ACADEMIC LIFE STORY: ABRIDGED

Dr FM Lucky Mathebula

Fortunate Mashebu Mathebula, affectionately referred to as **LUCKY**, was born in Pretoria in 1965 and matriculated at Tsako-Thabo High in 1983. He obtained a Secondary Teachers Diploma (1986) from Transvaal of Education, a BA degree (1992) and a BA honours degree (1993)(Public Administration) *cum laude* from Vista University. He also received a national Vista University Vice-Chancellor award in 1991 for the best Public Administration student. In 1998 he obtained an MPA degree at UP. He holds a Harvard Senior Executive Programme (2000) certificate. He has delivered various papers, and has co-authored in several publications to his credit, one of which he edited. He also edited the South African Journal of Public Administration, PAIR Newsletter and SAAPAM Newsletter. Inspired by Psalm 23 the story is continuing.

Mountains are for climbers as rivers are for crossers; it is in the crossing and the climbing where the joy of arriving is always found. This is only a platform along the mountainous and riverous landscape I always found myself in.

UNIVERSITY OF PRETORIA

INTERGOVERNMENTAL RELATIONS REFORM IN A NEWLY EMERGING SOUTH AFRICAN POLICY

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A thesis submitted to the School of Public Management and Administration in partial fulfilment of the requirements for the degree of Doctor of Public Administration (D. Admin)

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ABSTRACT

INTERGOVERNMENTAL RELATIONS REFORM IN A NEWLY EMERGING SOUTH AFRICAN POLICY

This study examines the importance of a central agency such as The Presidency in the administration of intergovernmental relations (IGR) in South Africa. Further to this broad objective, is the need to develop a definitional framework for IGR, particularly within the context of the unitary-federal system. The study contends that the mechanism for an IGR system in emerging democracies should be obligatory and driven through constitutional provisions and arrangements. The historical-political evolution of the South African Constitution has demonstrated the importance of a central agency in regulating IGR mechanisms. This study was able to trace historical precedents ranging from the British Imperial Council era, through to the Apartheid era, the President's Council and The Presidency of the current democratic government of South Africa. In order to provide clarity on the importance of a high profile office within an IGR co-ordination infrastructure, the study utilised the authority relationship models, which strategically present a new paradigmatic shift in theoretical constructs. These models identified and explored the viabilities in the procurement of significant relationships between and amongst spheres of government. In clarifying the emerging cooperative governance paradigm, a terminological compromise for federalism in South Africa was posted. The study also provides a distinguished hierarchy-defining route between spheres and tiers of government as an important notation for consideration. Since models are abstractions of reality, the study establishes that the political coherency of IGR constructs could be considered as a direct function of a normative environmental infrastructure.

The study examines factors influencing IGR. Principal to these is the party political system and the character of the Head of State. The study argues that the degree to which the ruling political coalition/party is centralised impacts directly on the ability of sub-national governments to interrelate. The study found that IGR reform should be based on the following conditionalities that involve IGR as a human activity, which should accommodate varied socialisation values. The study further attempts to promote the notion that IGR, as a political activity, should be flexible enough to accommodate constituency-serving tendencies, which are reminiscent of new and emerging political environments.   Furthermore, as a technocratic activity, IGR should accommodate the reality of it being a terrain of contestation between elected and appointed officials. At the same time, it could act as a relational barometer that could be functional in nature and allow everyone in government to be an IGR practitioner. Whilst the study has left unanswered questions, it has laid the basis upon which emerging democratic dispensations should approach IGR. More specifically, the IGR definition presented in this study, has called for a disengagement process with the federal/unitary view of IGR. This study exemplifies the need for continuous debate in Public Administration as it provides a critical knowledge base for society to expand future intellectual discussions on IGR reforms in new and emerging democracies.

DEDICATION

To all South Africans who understand the importance of their past, the realities of their present and the truth about their future. Our journey as a society can never be as urgent as it has been and will be.

Kanyani mahembe, ku tirhiwa.

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Hosi katekisa tiko-ra hina, o rhi nyika byitlharhi bya ndlopfu.

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There are others who deserve special mention. Oceans of thanks to my wife (Khunjulwa), son (Mathebula) and daughters (Nomsa and Mikateko) whose love and support made my endeavour richer. My deepest thanks to my parents, Gitsha and Martha, whose guidance and love continue to be my tower of reference in my quest to emulate mountain climbers. Finally, thanks to Professor Chris Thornhill and Dr Martin Carstens for their support and encouragement.

S'kwembu shi mi katekise, byithlarhi bya n'wina byi kule ku hindza bya ndlopfu.

Na khensa.

The lord has been my shepherd. I shall not want…and surely, goodness and mercy shall follow me all the days of my life.

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CHAPTER 1

1. NATURE OF THE STUDY

1.1 INTRODUCTION

The South African Constitution obligates government "to establish or provide for structures and institutions to promote and facilitate intergovernmental relations (IGR), and, provide mechanisms and procedures to facilitate the settlement of inter-governmental disputes" (Constitution Act 108, 1996:s41). The Constitution serves in this instance as a driver of change in the intergovernmental relations domain of governance. The reform challenges set by the 1996 Constitution Act clearly dictate that a balance should be sought between co-operation and competition in IGR. The Reconstruction and Development Programme (RDP), a development policy framework adopted in 1994 by the South African government, identified IGR as a key facilitator of developmental service delivery. The above challenges, acutely, have put the creation of a new system of interrelationships between the various spheres of government on the agenda of the executive arm of government, hence an interest in this study of IGR.

This chapter, therefore, will focus on providing an overview of the study, its academic relevance, and limitations of the research, concepts and definitions and the organisation of the thesis.

1.2   THE PURPOSE OF THE STUDY

The debate on the administrative reform of the South African government has gained unprecedented momentum in the recent past. A few years ago, there was little mention of government-wide administrative reform and whenever the issue was raised, it was perceived with hostility and antagonism because of historically and politically charged definitional issues (Mathebula, 1992:7). From 1994 through to 2000, this debate shifted, in real terms, from an ideologically dogmatic approach to a more solution-generating approach, thereby initiating a review of pre-1994 party political positions on IGR.

The definition of reform, over a period of time, has been subjected to rigorous scientific study, the aim of which was to set the scene for a collective, collaborative and integrative approach to administrative reform. The study will claim that whilst the administrative reform process of government is underway there is an equally important need, to reform the IGR landscape.

The challenge to reform intergovernmental relations was complicated by the inherent dynamism of South African politics whereby party political positions, in most instances, have been relegated to ancestral reference points. The African National Congress (ANC) election victory and the inauguration of a black majority government in South Africa has strengthened the call for IGR reform for a number of reasons, some of which are listed below.

- Firstly the ANC, as a party, is centrist in form, organization and culture. The impact of its organizational structure will influence governance in the key areas of decision-making, administrative autonomy of levels of government and the inculcation of a dialectic application of policies as per the local demographic dictates.

- Also, the ANC has a historic mandate to reverse both the culture and design of apartheid government structures - a critical driver for any South African reform initiative and, therefore, IGR.

- Thirdly, the detribalisation of regionalism as a governance option has been the cornerstone of the ANC's political mobilization and therefore brings with it obligatory mandates that may blur its IGR approach (ANC Regional Policy, March 1993:1).

- Next, the non-racialisation of South Africa would require from the ANC a decentralised system of government that would meet the subsidiarity and asymmetry principle as a requirement for its IGR design. IGR reform thus becomes central to the attainment of such objectives.

Based on the above, a quasi-federal Constitution was adopted in 1996 at a Constituent Assembly (CA) clearly divided along federalist and unitarist lines, though it was later found to have been placed on a cooperative federalist to competitive federalist continuum of constitutional positions. The resultant outcome of the continuum discourse was as follows: representatives at the CA adopted a quasi-federal Constitution with the belief that this would enhance national cohesion and uniformity across the country and thereby would ensure maximum co-operation amongst historically and deliberately divided communities; to ensure that government was as close to the people as possible; and also to ensure effective provincial governance that would impact on communities and ensure good governance (Ghordan, 1999:2).

In the process of drafting the Constitution, the CA sought to decentralise in centrist terms the dispensing of government functions. The result of the exercise and those debates - though pioneering in nature - was a compromise system of intergovernmental relations comprising traditional sub-national governments as spheres of government. The compromise brought about a political system with a new dimension to intergovernmental relations in South Africa based on co-operation with concomitant complexities and constraints, some of which had to be resolved by the Constitutional Court (Barlé, 2002:3). This was found to have been an outcome of a combination of the colonial Westminster style of government and an already matured federal system of government as was practiced through the tri-cameral parliament and separate development governing systems of the erstwhile apartheid government.

The interrelationships of the various spheres of government, particularly the National/Provincial executive relations, form the cornerstone of this study. The focus will be to relate this to the need for administrative reform as a stated thrust of the post-apartheid government of national unity.

> *To this end, the RESEARCH QUESTION IS:*
>
> *To what extent can a central agency such as The Presidency be involved in the administration and management structures of intergovernmental relations in South Africa?*

The investigation is triggered by a growing and almost accepted perception that intergovernmental relations reform requires a direct, synergising and strategic involvement of the highest political office in South Africa, and in this case, The Presidency.

1.3   SIGNIFICANCE OF THE STUDY

The general South African reform landscape presents opportunities for a study of all aspects of administrative reform.   Furthermore, and perhaps most significantly, the introduction and establishment of a revised socio-political order in South Africa has placed the need for the fundamental and all encompassing socio-economic development of the country on the centre stage and IGR has become a key component of that debate. By introducing a sphered IGR system, the 1993 and 1996 Constitutions created a broad bandwidth for intellectual as well as academic discourse on definitional issues around policy development, policy management and, most significantly, patterns and loci of IGR as an executive activity of government.

The existence and proliferation of IGR structures at inter- and intra-sphere domains of governance has elevated the need to study intergovernmental relations.   Consequent to this elevation, to date, government has initiated several endeavours to grapple with IGR. President Nelson Mandela established a Review Commission that identified the need for an enquiry into the functions, needs and relations between the three spheres of government.   Part of the commission's mandate was to investigate the IGR landscape as it was unfolding in the new dispensation (Presidential Review Commission (PRC) Report, 1998:44).

The Department of Public Service and Administration followed up with an audit on Provincial Government aimed at improving the relationship of Provincial governments and National agencies. This was popularly referred to as the Ncholo Report (Titus, 2000:17). The Department of Provincial and Local Government (DPLG) commissioned an IGR audit with a mandate to provide a fieldwork study of the processes and mechanisms of

cooperation across all three spheres of government. Shortly after assuming office, President Mbeki established the Presidents Coordinating Committee with Premiers to facilitate IGR at an executive level. Mentzel (2000:11) points out that DPLG has identified more than 30 such IGR structures and has started a process to audit their effectiveness.

This study will add to the existing and South Africa specific theory on IGR, notwithstanding the fact that, the still dominant pre-1994 partisan Public Administration writing has influenced these theories. A specific contribution will be made to the body of literature dominant in the Public Administration and Management domain of academic, intellectual, socio-political as well as public discourses. In recognition of the fact that the transition to democracy in South Africa took place in the context of a dynamic political process characterised by the end of the Cold War, the collapse of the socialist community of states, the demise of central and commandist government planning systems as well as the socio-economic governance realities of globalisation (Umrabulo-Journal of the ANC, 1997:Section 8), this study, will contextualise the growth of decentralisation and IGR within a developing and a transitional economy perspective.

The study, therefore, has the following objectives:

- To clarify the need for intergovernmental reform in South Africa and to postulate a guiding definition of intergovernmental relations;

- To describe the current intergovernmental relations in South Africa from a historical perspective;

- To describe the nature, content and form of intergovernmental relations;

- To postulate on the concepts of intergovernmental relations as they relate to systems and forms of government both ideologically and structurally;

- To identify and to assess the motivation for intergovernmental relations by governments;

- To identify factors that influence and normatively guide intergovernmental relations systems and assess such; and

- To suggest guidelines for South Africa.

The aim of the study therefore, is to develop a framework for IGR reform. The framework will include the growing importance of central and/or co-ordinating departments, particularly The Presidency, in managing IGR.

1.4   LIMITATIONS OF THE STUDY

Public Administration research and practice occurs in environments that are context-laden and politically charged. Changes in political administrations and therefore realigning ideological frameworks adopted by political incumbents, make research in this field sensitised to limiting variables generated by time and space within observed contexts. The most common limitations to public administration research are those of the historical period being studied, the theoretical confines that the researcher selects, the availability of source material related to the subject under review, as well as the socio-politico and ideological constraints as may be imposed by the research environment and by audiences.

Myrdal (1969:35) submits that the State (which the author regards as the primary unit of analysis as far as Public Administration research is concerned) is collectively made up of and controlled by people, most of them heavily prejudiced, under the influence of competition for job, social status and "ideological hegemony and all sorts of interests and inhibitions that form causative factors for the general behaviour of society. Inherent in

States, and therefore Public Administrations, will be a tendency to propagandize certain ideologies through a battery of decisions, regulations, declarations and legislations" (Myrdal, 1969:37). If we accept that social science research, seeks not only information about phenomena, but has a focus on the deciphering of reality from perception, then Public Administration research should do likewise.

The State-Public Administration link established above, therefore, dictates that Public Administration research should be viewed from vintage points sensitive to the need for researchers to liberate themselves from the powerful heritage of earlier writings in their field of inquiry, ordinarily containing normative and teleological notions inherited from post generations and founded upon the ideological and moral philosophies, from which societies' socio-economic dictates branched off (Myrdal, 1969:4). Researchers should also liberate themselves from the socio-cultural, political and economic milieu of the society in which they live and earn social status as well as the influence stemming from their own personalities, as moulded not only by traditions but also by their individual histories, constitutions and inclinations (Myrdal, 1969:4). The researcher liberation process draws attention to the importance of placing limitations on any Public Administration research.

Shipman (1988:161) attributes limitations of Public Administration research to conceptual, technical, organisational and policy issues.

> *Conceptually*, limits are imposed by difficulties in modelling human behaviour and organization - these include issues such as the historical period and ideological dictates informing the development and practice of phenomena under review (Shipman, 1988:162). Included in the conceptual limitation realm is the reality of

shifting interpretations of the grip of scientism on social inquiry and Public Administration research (McGrath *et al.,* 1982:69-70).

Technically limits are imposed by the difficulties in the research process. This includes technical issues of research tools, the schedules followed, the statistical and quantitative axioms utilized, and the degree to which the researcher pursued data within defined research 'norms' (Shipman, 1988:164).

Organisationally, limits are imposed firstly by the inherent hopes of the researcher, particularly in the choice of supporting text and observations, and secondly by the established traditions of the scientific community within which the researcher works (Shipman, 1988:164).

The *policy* limitation is imposed by the difficulties of wanting to discern policy challenges, generating information to change the course of policy, interacting and arguing with policy choices to generate change, tactically delaying decision-making, engaging in a policy enlightenment process that will permeate established policy doctrines, and engaging in an intellectual exercise that may influence the policy course (Shipman, 1988:164-5).

