governments. The emergent paradigm of such a people’s government, the author argues, was a government composed of a ruling elite, still advised and directed by the more liberal of the colonizing class.

The “non-racial” character of most African Liberation movements coupled with the need to attract investors, notes the author, not only acculturated the constitutional outcomes of such struggles but perpetuated the intellectual dominance of the more liberal of the erstwhile ruling class. The composition of state departments that impacts on the hierarchy of command within the economy reflects a system that sustains and promotes the hegemonic tastes of erstwhile colonizers.

The growth of the National Party and the ANC in South Africa, at the turn of the century, was influenced by a common need to create a South African nation state free of British colonial influence (Jordan, in *The Sunday Times*, January 06, 2002:2). Consequently, the parallel efforts of these two political parties yielded a two-phase de-colonization process

that was marked by the 1961 Constitution Act and the 1996 Constitution of South Africa at which the 1961 Constitution removed British colonialism, and the 1996 Constitution removed Apartheid.

The first phase was mono-ethnic and a race-driven struggle led by the Afrikaner tribe whilst the second phase was multi-ethnic and a non-racial struggle for the total enfranchisement of all South Africans, led by a Mass Democratic Movement with the African National Congress at its helm. The second phase maybe also characterised as a “crowning moment in a struggle between two opposing political agendas, namely, that of African nationalism, embodied in the ANC and that of Afrikaner nationalism, embodied in the National Party. A strange occurrence that cannot be discounted as a coincidence is that they were born a year apart” (Jordan in The Sunday Times, January 6, 2002:2).

The design of political parties in 1961 reflected an infrastructure that could best achieve the set national objectives at the time, hence the Constitution established four provincial governments and other satellite non-white sub-national jurisdictions with limited political and economic power (Constitution Act 32, 1961:s1 and 111). The party structure of the former National Party followed the constitutionalised government and governance jurisdictions that informed the IGR system. It is the submission of the author that the growth in the centralization of power into the office of the Prime Minister from 1961 to 1979, when that office and that of the President’s were fused into the office of the Executive State President, was a constitutional response to the need of initiating socio-political reforms from a central office. Although this resulted in the abuse of political power by the President at the time, PW Botha, the management of IGR during his era, planted relatively appropriate seeds for a proper IGR system that was to evolve throughout the constitutional development of South Africa.

The forum of the President, Bantustan leaders and Provincial Administrators, yielded a number of constitutional changes that were to instruct the present Constitution, particularly as it relates to the demarcation of Provinces and provincial capitals. Later in the course of history, from 1989 to 1994, the pivotal role of the Party political system through the office of the President was to create grounds for the National Party to manage the transition to a non-racial democracy. This environment was “inherited” by President FW de Klerk, who was later crowned with a Nobel Peace Prize, despite the fact that he was a product of the historical moment as apposed to his counterpart Dr Mandela, who earned his Nobel Peace Prize through real struggle.

After 1994 the African National Congress underwent a number of structural changes that may be regarded as forerunners to the IGR system. The current governance imperatives of the ANC National Executive, amongst others, include ensuring that the executive arm of government implements the party’s strategy and selects persons into strategic positions of government who will also be custodians of party policy. The purpose of this is simply to ensure that the policies of the ruling party are structured and implemented in an effective manner. The effective implementation of such policies assumes that there will be proper management of affairs in all spheres of government. The administration and management of IGR, therefore, becomes a logical consequence in the achievement of any set of policy targets and aspirations.

The demarcation of South Africa into nine Provinces, six metropolitan governments, 47 district councils and 231 Municipalities was in approximate terms matched with party structures. This matching clearly defined the party hierarchy’s dominance as was reflected in the appointment of Premiers and Mayors by a central deployment committee. Incidentally, it also assigned members of the ruling party to executive positions in



government departments and para-statal. The efficient manner in which the deployment of party loyalists into government positions has occurred, indicates the inherent centrist management character of the ruling party, and the management of party policy. Government, therefore, can learn from such a structure, although this may perpetuate the erosion of the jurisdictional power and the relative constitutional autonomy of sub-national governments.

The nature of IGR reflects a number of features that define and indicate that there are inherent challenges facing South Africa with respect to its IGR.

#### **6.2.1 Agenda determination**

IGR in South Africa have been structured in such a manner that agendas considered at IGR forums and meetings reflect a focus on non-strategic issues, to the extent that these meetings degenerated into information sessions (IGR Audit Report, 1999:28). The development challenges unleashed by the 1993 and 1996 Constitution were so clearly articulated that units of government were caught up in a planning and policy development paralysis. The result of this was that IGR structures found themselves having to deal with technical “hands-on” issues, whereas they were trained to focus on strategic issues (or rather, “brains-on”). The minutes of the past IGR meetings show a central versus Provincial government tug of war regarding their political power reminiscent of competing sub-national units of government in federal states. This is a situation that must be nurtured within the co-operative federalist nature of South Africa. The determining of an intergovernmental agenda should be within the parameters of national priorities. The office of the President (The Presidency) is the foremost custodian of the national agenda. The Presidential Review Commission identified The Presidency as the core and the apex

of the whole system of governance in South Africa (PRC Report, 1998:30). The strategic roles of developing and implementing national policy, co-ordinating the functions of state departments and the administration and performing of any executive function bestowed on the Presidency and Cabinet by the Constitution, positions The Presidency as a critical intergovernmental and intersectoral agenda setting institution.

### **6.2.2 Accountability**

The IGR structures considered in this study appear dysfunctional in terms of accountability. Accountability, in this instance, is an obligation, liability or answerability of an institution, structure or person to give its superior a report of the quantity and/or quality of action and decisions on the performance of specifically assigned responsibilities (Mathebula: 1992:20). The NCOP is composed of provincial representatives and a deliberating organised local government. The provincial representatives in the NCOP have a derived parliamentary mandate with a vague accountability structure (Constitution Act 108, 1996:s60). As a policy debating institution the NCOP is hamstrung when attempting to make laws.

The designation of NCOP delegates to Parliament by provincial government implies that NCOP delegates are accountable to Provincial legislatures. The manner in which the NCOP conducts its affairs reflects inherent structural and operational problems such as: the number of permanent members dealing with bills; the incapacity of delegates within the committee system; time frames that govern the NCOP legislature cycle; the research capacity of provincial legislatures; and the dominance of other executive intergovernmental structures over intergovernmental relations (Levy and Tapscott, 2001:120-123). The accountability function of the NCOP, therefore, has an impact on these problems.

There are a number of questions that emerge and these include: to what extent can NCOP delegates be accountable at the provincial level of government if its members are not sensitive to the principle of provincialism as a right? Such questions may be extended to the limited involvement of NCOP delegates in the executive conduct of IGR, its interaction with executive institutions of government and the degree to which the NCOP can direct the monitoring and support functions as set out in sections 100 and 139 of the South African Constitution. The manner in which NCOP delegates are elected and/or appointed creates flaws in the accountability structure of the NCOP. Whilst the electorate has an indirect role in their appointment, the nature of the job at hand in the NCOP requires a particular qualifying mechanism that will ensure that a correct political and skills mix is achieved.

The accountability of the intergovernmental forum [IGF] is a managerial issue in the sense that its composition was designed outside the electoral process and, therefore, it has no law making powers. The IGF's role as an all-inclusive body created a platform for a government-wide discourse of policy imperatives and direction. The inherent representative nature of the IGR gave rise to a number of questions on accountability. These included: to what extent is a government official accountable to the political process *vis-à-vis* the management and administration process; what form should the discourse between appointed and elected government functionaries take, given the reality of the political versus administrative power competition; and which mandates the appointed government functionaries should implement, given the dichotomy of legislated mandate and/or mandated legislation and political exigencies (Adie and Thomas, 1982:229)?

The design of the IGF as an information-sharing institution provided political co-ordinates for government to be reminded of the dynamic development challenges facing South Africa. This platform is one of the few government-wide conferences with the potential for

producing a workable action plan for a better life for all. The various party, cabinet, provincial and departmental planning meetings are sectoral in form and therefore lack the intellectual synergistic character of the IGF. The possibility of inviting “national and international” experts to make inputs into the IGR and the resultant governance process creates knowledge generation and an opportunity for a national think tank in South Africa. The generation of ideas and knowledge could provide a mechanism for practical intellectual accountability as opposed to desktop-driven intellectual accountability. The IGF, therefore, remains a necessary conferencing IGR mechanism for the ultimate government-wide think tank and interaction, thereby creating space for accountability.

The Presidential Co-ordinating Committee (PCC) is probably one of the few structures that can ensure accountability as an IGR forum. Apart from the executive heads of local government, the PCC is the most representative executive structure of government. The President, as Head of State, is accountable to Parliament and therefore to the South African citizenry, and at a provincial level of government a similar arrangement is mirrored with Premiers, although their executive powers have geographical and repugnancy limitations (Malan and Mathebula, 2002:3). Through the integration of a democratic government it is possible to recognise the collective importance of Provincial Premiers as well as their political and executive stature and position in the delivery of services. The joint capacity of the Provincial and National executive to initiate legislation in the respective legislatures as well as the varying, yet effective, monitoring and supervisory capability of the two spheres, makes the PCC an accountability-filled structure. At these levels, the political position and profile of the President and Premiers as spokespersons of government affords them critical vehicles to provide government-wide feedback to voters through their annual opening of Parliament and Provincial Legislatures’ speeches (Constitution Act 108, 1996:s84 and s187). The co-ordination of PCC functions with those

of the IGF, therefore, should be synchronized and be developed with The Presidency as a co-ordination epicentre.

The composition of the cabinet clusters and their location in the President's office which provides yet another important exclusive layer for a sound IGR structure, both in a horizontal and vertical manner, present one of the most accountability intensive structures of government. The collective executive authority of Cabinet as personified by the President and The Presidency is co-ordinated through the outcome-defined five clusters as follows: Governance and Administration; Social Sector; Investment and Employment; International Relations, Peace and Security; and Economic, Justice, Crime Prevention and Security (Cabinet Working Document on Cabinet Structures, Functions and Systems, 2000:17). The thematic organisation of these clusters is indicative of the IGR in areas of government with the individual state departments indicating the broader areas.

The intergovernmental cluster system ensures that the impact of government programmes is co-ordinated across the board and in a multi-sphere manner. However, there are interesting accountability assumptions of provincial and local government representation in cabinet clusters. The structure of these clusters includes at a technical, an expertise and an advisory level, the Forum of South African Directors General. Assuming the representation of Provincial Directors-General in FOSAD, provincial government is or is supposed to be, represented by appointed officials in a potentially political structure. The Ministers who are present in cluster meetings have an executive-political accountability as assigned within a constitutional framework to them by the President, whereas the Premiers' executive input is ignored in the cluster system thereby rendering defective the accountability of the cabinet clusters. The executive force of cluster decisions makes it a critical IGR structure and its current location in The Presidency remains the best possible

place. The co-ordination of specific programmes of government and the integration of government activities at a conceptual and policymaking level should be managed by The Presidency.

The accountability of Directors-General (DGs) to the Executive is a legislated one (PFMA, Act 1 of 1999:s40). DGs are appointed by the Executive and have an executive managerial responsibility and function. The regulatory framework governing the appointment of DGs is clear on their accountability in financial accounting and service delivery. Whilst DGs cannot be held accountable for the general outcomes of government, they are accountable for specific outputs toward the attainment of government-wide outcomes. The Forum of South African Directors General represents, therefore, a collective in terms of output accountability of member DGs. DGs, by definition, are a select group of individuals with a national responsibility of ensuring that national set priorities and agendas are set within limited means and resources. The above responsibility requires of them jointly and severally to co-operate in the co-ordination of programmes across the board: this is achieved through identified outcome-defined thematic areas defining cabinet clusters.

The DGs clusters within FOSAD ensure that the deployment of departmental resources is in step with agendas set by Cabinet Clusters (Cabinet Working Document on Cabinet Structures, Functions and Systems, January 2000:7). The different DGs' clusters are kept accountable to Cabinet through relevant Cabinet committees, since they process matters which serve in Cabinet and the Cabinet committee to ensure that technical issues are resolved thus leaving Cabinet with political and policy choices that have to be made (Cabinet Working Document on Cabinet Structures, Functions and Systems, 2000:7). FOSAD therefore, has a central role in the co-ordination of governmental programmes by

Cabinet, while a cabinet office in The Presidency manages Cabinet. The position of Provincial DGs is in this instance derived from their membership in FOSAD, and their actual executive contribution in FOSAD DG Clusters that manage the Cabinet Committees, is unclear, despite the fact that it is critical.

The accountability of MINMECS (Intergovernmental relations committees of Ministers and Members of Provincial Executive Councils) is one of the most intricate features of the South African IGR system. Whilst it is accepted that public functionaries in their elected and appointed capacity derive their fundamental mandate, and therefore accountability, from the citizenry, their role in executive structures requires a further definition of their mandate. Executive institutions of government in the National and Provincial sphere come to life in the President and the Premiers. The most IGR intensive area of government, as the study has thus far demonstrated, is in the executive arm of government. This arm is composed of elected and appointed officials with the latter assuming positional dominance over the interacting and transacting function of government, which this study refers to as IGR. The dominance of officials necessitates a mention of the normative guidelines of supreme political authority, public efficiency and effectiveness, legal probity, and respect for societal values (Botes *et al.*, 1996:285). MINMECS are by design technical in nature and thus, have the potential of eroding the normative guidelines that this study has identified.

On the question of accountability, MINMEC is designed as a first stage, to have an accountability structure, the various executing authorities (as defined in the public service act) and thereafter, the respective jurisdictional executive centres as headed either by the Premiers and/or the President (Public Service Act, Act 103, 1994:s3, 3(a) and (b)). Since MINMECS are mostly non-statutory bodies, their accountability depends on the practical

embracing of co-operative governance principles of fostering friendly relations, assisting and supporting one another, consulting and informing one another, adhering to agreed procedures, and co-ordinating actions and legislation with one another, as enshrined in the Constitution (Constitution Act 108, 1996:s41). The non-executive and non-binding character of MINMECS relegates their accountability to that of a derived one and one which is thus unenforceable.

The movement towards making some of the MINMECS statutory only served to guarantee their regularity, representation and agenda setting, but the ultimate position of accountability remains fragmented, particularly when it comes to the commitment of budget resources (IGR Audit Report, 1999:38). The differences in the designation of portfolios by Provincial executives to Members of Executive Councils complicate the thematic clustering concept that informs the service delivery initiatives of government (IGR Audit Report, 1999:40). The culture of gentlemen's agreements and the defence of party positions has been a destructive force to the MINMECS system. The system however, is important as it brings together executive heads of government departments, in their specific sectors, to interact and co-ordinate their programmes. The decisions arrived at in MINMECS are suspect as they appear to be the personal focus points of those provincial executives. The manner in which MINMECS report to their various executive Committees appears to be a limiting factor in terms of their accountability (IGR Audit Report, 1999:191). The information flow between sectoral MINMECS and provincial executives remains a matter for further research. The synchronization of MINMECS decisions to inform cabinet clusters, cabinet and therefore government, through a synergistic co-ordinating mechanism, is crucial in the reconstruction of an IGR system.