Limitations of this study are those imposed by the historical period under review (conceptual), the confinement of the IGR actors (conceptual and organizational), the availability of source material (technical and policy), and the ideological issues prevalent during the period under review which also permeate all other limitations. The limitations will not be put under any specific heading, since they are interrelated and therefore

integrated as narrative in the text. Hereunder is an exposition of the limitations imposed on this study.

Whilst the South African constitutional history has as its 'formal' starting point the year 1910 (Marais, 1980:5), the study will focus on the IGR historical period that commenced in 1961, when the Republic of South Africa Constitution Act (Act No 32 of 1961) was adopted, through to the adoption of the 1996 Constitution, as well as the years preceding 2000. This particular historical limitation is informed by the fact that 1961 marked a decisive break with traditional colonial government as well as ushering in a "constitutional democracy" of South African origin. This is referred to as a "democracy" because of the dispensation subscribed to basic principles of constitutional democracy, such as, regular elections, respect for the rule of law, and the judicial case law system of dispute resolution and arbitration.

The 1961 Government of South Africa was the first to seriously consider questions of IGR between their tiers of government. This was especially so because the design of government would perpetuate both the socio-political and economic ideology of that government. This was notwithstanding the fact that, in the process, indigenous communities were being relegated to sub-human constitutional status (Bunting, 1964:143). It was during this period that South Africa faced rigorous constitutional reform and transformation often characterised by two distinct approaches to political change.

> *Firstly, the need to remove any traces of chauvinistic discriminatory tendencies, practices and ideologies in the governance of South Africa*. This approach was aimed at realising a long held aspiration by the people of South Africa represented in various political formations to the left of that sixties government, that: "South

Africa belongs to all who live in it, black and white, and that no government can justly claim authority unless it is based on the will of all people…all people shall be entitled to take part in the administration of the country" (Freedom Charter, 1955:1). Parallel to this was a need to maintain white privilege through the might of the state. This was aimed at sustaining the long held political will of apartheid architects, the Nationalist Party, when they declared at their 1941 Union Congress that: "Every coloured group of races, Coloureds, Natives, Asiatics, Indians, and so on, will be segregated, not only regarding their place of dwelling or the neighbourhoods dwelt in by them, but also with regard to the spheres at work. The members of such groups, however, can be allowed to enter White territories under proper lawful control for the increase of working power and also for the necessary increase of their own income. To each of such segregated race groups of coloured subjects of the Republic, self-government will be granted with in their own territory under the central management of the general government of the country, in accordance with the fitness of the group for the carrying out of such self-government for which they will have to be systematically trained" (Bunting, 1964:4).

Secondly, it was also during this period that five Constitutions were adopted, and in all instances the question of intergovernmental relations featured as a cornerstone for effective 'native' control, effectual service delivery and governance. The 1961 Constitution made provision for the government of 'natives' in their native reserves as self governing territories (Constitution Act No 32, 1961:s108-111), and this provision was to become a prelude to the granting of a South African type independence to the tribal governments of Transkei, Bophutatswana, Venda and Ciskei (the TBVC states). The African National Congress aptly classified this state of affairs as 'colonialism of a special type', where the coloniser creates "colonies"

within a technically decolonised state (Umrabulo Journal of the ANC, 2002:Section 18).

The 1983 Constitution, in addition to the Whites only parliament, created two new houses of parliament (House of Delegates and House of Representatives) for the administration of Coloured and Indian communities (Constitution Act 110, 1983:s37). Subsequently, this led to the creation of other IGR challenges since service delivery departments were created for all population groups. The 1983 Constitution also provided for the three "virtual homelands" for Indian, Coloured and Urban Black peoples with the latter being denied access to any form of franchise that could bring them closer to a legislative and executive competence.

The 1993 and 1996 Constitutions amalgamated the previous apartheid creations into yet another nine-province dispensation, clearly following established ethnic patterns and Apartheid conceptualised spatial development planning and patterning as well as the authoritative economic development nodal zones report of the Development Bank of South Africa (Constitution Act 200, 1993:Schedule 1). It was during this period that South Africa underwent a massive regionalisation phase that was to be crowned by a constitutionalised co-operative government system of IGR. The last ten years of this period presented critical reform and transformation challenges that will continue to plague the theory and practice of IGR both in South Africa and the rest of the world. Like all social science, professional and policy studies, the implication of historical recall and the subsequent removal of perceived biases which the writer may or may not bring into this study can lead to further limitations.

Institutionally, the study is confined to national/provincial IGR, whilst not demoting to a lower status the importance of local government relations with the other spheres. The importance of the local government is not negated, particularly because it completes the binary relations structure within the taxonomy of IGR. The acknowledgement by the Constitution that local government is a distinct sphere of government confirms its service delivery importance and therefore cannot be ignored in an IGR study. The year 2000's re-demarcation of wards and districts in terms of the Local Government Municipal Demarcation Act (Act 27 of 1998) has elevated the critical importance of local government in service delivery. The sub-ordinate status of local government has been removed by the 1996 Constitution's recognition of local government as a first contact point with government by the citizenry. This, however, would require an independent study. The significance of local government in IGR is further institutionalised by a statutory recognition of organised local government formations as a factor. Thus, this study has been confined to national provincial relations.

The limited availability of existing theory and therefore specific text material on IGR in South Africa created a reliance on primary information available at and from the South African government. Except for the limit imposed on government information , access to information was, and still is, governed by the National Archives of South Africa Act (Act 43 of 1996). The essence of the Act is generally to limit the access to information generated by executive institutions of government for a period of 20 years from the date the information was generated (National Archives of South Africa Act 43 of 1996:s12). The release of such information relies, in the main, on the discretion of the state archivist, notwithstanding the spirit of the Freedom of Information Act. The equally important need for balancing national security coherence and transparency as envisaged in the Freedom of Information Act has been one of the defining limitations experienced during this study.

The administrative transition by state departments which was characterized, in some instances, by a hysteric need to destroy information that may have incriminated the previous civil service, coupled with the recruitment of a relatively new and inexperienced corps of public service personnel, has, as one of its information management disasters, the mismanagement of information storing divisions in terms of the Archives Act. This has resulted in the loss and disappearance of valuable information that may have enriched aspects of this research. These information gaps were overcome through the practice of triangulation as a research method. Therein the author went about validating the remaining archival records by using sources prepared by visitors from other cultures, biographies, historical accounts and interpretations of the time that included participants' remembrances of events. The public nature of media reports and availability of audio-recorded and electronically stored information, limited the impact of the Archives Act.

Another limitation imposed on this study was the perspective adopted. Although the study took into account other views along the theoretical analysis, represented by the unitary-federal continuum, the main perspective from which conclusions were drawn have been that of the author. The resultant conclusions as well as the limitations of this study also brought forth fruitful avenues for future research. The most important of these avenues is in the elaboration of aspects of IGR as they pertain to the local government spheres.

Notwithstanding the above, the existence of primary sources (in the form of acts, green and white papers, Constitutions, quoted media reports and speeches of political and administrative office bearers) neutralised most institutional limitations that may have constrained the conclusions.

1.5   DEFINITION OF TERMS AND EXPLANATIONS OF CONCEPTS

1.5.1   Intergovernmental relations

The concept of IGR, that is "intergovernmental relations", has many applications in the body of Public Administration and Policy knowledge. The concept has two key words 'intergovernmental' and 'relations' where 'intergovernmental' is an adjective meaning that which concerns or is conducted between two or more governments (Tulloch *et al.*, 1993:796); 'relations' is a noun meaning "the way in which a person, thing or entity is associated, connected and linked to another" (Tulloch *et al.,* 1993:1293).   IGR are necessary interactions occurring between government institutions of all types.   From the above dictionary explanation, intergovernmental relations may be regarded as the interaction of the different spheres (in case of South Africa), tiers and/or levels of government. The use of the term 'interaction', however, does not do justice to the good governance imperatives of governments, as it only refers to some reciprocal action or influence.

The narrow view of IGR as an interaction, in most instances, yields a system of administration so marked by its officialdom, red tape and fixed, almost arbitrary rules and procedures, that it sometimes seems to exist to for perpetuation of the bureaucracy's or bureaucrat's own sake (Hanekom and Thornhill, 1982:149-151). In the South African context, the definition of IGR has been expanded by the constitutional imperative placed on its practice. The Constitution declares that: "in the Republic, government is constituted as national, provincial and local spheres of government that are distinctive, interdependent and interrelated" (Constitution Act 108, 1996:s40).

In these key IGR concepts below the Constitution identifies what requires attention in order to clarify the meaning of "intergovernmental relations" and its meaning in the context of this study.

Distinctive: Malan and Mathebula (2002:1) argue that the distinctiveness of the various spheres of government refers to the degree to which each sphere is autonomous in a legislative and executive sense. A government audit report explains *distinctive* as the degree of legislative and executive autonomy entrenched by the Constitution. Here, spheres are distinguished by the power to make and to execute laws, though the assumption is always that there are particular public interests best served by respective spheres (IGR Audit Report, 1999:7). The *distinctiveness* referred to herein also denotes governance's uniqueness that defines the three spheres of government. *Distinctiveness* also translates into the assumed equality of the spheres albeit in their hierarchical organisation in fiscal and revenue-raising capacity terms (Abedian and Biggs, 1998:56-59). In the South African context the *distinctiveness* of a sphere, by design, was intent on ensuring that National government did not have unlimited power over sub-national governments. Reminiscent of federal systems, *distinctiveness* would provide constitutional safeguards to prevent pre-dominance by powerful coalitions based on economic, political, ethnic strength or any other chauvinistic tendency.

Interdependent: the *interdependence* of spheres refers to the degree to which one sphere depends upon another for the proper fulfilment of its constitutional obligations. The dependency however defines in a salient manner, the hierarchical relationship between the supposedly equal spheres of government; that is, the provincial and local spheres are entitled to assistance from the national and

provincial spheres respectively, and this is institutionalised through constitutional provisions (Constitution Act 108, 1996: s100, 139, 155). The converse of that entitlement may be seen in the monitoring and intervening by the sphere that assists the entitled (IGR Audit Report, 1999:7). *Interdependence* of spheres emphasises the co-relationship between national, provincial and local governments and may include aspects such as the duty of the spheres to empower one another as well as monitoring or intervention in the activities of the dependent sphere (Malan and Mathebula, 2000:1).

Interrelated: refers to the duty of each sphere to co-operate with one another in mutual trust and faith for the greater good of the country (IGR Audit Report, 1999:7). The Constitution imposes a responsibility on each sphere of government to disassociate itself from what Adie and Thomas, (1982:226) refer to as "competitive federalism" which is a system of governments where federal states/provinces compete for resources to the detriment, in most cases, of weaker states/provinces. In a manner that guarantees the unity of the South African state, the constitution declares upfront that "…the Republic of South Africa is one, sovereign, democratic state" (Constitution Act 108,1996:s1). *Interrelatedness,* in fundamental terms, refers to the responsibility of each sphere to co-operatively support each other and avoid litigation against one another (Malan and Mathebula, 2001:1). The *interrelatedness* of spheres of government, therefore, grows into significant governance value, particularly as it relates to coordination of government activity.

From the above clarification, it may be deduced that IGR are simply the reality and regularity of interactions between governments in a country. This would include interactions between organs of state in the purview of one government with another within

its purview. (Supplement to Discussion Paper, Strategic Initiatives to Enhance the effectiveness of IGR, 2000:13-16). Anderson (1960:6) defines IGR as an important body of activities or interactions occurring between governmental units of all types and levels within a federal system. Fox and Meyer, (1995:66) further explain IGR as encompassing the complex and interdependent interactions among various spheres of government, and this includes the co-ordination of public policies among national, provincial and local governments through programme reporting requirements, grants in aid, the planning and budgetary process and informal communication among officials.

The distinction between the terminological meaning of IGR and the philosophical traces of federalism, particularly in relation to the pursuit of common goals by sub-national jurisdictions, creates a grey area between IGR and federalism. Notwithstanding, federalism is the generic term for what may be referred to as shared rule relationships, and IGR has to do with particular ways and means of operationalising a system of government and ways and means that involve extensive and continuing relations among spheres of government (Elazar, 1987:16).

The White Paper on Local Government (1998:38) emphasises the formal and the informal character of processes within which IGR occur. Opeskin (2001:1) further defines the notion of OGR as relations between central, regional and local government including those that occur within a sphere of government, and how these relate for the facilitation of common goal attainment. Cameron (1994:23) takes the view that IGR are the geographical division of powers amongst the various spheres of government in the nation-state, wherein the division of powers relates to the distinct and independent role each sphere has to play in the intergovernmental domain. Malan and Mathebula (2002:1) suggest that the character,

number and form of government institutions best demonstrate the jurisdictional diversity of IGR.

Besdziek (2001:191) describes IGR as entailing the conduct of the affairs between different public sector institutions where such relations occur both vertically and horizontally. The combinations of interdependencies and influences amongst public officials (elected and appointed) in a functional intergovernmental relations setting, will have a particular emphasis on financial, policy and political issues (Agrannoff, 1996:4).

Mentzel, suggests that IGR are interactions and mechanisms for multi- and bi-lateral, formal and informal, multi-sectoral and sectoral, legislative, executive and administrative interactions entailing joint decision making, consultation, co-ordination, implementation and advice between spheres of government at vertical as well as horizontal levels and, touching on every sphere of governmental activity (Mentzel, 2000:3). In broad terms, IGR constitute a negotiation and consultation process between governments, aimed at harmonising government's actions and decision-making. It is a process of interaction that cannot and should not be confined to mere structures as it operates at the interface between what the Constitution provides and what the country requires (Discussion Paper - Strategic Initiatives to enhance the Effectiveness of IGR, 1999:vii).

The IGR approach is not only an effective method of governance. This is also an apprenticeship in negotiation, the art of conflict resolution, which is an inevitable dimension of life in society (Dion, 2000:3). In adopting IGR as a method, governments demonstrate to citizens the value of working together for the common good of the country. This is particularly important in societies like South Africa where people have a history of purposefully structured regional, linguistic, ethnic, cultural and racial divisions. The notion

of IGR, being regarded as an operating platform for governmental interaction and transaction, lionises this view. Elazar (1987:16) further submits that IGR are universal phenomena to be found wherever two or more governments (national or sub national) and/or jurisdictions, interact in the development and in the execution of public policies and programs.

This study will argue that IGR occur between various units of government and therefore a definition of the various forms of IGR is necessary. The relations between spheres of government in a vertical manner, in this instance, will be referred to as IGR. However, the horizontal relations between units of government or jurisdictions within a sphere will in this instance be referred to as intra-governmental relations. The relations between a sphere of government or a defined jurisdiction within a sphere with its equivalent across national borders, in this instance, will be referred to as trans-frontier IGR, whereas if this occurs within national borders but across jurisdictional borders it will be referred to as cross-border IGR. Other relations between governments falling outside those that are defined here shall form part of the IGR definitional scope in its strata.

For the purposes of this study intergovernmental relations are the various combinations (vertical and horizontal) of interactions, interdependencies, influences and transactions conducted by government officials (elected or appointed) between and amongst spheres of governments (as well as organs of state) in a country. The framework for such relations and their accompanying hierarchic order is defined in constitutions and national legislation. It is operationalised through agreements, contracts, legislated mandates, cross-border agreements and other legally binding instruments. It occurs through the flow of information as generated and exchanged in government by both elected and appointed officials.

1.5.2   <u>Co-operative Government</u>

The dictionary meaning of "co-operative" includes, in a list of many, some of the following: collaboration, teamwork, interaction, co-ordination, assistance, and sponsorship. It is an adjective of the word "co-operation" meaning a willingness to co-operate (Tulloch *et al.*, 1993:316). Within the co-operative government approach Government is intuitively understood as executives (in the constitutional rather than the management sense) and to a lesser extent legislatures (Supplement to Discussion Paper on Strategic Initiatives to Enhance the Effectiveness of IGR, May 2000:13).

Co-operative government, in the South African context, has as its history the constitutional negotiations that were divided along federalist and unitarist lines; there prevailed a sterile 'for' and 'against' federal debate (Mathebula, 1992:7). The ensuing debates at the Kempton Park negotiations yielded to positive indicators, a departure point that clearly identified that the nation can best be served if an intergovernmental partnership is established between the various spheres of government that recognize the importance of co-operating and co-coordinating as equals, without eroding the right of the respective sub-national governments to serve their inhabitants in a manner that suits their particular requirements (De Villiers, 1995:3).

The influence of the German constitutional dispensation on South African IGR design is best reflected in the adoption of co-operative government as an IGR framework. The origins of co-operative government are traced in the German Bundestreue concept, which entails a set of unwritten principles upon which relationships between national and regional government is based (De Villiers, 1995:4). The fundamental thrusts of Bundestreue are

trust, partnership and respect for each other, and in the case of sub-national and national jurisdictions it would mean recognition of each other's defined constitutional responsibilities (De Villiers, 1995:4). The Bundestreue concept places sub-national and national jurisdictions under a political and legal obligation to do the following: to assist and support each other; to inform and consult on matters of common concern; to co-operate and co-ordinate joint projects; and to maintain friendly relations (De Villiers, 1995:4).

The Bundestreue concept can be likened to its South African equivalent, referred to as Ubuntu. Ubuntu is a Zulu word meaning humaneness. Its general application would cover elements such as equal treatment of persons, communal sharing of amenities, respect and love for one another, partnership, mutual trust and sharing. Whilst Ubuntu is a Zulu word it has equivalent translations into the other 11 South African official languages such as "botho", (Sotho) "byi munu" (Xitsonga) and therefore a traditionally grounded philosophy that, in practical terms, can guide the South African IGR system. The concept of co-operative government acknowledges through its Ubuntu principles that levels of government do not divide into watertight compartments, especially if their jurisdictions dovetail (Sindane, 1997:3).

In a developmental government paradigm that characterised the South African government since 1994, co-operative government would, by design, recognize the complementary manner in which the various levels of government should be galvanized for purposes of good governance. This would be to derail and/or curtail any notion of national power aggrandizement. Venter (2001:192) describes co-operative government as referring to the constitutional prescriptions on the conduct of IGR. The legislation towards co-operative government reconciles the notions of distinctiveness, autonomy and

independence with the interdependence between these spheres necessary to ensure the success of a national development project.

Malan and Mathebula (2002:3) identify the following as points of departure in a co-operative government system:

- national, provincial and local governments share responsibility for virtually all functions;

- the division of functions between spheres of government cannot be achieved without lowering the almost "sacred" importance of National government;

- national, provincial and local governments are not adversaries but have a co-operative, competitive and collegial relationship; and

- (within the context of the South African government's philosophy based on the notion that "South Africa belongs to all who live in it") the government is conceived as one and serving one people.

Co-operative government, therefore, is about partnership governance characterised by national unity, peace, co-operation and co-ordination, effective communication and an infinite conflict avoidance attitude (Malan and Mathebula, 2002:3).

Co-operative government, for the purpose of this study, will mean a fundamental philosophy of government based on a reciprocal obligation of spheres of government to trust, to support and to assist one another in co-coordinating service delivery to the community. This would include a legal, political and moral obligation to inform and to consult one another as well as co-operating with and co-ordinating efforts on matters of common concern and joint projects, thus patterning intergovernmental collaboration and co-operation to ensure the success of national development projects.

1.5.3 <u>Spheres of Government</u>

A "sphere" is a field of action, influence or existence (Oxford Wordfinder, 1993). The word "sphere", as is used in the South African Public Administration and public administration sense, denotes a degree of equality between levels of government. Public Administration is the scientific study of public administration (Wessels and Pauw, 1999:9).   In the Constitution, the equality inferred with regard to "spheres" implies that the national, provincial and local governments have so-called areas where they can exercise almost exclusive autonomy but within the confines of the Constitution. In a sphered type of Constitution, organs of state are not subject to each other in any way, and any relationship can only be a product of their endeavours, where joint action must be characterized by consensus, (IGR Audit Report, 1999:7-8). This is an area of concern for effectual IGR.

For the Constitution, the spheres of government are modelled as circles of influence by national, provincial and local government pivoting around a fulcrum of binding principles where each sphere has a relational obligation to co-operate <u>unless</u> expressly directed to do otherwise by legislative, party political dictates or any other exogenous factor.

Besdziek in Venter (2001:171) defines spheres of government as a South African system where each sphere of government is autonomous but interlocked with the other sphere and where each must operate in unison in the delivery of services.   The nation of interlocking spheres is further clarified as implying equality between these spheres. This is in contrast with the more explicit hierarchical conception implied by "tiers" and "levels".

The notion of spheres of government, however, assumes the existence of an extremely decentralist state governance philosophy. Whilst the South African state is decentralist by

constitutional design, the operation of the state machinery and particularly the management of the fiscus, indicates a growing bias and a certain gravitation towards a centrist state.

Spheres of government, in this study, will mean an interlocking system of spheres operating in unison in character, field of action and influence of a national, provincial and local government where interaction is governed by the principle of equality before the Constitution and diversity within constitutionally protected autonomies and the sub-national status.

1.5.4 Federalism

The need for people and polities to unite for common purposes and yet to remain separate to preserve their respective integrities is often referred to as federalism. The application and use of federalism has often generated ambiguities related to the balance between political power diffusion, in the name of liberty, and the concentration of the same power in the name of unity and/or the indivisibility of political power (Elazar, 1987:33).

Elazar (1987) distinguishes between a federal character of a state and a structured federal state. The former refers to a condition where sub-national jurisdictions with some form of political representation determined through quasi-independent franchise mechanisms exist. The latter refers to clearly defined powers for governments within a federation. In federal systems of government, the defining characteristic is the non-centralization of polities whereby powers of government within them are diffused among many centres, and whose existence and authority is guaranteed by the constitution (Elazar, 1987:34).

Federalism is loosely defined as the principle according to which levels of government, general and regional exist side by side in the state, each possessing certain powers and functions (Goode, 1983:7). Livingstone, cited in The Encyclopaedia Americana, argues that each of the levels in a federation is limited to its own sphere, and within that sphere, it is autonomous and independent; he cautions that neither of the spheres may arrogate to itself powers assigned to the other. In a federation each sphere operates directly upon the people and no sphere is wholly dependent upon the other for its legislation, taxes and administration. The emerging intellectual consensus on the meaning of federalism is that it generically refers to an association of governing entities (often referred to as either states, provinces and/or regions) that has been formed (mostly through a constitution) for certain common purposes, but in which member entities retain a large measure of their independence (Wheare, 1963:1). Critical to the sustaining of a federation, both in character and structure, is its ability to establish and maintain a polity where government by the people produces at one and the same time a strong self-conscious national organisation whilst keeping intact the rights and cultures of the units as enshrined in the Constitution (Hicks, 1978:4).

The western discourse on federalism, traditionally, has been formulated within the framework of centre-state relations, focusing on centralization and decentralization. Federalism has also been traditionally viewed as both a territorial and a non-territorial project. This addresses the fragile equilibrium to be maintained between the indestructible union and indestructible units. As a non-territorial project, it is directed to the issues of cultural representation and identity in a multi-cultural society (Heun, 1990:183).

Such a traditional viewpoint has a tension sustaining effect on the practice of federalism since it stresses distinct identities. The historical emergence of polities founded on public

choice, has always yielded states that are federal in character, regardless of whether or not they are federal in structure (Elazar, 1987:4). Philosophically a federal arrangement is one of a partnership established and regulated by a covenant, the internal relationships of which reflect the special kind of sharing that must prevail among the partners, based on the mutual integrity of each partner (Elazar, 1987:5).

In state terms federalism may also be understood as the principle of the union of states in a federation that links the states together creating an acting unit, which still allows them certain independence (Heun, 1990:168). Federalism can also be said to be an IGR system based on the differentiated allocation of powers to sub-national units. The degree of autonomy in exercising the power - *vis-à-vis* the powers of the national authority - distinguishes federations from one another.

A federation, therefore, exists when in a state there are clearly defined powers of sub-national jurisdictions with a separate politically determined infrastructure. The reference to levels, spheres and/or sub-national jurisdictions, has a distinct and operational meaning, namely, the range or territorial extension of power and authority. These levels are never sharply divided, because they constantly interact, as the persons operating within them argue, fight, compete, co-operate and compromise with one another (Freidrich, 1968:3). In the author's opinion the communities involved in the various levels of government, shape the contemporary world through their interactions and transactions.

Dion (2000:3) argues that no other system allows us to reconcile common action and diversity of experience as effectively as does federalism. Elazar (1987:5) submits that in its broadest sense federalism involves the linking (structurally or otherwise) of individuals, groups and polities in lasting but limited unions to provide for the pursuit of common ends

while maintaining the integrities of all parties. Dion (2003:3) further submits that unitarism can lead more easily to policy choices as such changes may be interwoven into a central government and, usually, in accordance with a single fixed plan.

The degree of autonomy debate and the evidence emerging from actual practice of government, over time, has created a continuum of federal types. In most instances the various federal types define the manner in which sub-national jurisdictions of a federation choose to relate to one another. The reference therefore to competitive, co-operative, and hostile federalism reflects an intellectual resolve to characterize the manner in which sub-national units relate. Federalism, as an operational concept, has increased ways with which the political issues resulting from competitive, co-operative and hostile interactions, could be dealt (Freidrich, 1968:4).

Canadian federalism, for instance, has developed through a number of phases, and in each instance reflected particular historical dictates and constructs. In its evolution, that is remarkably similar to the growth of the present South African government) Canadian federalism started off as a quasi-federal state with national government showing little to no respect for the supposedly independent and autonomous State (namely, Provincial) Governments (Adie and Thomas, 1982:226). This was encouraged and given credence by a number of constitutionally granted controls over provincial actions. This is similar to the monitoring and intervention sections provided for in the South African Constitution. The current form of Canadian federalism gradually evolved from the power to provinces phase, to emergency federalism, then the 'father knows best' federalism, to the more acceptable co-operative and double vision federalism (Adie and Thomas, 1982:226).

Co-operative and double vision federalism, like the South African co-operative government system, includes a process of negotiation and bargaining among governments of relatively "equal" political status, the author argues. Freidrich (1968:4) maintains that from a strictly administrative standpoint, the idea of federalism or a Federation assumes the center as given and primary. The striking feature of these evolutionary phases is the ability of federalism to be flexible, thereby allowing variations when centralizing, decentralizing, distributing (non- centralizing) and devolving national and provincial powers. In the Canadian setting, the various world wars, and both the accompanying economic depressions as well as the native policies, determined the form of federalism that Canada had to follow.

Adie and Thomas (1982:229), as examples, cite the manner in which the federal government began to levy corporate taxes, apply wage controls and prohibit strikes in wartime industries as a dictate for centralization of power. The South African setting (though the government prefers not to refer to South Africa as a federation) exhibits similarities albeit with historical gaps and differences. It is the submission of the author that the development and restitution agenda of the post-1994 South African government constitutes an "emergency" that can be likened to the wartime emergencies in other parts of the world. This emergency is further exacerbated by a historical tendency, both during and after peacetime, for liberation leaders to emphasize the nation-building objective, thereby giving emphasis to centrist and to commandist paradigms of governance and government.

The understanding of so-called South African federalism should therefore be contextualised in a phased approach, and in certain instances, fused with phases similar to those undergone by it's Canadian counterpart. The quasi-federal nature of the South

African Constitution, coupled with the "emergencies" that the present government has to address, also defines the epicentre of its IGR system. Political distrust, for instance, that prevailed during South African Constitutional negotiations (interestingly, both in the 1909 and 1992 conventions), demonstrates how issues such as regional, ethnic, racial and economic strength can determine definitions of governance systems from being unitary to being federal. Canadian federalism, for instance, developed through a number of phases, and in each instance, reflected particular historical dictates and constructs.

Therefore, there is pressure for scholars to avoid seeing federalism as a static pattern or design, characterized by a particular and precisely fixed division of power between governmental levels (Freidrich, 1968:7). Federalism can be expressed in various forms, with the social, territorial and cultural expressions being the most fundamental and within which any emergent expression could be contextualised (Nemni in De Villiers, 1994:143-4).

Socially federalism has been conceptualised as being concerned with people as individuals and in their capacity as citizens, whereby they relate to each other federally and respectful of each others' integrities whilst cooperating in every aspect of life (Elazar, 1987:71). The social expression of federalism also emphasises the permanent religious, ethnic, cultural or social groups around which political life is organised (Elazar, 1987:71). The distinguishing factors are seen as pillars in the structuring of polities formally and/or otherwise. Heterogeneous societies have over their entire histories always preferred to establish respective governments and governance systems that are federal in form and in character. The author observes that the risk of expressing federalism within a social paradigm is that it tends to degenerate into a mechanism of social engineering. A defining feature would be

the glaring disparities in access to resources. The degree to which the political resolve of a society is cohesive has been found to be a neutralising antidote in socially structured federations.

Territorially expressed, federalism creates a favourable atmosphere in shaping the geographical basis of social and political organisations in federal systems. The demographic settling of people as characterized by the past politics of conquest, dispossession, forced removals, and urbanisation and modernisation, has created settlement territories. The established territories vary in terms of population, economic activity, socio-political and cultural concentrations, that tend to define power and dominant nodal points (Barbasi, 2000:25-30). The boundaries (both virtual and physical) created by these nodal points served as strong bulwarks for the diffusion of power, hence territory has consistently been a growth point for political action (Freidrich, 1968:48-49). The definition of socio-political, or for that matter any access-related interest, is located in some form of defined political territory, and may be expressed through the use of the country's defined political mechanisms (Elazar, 1987:73).

Federalism, with its noble intention of preserving the integrity of sub-national units' identity, culture and tradition, logically, should be based on fundamental territorial divisions of power, so that territory becomes the primary unit of political action (Hicks, 1978:4; Elazar, 1987:73).

The geo-political portrait of the South African polity reflects settlement patterns that have been shaped by a process of social engineering, namely, Apartheid, using race and ethnicity as the basis for selective human dislocation and placement.

Whilst some settlements were engineered others are historical and therefore originated as a result of deep traditional and cultural criteria defined by history. The settlement concentrations referred to, tend to create a minority-majority dichotomy as far as the design of government is concerned.