### 6.2.3 Executive Position

The executive position of IGR structures reviewed so far is an indirect and a derived one. The composition of the structures defines their executive nature and form. There is nowhere in the Constitution and related legislation that the executive position of IGR is mentioned. The position of Premiers as provincial executive heads is only relevant in one IGR structure, the PCC (Presidential Co-ordinating Committee). Despite the geo-political executive importance of Premiers as well as their strategic implementing agent position, the PCC can only make recommendations to the national executive. The emergence of the Metropolitan Executive Mayoral system in urbanized, culture-directing and opinion-generating centres, further repudiates the position of Premiers in an executive sense. The author argues that the economic dominance of Metropolitan governments, their international recognition in terms of the global cities habitat 2000 concept, and the political stature of some of the deployed party leaders to head these Metropolitan governments, dwarfs the influence of Premiers over these structures. The revenue-generating capacity and worth of Metropolitan governments give them socio-economic and political leverage over Provincial Premiers. The absence of a broad revenue-generation base for Provincial Government as compared to that of National Government further limits the already insolvent Premiers in terms of executive authority.

The executive authority of Cabinet Clusters and Committees, FOSAD, and MINMECS places them in a better position to lobby for their positions within Cabinet. The financial control of treasury that operates in a quasi-autonomous manner subjugates decisions of most IGR structures to mere policy directives that “could” be funded in the medium-term. A review of this executive element will form part of this study’s findings.

#### 6.2.4 Legislating intergovernmental relations

The evolution of an IGR system, ideally, should culminate in a legislated process that reconciles the conflicting and competing needs of the time. The South African Constitution directs legislators to produce an Act of Parliament that provides for appropriate mechanisms and procedures to facilitate the settlement of intergovernmental disputes (Constitution Act 108, 1996:s41). Whilst there is a desirability to legislate for IGR, the Constitution only highlights the importance of a dispute resolution mechanism. The wisdom of constitution makers was probably informed by the inherent dynamics in IGR, hence a cautious silence on the enactment of such legislation.

The debate therefore, is whether or not to legislate. The enactment of legislation may stifle the growth and development of an IGR system in a flexible and dynamic manner, and to this end, the establishment of legislated IGR structures may create more disputes than there already are. The belief that an absence of legislation will result in a legal vacuum is repudiated by the obligatory clause of co-operative government as enshrined in the Constitution and this elevates the central importance of non-judicial remedies in dispute resolution.

The requirement that one exhausts all remedies before going to court creates space in the South African IGR growth path for a strategic delay in enacting law. The correct state in the constitutional democracy maturation process of the South African society renders any notion of developing one-size-fits-all and any “generic” legislation obsolete. It is the opinion of the author, therefore, that the principles as set out in chapter three of the South African Constitution should become a normative framework for non-judicial intergovernmental dispute resolution, and that Parliament should only legislate on sector-

based legislation. At a generic level Parliament would channel any dispute resolution process toward the Constitutional Court of South Africa.

The character of the South African IGR system, is inextricably linked with its constitutional history. The determining of a national agenda is generically a function of a particular cultural maturity in the socio-economic and political fields of human co-existence. The accountability realm, within which justification for governance operates, in generic terms, characterizes the relationships between spheres of government and organs of state. The assignment and dispersal of executive powers (in a constitutional sense) is a key ratification mechanism for intergovernmental decisions and agreements and therefore characterizes an IGR system. The enactment into legislation of the entire IGR system represents the recording of the socio-political and constitutional maturity of a nation. Should a nation find itself in a nation building process, then the IGR legislation route should not only be delayed but avoided, thereby giving the cultural environment a growth path and a chance.

### **6.3 A RECONSTRUCTED INTERGOVERNMENTAL RELATIONS SYSTEM**

The fragmentation that defines the interconnectivity of IGR structures at the executive level of National and Provincial government has a dampening effect on the speed and pace of multi-jurisdictional service delivery. It is therefore the submission of this study that the reform of the South African IGR system be rooted in the interconnection of interactions and transactions between all structures of intergovernmental discourse and relations. This reform should also be based on the respect for the normative guidelines of public administration as well as ensuring that the system is characterised by a clearly defined national strategic agenda with certain accountability protocols and properly assigned

executive powers within a dynamic and flexible regulatory framework that accommodates, in the main, extensive use of non-judiciary and less-legislated mechanisms.

The defragmentation of IGR structures as a reform strategy would impact on a number of almost sacrosanct issues, such as the review of what form of state South Africa is, the re-definition of executive structures of government as well as the review of the entire Constitution of South Africa. This study focuses on four executive intergovernmental structures and outlines how they operate to ensure that there is proper interaction and transaction between and amongst governments as conducted by executives. The manner in which these executives conduct their IGR activities should place the synchronization of activities at the top of their agenda. This study, therefore, argues for the retention of the Intergovernmental Forum, MINMECS, FOSAD, Cabinet Clusters and the NCOP, with redefined and refined mandates. FOSAD and Cabinet clusters will be regarded hereunder as part of The Presidency.

### **6.3.1 The Intergovernmental Forum (IGF)**

A reconfigured Intergovernmental Forum, with the purpose of receiving and sharing information on issues requiring intergovernmental consultation and co-ordination, needs to be established. The central purpose of the IGF should be to promote an intergovernmental dialogue between spheres of government, including organs of state and civil society bodies. The objectives of the IGF should be based on a consensus-seeking and inclusive approach, reminiscent of the South African milieu. The IGF should be composed of the State Presidency, the leader of the Official Opposition Party, the Premiers, Ministers and Deputy Ministers, Members of Executive Councils, Chairperson of the National Council of Provinces, Chairperson of National portfolio committees, Chairperson and Chief Executive

of the Financial and Fiscal Commission, Chairperson of the Public Service Commission, Organised Local Government National Chairperson, Directors-Generals and Provincial Heads of Departments. The forum should include organised business and labour, organised civil society bodies at a national level, and experts in contentious and topical issues to be considered by the Forum.

The composition of the forum should reflect the character of the IGF in a sense that it is a consultative forum where the President and the leader of the opposition have fixed speaking rights. The office of the President should administer the co-ordination of forum activities, and it should assume the status of the President's Consultative Conference on Government and Governance. The conference should be limited to making broad policy guidelines to direct financial service delivery priorities for the years ahead.

The terms of reference for the IGF should be to discuss matters brought before it through The Presidency. In addition to the general terms of reference the IGF should: consider the development priorities of the country; address issues for constitutional review; define a national consensus for development; and address multi-sectoral issues. The forum should act as an annual policy epicentre for fine-tuning by other executive IGR structures. The quality standards for the IGF must include; the promotion of consensus amongst spheres of government, organs of state and civil society bodies; ensuring that there is multi-lateral and intergovernmental policy planning and implementation; provision of a platform for interaction between the executives (in a constitutional sense) at all levels; and ensuring that there is adequate and sufficient interaction between spheres of government and key officials.

The conference should be held annually, immediately after the President has delivered his State of the Nation address. The centrality of the State of the Nation address in IGF deliberations will be recognizing the nation-building role of the Presidency through the IGF as well as the inherent government-wide reform responsibility of the IGF. The technical mechanisms behind the IGF should be co-ordinated within the Presidency as reconstituted per this study's recommendations below. The strategic role of the intelligentsia, organised business and labour, and civil society should inform the agenda-setting direction of the Forum. The outcomes of the conference should be measured against a framework of the set terms of reference and objectives.

The operation of the actual conference should include a keynote address by the State President, followed by the leader of the Official Opposition and the Deputy President, respectively. The Provincial Premiers should also be given the right to address this conference, followed by organised business and labour, organised local government and organised civil society. The Director-General in the office of The Presidency could then present an implementation framework within an administrative state context. The conference could then allow for a series of sectoral and outcome-defined syndicates wherein experts, the intelligentsia, various Ministers and Members of Provincial executive committees, and strategic local government leaders have the floor.

The objectives of such speeches should be information dissemination and announcements regarding research output. The Conference should be in outcome-defined themes as demarcated in syndicates that dovetail into broad Cabinet Committee cluster themes to produce broad government outcomes within a multi-year planning framework. The advantage of such an approach will be to allow opposition politics to measure progress towards the achievement of national priorities that will run the course of history in South

Africa. The conference must contain an element of being a talk-shop provided such is countered by the need to be both productive and pro-active in the policy making process. The proceedings of the IGF should be made public and part of a managed information process for the Office of the President and other executive government institutions at all spheres of government. The process towards the intergovernmental conference should allow for nine provincial conferences with a replicable composition in which local government should enjoy predominance in most matters. The Provincial conferences, however, do not form part of this study. The inter-linkages of other structures to the IGF are illustrated in Figure 5.

### **6.3.2 Intergovernmental Relations Committees of Ministers and Members of Provincial Executive Councils (MINMECS)**

The assigned and devolved government powers to provincial government, despite the limited autonomy and discretion, dictated for the South African government a need to have a co-ordinating mechanism at the executive level between Provincial service delivery state departments and their national counterparts. Committees of Ministers and Members of Provincial Councils (MINMECS) provide a platform for these executives to transact and to interact on matters of mutual interest and concern. The reconfiguration of MINMECS advocates for structures should be guided by a quest for a common understanding of goals and priorities, and a provision of strategic direction within an aligned, co-operative and co-ordinated framework.

The author strongly suggests that the terms of reference for MINMECS should be: the provision of mutual advice on service delivery issues; the anticipation for avoidance of potential intergovernmental conflicts; the co-ordination (within a set national development

consensus) of the policy and development process; the determination of sector-specific long- to short-term priorities; the appropriation of sectoral resources to relevant and appropriate delivery agents; the integration of IGF set broad priority guidelines with line function activities; and the continuous exchange of information and discussion of any matter referred to the Committee.

The author supports the idea that MINMECS should be composed of Ministers and Members of Provincial Councils as permanent members as reflected in legislation governing the Budget Council. The involvement of Organised Local Government as well as other organs of state relevant to the issue at hand should augment them in their activities. It is the view of the author that the decision to invite other bodies other than permanent members should be canvassed and the outcome decided by the Minister in charge. The Minister, as the political head of the MINMEC will be the chair. MINMECS should remain statutory in character with a set of rules and regulations to regulate matters such as: composition, quorum, voting, financing of meeting and agenda determination powers and functions; secretariat, records of proceedings and books of account, procedures for forwarding decisions and policies to other bodies for consideration; adherence to decisions and policies and conflict resolution, including the role of judicial institutions established in terms of the state constitution (DPLG, Strategic Initiatives to Enhance IGR, Supplement, 2000:63). The political reality that MINMECS, in future, will be composed of members from more than three political parties also points to the desirability of legislating, in framework terms, MINMECs thereby infusing stability into the system.

The formalization of MINMECS through legislation should, however, be minimalist in approach and be considerate of the relative impact this will have on the executive power of constitutionalised structures. The author argues that the frequency of meetings for



MINMECS should be at least once a quarter and at most six times a year. The frequency referred to relates to the political MINMEC since the technical MINMECS of officials may meet from time to time depending on the exigency of matters. The corresponding Director-General's office should undertake the technical support for MINMEC. The intergovernmental function of national departments must be co-ordinated from the office of the Director-General and assigned to a relatively senior management position. The records of proceedings of the MINMEC meetings should be merged with the management information systems of The Presidency. The Presidency, by virtue of its position, will be best suited to manage the integration of such information with the assistance at the storage level with the office of the National Archivist. Information technology innovation of information (such as search engines, Internet, intranet and electronic mailing systems) can enhance the management of information generated out of practically all sectoral MINMECS. The associated advantage of centrally managing MINMEC information is the wealth of knowledge that could be generated and accessed for teaching and research, thus informing future generations of past experiences, an area ignored by government.

The study suggests that the elements of the regulations framework governing MINMECS must define the strategic feedback loops between MINMECS and Provincial Executive Councils. The synchronization of MINMECS meetings with those of the PCC as well as meetings of the Provincial Executive Councils must be given consideration because indispensable policy matters enabling MINMECS and Premiers to give feedback and receive mandates within a synchronized system. Further to this assertion, the author argues that the regulations must also define the process of initiating legislation within a MINMECS structure and must outline all other linkages in the system. The binding nature of MINMECS decisions should remain a negotiated area because the geo-political landscape of South Africa will remain continuously fluid, thus yielding asymmetrical

coalitions within such structures. The proliferation of coalitions within IGR structures can develop a sickness that obfuscates decision-making and overemphasises the consultation feedback process in policy making.

The policy alignment role of MINMECS positions them to be effective generators of sector-based priorities and agendas. The critical role of Directors-General in co-ordinating and that of Ministers in overseeing the political process, positions MINMECS as the next logical structure of intergovernmental interaction and transaction after the loosely organised Intergovernmental Forum in its reconfigured format discussed here. The direct involvement of Members of Executive Councils from Provinces, and assuming the existence of a vibrant provincial-local intergovernmental consultation process, will ensure that activities of the different ministers will become less steep, but grounded in practice-driven inputs. The interface of MINMECS at a technical level will be outlined when dealing with FOSAD in the ensuing sections of this chapter.

### **6.3.3 The Presidential Coordinating Committee (PCC)**

South African precedents and interventions indicate that the Presidential Co-ordinating Committee (PCC) should be the principal institution through which executive IGR between the three spheres of government occurs. The key driver of this structure should be decision-making in areas of potential conflict in the horizontal and vertical IGR between Provinces themselves and, Provinces and national government. Adie and Thomas (1982:111) argue that such structures are utilized as the President's bureaucracy is designed to assist the ultimate executive centre (cabinet) in decision making and weighing up regular advice and opinion from ministries and standing bureaucracies. Therefore, it is the opinion of the author that the State President, assisted by a Minister in charge of either

Provincial Government and Local Government or IGR as a functional matter, chairs the PCC. The position of such a Minister should be revisited to be included within the Ministry in the Office of the President with the functional responsibility of co-ordinating IGR. The issues of dealing with Local Government and Provincial Government should be defined in such a manner that such a department has a line function on Provincial Government and Local Government leaving issues of integration to the political oversight of the Presidency. This will affirm the Presidency's role as a lead agency for strategic planning and direction (Adie and Thomas, 1982:111).

The PCC should be composed of The Presidency, the Minister in charge of IGR in the Office of the President; and Organised local government as recognised in terms of the Organised Local Government Act. It is the view of the author that the PCC's functional responsibilities should include the list below.

- The ratification of all MINMEC proposals for changes in policy and legislation before they are tabled in the National Cabinet.
- Recommending to Cabinet matters relating to:
  - the implementation and activation of Sections 100, 139 and 155 of the South African Constitution Act 108 of 1996, dealing with supervision, monitoring and intervention in sub-national jurisdictions; and
  - the management of municipal cross-border relationships including those that affect municipalities in the immediate neighbouring countries of Lesotho, Swaziland, Botswana, Mozambique, Namibia and Zimbabwe as well as the territorial water management area.
- The integration of the Provincial integrated development plans into a national integrated development plan for submission to cabinet at set times within the multi-year budgeting system.

- The oversight of performance management of Municipalities.
- The building of a strong local government sphere through the political oversight and stature of The Presidency.
- The monitoring of local government financial viability.
- The making of executive recommendations within a medium term expenditure framework on the equitable share and the distribution of intergovernmental grants.
- To negotiate, on an ongoing basis, the devolution of central powers to Provinces.