Territorial divisions of power, as an expression of federalism, can be used to protect minority and/or vulnerable communities, by allowing them greater autonomy within their 'own' political jurisdictions (Elazar, 1987:73). Federal polities by design, are not accepting of the dominance of a single concentration or nodal center, irrespective of its strength and/or role in societal development (Hicks, 1978:4).

The *cultural* expression of federalism recognizes that societies are made up of a series of interrelated covenants and compacts, which allow parties within them to unite for common purposes whilst retaining their integrities (Elazar, 1987:78). The innate basic human concerns with own religion, own language, own ideology, and so on, serves to create sub-communities within a larger, more comprehensive community (Freidrich, 1968:53). It will require many centuries to make cultural differences homogenous, as it is difficult, if not impossible, to create a country out of distinct territories without any community of states which have been peopled by different stocks and are living on varied soils (Freidrich, 1968:54).

In such instances above, Elazar, (1987:78) argues that federalism implies an attitude toward socio-political relationships which leads to human interactions that emphasize co-ordinate rather that superior-subordinate relationships, negotiated co-operation and sharing amongst parties. The degree of political socialization a society undergoes, particularly in the context of communicating the content of

federalizing society, shapes the validity of federal systems (Hague *et al.,* 1992:147). The growing traditional loyalties, particularly ethnic and ideological affiliation in South Africa, as manifest in the established political mobilization nodes and emerging urban support networks (based on ethnic origin and party political affiliation), provide a currency with which the South African federal experiment can use to promote political integration appropriate to indigenous cultural conditions (Hague *et al.*, 1992:147; Elazar, 1987:79).

For the purposes of this study federalism means a system of government organized into national, regional (provincial) and local spheres acting together for the common good of society, where the power of government between the spheres is diffused amongst them. The purpose of such diffusion is to maintain a self-conscious nation state whilst keeping intact the relatively arrogated autonomy of spheres, and where such arrangements are Constitutionally guaranteed.

Strict adherence to territorial distinction and the relative recognition that sub-national units act together for the common good of society, therefore, create a continuum along which various federal modes may be plotted. The continuum is interchangeably referred to in the study as the federalist-unitarist continuum or as the confederal to unitary continuum.

1.5.5   Decentralisation

Decentralization is understood in the science of public law as the establishment of legally autonomous administrative institutions that fulfil their functions autonomously and free from outside directives and are subject only to oversight regarding the legality of their actions. The World Bank defines decentralization as a process of devolving political, fiscal

and administrative powers to sub-national units of government (Burki *et al.,* 1999:3). Decentralization is differentiated from deconcentration in the sense that the latter refers to the manner in which central governments increase the autonomy of regional offices whilst preserving the right to give directives and full oversight. Decentralisation, on the other hand, is further understood by Manhood, cited in Barlé (2002:3), to be the sharing of part of government power by a central ruling coalition with other non-central coalitions, each having a defined authority within a specified area or state. Decentralisation is the transfer or delegation of legal and political responsibility for planning, resource use and allocation, and management from national jurisdictions and agencies to sub-national jurisdictions, field decision centres, semi-autonomous bodies of government and governance, regional and/or functional authorities and voluntary non-governmental bodies (Barlé, 2002:3).

Decentralization originates as an IGR management technique, from the need to address the limitations of central and/or command types of government. In a centralized government system the vulnerabilities inherent in the top-down dissemination of government and governing information, are perpetually hidden in the topology of the existing communication network (Barabasi, 2002:144). The challenge of governments, along the representative to absolute monarch systems of government, has always been to create systems that seek to neutralise the risk associated with a possible destruction of the central node of control and therefore destroy communication with regional jurisdictions (Barabasi, 2002:144). The resultant outcome of this challenge has been the design of command systems and structures that relate to the centre but has sub-jurisdictional centres with which command, management and control are enhanced. This did not, however, reduce the relative hold of the centre on the peripheries; hence the growing importance of distributed power as opposed to decentralized power (Barbasi, 2002:144).

The arguments against decentralization have not deviated an inch from those advanced when the decentralization movement evolved. Distributed power as a governing system advocates a cellular link of the governing nodal points (Barbasi, 2002:145). The distributed power movement advocates wall to wall political jurisdictions that are interwoven, designed in mesh-like architecture and capable of creating organic IGR (adapted from the Paul Baran's theory of Network, cited in Barbasi, 2002:145). The distributed power system creates multiple links between sub-national jurisdictions. The emergence in IGR practice of techniques such as cross-border jurisdictions and virtual service authorities can be traced back to this movement.

For the purposes of this study *the author categorizes decentralization as a process of devolving central governmental authority and power to sub-national units of government, and deconcentration as the delegation of functions in an autonomy expanding manner that does not compromise central government's right to give directives and have full oversight. Centralization and concentration would be the reversal of the above processes.*

The next chapter addresses critical historical developments of IGR in South Africa*.*

1.6   ORGANISATION OF THE STUDY

As a means of providing an overview of the organisation of the entire thesis, the following summary is provided.

Chapter One provides an overview of the study to be investigated wherein the purpose of the study, its significance, its limitations, definitions and explanation of concepts and the organisation of the thesis will be outlined.

Chapter Two outlines the research methodology. A rationale for the choice of a qualitative approach in designing the study will be provided. The various qualitative research strategies and/or methods will be explained and supported by expanding on the various qualitative analysis tools. The role of ethics in research will also be explained. The author will conclude by arguing for the combination of the outline of research methods, techniques and tools.

Chapter Three will examine a historical overview of the South African intergovernmental relations (IGR) system that outlines IGR developments in terms of the 1961 Constitution, 1983 Constitution, the 1993 Interim Constitution as well as the current Constitution, namely, Act 108 of 1996. This Chapter will offer a historical perspective and will indicate the environment within which IGR development occurred in South Africa.

Chapter Four will address the literature review on intergovernmental relations (IGR). In this chapter the origins of IGR will be investigated and the various authority models defining it will be described. The distinctive features of IGR, the normative guidelines and factors that influence it, including types of IGR will be outlined in theoretical perspective.

Chapter Five will provide a critical review of the executive intergovernmental relations (IGR) structures of the National/Provincial spheres of government. In this chapter flaws in the different structures will be described with the intent of reconstruction in the following chapter.

Chapter Six will explore alternative approaches to evaluating the current status quo based on the literature study in Chapters Three and Four as well as drawing lessons from them

for the design and the implementation of intergovernmental relations (IGR) reform in South Africa. In this chapter, proposals on the nature and form of IGR structures in South Africa will be made. Theoretical conclusions by the author will also be provided in this chapter.

Chapter Seven provides a final evaluative overview of the study as a whole. Recommendations for reconstruction and reform will be provided.

CHAPTER 2

2.   RESEARCH METHODOLOGY

2.1   INTRODUCTION

Public Administration research, by nature, is a dynamic process that requires a combination of research methods. The fact that Public Administration intends to inform both history and political debate thereby contributing to policy formulation, directed this study to employ a variety of research methods to legitimate its conclusions (Johnson, 2002:2). The choice of these research methods, in the main, has been premised on the fact that "whilst Public Administration research accepts that things are knowable and quantifiable, due recognition should be given to the growing importance of intuition, vision and reflective thought as sources of knowledge" (Johnson, 2003:5). The intellectual consensus that not everything can be understood in terms of numbers has resulted in this study's reliance on a qualitative research design.

In this chapter the author will provide a rationale for the choice of a qualitative research design for the study. The various qualitative research strategies and/or methods will be explained. These will be supported by expanding on qualitative analysis methods and thereafter by describing the impact of research ethics that provided navigational co-ordinates to arrive at the conclusions in this study. In closing the author will argue for a combination of these methods and provide a list of the main sources used in this research.

2.2. THE RATIONALE FOR QUALITATIVE RESEARCH DESIGN

Qualitative research is defined as any type of research that produces findings not only arrived at by statistical procedures or other means of quantifications (Straus and Corbin, 1998:10). It is also refers to research about persons' lives, lived experiences, behaviours, emotions as well as about organizational functioning, social movements, socio-cultural phenomena and interaction between individuals (Straus and Corbin, 1998:5).   Dooley defines this as research based on non-quantitative observations made in the field and analyzed in non-statistical ways, and in most cases the subject(s) may not be aware that they are being observed (1990:276). Creswell states that qualitative research is an inquiry process of understanding based on distinct methodological traditions of inquiry that explore a social or human problem (1998:15).   In a qualitative research process the researcher consistently builds a complex and holistic picture, analyses words, reports views of informants or practitioners and restricts the study to its natural setting (Creswell, 1998:16).

The reliance of qualitative research on a range of variables but using few cases has revolutionarised the need always to present research as a fixed process that had to first present a problem, ask questions, collect data to answer the question, analyse the data and then answer more questions (Creswell, 1998:16-18). The traditional inquiry process has been found to be responsible, in many cases, for the obfuscation of concepts and theory development thus limiting the flow of ideas.   The qualitative research process entails direct observation and relatively unstructured interviewing in natural field settings where genuine interactions occur between participating observers and the subjects (Dooley, 1990:277). Observations and/or research data is typically less structured, and is often spontaneous, flexible and open-ended.

The scientific reality of Public Administration research is that it also uses systematic observation and experimentation to test ideas in order to understand why the world works as it does (Johnson, 2002:10). Unlike the natural sciences, the laboratory of Public Administration is represented by an environment where the researcher is within and among phenomena to be observed, as opposed to observing some incubated phenomena. The positional interchange between the researcher, research process and existing theory often correlates with the intention of Public Administration researchers in the contested terrain of objectivity versus subjectivity. Such a scenario is often associated with social science research. The almost scale-free topology of Public Administration dictates research approaches that demonstrate a researcher's will to draw on own experiences when analysing source materials (Straus and Corbin, 1998:5). Hence the research paradigm of this study has been rooted, primarily, in the qualitative domain.

The qualitative research paradigm requires a willingness from researchers to spend extensive time in the field for collecting data, gaining access, for rapport and for an insider perspective on issues at hand (Creswell, 1998:17). In this study, the author has collected data from state departments and from political parties. Access to some information was not only facilitated by its general availability, but also by the rapport the author established with institutional functionaries critical to the theme of this study, particularly within the African National Congress (ANC), The Presidency and the department of provincial and local government (DPLG). In the process of handling collected information the author engaged in data analysis and made conclusions on the basis of available multiple perspectives as dictated by the spontaneity of observational data (Dooley, 1990:277; Creswell, 1998:17).

A qualitative approach was also adopted because the topic of this study required a focus on the "how" and the "what" regarding the subject under investigation. The "why" questions, in some instances, generated a need to switch to the quantitative paradigm, but since qualitative data generation and evaluation has been selected for this study, the author relied on the non-reactivity and comprehensiveness of observation inherent in qualitative research (Dooley, 1990:277).

Another factor of the qualitative approach was the degree to which variables related to IGR can be independent in relation to existing and/or non-existing theory. Goel (1998:9) explains an independent variable as a presumed cause and can affect a dependent variable, which is an aspect of reality the researcher wants to explain: in this case IGR is a dependent variable. Through a historical journey of what was South Africa, this study has been able to create a series of variables that determined conclusions in Chapter Seven. The independent variables that shaped the South African IGR system had a direct influence on theories applied and generated in this study.

The need to present a detailed view on IGR in a newly emerging South African policy required of the study to follow a qualitative approach. The South African Government's governing system has a number of factors that shaped it. IGR, as an operating system of governance, would not have escaped such influences. In the design of this study, the author realised that details about the "what has been", "what is" and "what may be" could only be elucidated through a qualitative research method. The influence of history, particularly as it pertains to the socio-economic, political and ethnical demography influencing the creation of existing power centres in South Africa also required a detailed and descriptive view, hence this qualitative approach.

A qualitative approach to research is followed when there is a need to study individuals in their natural setting (Creswell, 1998:17). The definition of IGR in Chapter One places emphasis on transactions and interactions between and amongst officials (elected and/or appointed). Subsumed in the emphasis is the human element that characterises IGR, as the study will further demonstrate in the ensuing chapters.

The perspective of this study, to investigate the extent to which a central agency such as The Presidency, can administer and manage IGR in South Africa, established another need, namely, to study and to compare the different South African regimes and governments in relation to the leadership style of the political head, hence a President Mbeki and a President Botha comparison later in this study. Reference to the character and nature of public officials in the study is also a result of the qualitative research paradigm that has been selected.

The literary style of writing where the author, in most instances, presents facts from the perspective of a role-player as well as an interested party, has steered the author towards choosing the qualitative research method (Creswell, 1998:18). Although there is no reference to "I" in the study, reference to "the author", is a demonstration of the role playing position sometimes assumed.

The fact that South Africa is in transition from an Apartheid state to an all-inclusive Democratic state has placed an obligation on all South Africans, particularly public administration practitioners, to 'design-in-flight' governance systems that should take the country forward. Having been in the privileged position of involvement in the liberation struggle, including being appointed into structures of the first democratic government, allows the author first-hand knowledge when drawing certain conclusions and presenting

certain historical facts. Certain analyses, that will be found in ensuing chapters, are reflective of the observation and role player status of the author, hence a qualitative approach was necessary. As a qualitative observer who looked, who listened and who was caught up in the social currents of the setting, it is expected that this study will perceptually reflect the author's point of view on some historical facts (Dooley, 1990: 277). This is despite the fact that a person's concept of reality is not directly accessible to outsiders; hence it is believed that the construction of reality or the process through which people make sense out of their lives can be best understood through an interpretative or a qualitative approach (De Vos, 2000:280). The study will be conscious of the fact that the same actions, events or situations may have varying interpretations by different individuals and also may result in varying prescriptions as to future courses of action (De Vos, 2000:280). This may be illustrated by the fact that while former President Mandela was once classified as a terrorist, in another context he remained a freedom fighter. The study has used such metaphors and examples to present new perspectives on occurrences that could be interpreted both favourably and unfavourably depending on their particular times in history.

Besides the community of scholars, this study also targets policy makers particularly in governments exhibiting a transitional economy. Others targeted by this study, by definition will be receptive to qualitative research. A different research approach would generate a condition whereby the research axiom "the nature of the data and the (problem) issue for research dictate the research methodology could" be refuted (De Vos, 2000:14). The profound influence of the need to present arguments in a manner that sustains the reliability of conclusions in this study has had an impact on the nature of the audience that this study targets.

In the design of the study the author will create conditions wherein emerging issues on the subject of IGR are accommodated, and the material presented does not follow any pre-determined and/or fixed pattern of research. Kuye (2002:3) claims that Public Administration research, over time and in a consistent manner, has disengaged with the positivist model of social science research, and, instead, has moved in the direction of collaborative ventures and transdisciplinary approaches. Qualitatively the expansion of the interdisciplinary approach to research not only broke down boundaries between disciplines, and therefore research methods, but also removed unnecessary borders (Kuye, 2002:3).