The above functions of the PCC therefore limit its terms of reference to be that of inter-provincial planning, harmonising Provincial legislation and the integration of national service delivery through a deliberate programme of local government capacitation and monitoring, as well as, the consolidation of integrated development plans, defined in the Municipal Structures and Systems Acts. The terms of reference are derived from the executive authority of premiers in: Provincial policy development; Provincial legislation preparation and initiation; national policy implementation; and the general development of local government. The secretariat of the PCC should be a co-function of the Minister charged with Provincial and Local Government and the Ministry in the Office of the President responsible for intergovernmental relations.

The PCC should be designed to handle the above functions at a conceptual level. The functions are based on the proviso that most matters would have been debated at the level of MINMECS in cases of concurrent functions and at the different executive integration points such as Provincial Executive Councils and Cabinet Clusters in the case of exclusive competence matters. Whilst the PCC will be concerned with in-government matters channelled through its secretariat that has consulted with its constituent parts, the agenda

of the PCC should at all times have a component dealing with a Presidential briefing on the State of government at the time of that meeting in session.

The above requirement will elevate the position of Premiers in the government machinery, thereby ensuring the executive status of Premiers. The integration of IGF broad policy guidelines should also instruct the deliberations of the PCC. The technical meetings preceding the PCC where appointed officials “package” input for decision making in the PCC, should be a joint effort of Provincial Directors-General, the Director-General of the Ministry charged with Provincial and Local Government and the Director-General in The Presidency (as technical chairperson and convenor). The PCC’s dispute resolution mechanism should not only be limited to party political negotiation, but should also be formalised with binding agreements that should be ratified by national cabinet.

#### **6.3.4 Cabinet Cluster System in The Presidency**

The importance of the intergovernmental role and nature of the South African Cabinet cannot be over-emphasised. The decision-making architecture embedded therein, ensures that Cabinet decisions are at least widely consulted before they receive the executive seal. The Cabinet functions of developing and implementing national policy and legislation as well as co-ordinating functions of state departments obligates the administration machinery behind Cabinet to ensure synergy and integration. This study submits therefore that the development of Cabinet clusters managed in The Presidency represents yet another IGR pioneering development in the broad South African and African IGR landscape.

In the proposed structure of the IGR process (see figure 5) it will be noted that Cabinet clusters are positioned between the PCC and National Cabinet and will link directly with MINMECs (through Ministries), the PCC and FOSAD. The various linkages explain the flow of intergovernmental co-ordination up to the level of a particular cluster. To illustrate this, let us assume that an issue is tabled for discussion at a particular MINMEC, and it involves organised local government. (The matter may also originate from the IGF broad policy guidelines as they emanate from a State of the Nation address.) The specific MINMEC will consider the issue and take decisions that will ensure the practical roll-out of the policy issue after which the Member of the Provincial Executive Committee, through regulated report back mechanisms, will report this to the Provincial Executive. The relevant Cabinet cluster, at this stage, will start a process of getting the matter financed. The Minister in charge will table the policy issue to an outcome-defined cluster for integration with other sector-specific issues from individual ministries within a cluster. The cluster will then determine if the policy issue requires the recommendation of the PCC, in which case it will be tabled via the secretariat. The PCC will make recommendations and the cluster will table it for Cabinet approval whereafter an executive seal will be placed on the issue as well as appropriation from the State Revenue Fund. Thus, within set legislative parameters, the issue will be kick-started.

The illustration in Figure 5 shows the housekeeping role of Cabinet Clusters within IGR. The Clusters, therefore, should be located within The Presidency and should have as political head, a Minister responsible for IGR within the structure of the Presidency. The number of clusters should not exceed six and should be organised in terms of outcome-defined themes such as Governance and Administration, Economic Development, and Human Resource Development. The definition and redefinition of clusters should be a dynamic and changing process, guided by national priorities of the historical moment. The

IGF's all-in-government and civil society character may be reflected in the medium-term revisiting of outcomes that define the clusters in thematic terms.

The management and administration of clusters should be kept within the jurisdictional domain of The Presidency, assisted by individual ministry Directors-General. The clusters should be run through the Cabinet Office under the overall administrative headship of the National Director-General in The Presidency. However, this office should have a head at the level of a Director-General. The author submits that the Director-General in the Presidency should be referred to as the National Director-General, his or her conditions of service should include the overall management of the National Executive, and therefore, should call Directors-General to account for achievement of cluster outcomes. The position dealing with the Cabinet Office and IGR should be elevated to the status of Director-General thereby reconciling the positional protocol issues between Directors-General of Ministries and the Branch heads in The Presidency. The National Director-General will in this case therefore be the Director-General of Directors-General.

The Director-General responsible for Policy Co-ordination (including IGR) has the following functions: co-ordinating all MINMEC decisions and developing a follow-up evaluation process; co-ordinating the Cabinet Cluster system and ensuring that information emanating from clusters is channelled to appropriate decision centres; co-ordinating the Intergovernmental Forum and ensuring that a non-partisan attendance is obtained whereafter decisions will be channelled to relevant decision centres; and the management of intergovernmental information from intergovernmental executive decision centres of government in all spheres. The office of the Director-General responsible for Policy Co-ordination and Advisory services should be made up of Chief Directors who head the thematic cabinet clusters, and in each Chief Directorate a special directorate dealing with the corresponding MINMEC decision should be established. An additional directorate

dealing with IGR management information and the co-ordination of the IGF meetings should also be established. The management information directorate should have a client-supplier relationship with the corporate information technology division in The Presidency but retain a reporting and line function relationship with the Policy Co-ordination Unit. The Policy Co-ordination Unit in the Presidency is illustrated in Figure 6 of this study.

The ultimate policy co-ordination function will reside in the Presidency. The integration of the proposed unit with the Cabinet Office will remain the function of the National Director General. The proper functioning of the forum of South African Directors-General will enhance the functions of the National Director General, in relation to IGR.

#### **6.3.5 Forum of South African Directors-General (FOSAD)**

The operational realm of elected representatives is perhaps the easier between the two IGR realms of elected and appointed officials. The political realm has the advantage of it being negotiated in party circles and government coalition-building agreements. The growing acceptance by society that politicians and/or elected officials will always negotiate agreements that will be self-serving, party political point-scoring and ideological space-giving in nature, makes this administratively easy realm. The realm within which appointed officials operate is a highly regulated one, often characterised by the need to be legal, administratively accountable, structural in approach and the need to adhere to set protocols, often referred to as “bureaucratic red tape”. The Forum of South African Directors General, by design, is an institution that can rise above the red tape, often associated with appointed officials. FOSAD has a co-coordinative value second to none in South Africa.



Figure 5 of this study shows FOSAD as a body that operates in all the mentioned IGR structures. The structure espouses a FOSAD that is chiefly an IGR backbone without which policy co-ordination would be a pipe dream. The study, therefore, proposes a reconfigured FOSAD. FOSAD should be composed of all Directors-Generals as permanent members. The chief executive officers of all parastatals should be admitted as associate members who may be invited and/or summoned for discussion in one of FOSAD's structures. The National Director-General who is also the Head of Administration in The Presidency should become the chief executive and chairperson of FOSAD. The chief executive officer of an association representing Organised Local Government in terms of the Organised Local Government Act should be given permanent deliberating status in all FOSAD meetings. The head of administration in the NCOP may be invited to FOSAD meetings at the discretion of the National Director General.

FOSAD should establish, from amongst its members, a number of structures to make its operations effective. The supreme structures should be a FOSAD plenary consisting of all FOSAD members and any invited person and/or institutions. The agenda of plenary will include discussion on the strategic administrative direction of government in the areas of public service reform and management. FOSAD structures that are expertise-needy and time-intensive will be the DG clusters that mirror the Cabinet Clusters. The Chief Director in the Policy Co-ordination and Advisory Services Unit within The Presidency will convene each of the DG clusters. The brief of the DG clusters will be to handle all matters relating to the management and the administrative domain of issues tabled in the Cabinet clusters, thereby leaving policy matters to elected officials.

The operation of the DG clusters should be within the principles of pre-supposing an existence of the managerial autonomy of individual Directors-General, thereby

guaranteeing a sufficient level of accountability (OECD, 1999:7). The next structure, though not denoting any hierarchy, will be the special committee of Provincial Directors-General which should be convened by the Director-General responsible for Provincial and Local Government but chaired by the National Director-General (with the Policy Co-ordination Director-General as a standby chair). The special committee of Provincial Directors-General will also serve as the technical committee of the Presidents Co-ordinating Committee consisting of the President and the nine premiers. The brief of this committee will be to table, for discussion at PCC, all matters within the PCC's terms of reference and functions. The Directorates dealing with MINMEC decisions in a Cabinet Cluster mirrored fashion will be the principal information managers for the special committee of Provincial DGs within FOSAD.

The head of the NCOP's administration, preferably someone at Deputy-Director-General level, should become a permanent member of the Special Committee of Provincial Directors General (SCPDGs). The SCPDGs, as permanent deliberating members, should have the provincial heads of local government who, together with provincial DGs, will integrate at a technical level the entire integrated development planning mechanism. The functionary responsible for intergovernmental fiscal relations in the treasury should become a permanent member of the special committee. The role of FOSAD in the Intergovernmental Forum will be personified by the National Director General who may convene Cabinet Cluster mirrored mini-conferences of officials before the IGF. The mini-conferences should include the chief executive officers of District councils, Metropolitan governments and the cities at the nine developmental nodal points as identified in a study by the Development Bank of South Africa (Mathebula, 1992:58). The mini-conferences may also be convened in the name of FOSAD but managed by Provincial Directors-

General. This, however, is a matter for further research at the Provincial-local intergovernmental level. The structure of FOSAD is presented in Figure 7.

At the core of FOSAD's terms of reference should be the co-ordination and implementation of policy, the provision of advice to elected government officials, and the establishment of administrative and resource mechanisms to action those Chapter 3 principles of the South African Constitution. The functions of FOSAD, therefore, should be: to foster a dynamic interaction between structures of elected government officials with those of appointed ones, at provincial and national levels of government; to horizontally and vertically co-ordinate government activities; to broker relations between elected and appointed officials; to direct, through its plenary and other forums, public sector management and transformation; to provide technical expertise, advice and service to national-provincial IGR structures; to provide a technical platform for IGR discourse; and to facilitate, through sound management of information, the establishment and sharing of best practices in public management.

Whilst the technical and co-coordinative value of FOSAD is unquestionable, the design of a FOSAD structure should be capable of adequately incorporating the role of the value system and spontaneity of those involved. The values of key players within the inner circles, how they transact, and the ideas and actions of creative individuals affect the undertakings required of intergovernmental relations (Addie and Thomas, 1982:133).

FOSAD's meetings, in most cases, will be dependent on the meetings of structures to which it provides technical support and service. However, the study proposes that FOSAD's Plenary should be held at least once a quarter, and should coincide with meetings of the PCC, thereby synchronizing decision-centre points with the technical back-up emanating from it. The DG Clusters will meet as frequently as the Cabinet

Committees. The Special Committee of Provincial Directors-General will meet every quarter and before every PCC meeting.

### **6.3.6 National Council of Provinces (NCOP)**

The National Council of Provinces should remain as is constituted in the Constitution and as presented in Figure 7. However, there is a need to review a number of dysfunctionalities that affect the desired role and impact of the NCOP. In terms of its composition, the questions that surround the derived mandate with a national focus, need to be reviewed. The study proposes that the provincial delegates in the NCOP, structurally, be regarded as Members of the Provincial Legislature assigned to the NCOP. This will ensure that activities of Provincial legislatures inform NCOP decision-making and the legislative role in Parliament. The oversight function of the Speakers of Provincial Legislatures in the activities of Members of Provincial Legislatures in the NCOP will ensure that there is constant monitoring of the extent to which delegates in the NCOP raise province-specific matters.

The author argues that the role of NCOP delegates in National Matters should be limited to those that are current and exclusively provincial in nature. The provincialist vibrancy required of the NCOP should be nurtured to an extent that the control of Provinces by parties that do not command a national majority does not pose a threat to South Africa's growing democracy. It is this study's submission that the political stature of the NCOP should be enhanced through the positioning in Party electoral lists, by having persons to serve primarily in the Provincial legislature and then deployed to the NCOP. The deployment and redeployment of persons into the NCOP, in the main, should be in terms of the provincial party lists. This will ensure that political accountability, at least

theoretically speaking, is resident within the Provincial Party structure. However, this proposal advocates the maintenance of the current number of delegates.

The calibre of persons deployed into the NCOP should not create a situation whereby the electoral will of “the people” is compromised at the expense of expertise. However, there is a pressing need for the NCOP to expand its administrative capacity. The position of the Chairperson of the NCOP will be determined as provided for in the current constitutional framework. The Chairperson should then establish a bureaucracy within the parameters of the Public Service Act that will be reflective of the task at hand. The study argues for a chief-executive officer at the level of either a Director-General or Deputy Director-General. The functioning of this office should include a resident functionary in the provincial legislatures appointed in consultation with the management echelon of the provincial legislatures. The NCOP chief executive should become a member of FOSAD and have on-going interaction with the highest consolidating level of the executive in terms of information and decision dissemination. The NCOP chief-executing office should also manage and administer the research budget of the NCOP, as well as the general operating budget of the NCOP. Whilst it is desirable to internalise the size of the public service, the study recommends separate bureaucracies for the National Assembly and the NCOP, wherein a number of corporate functions may be identified and be shared within a defined protocol. The proposed NCOP separate bureaucracy must ensure:

- that through capacity enhancement the political status of the NCOP is elevated;
- that through the management of an up to date research infrastructure, the provincial maturation process inherent in the NCOP is commensurate with the broad democratisation process;

- that its activities substantially mirror those of provincial legislatures, an issue that will be institutionalised within the job description and profiles of NCOP functionaries;
- that the data input and information put at the disposal of delegates enhances the integrative skills required of persons in the NCOP;
- that the legislative programmes of the National Assembly and Provincial legislatures are synchronised from inception up to public debate stage; and
- that the material differences of Provinces be reflected in its activities, thereby enhancing the principles of asymmetry and subsidiarity.

The powers of the NCOP should be reviewed continuously as the constitutional maturation process occurs. The reality that in the not too distant future of South Africa, certain Provinces may be won, electorally, by more than three political parties, indicates the need for a legislative mechanism to reconcile party political and ideological differences to the benefit of service delivery. The NCOP, at the legislative branch of government qualifies for this function, and therefore, should have its powers and functions expanded to legislate with overriding powers on provincial governance conflict matters that could not be resolved within despite resolution mechanisms, including party political structures.

#### **6.4 CONCLUSION**

The proposed reconstruction of IGR structures in South Africa suggest an IGR system that advocates a reliance on its administration for ultimate success. The author has demonstrated, conclusively, in the reform proposals presented in this Chapter that an IGR system should have the objectives listed below.

- Improving the quality of government information and its analysis. The desired level of quality is such that it transforms the information into management and decision-making information for the executive, irrespective of whether the functionary is appointed or elected.
- Reconciling policy differences and tensions amongst spheres of government, thereby releasing energies towards charting a balanced way forward for the development of society.
- Promoting co-ordination and co-operation between government policies in multi-jurisdictionally shared areas.
- Promoting the effectual management of the public sector in particular and the country in general.
- Achieving, through the pivotal role of the President, successfully argued herein, set national objectives as predestined by history and convention.