These assertions are instructed by the generic philosophical assumptions characteristic of qualitative research. Creswell (1998:19) argues, as the study will demonstrate, that these assumptions are related to man's understanding of knowledge. The assumptions are that knowledge is in itself, within the meanings people make of it; gained through people talking about their meanings; laced with personal biases and values; written in a personal, up-close way; and evolving, emerging and is inextricably tied to the context in which it is studied (Creswell, 1998:190). The historical developments in South Africa, particularly in Constitutional development as it pertains to a franchise for all, overlays in historical phases, distinct ideological stances that situates this study within particular historical frameworks and socio-political perspectives (Creswell, 1998:79). The different qualitative research approaches employed in this study will now be unpacked.

2.3. QUALITATIVE RESEARCH APPROACHES

Qualitative research has a number of approaches that could be employed in the execution of a research project. The process of understanding these approaches requires researcher

knowledge of the different classes of qualitative research. McNabb (2002:269) groups these into three broad strategic classes, namely: explanatory, interpretive and critical research studies.

Explanatory research studies involve a process of developing a causal explanation of some social phenomenon. In this class the researcher seeks to identify, amongst sets of variables, the cause of a consequence (McNabb, 2002:270). Theories devised are then to be used in explaining phenomena. It is characteristic of qualitative research in a sense that it affords the researcher some degree of control over research events. The historical nature of the grounds for and the events informing IGR in South Africa, place this study within a specific class within qualitative research. In identifying factors that influenced IGR, the study provides a platform for gaining insights and ideas about the study question and thus delivers elements of completeness, seldom associated with this class.

Interpretive research has as a standard, the ability to assume that humanity's understanding of reality is a function of meanings assigned to social phenomena, such as language, consciousness, shared experiences, publications and other artefacts (McNabb, 2002:271). Whilst causal explanations account for most human events, it is the interpretation of such variables that give subjective meanings to social events. (McNabb, 2002:271). The reliance on meaning by this class of qualitative research and the dynamism inherent in social phenomena, with change as a constant variable, requires of this class to create conditions for multi-layered, transdisciplinary and collaborative interpretations of human experiences (Kuye, 2002:1-2; McNabb, 2002:271). Interpretive research requires the researcher also to understand events in

historical context, hence the study focuses on the historical background of the South African IGR system as a method of presentation.

The nature of public administration practice and of IGR dictates to a researcher the need to understand through interpretation the norms, values and belief systems of organizations and humans involved (McNabb, 2002:272). McNabb (2002:272) identifies principles of interpretive research as firstly the hermeneutic circle, where the researcher looks at the parts of the whole and then the whole and its parts in an ever expanding and yet concentric circle; secondly, the principle of context as it relates to the time and situation-specific nature of a particular social phenomena; thirdly, the principle of relating the researcher and the subject; fourthly, the principle of abstraction and generalization, particularly in relation to subjective inferences the researcher imposes on a conclusions; fifthly, the dialogical principle where the researcher revisits the research design assumption in the light of new and emerging information; sixthly, the principle of multiple interpretations that compels the researcher to juxtapose interpretation of phenomena against competing interpretations; and lastly, the principle of doubt wherein the researcher deliberately uses a healthy dose of scepticism on any established conceptualizations.

One of the salient outcomes of a research process is to bring to the fore unsharpened contradictions. It is the contention of the author that one of the standards of evaluation in scholarly research should be its ability to sharpen contradictions, thereby generating further inquiry into the subject.

Critical qualitative research has an objective need to help people change their beliefs and actions, and consider emerging alternatives as a process and way forward (McNabb, 2002:273). In the cause of this research the author has pointed out inconsistencies between what may be true or false, good or bad, thus compelling, in a relative sense, the target audience to act in accordance with truth and goodness. Schwandt (1997:24-25) contends that critical research aims at altering the distortions of reality thereby generating social action; this is done through an unwillingness to accept established patterns of thought as advocated by positivist social scientists claiming objectivity and disinterestedness. The study creates a continuum approach to centralization and decentralisation as a platform to accommodate the revalidation of established notions of federalism and unitarism.

The above classes of qualitative research begs the critical question: which class is best? To pass judgement on which is best will be to refute what Kuye (2002:3) refers to as an inaccurate assumption that the positivist approach to conducting research is the appropriate standard for comparison. Denzin (1978:2) argues that no single method will ever meet the requirements of what Kuye (2002:2) refers to as transdisciplinary research. The need, therefore, to use all classes in a research process become inevitable, hence this study interchangeably employs more than one class.

There are many research approaches to Public Administration and in each case these approaches are supported by a number of tools and techniques. The most popular of these utilized in this study are ethnography, the case approach, grounded theory and action-science.

2.3.1. The Case Study Method

A case study method is a strategy of doing social inquiry when the inquirer seeks answers to 'how' or 'why' questions, in circumstances where the inquirer has little control over events being studied (Schwandt, 1997:13). A case study is also defined as an exploration of a 'bounded system' or case over time through detailed, in-depth data collection involving multiple sources of information rich in context (Creswell, 1997:61). Yin (1993:3) argues that it is preferable to have the phenomenon under study not readily distinguishable from its context, when the object of study is a contemporary phenomenon in a real-life context as well as to know when it is desirable to use multiple sources of evidence. Cases are appropriate when the researcher is trying to attribute causal relationships within the explanatory-interpretive-critical classes of qualitative research design. The cases used in a case study are generally characterised by their concreteness, circumstantial specificity and by their theoretical interest and generalizability (Schwandt, 1997:12). Cases provide practical wisdom requiring perceptual recognition whilst the theory used to analyse cases offer a cognitive understanding usually expressed in rules, in principles and in theories.

The choice of this method affords the researcher with an opportunity to infuse the context as a major part of research. The distinctive challenges created by this opportunity generates from the context more variables than data points. There is a reliance on multiple sources of evidence as opposed to a single data collection method, and the need to employ distinctive strategies for research design and analysis, irrespective of the quantitative nature of variables (Yin, 1993:3). The multiple sources of evidence include observation, interviews, audio-visual material and documents and reports (Creswell, 1997:61). The process of analysing these sources is a scientific one requiring independent evaluation and explanation. This study applied all of these with the exception of interviews.

Land and Heis (1990:82) submit that the basic rationale for a case study is that there are processes and interactions and hence it is dialogical. The inherent intellectual dialogue between the researcher and phenomena tends to direct case studies towards individualized outcomes (McNabb, 2002:286) a condition required in quantitative research although there is a bias towards the ideologies of the researcher. The multiplicity of variables inherent in the case-study method, lionizes the dichotomy between quantitative and qualitative research as a caricature in the social sciences (Yin, 1997:57). It is the author's observation, therefore, that the scientific, data-driven and outcome orientation of case studies bridge the divide between quantitative and qualitative research within the social sciences. The fact that cases present a context, which may be from numerically arrived at conclusions, that have to be interpreted through existing or in-development theory, has anchored the centrality of the case study method for perceptual and attitudinally arrived at conclusions (McNabb, 2002:287). Consequently, the qualitative and quantitative debate becomes relegated to a mere issue of good or poor research as opposed to examining resulting dichotomies.

This study employed a number of cases, albeit in narrative form, to establish a basis for new and existing theory in the IGR field. Also involved were identity antecedents, as well as establishing the fundamental importance of the identified variables to the study as related to the phenomenon of IGR in South Africa (McNabb, 2002:287). The cases employed in this study relate to incidents within a continuum of occurrences at particular historical moments. The study of governance patterns of the different South African Governments from the 1909 Constitutional dispensation through to that of 1996 provided chunks of bounded information of which an imbedded analysis of specific aspects was made to either prove or disprove new and past conclusions. The time, era and place

elements of the bounded information provided a multiplicity of sites. Therefore, they became case-based historical phases that presented themselves as a cultural portrait of the IGR system in South Africa and a phenomenon (Creswell, 1997:61-2). The study, therefore, follows a multiple-case study method or what Yeager cited in McNabb (2002:231) refers to as multisite qualitative research.

2.3.2 The Grounded Theory Approach

The goal of the grounded theory approach defines its method. Creswell (1997:56) captures the intent as being to generate or discover a theory, an abstract analytical schema of a phenomenon, that relates to a particular situation. The axle of grounded theory research is the generation of theory closely related to the context of the phenomenon being studied (Glaser and Strauss, 1967:56). A grounded theory approach is when theory is inductively derived from the study of the phenomenon it represents; hence it is eminently interested in theory building as opposed to theory testing (Yin, 1993:61). Schwandt (1997:60) contends that the non-specification of the manner in which theory is generated within this method, does not discount it for not having specific, highly developed and rigorous procedures for producing theory. As a method it has an over-reliance of the inductive-deductive and cross verification techniques often associated with qualitative research. Strauss and Corbin (1998:12), explain grounded theory as theory derived from data, systematically gathered and analysed through the research process. Therefore, there is a close relationship between the data collection and the analysis processes with the developed theory.

The grounded theory research method requires from the research first to identify an area of study and progress towards a theory, in a generating or a discovering mode (McNabb, 2002:302). Strauss and Corbin (1998:12) are of the opinion that theory derived from

analysed data is more likely to resemble reality; hence a grounded theory approach offers insight, enhances understanding and provides a meaningful guide to action. The adage that "the map is not the territory" best describes the grounded theory approach because it encourages learning through process. The grounded theory approach, of late, has become a paradigm of choice in much of the qualitative oriented research in Public Administration. The data collection process in a grounded theory approach typifies a zigzag process where the researcher goes to the field, gets data, analyses it and then restarts the process until a theory is generated, developed and/or confirmed (Creswell, 1997:57).

The organisation and application of structure to data according to an eclectic set of researcher-determined categories is a key requirement for the grounded theory process (McNabb, 2002:302). The constant interplay between the researcher and data, sometimes referred to as analysis, requires a classification process that assigns to data and its linkages, discrete codes that organises them into groupings. The process of taking this information from data collection and comparing it to emerging categories is referred to as constant comparative data analysis (McNabb, 2002:302). According to Creswell (1997:57), this follows a standard process of coding. There are four phases in the process.

Open coding, the first phase, is where the researcher creates categories within which several properties are established in a continuum format that allows for creating dimensions of emerging data elements. In this phase new data is compared across earlier categories. Straus and Corbin (1998:101) define open coding as the analytic process, through which concepts are identified and their properties and dimensions discovered in data. The categories established in this study take the form of chapter titles as well sub-titles within the chapters. In the

process of inputting through research, emergent data created new dimensions that have lead to theoretical discoveries about the South African IGR system.

Second in the process is *axial coding* where the researcher identifies central phenomenon, explores causal conditions, specifies strategies, identifies the context and intervening conditions and delineates results. Creswell, 1997:57). Strauss and Corbin (1998:123) explains axial coding as a process of relating categories to their sub-categories, termed axial, because coding occurs around the axis of a category, linking categories at the level of properties and of dimensions. The study has identified IGR as a central phenomenon to be explored. The organisation of data around this phenomenon has taken a route that included an explanation of causal conditions through the delineation of research results presented as Findings in Chapter Seven.

Third in the process is *selective coding* where the researcher presents conditional propositions (Creswell, 1997:57). Selective coding is also explained as a process of integrating and refining the theory (Straus and Corbin, 1998:143). The focus on the degree to which a central agency such as The Presidency should be involved in IGR, provided a story line that ran as a thread to link collected data and information. This was subjected to the axial coding process in order to create a relationship with discovered and emerging theories.

Fourth in the process is a condition where the researcher develops a *conditional matrix* that elucidates the socio-economic and historical conditions influencing the central phenomenon (Creswell, 1997:57). In this phase new data is integrated into expanding categories to build understanding (McNabb, 2002:303). The integrative

manner in which the various authority models, the different IGR structures both in historical and present context as well as factors and values requisite for IGR, provide an elucidating and almost virtual matrix on the phenomenon being studied.

The fact that Public Administration has grown to become the conceptual tool that not only guides the delivery process of management (Kuye, *et al.*, 2002:1), but has also integrated theory and practice in the quest for new discovery and knowledge, posits this method of social enquiry as the most relevant in Public administration research. The varied, diffuse and interactive process at probing, and the resolution of conflicting perspectives inherent in Public Administration research (Kuye *et al.*, 2002:4), confirms the assertion that grounded theory has become a "type of central organizing concept that serves to both direct the research process as well as provide a heuristic for data analysis and interpretation" [McNabb, 2002:302). The predominant use of this approach in the study foregrounds this fact.

2.3.3. <u>The Ethnographic Approach</u>

Ethnography describes and interprets a social or cultural group or system. As a method of research it directs the researcher to observe the patterns of behaviour, customs and ways of life in a society (Creswell, 1997:58). In ethnography the ethnographer develops cultural themes in the analysis of a culture-sharing group's data, where a culture-sharing group is one that shares learned and acquired behaviours (Creswell, 1997:245). In ethnography the researcher studies an intact cultural or social group (or an individual or individuals within the group) based primarily on observations by the researcher in the field. This explains why it is sometimes referred to as a work of describing a culture and a way of understanding phenomena from the native point of view (Berg, 1989:51). Van Moonen

(1982:103) defines ethnography as a research process that involves elaborate fieldwork of various types; this may include techniques such as participant observation, formal and informal interviewing, document collection and so on.

The ethnographic process immerses the researcher in the day-to-day activities of people involved in the phenomena being studied. In such circumstances the researcher records how people (groups, coalitions and societies) perceive, construct and interact in their own private world (McNabb, 2002:326). The process embraces the subjective realm of individuals (groups, coalitions and societies) it seeks to understand, and therefore defines the group in a manner it describes itself (McNabb, 2002:326-27). As a Public Administration research method it has enabled researchers to gather information about behaviours (heroic and non-heroic) embedded in cultures and sub-cultures (McNabb, 2002:333).

The reliance on historical data established within traditions, societies, groups and coalitions creates a focus, in this method, on the patterns of human thought and behaviour. Ethnographic research dictates an almost personal participation of the researcher in the phenomena being observed. The culture and operating climate of organisations is the pivotal point from which ethnographic research makes inferences and draws conclusions. Public Administration ethnographic research requires the most intense connection between the researcher and subjects. Whilst ethnography provides a window for historical reflection of the phenomena studied, it can, however, compromise the researcher in relation to groups, coalitions and societies studied (Creswell, 1997:61). This will be explored further in the discussion on research ethics.

The dedication of a chapter on the historical background of IGR in South Africa and a focus on the behaviours of political parties and leaders by this study will be guided by this method. Whilst there will be subjective conclusions on political leaders and coalitions, the author accepts that, like any research, there will be other opposing and also subjective views. The use of this approach also informs another significant objective of the study, namely, of generating conclusions that illuminate possibilities for action that would not otherwise be apparent (Kuye et al., 2002:22].

2.3.4. <u>Action research</u>

Action research is a way of initiating change is social systems through the participation and involvement of members of the group in the research process (McNabb, 2002:345). The choice of such a method is usually informed by the need to address social problems. The process of executing this method involves a spiral of interlocking cycles of planning, acting, observing and reflecting (Schwandt, 1997:1). As listed below, action research has at least 5 models that are in use, particularly in the administrative sciences.