The capacity of the IGR system to achieve these objectives, however, is dependent on principles the author draws out of the proposed reconstructed IGR system. This proposed reconstructed system advocates: an autonomy of sub-national jurisdictions within constitutionally defined parameters; an accountability of both functionaries and governments; a governance as it relates to the institutionalisation of reporting, transparency and accountability; equity through fiscal equalisation, restitution and redistribution but, within a fiscally viable regime; and access as it relates to information, services rendered by the state as well as controlled levels of service affordability given the transitional economy status of South Africa.

The reliance of the proposed system for The Presidency and an efficient FOSAD (and therefore, appointed officials) introduces into this analysis, the need to reflect on intergovernmental administration and management. The management of IGR, as argued in this chapter, accepts the idea that in certain fields a national standard is in the public interest, and by intervention and application of nationwide procedures, largely administrative in nature, such standards are secured (Agranoff, 1993:37). The construction, or reform cue, answers the intergovernmental dilemma of how to achieve goals and objectives set by a national vision and mission custodial office, through the actions of other sub-national governments and jurisdictions that are distinctive, interdependent and interrelated and may be politically hostile (Agranoff, 1993:37). The interlinkages between the IGF, MINMECS, Cabinet Clusters, PCC and NCOP, through a bureaucratic interface that administratively supports the political process, addresses the lack of overall intergovernmental strategy, as evidenced by confusing legislative enactments, overlapping programme authority, uncertain responsibility and duplication of effort that was characteristic of the fragmented executive IGR. The test of the desirability of the Presidency through administrative state machinery centred in the National Director-General's office, rests within the compliance framework that runs from jurisdictional autonomy then to a strict normative compliance framework onto a continuum of open defiance.

The answers, which this study provides to the IGR dilemmas of autonomy, asymmetry, subsidiarity and compliance, are also grounded in the co-operative nature of the government and the governance milieu that is evolving in South Africa. The retention of the Intergovernmental Forum as an all-in-government consultative body infuses into the system the importance of networks consisting of various actors (individuals, coalitions, organisations, parastatals, and so on) none of which have the power to determine the



strategies of other actors. The networking nature of the proposed system expands, in real terms, the analytical focus to intersectoral, as well as intergovernmental relationships, though its leadership is bound to be collaborative in form and nature. The multi-organisational arrangements that characterise the policy-making flow as illustrated in the linkages of the structures considered, confirm the centrality of The Presidency in ensuring that sector-based authorities and sub-national governments, accept the fact that intergovernmental tensions cannot be solved by a single entity.

The expanded mandate of the Presidency in terms of establishing advisory bodies and housing restitutive bodies such as the Gender Commission, the Youth Commission and the Office for the Disabled, reaffirms the synergistic role of The Presidency in the integration of private and public sector governance. The centrality of The Presidency is therefore symbiotic in nature. The symbiotic relationship, in this case, occurs when the interdependent Cabinet clusters possessing different types and levels of capacities and technologies needed for fulfilling national tasks, induce an increase in the frequency and intensity of communication amongst these clusters, which, in turn, forces decisions to be made jointly and actions to be carried out collectively.

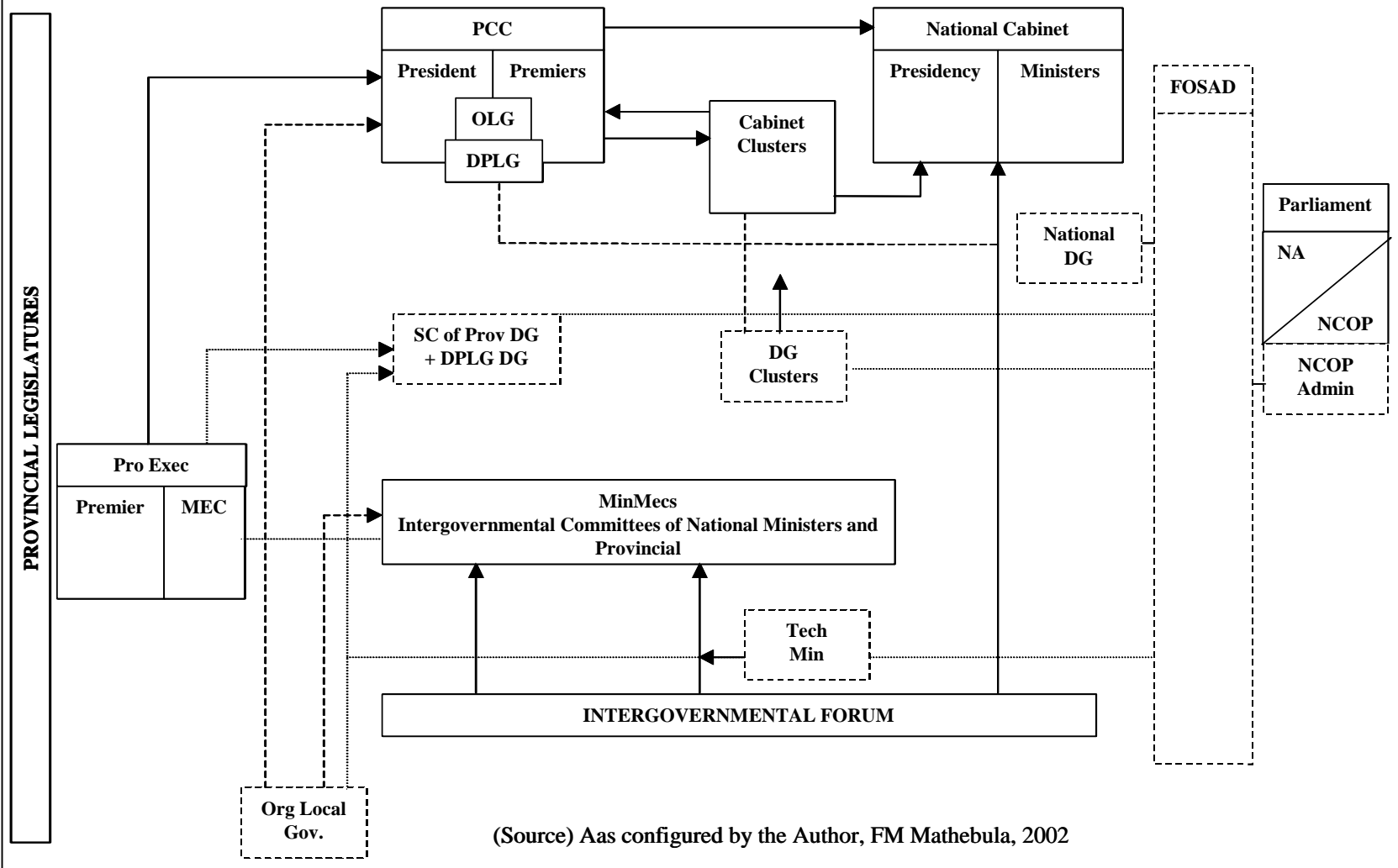
The principal role of The Presidency in this relationship, therefore, will be that of fostering conceptual agreement on direction, strategy, operation and implementation in an interactive, facilitative and co-ordinating manner. The dynamic nature of the South African co-operative government system of IGR which obligates government institutions to co-operate, consult, support and inform one another of programmes, resonates a need to have this co-ordinated. The equity of spheres of government, as codified by the distinctiveness and interdependent and interrelated nature of spheres of government,

lends credence to the notion of a facilitative co-ordinating, but administrative autonomy-sensitive, central agency that has IGR as its prime responsibility.