Traditional Action Research

The objective of the researcher, in this model, is to help change societal dysfunctionalities whilst contributing to the general fund of theory and knowledge (McNabb, 2002:347). This method advocates a condition whereby the researcher is concerned with knowing both the general laws of human and organisational behaviour, and specific information about the institution or system that is the focus of the change effort. It is sometimes seen as being informal though qualitative,

formative, interpretive and experimental (McNabb, 2002:347-8). The practical nature of this model makes it relevant to both the qualitative and quantitative research approaches. The model is characterized, firstly, by the fact that the data gathered might be of any type and can be collected through a gamut of methods including questionnaires, interviews and simple observations; secondly, it is contextual although universalistic in approach, hence interventionist in nature; thirdly, it focuses on a single case of an organizational unit; lastly the researcher, through bringing theoretical knowledge and skills to the practice and experiential knowledge laden group, collaborates with subjects (McNabb, 2002:348).

Participatory Action Research

The primary goal within this model is to initiate fundamental and emancipating change in society (McNabb, 2002:349). The preoccupation of the present South African ruling party, at the time of this study, with 'democratic centralism' instructs this study to employ elements of this approach, hence the intellectual interaction with political party positions on unitarism and federalism. The fact that this model emerged from social movement in oppressed societies, South Africa included, creates a condition where interaction with data cannot be divorced from this model. The service delivery and the challenges of governance paradigm change facing South Africa (and most transitional economy type governments) make any research with the intent to trigger fundamental change, explicitly political. Smith, cited in McNabb (2003:350), submits that the ideological framework inherent in this approach emphasizes large-scale structural forces, conflict of interest and the need to overcome the legacy of oppression and inequality through transforming the social order. Whilst this study will be employing elements of this model, interaction with

subjects will be through the analysis of pronouncements as well as through in-arena experiences of the author.

Empowerment Research

Empowerment research concerns itself with individuals who are excluded by the majority (or dominant cultural, socio-political and economic coalitions) on the basis of their demographic (including ethnic, racial and affiliate) difficulties (McNabb, 2002:35; the author's italics). The historical focus of this model has been on persons with physical challenges that can result in their marginalisation by physically unchallenged and dominant coalitions. It is the submission of the author that emergent studies point to the fact that this model may also be useful to address ethno-racial, socio-economic, religious and affiliate exclusionary tendencies currently engulfing global societies. Much of this approach will emerge in the study.

Feminist Research

This model promotes the feminist agenda by challenging male dominance and advocating equality between men and women (McNabb, 2003:251). The study will subscribe to elements of this approach by ensuring that any reference to a particular gender orientation will be construed to be applicable by the author.

Action Science

The action science model is an intervention method advocating that people can improve their interpersonal and organizational effectualness by examining the underlying beliefs that guide their actions (McNabb, 2002:352).

The model also takes the form of an evaluation, with the intention to bring to bear any covert contradictions related to the phenomena under study. The action science model integrates the theory-building element of basic research with the then-current applications of research (McNabb, 2002:352). The inquiry process followed by this study is premised on the 'what was', 'what is' and 'what should be' paradigm, and the then-current information analysed herein subscribes to the critical tenets of this model.

2.3.5 **The Phenomelogical approach**

A phenomenological study describes the meaning of lived experiences for societies (and individuals) about a concept (Creswell, 1997:53). Phenomenologists insist on careful description of ordinary conscious experiences of the life-word and the description of 'things' as one experiences them (Schwandt, 1997:15). Such 'things' are experienced through perception (including hearing and seeing), believing, recalling, deciding, feeling and so on. Creswell (1997:52) argues that in a phenomenological research process the researcher has, as a constant, the challenge to bracket his or her experiences. This allows one to set aside all pre-judgements and rely on intuition, imagination and the universality of knowledge to obtain the underlying characteristics and essence of the experience.

A phenomenological approach requires of the researcher to understand in a philosophical sense, all perspectives behind the manner in which people experience the phenomenon under investigation (Creswell, 1997:54). The decentralization practices of the erstwhile apartheid minority government, as interrogated in this study indicate the degree to which analysis of historical issues required bracketing of own experiences in favour of creating universal knowledge.

A further requirement of this approach is that the researcher presents questions that explore the meaning of that experience for individuals (organizations, societies and coalitions) and asks such to describe their lived experiences (Creswell, 1997:54). The phenomenological researcher analyses data in a manner that recognises contextual realities. Textual descriptions are always juxtaposed against structural descriptions; here the researcher treats reported experiences with suspicion until they are linked to the milieu of experiences (Creswell: 1997:55). This study will recognize this method as the philosophical cue to be adopted through this study, and that resonates with a realm of thought often reserved for metaphors and biblical parables.

2.4. RESEARCH TOOLS

The above explanation of research approaches does not provide explanations of data analysis methods employed in the study. Research data is derived from a number of sources, and these include people's pronouncements and actions, publications, cultural settings as well as symbols communicating a message. In the process of conducting this research the author took cognisance of the available data gathering methods. McNabb

(2002:391) classifies the different sources of research data into written texts, formal and informal documents, non-written communication and non-verbal signs and symbols.

Written texts include books, periodicals, narratives, reports and other published materials. The generic character of written texts is that they are secondary in nature and thus require interpretation and analysis. The secondary nature of written texts makes them vulnerable to dominant ideological constructs at a particular historical era.

Formal and informal documents include personal messages, archival information, government records, statistics and quantitative data, letters, e-mail and other informal and written material. The generic character of these documents is that they are primary source documents. It should be noted, however, that some formal documents me be regarded as secondary sources.

Non-written communications include graphic displays, photographs, cartoons, films and videotapes. These fall into both the primary and secondary service realm of categorization.

Non-verbal and symbols include body language, music, gestures, facial expressions, animal behaviour and noise.

Researchers navigating through the different sources make use of a number of analytical tools. For the purposes of this study, the author will focus on those tools and methods used in the study. In each case the author will define or explain the method and show its advantages and use.

2.4.1. Literature review

A literature review is defined as a systematic, explicit and reproducible method for identifying, evaluating and interpreting the existing body of recorded work produced by researchers and practitioners (McNabb, 2002:393). A literature review gives evidence to the research audience, that the researcher is aware of work already done on the subject, and identifies what the researcher believes are key issues, crucial questions and gaps in the researched field (McNabb, 2002:394). It also establishes theoretical and principle based co-ordinates for readers in terms of what was used to shape the research design.

Piantanida and Gorman, as cited in McNabb (2002:394), submit that literature reviews have the following strategic purposes: tracing the historical evaluation of the research theme; schematically providing the different schools of thought around the research theme; examining the research theme eclectically; and reviewing policy positions of different stakeholders as well as tracing the different schools of thought that have emerged over time (McNabb, 2002:294).

A literature review should, as a standard, have the ability to provide a point of reference to use when discussing and interpreting the finding of the research. Literature reviews have the advantage of setting specific limits for subsequent research, creating a multiplicity of approaches to the research problem, reducing the risk of data omissions in the research as well as acquainting the researcher with new sources of data (Lang and Heis, 1984; McNabb 2002: 395).

The design of this study is based on the literature reviewed over a period spanning the South African Constitutional Negotiations era through to the adoption of the 1996

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Constitution. The historical coordinates have been traced from the 1909 Union of South Africa Convention, which had strikingly similar constitutional and public policy challenges with the 1990 to 1996 constitutional negotiating conventions. The examination of the IGR challenges facing South Africa used the historical evaluation of constitutional government in South Africa as its point of reference, namely, the Union, Republic and the Tri-cameral Parliament. The literature reviewed was extensive and included use of archival records. The focus of the literature review was on what McNabb (2003:398) refers to as the running records, essentially meaning all types of public documents, artefacts and mass media.

2.4.2 **Hermeneutics**

Hermeneutics generally refers to the art, theory and philosophy of the interpretation of meaning of text (Schwandt, 1997:62). As a method of research it is used to analyse all types of written text according to a set of principles requiring the analyst to decipher the meaning of the text (McNabb, 2002:407). Deciphering meaning in the text is done through the eyes of its writer, according to the timeframe existing at the time of writing and within the then cultural, socio-economic and political context (McNabb, 2002:408).

Hermeneutic analysis is relevant when studying historical documents such as past legislation and records of past discourse. The deciphering of the intent of policy framers at particular historical moments is a critical element of Public Administration research, especially because the meaningfulness of legislation and policy is directly related to contextual circumstances, hence Public Administration is a dynamic process (Kuye *et al.*, 2002:2-6).

The centrality of language as a shaper of thought and therefore of paradigms, dictates to the hermeneutic analyst the need to follow all laws regulating language use (McNabb, 2002:408). The meaning of words at particular historical moments tends to be dependent on the writer's interpretation at that time. For instance, the meaning of the term 'Non-White' could have generated a different emotional acceptance if it was positively communicated in favour of Blacks, and if Whites were then referred to as 'Non-Black'. The study will be using such contextual terminologies to denote an analytical paradigm within a historical period or policy passage period being explained and/or explored. In this method there is always a presupposition that the hermeneutic analyst is knowledgeable of the grammar and historical evolution of the language in which the work is written, and is familiar with the laws of logic and rhetoric as well as the ideological principles informing language at the time.

The hermeneutic approach advantages the researcher in a number of ways. Firstly, it recognizes the inherent nature of humans (and therefore researchers) to always want to achieve understanding and interpretation. Secondly, it is centred on interpretation and thus follows the principles of meaning construction. Thirdly, it accommodates the role of context, both in time and in ideology. Lastly, it fractures the notion that there are fundamental and underlying truths (McNabb, 2002; Schwandt, 1997).

It is the author's view that, ideologically, most socio-political exclusionary practices are only sustainable through the creation of conditions that will in the long-run make such exclusions organic. Amongst others, language as a tested mechanism of social control, which was and still is dominant in South Africa, is extensively used to guide the application of these practices. The use of terminology such as 'homeland' evoked a near-liberation emotion to certain sections of the depressed African masses in South Africa. Given the

extensive use of 'control' language used by South African governments, past and present, the contextual interpretation of currently written text has been hermeneutically approached, in order to unravel misconceptions and underlying ideologies embedded in words used in legislations and policy documents. The 'half-empty' and 'half-full' interpretation tradition predominates text analysis in this study.

2.4.3 **Content analysis**

Content analysis is a technique for making inferences by objectively and systematically identifying the specific characteristics of text and messages (Holsti, 1969:14). It is used most often to describe attributes of messages, without reference to the intentions of the message generator and/or sender or the effect of the message on the receiver (McNabb, 2002:414). The strategic objective of this method is to enable the researcher to make inferences about variables in a text and because of this, it is used where messages tend to be clear, obvious and straightforward. As a method it always proceeds from a theoretical base, hence it is sometimes regarded as a quantitative description of the manifest content of communicated text and message (Goel, 1988:124). Content analysis is used to complement narrative analysis and discourse analysis tools.

The advantage of content analysis is that it provides the research process with tools to quantify contents of a qualitative or interpretative text (McNabb, 2002:414). In Public Administration, issues such as the number of Parliamentary seats, municipal jurisdictions, and the number of state departments are represented quantitatively, although supporting qualitative research arguments and conclusions. The simplicity and repetitive nature of text vulnerable to content analysis creates an added advantage to the research process. In cases where implied meanings in a text fade, it becomes incumbent on the researcher

to switch to other analytical tools, hence the research adage that "no single method completes a research" (Kuye, 2003: *on the occasion of discussing research approaches with the author*). The main disadvantage of content analysis is that it isolates information from its context and therefore contains a built-in bias.

The relationship between quantitative and qualitative content instructs researchers not to assume that qualitative methods are insightful and quantitative ones are merely mechanical and used for checking hypotheses (Holsti, 1969:11). The study will use this method by creating the circular relationship between quantitative data and qualitative interpretations, and this will enable numbers emerging within observed phenomena and text to inform analysis. The presentation of some information through legislation and other recorded text is so clear and straightforward that this study will have to rely on content analysis as a method.

2.4.4 **Policy Analysis**

The use of the information based on policy pronouncements by organs of state and political office bearers may assist policy analysts as a method of research. Quade, cited in Dunn (1981:61), defines policy analysis as "any type of analysis that generates and presents information in such a way as to improve the basis for policy-makers to exercise their judgement. In policy analysis, the word analysis is used in its most general sense; it implies the use of intuition and judgement and encompasses not only the examination of policy by decomposition onto its components but also the design and synthesis of new alternatives. The activities involved may range from research to illuminate or provide insight into an anticipated issue or problem to the evaluation of a completed program. Some policy analyses are informal, involving nothing more than hard and careful thinking

whereas others require extensive data gathering and elaborate calculation employing sophisticated mathematical processes". Carley (1980:23) defines policy analysis as a process of deciding on the objectives of an organization, on changes in these objectives and the resources used to attain these objectives. Dror (1969:266) sees policy analysis as an approach and a methodology for design and identification of preferable alternatives to complex policy issues. Jones and Olson (1996:115) explain policy analysis as being a disciplined and logical approach to determine what might be in any given circumstance, a style extensively used in the analysis of IGR.

Dunn (1981:ix) provides a research dimension to policy analysis by referring to it as an applied social science discipline, which uses multiple methods of inquiry and arguments to produce and transform policy relevant information that may be utilized in political settings to resolve policy problems. Weimer and Vining (1992:1) define it as client-oriented advice relevant to public decisions and informed by social values, Carley (1980:23) explains policy analysis as the application of analytic rationality to resource allocation decisions. As a policy research tool, policy analysis is aimed at predicting the impact of changes in variables that are changed by government, while as an academic social science research method it is aimed at constructing theories for understanding society (Weimer and Vining, 1992:4). For the purposes of this study we will explore policy analysis as an academic research tool. The operating definition will therefore be a process of examining policy in relation to the manner in which it assists researchers to generate generic theories on phenomena under observation.

In the study, various policy documents of political parties, government and coalitions in the IGR field were analysed. Theoretical models emanating from the literature study and other written texts were used to provide a reference point from which the author tested IGR

theories. This was done in retrospect, thus infusing into the process the role of historical context and predicted consequences (Weimer and Vining, 1992:4). The critical questions asked or used to interact with policies and policy data included what are the facts about the existing policy, which values informed the policy and what action should be taken to address visible and salient gaps (Dunn, 1908:63). The examination of legislation through the demarcated historical period and the analysis of the workings of IGR structures in this study, were subjected to the policy analysis method of monitoring past and present impacts, forecasting the results of continued use, evaluating the worth of sustaining such policies and recommending probable changes (Dunn, 1981:65).

The advantage that the policy analysis method presented to this study is that it drew from other methods of qualitative inquiry the purposes of which are descriptive, evaluative and normative. It created an opportunity for the author to transform policy information into recommendable and useful information for future use. The dialectical nature of policy emerged as a weakening element of this method, in that the policy system analysed remains the subjective creation of stakeholders who are products of policy systems (Dunn, 1981:13). The author argues that the cycle of influence that policy systems have on stakeholders and that stakeholders have on the policy systems, can only be broken by a modernization process within society or a generation's discontent with past practices. The period before this decisive break creates an ideological framework that could blur research assumptions, hypotheses and questions. Therefore, the author refused to be trapped in the post-liberation psyche prevalent in South Africa thereby, in some instances, blurring critical policy analysis.

The choice of research approaches, methods and tools in the design of a study has never been an issue of "either or" but rather a combination, collaboration or a "win-win" issue

(Kuye *et al.*, 2002). Methodologies in research are not competitive but should rather be seen in a complementary mode of application. However, the truth is that researchers have at least one methodological approach they feel most comfortable using, and by limiting a research process to one approach, the researcher also limits perspectives on reality about the phenomenon being investigated.

The methods explained in this chapter present a portrait of intellectual inquiry processes that resemble an interlocking system of levers, typical of internal mechanisms in a clock, controlling the research and finding justifications. Consequently, each method was used to reveal the different facets of the same symbolic reality under investigation. Berg (1989:5) argues that a methodological approach is a line of sight directed toward the same point observing social and symbolic reality. The use, therefore, of different methods provides assurance to the research audience and the researcher that a number of theoretical, practical and symbolic constructs instructed the research outcome. The process of using the multiple lines of sight is referred to as triangulation (Berg, 1989:5). Schwandt (1997:163) describes triangulation as a means of checking the integrity of the inferences that a researcher draws. Triangulation is seen as a procedure to examine a phenomenon from more than one vintage point or line of sight. Dooley (1990) defines triangulation as a method of comparing observations that are direct, implied, inferred and/or deduced, from different times, and that also serves to arrive at correct analyses.

The study will employ data that relate to its time, context (space) and the individuals involved, wherein analysis of such will be aggregated, interacted with and juxtaposed against its collective (Berg, 1989:5). The comparative approach the study will follow in analysing different data sources at particular historical points, presents this study and the author with an opportunity to use multiple methods and thus triangulate the research

process. The employment of existing Public Administration authority relationship and management theories in this study, will present multiple perspectives to guide findings and answer the research inquest (Berg, 1989:5). The interactive and eclectic nature of IGR could not, and will never allow, research in this field to be done through the use of a single method, hence the use of triangulation. The triangulation process can place the research in an ethically compromising position because of the high risk of bias in ignoring other lines of sight. To neutralize the risk, the author allowed the ethical issues and concerns that impact on conducting qualitative research to provide moral coordinates.

2.5 ETHICAL CONCERNS

Generally moral dilemmas arise from dealing with issues of trust, confidentiality, harm, consent, deception, and so forth.

Mafunisa (2002:193) defines ethics as that branch of philosophy dealing with the values that relate to human conduct with respect to the rightness or wrongness of specific actions and to the goodness or badness of the motives and ends of such actions. Ethics is the study of the moral behaviour of humans, where morality constitutes standards that people have about what is right, wrong, good and/or bad (Mafunisa, 2002:193). Moral standards are rules by which societies function. Therefore, they are dependent on the historical, socio-economic and cultural context within which they are set (McNabb, 2002:36). The conventional treatment of ethics attends to unique moral dilemmas arising from the kinds of ethical frameworks and principles that might provide guidance in reasoning ethically (Schwandt, 1997:41).

Research ethics, therefore, refers to the application of moral standards to decisions made in planning, conducting and reporting results of research studies (McNabb, 2002:36). Public administration research morality is confined by the principles of truthfulness, thoroughness, objectivity as well as relevance. The potential of Public Administration research outputs to redirect the course of policy making, obligates researchers in this field to ensure that their research is *truthful*. It is the submission of the author that truthfulness should be reflected in the entire research value chain.

The research assumptions, questions and directions should be informed by truthful data generating processes. The process of ensuring that truthfulness reigns in the research introduces us to the principle of thoroughness.

McNabb (2002:37) explains research *thoroughness* as being methodologically thorough. In an oral discussion on research methodology, Kuye (2003) submits that the quality of a research output lies on the thoroughness of its methodology. It is therefore ethically proper for a researcher to ensure that terminological and conceptual issues are clarified to the research audience; because this eliminates ambiguity in the interpretation process (McNabb, 2002:37). Research findings should be thoroughly reported both in terms of bad and good results. The standard by which "good and bad" news is reported leads us to the next principle, namely, the objectivity principle.

The *objectivity principle* refers to a condition where the researcher remains objective and impartial (McNabb, 2002:38). As argued earlier by the author, objectivity should also run through the entire research value chain. The political nature of the environment within which the study was conducted, created challenges of objectivity for the author. In an attempt to be objective the author relied on the research methods explained earlier in this

chapter. The thoroughness of the study was protected by the methodology employed. The challenge of remaining objective was supported, in principle, by focusing on the relevance of the study.

Public Administration research, if mismanaged, can result in the socio-economic disintegration of society. Whilst the quest to remain relevant tends to make most Public Administration researchers become political party loyalists and praise singers to the government of the day, the opposite is also true. Recognising the risk of wanting to be "relevant" either politically or otherwise, the study observed phenomena from practical and objective vantage points. The triangulation of theories and perspectives assisted the author's quest to be objective.

2.6 SOURCES USED

The following primary and secondary sources were used to collect information regarding IGR design in South Africa.

- Minutes of the 1996 Constitution Making process at the World Trade Center as well as the National Constituent Assembly.

- Speeches of officials (elected and appointed) charged with IGR, particularly those delivered at IGR conferences.

- Official government documents such as White and Green Papers, Parliamentary Bills, Acts of Parliament.

- The Constitutions of South Africa from 1909 to 1996.

- Newspaper reports, journal articles, text-books, opinion papers and reports from international IGR conferences.

2.7 CONCLUSION

The profound influence of politics on Public Administration has directed the research methodologies employed. In this study, the author's selection of research methods and approaches was informed by a need to ensure that the research audience is properly guided through the study. The combination of research approaches was intended to provide the various lines of sight that each methodology generates. The avoidance of quantitative analyses was informed by the nature of the subject under study, statistical data was used in the study only to quantify the qualitative analyses made. The policy nature of most source documents created a need, in almost all instances, to overlay the policy dimension of analysed data. The profoundly human nature of IGR introduced to this analysis a focus on personalities, particularly those of Heads of State during periods under review.

The intractable social, political and economic problems often associated with Public Administration research and practise, called on the study to use methods that address the issues of relevancy, public concern and policy innovation requisite in the current IGR discourse. The next chapter addresses the critical historical development of IGR in South Africa.

CHAPTER 3

3.   **HISTORICAL DEVELOPMENT OF INTERGOVERNMENTAL RELATIONS**

       IN SOUTH AFRICA

3.1   INTRODUCTION

Owing to varying experiences and attitudes, the approach to intergovernmental relations has been received with mixed feelings by South Africans. Some reasons for these often-contradictory approaches may be found in the constitutional history of South Africa, which made intergovernmental relations (IGR) the subject of the unitarist/federalist debate (Mathebula, 1992:12). The unfortunate result of this approach has been the difficulty of depoliticising IGR as it has become synonymous with federalism.

The IGR environment in South Africa has as its roots the various federal government experiments that were pioneered during the British colonial administration era from 1806 until 1910 then through to 1961 (Van Jaarsveld, 1976:149-180). The Crown Colony government has for years seen as an ideal solution to the South African problem, a federal type of government that would co-ordinate the "frontier" policies of various states, disarm the Afrikaner challenge to British supremacy by absorption thereby securing British interests and neutralise the native majority threat (Barnard, 1992:1). The success of the Crown to create the Australian and Canadian federations during the early colonial South Africa, justified the need to create an IGR system modelled along these federations (Kriek *et al.*, 1992:123-125). The growth of Afrikaner nationalism in South Africa during the second half of the 19th century

as well as the concomitant rise of African nationalism hindered the federalist ambitions of the Crown Colony government and therefore impacted on the yet to evolve IGR system. Both these movements were anti-colonial although they had divergent views on the form of state and/or dispensation that would follow.

The British government's conquests were accelerated by the discoveries of diamonds and gold in the Transvaal Republic. The result of the strife to control South Africa's mineral wealth was a South African War, also known as the Anglo Boer War, which resulted in the 1902 Peace Treaty of Vereeniging that placed the Boer Republics firmly under the British Crown (Cloete, 2000:33). The ambition of the Crown government to unite into one, British Colonies and Boer republics, was driven by their need to share the railway and harbour infrastructure, the communications infrastructure, to have common policies for natives and other non-white groupings, to control land and property ownership rights, and to have control over the diamond and gold production as well as their markets (Cloete, 2000:10; 27).

A legislative vacuum therefore, would characterize that period between 1902 (end of the South African war) and 1910, as most laws were passed by the British Parliament accordingly advised by a resident Governor-General. The regional economic imperatives as manifest in the transport, communication, agriculture and growing manufacturing industries necessitated a re-look at the form of State a "new" South Africa should take. Therefore, this triggered the constitutionalisation of South Africa and subsequently a National Convention was held in 1909.   At the convention, most delegates wanted substantial autonomy for their provinces/states. The divergent views of delegates were influenced, in the main, by General Jan Smuts who indicated a need for a strong and supreme parliament to draw together and

to unite white groups; equally important was a requirement to adopt a uniform policy on the native question in the country (Kriek *et al.*, 1992:140).

The Convention adopted a working document that was later enacted as the South African Constitution Act. The negotiations settlement began a constitutional hybridisation process that was to result in the current quasi-federal constitution. The organization of the Union into four provinces, with four provincial councils, with appointed administrators and a British-appointed Governor-General put on the governance agenda the questions of policy co-ordination, devolution and decentralization of powers, interactive and transactional relations between and amongst organs, levels of state and officials. These all form the faculty of IGR.

The period between 1910 and 1961 was essentially a Crown driven era in the constitutional history of South Africa. Constitutional politics, during this period, had been characterized by an ideal of establishing one decolonised South African Republic. This ideal was to be accelerated after the election to victory of the National Party in 1948. The events leading up to the 1961 Republican constitution illustrated the type of IGR system South Africa was to inherit throughout the process of its constitutional history (Adam and Giliomee, 1979:114).

It is the submission of the author that a Constitution of a state or country represents the collective political will and emotion of a nation at a particular historical period. The test of such a constitution is fundamentally embedded in the wisdom, anger, joy, mood and attitudes of the constitution drafters at a given time. The time lapse of a constitution does not only represent the demise and/or dysfunctionalities of the politicians of that time but also that of the society for which the constitution has been designed.

The author observes that successive South African Constitutions (from the unconstitutionalised era of Jan van Riebeeck to the constitutionalised Nelson Mandela era) have overtly defined their respective political moods at the time of drafting. In each instance they laid the basis for IGR design and practice, hence the author argues that such a system of IGR is a function of the political dynamics as well as the practical approaches of those charged with the policy implementation. The author, therefore, suggests that the nature, form and ideology of the dominant ruling party, in all probability, would dictate the direction and culture of the IGR.

As suggested by the working definition of this study - that IGR are all the actions and transactions conducted by executives (in a constitutional sense) and officials between and amongst governments in a country - this research submits that these actions and transactions are carried out by a variety of political and executive institutions. The co-ordination of these structures, therefore, becomes imperative. The study distinguishes these structures into two broad categories: those that are established in terms of the Constitution and/or other legislation and those that are voluntarily established by a decision of an executive authority or institution (Thornhill *et al.*, 2002:I). The categories mentioned assume that officials, and therefore administrative structures, provide a bureaucracy for the functioning of such structures. The above distinctions will be inform the analytical framework for the historical overview.

3.2   THE STATE OF IGR STRUCTURES WITHIN THE 1961 CONSTITUTIONAL DISPENSATION

The 1961 Constitution represented an anti-colonial victory for South Africa as a country. It came after twelve years of Afrikaner Nationalist rule and eleven years after the youth of the African Nationalist movement adopted a militant programme of action to undo the apartheid system of government. The 1961 Constitution declared South Africa to be a Republic consisting of four provinces under a State President (formerly the Governor-General) and an Executive consisting of a Prime Minister and Cabinet (Constitution Act 32, 1961:s1-3). The supremacy of Parliament was assured, accompanied by a clear separation of powers, respect of the rule of law and regular elections. At the adoption of the 1961 Constitution, the political demography of South Africa included a predominantly Afrikaner white-male ruling party, the National Party, a White liberal opposition, two technically banned liberation movements, the ANC (African National Congress) and PAC (Pan African Congress), as well as a number of Indian and Coloured political formations (Walshe, 1987:419-420).

The Republic as it was formed, consisted of diverse groupings of people classified according to their race and access to political and economic power. On the one hand there was a whites-only constitutionalised democracy with four provinces, often referred to as "White South Africa" and on the other there was a tribally proclaimed "Native" government system. In addition to the two distinct groupings, there were also Indian, Coloured and the Urban Black peoples spread all over the country. The above demographic background informs the IGR structures that were established. The 1961 Constitution established a Parliament, which had legislative power over the Republic, and consisted of the State President, a Senate and a House of Assembly (Constitution Act 32, 1961:s24). Parliament was to become the sovereign

legislative authority in and over the Republic, and had the power to make laws, which could not be questioned or pronounced upon in terms of the validity of any organ of state, including the judiciary (Constitution Act 32, 1961:s59).

The Constitution further declared all pre-Republican laws to have specific interpretations: reference to the Union of South Africa would be construed to be referring to the Republic; and reference to the Crown or the King or the Queen or the Governor-General, would be construed as a reference to the Republic or the State President as the circumstances would require (Constitution Act 32 of 1961:s3). The above clauses provide us with a framework that can be used in order to understand that switch in power relations from a remote colonial legislative centre to a localized, though not wholly inclusive, and circumstantially democratic legislative centre. Elsewhere in this study the author mentions thee roles played by the resident Governor-General in the co-ordination of relations amongst the four provinces of the Union.

The author contends strongly that the shift of power to the Republican State Presidency and Parliament created a balance in the governance of the state. Legislative IGR arrangements of the period under review are captured in the structure of Parliament as well as in the powers given to the two legislative centres, the National Parliament and the Provincial Councils. The study, therefore, observes that an effective structural governmental arrangement creates systems that allow for various spheres of government to succeed in a well-defined structure.

3.2.1 <u>Structure of the Legislatures</u>

The National Parliament consisted of the Senate and a House of Assembly where the latter was composed of a set number of directly elected persons, including those elected in terms of the South West Africa (now Namibia) Affairs Amendment Act (Constitution Act 32 of 1961:s40). At a legislative level of government the institutionalisation of IGR is reflected in the composition of the second chamber, the Senate as indicated below.

- The President nominates eight senators of whom two will be from each province. In nominating these persons the President is required by law to take due regard of their:
  - knowledge of matters affecting the various interests of the inhabitants of the Republic;
  - thorough acquaintance, by official experience or otherwise, with the interests of the Coloured population in their resident province; and
  - capability to serve as a channel through which the interests of the said Coloured population may be promoted.

- The number of senators, but not less than eight in the case of each province, will be equal to one-tenth of the number of the divisions into which that province has at its last delimitation (Constitution Act 32 of 1961:s28-29).

The composition of Senate and its capacity to make contributions and have a say in the legislative process lends credibility to the provincial representative nature of the National Parliament. The assumption flowing through this arrangement is that senators, composed as per the delimitation composition structure of Provincial Councils as well as Coloured

community representation, are the voices of Provincial Government in the national law making process, and thus IGR practitioners in a legislative sense.