The South African Presidency, therefore, should be re-organised to have a direct and synergising stake in the strategic management of government-wide service delivery. The achievement of this role, as the study suggests, would require a change in the broad role of The Presidency to load into it functions that have deliberate bias towards IGR management. Politically speaking, this will ensure that party political coalitions and persuasions are sensitive to the fact that IGR is about utilising existing executive structures as an operating platform that, with slight party political modifications, can adapt to any political system. The reform agenda, therefore, should be informed by the need to establish levels of currency in the co-operative governance market.

Figure 5

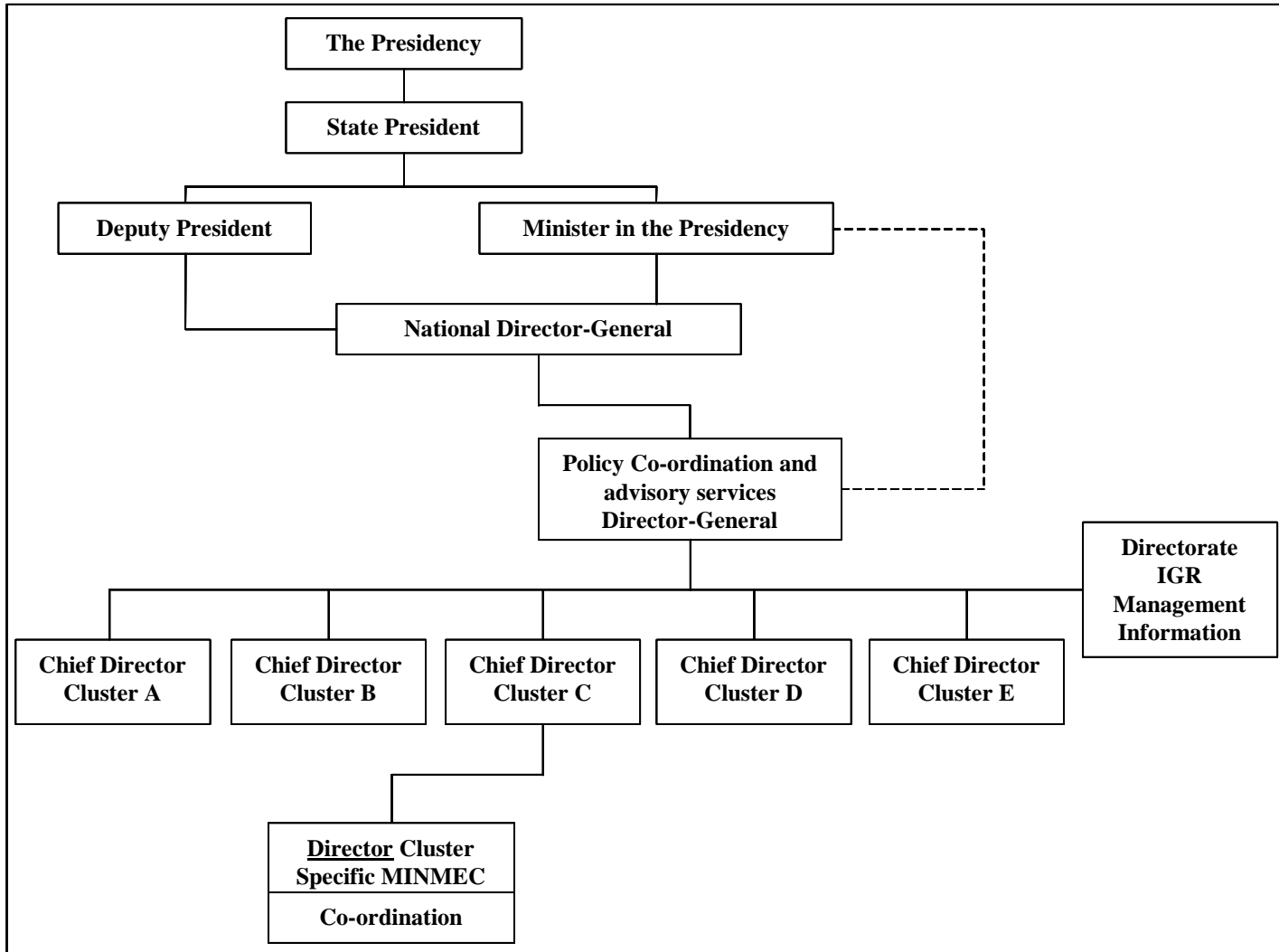
**PROPOSED IGR PROCESS BETWEEN NATIONAL AND PROVINCIAL GOVERNMENT**



(Source) Aas configured by the Author, FM Mathebula, 2002

Figure 6

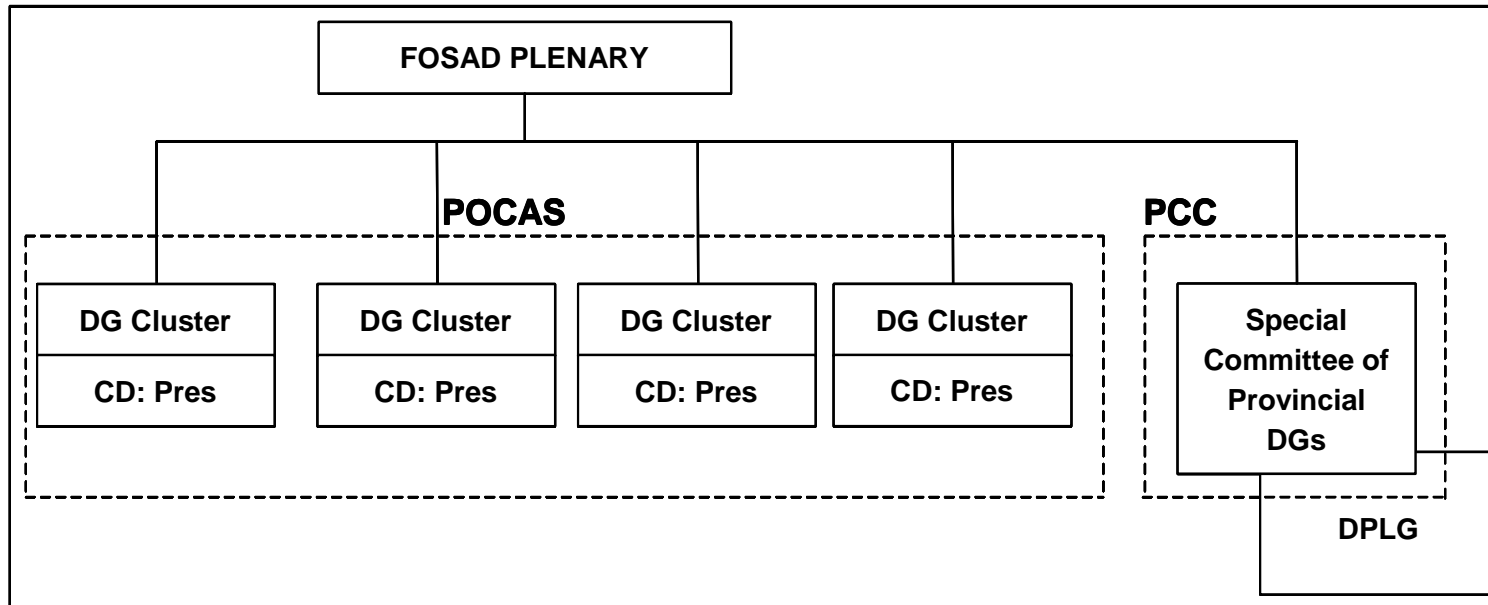
### PROPOSED IGR STRUCTURE IN THE PRESIDENCY



(Source) As Configured by the Author, FM Mathebula :2002

Figure 7

## FORUM OF SOUTH AFRICAN DIRECTORS-GENERAL



(Source) As Configured by the Author, FM Mathebula :2002