Section 31 of the 1961 Constitution Act further empowers the Senate to establish from time to time, standing committees that may investigate matters referred to it by the executive and subsequently make recommendations for legislation and/or non-legislation (Constitution Act 32 of 1961:s31). The Committee, by default or other means, was responsible for the exposition, management and advocating of provincial affairs and local communities' affairs. At every sitting of Parliament, the then Prime Minister was obligated to make known what bills were to be introduced in the Senate during that session (Constitution Act 32 of 1961:s32). This arrangement would afford senators an opportunity to become a legislating voice of Provinces since they would raise the need, should it be non-existent, for Provincial matters to be given Prime Ministerial priority.

3.2.2   The Powers of the Legislatures

The constitutional growth of South Africa has been characterized since the 1909 Constitution Act by a deliberate drive to incrementally centralize only those powers that affect economic unity, Native affairs, national unity as well as the safety and security of the inhabitants. This drive was sustained in the 1961 Constitution, where the powers of the National Parliament, in most cases, were oversight in nature and minimalist regarding its control. Parliament was allocated the power of being the sovereign legislative authority in and over the Republic (Constitution Act 32 of 1961:s59). This power meant that any law passed by Parliament should take precedence over sub-national law.

The provincial legislatures, also called provincial councils, by nature, were legislative bodies created by a statute of the Republic that also outlined the powers of provincial legislatures. In the analysis of provincial legislatures as it pertains to the legislative powers they possess, the study will look at a number of elements. These provide a basis upon which the functioning of the then sub-national jurisdictions relates to their IGR importance.

Firstly, since *Provincial Councils were originally legislative bodies* they could make laws and thus assist in defining the IGR infrastructure, particularly at sub-national level. This status of provincial councils as legislative bodies originated in their statutory authority drawn from the Constitution Act of 1961 (Act 32, 1961:s68). The Constitution mentions a number of areas where provincial councils might make ordinances, within their right to govern, on their own initiative (Act 32, 1961:s68). The Ordinances passed by provincial councils were laws - and not by-laws - of a body having delegated powers (Bristowe, 1915:108). The legal impact of these ordinances was equal to that of acts of Parliament. This defined the importance of the provincial level of government in the future governing of South Africa.

Secondly, the fact that *the powers of councils were positive, defined, precise and limited* made them a critical building block in multi-level government and thus in IGR. The 1961 Constitution defined in clear terms the legislative parameters of provincial councils and further imposed the authority of the President and other national legislation on their ability to legislate. Although the provincial councils had legislative power, they were in a sub-ordinate relationship structure with national Parliament. Provincial councils were not equal to Parliament but were in a relationship analogous to that of principal and of agent (Kennedy

and Schlosberg, 1935:268-69). The powers of provincial councils, therefore, were structured in a tiered relationship, where there was dependence of one tier on the permissiveness of a super-ordinate tier, hence the legislative authority of provincial councils was confined to specified areas of competence, though subject to varying degrees of exclusivity (Constitution Act 32, 1961:s84).

Thirdly, *since the powers of provincial councils were within jurisdictional limits as plenary, absolute and discretionary as those of the Republican Parliament,* the 1961 Constitution gave Parliament sovereign legislative authority in and over the Republic, and this was despite the fact that provincial councils retained equal authority within the limits imposed (Constitution Act 32, 1961:s84). The provincial councils had an added jurisdiction over other matters not mentioned as powers of provincial councils, provided that the intention was to empower them to deal fully with Section 84 matters and that the contrary had not been indicated.

Fourthly, the *Republican Parliament may repeal powers of provincial councils that were not immutably fixed, but may at any time alter them*. The absolute, plenary and discretionary nature of powers of provincial councils was kept in constant check by Section 85 of the 1961 Constitution which provided for provincial statutes to have force and effect so long as they were not repugnant to an act of Parliament (Constitution Act 32 of 1961:s85). The perceived wisdom of Section 85 matters, whereby the task of making laws was, in practice, devolved to the councils, was to ensure that national priorities constantly instruct provincial law making.

Lastly, *provincial councils are legislatively controlled by Parliament.* Nathan, cited in Kennedy and Schlosberg, writes that a province cannot be regarded as a separate entity for

administrative or legislative purposes, so far as all its internal affairs are concerned (Kennedy and Schlosberg, 1935:269). The control over provincial councils had been legislated to the effect that it reflected a dual control by both the legislature and the executive. Executively, Section 89 of the Constitution Act, Act 32 of 1961, required the administrator to present an ordinance for Presidential assent, and enforcement would be dependent on proclamation in the Gazette by the President (Constitution Act 32 of 1961:s89). The legislature controlled provincial councils through Sections 85 and 86 of the 1932 Constitution Act, that deals with the repugnancy of statutes as well as the role that provincial councils could play in matters outside their competence as jurisdictional law makers (Constitution Act 32 of 1961:s85-86).

The above explanation of the National-Provincial legislative IGR and interface reflects that in 1961 the Republic was already hybridising the form of state through a mixture of federal and unitary constitutional forms. The original legislative powers given to provinces with the accompanying overriding powers of Parliament indicate an inherent trait of the geo-political landscape of South Africa informing the build-up towards the South African War of the 1800s up until the adoption of the 1961 Constitution. The distinctiveness of the four provinces was to be institutionalised by allowing provincial councils to pass jurisdictional statutes in an asymmetrical manner whereby national uniformity was entrusted to Parliament through the repugnancy clause. The legislative IGR structures during this constitutional period were to evolve over a period with incremental empowering of Senate to deal with those matters that were referred to it at the sole discretion of the Prime Minister.

The legislative powers of provinces did not include legislating over the affairs of the indigenous communities who, at the adoption of the 1961 Constitution, were referred to as the

Bantu. The Constitution conferred this responsibility to the State President as a successor in-law of the Governor-General-in-Council of the Union of South Africa, and this was despite the fact that the "Bantu" constituted over 87% of the Republic's population (Leach, 1989:33). The establishment of a Cabinet position for the Department of Bantu Administration and Development and for Education marked the start of a predominately race based balkanisation process that would impact on IGR in South Africa.

The inception of an administrative and/or control mechanism for the Bantu people was thought of, initially, as an executive function of government until after it introduced to Parliament the possibility of granting self-government to the Bantu people in their ethnically demarcated territories (Leach, 1989:204-208). The process of ethnic demarcation was a function of the 1913 Land Act that restricted land ownership for indigenous communities with a resultant 87:13 ratio of White to Black land ownership and occupancy (Boulle, 1984:89).

Various acts on the administration and government of Africans were passed before the 1961 Constitution was adopted. A quasi-IGR intensive legislation was the Promotion of Bantu-self government Act, which abolished the representation of Africans in Parliament and recognized the different "homelands" as "national" residences for Black African ethnic groups. This act gradually granted comprehensive self-governing powers to homeland authorities and the appointment of a commissioner for every homeland (Cloete, 1973:190). Subsequent to the 1959 Act the self-governing *territories* for the various African ethnic groups was enacted whereby each territory had an Executive-Committee that mirrored a state cabinet, because the committee was organized into "state" departments with a seconded director from the White Parliament (Cloete, 1973:192).

The homeland governing system, under the watchful eye of the "main" South African parliament, developed into semi-autonomous legislative entities capable of passing original laws and making regulations with a similar force of law as that of provincial ordinances. The legislative status of self-governing territories implied a flow-out of legislation from these territories. The granting of "independence" to the artificially created self-governing enclaves of the erstwhile apartheid government of the TBVC (Transkei, Bophuthatswana, Venda and Ciskei) states, re-established a legislative IGR landscape with constitutional implications set to impact on the constitutional life of South Africa. The legislative powers of the "independent" states were limited by a repugnancy clause in the Bantu self-government Act as well as the consent and assent authority of the Prime Minister (and later the Executive State President).

The administration of Blacks was to be relegated to being a local government matter. The existence of tribally concentrated areas for the Black people provided an infrastructure to declare some as homeland areas and proved a great challenge to government on how to deal with urban Blacks who were to be later organized into a "virtual" and ethnically heterogeneous homeland. The political future of the Coloured people, however, was placed on another track, as they were destined to develop parallel to but separate from the White people. The Coloured Representative Council Act of 1968 provided for the creation of a representative council to legislate matters such as local government, finance, education and social welfare (Cloete, 1988:40).

Rural urban migration among Africans started after the First World War with the result that those areas, otherwise known as locations, were set aside for occupation by Bantu persons. The general trend outlined here affected the participation of non-whites in the mainstream of government and was to shape the nature of IGR in South Africa. The unequal development of the Black people and the Non-Black people as well as the growing pressure for government to enfranchise all South Africans, necessitated a need for government to rethink and reform the Black people's representation dispensation. The instituting of the Theron Commission, was to examine the position of the Coloured people and the plight of the urban Black people (Boulle, 1984:129-131). The impact of this Commission led to the establishment of the Bantu Affairs Administration Boards and ultimately the Black Local Authorities Act in 1982. The IGR process, therefore, was controlled from the office of the State President in so far as it pertained to the Black and the Coloured people. The relationship between provincial councils and Parliament was regulated in the Constitution and remained within the legislative domain of relations (Boulle, 1984:129-131).

Legislatively, the South African IGR practice, with its racially discriminatory overtones and undertones, was by far a relatively stable setting because the various legislatures were in a position to pass legislation and to make regulations on positively defined and clearly demarcated jurisdictional matters. The 1961 Constitution and the subsequent pieces of legislation, up to the adoption of the 1983 Constitution, interfered with provincial powers on legislative issues. Needless to say, the implementing arm of government was to be hindered by a number of executive intricacies. The next section of this chapter deals with that scenario.

3.3   THE NATIONAL-PROVINCIAL IGR STRUCTURES: 1983 – 1993

The 1983 Constitution became the most IGR-intensive Constitution ever to be promulgated in South Africa. It provided for the establishment of a Parliament consisting of virtually 3 houses, namely, the House of Assembly, the House of Representatives and the House of Delegates. The three Houses would connect with one another through joint sittings of Parliament and through the President's Council (Constitution Act 110, 1983:s37). In addition to the constitutionally created Houses there were a number of pieces of legislation that, outside the tri-cameral Parliament, established a series of legislatures with a relative degree of primary legislature power.

The Black Authorities Act provided for the establishment of certain Black Authorities. It defined their functions, abolished the Black Representative Council, amended the Black Affairs Act of 1920 and the Representation of Blacks Act of 1936 and provided for certain incidental matters (Black Local Authorities Act 68, 1951:1). This Act also provided authorities with legislative powers over matters that were considered to be Black affairs. The various authorities graduated into self-governing territories and independent homelands. The focus of this Act was on rural and deliberately and/or naturally tribalised Black communities. The result of this tribalisation was the creation of concentrated settlements of Black people in essentially non-arable and labour reserve type settlements. These grew into miniature states that required a constellation policy and an IGR management system.

The Black Authorities Act, [Act 68 of 1951] became a prelude to the Transkei Act of 1965, the Republic of Bophuthatswana Act 23 of1978 as amended, the Republic of Venda Act 15 of

1986, and the Republic of Ciskei Act 37 of 1984. These Acts provided for the variation of powers, authorities and functions by tribal and regional authorities. They also established a local government bureau to provide voluntary levies. In addition the Acts defined the duties, powers, authorities and functions of and provided a code of discipline for paramount chiefs and headmen and defined constitutions of these "Republics" (Government Working Group on TBVC Legislation Report, September 1987:2).

The marginalisation of the Black people to tribal lands with an accompanying industrialization programme at the periphery of the mainstream economy did not attract the urban Black people. The urban Black people who now were aliens in a Whites-only South Africa rejected the homeland and/or Bantustan system. In response to this rejection, in 1982 government amended the Black Local Authorities Act of 1951, to make provision for the urban Black 'democratic' representation (Boulle, 1984:132).

The process of creating self government was institutionalised by the National States Constitution Act (Act 21 of 1971), which authorised the Minister of Co-operation and Development, after consultation with the territorial authority, to request the State President to establish by proclamation in the Government Gazette, a legislative assembly to replace the territorial authority (Cloete, 1988:284). The Act provided for the territory to have an executive council (which mirrored, in operation, the National non-Black Cabinet, except in those matters that were under the State departments that provided goods and services for all population groups), a revenue fund (essentially budgeted for as an intergovernmental grant as well as being resourced by a relatively small tax base) and a public service commission (Cloete, 1988:284).

The Act further provided that the Minister could request the State President to declare (by Proclamation in the Government Gazette) a territory to be self-governing, thereby entitling it to have its executive council replaced by a full cabinet consisting of ministers and a chief minister as well as having its own flag and national anthem (Cloete, 1988:284). Territories that were granted a legislative assembly had the makings of a full state, as they could make laws on scheduled matters, they had an executive institution, a revenue fund, courts of law and a public service with a public service commission (Cloete, 1988:284).

Self-governing states graduated into independent states with their own Constitution, which defined the executive, legislature, judiciary as well as other expanded services such as police, defence, intelligence and foreign relations (in case of non-independence, this was presided over by the President of Republic of South Africa). The attainment of independence altered the IGR systems between territories, "countries" and the government of the Republic of South Africa (RSA). The independent states were connected to the RSA through the Department of Foreign Affairs and had their commissioners elevated to ambassador status (Cloete, 1988:286). Aid was to be channelled to independent states through economic co-operation Acts that was like a home brewed foreign relations policy of the RSA government.

The Black Local Authorities Act (Act 102 of 1982) created a plethora of local government legislative units adjacent to almost all South African cities (Boulle, 1984:132). This creation of yet other homelands, though without physical borders, was virtual, tribally heterogeneous and in some instances alienated from the mainstream political life. The author contends that the management of such a "virtual homeland" required a legislature of some kind and the ministry

of Constitutional Development and Planning presided over Black Local Authorities affairs and used black organized local government as *de facto* urban legislature, albeit illegitimate.

The IGR "web" created by the establishment of self-governing territories, independent states as well as the Black Local Authorities for urban Black people, was further compounded by the existence of a second tier of government with colonial origins, that is, a Provincial Government. South Africa remained a three-tiered state consisting of the provinces of Transvaal, Free State, Natal and Cape Province (Constitution Act 110 of 1983:s1 and 49). The 1983 Constitution did not make any reference to a change of provincial government, which implied that provisions of the 1961 Constitution Act (Act 32 of 1961) were still in force. The Provincial Government Act of 1986 repealed the provincial government provisions of the 1961 Constitution, which provided in its totality for the continued existence of the four provinces.

The Provincial Government Act of 1986 (Provincial Government Act 69 of 1986) provided for the dissolution of provincial councils and for the administration of provincial matters by administrators and other members of the executive committees appointed by the State President, as well as for related matters. The dissolution of provincial councils removed the second tier legislatures of the previous Constitutions and signified the arrival of White South Africa to the Smuts ideal. General Smuts, arguing for a unitary state at the 1909 national convention, said:

> "I cannot conceive how it could be possible for us (Whites) in the years to
> come to deal with this whole question that centres around this dark continent

of Coloured and Black peoples unless there is one supreme Parliament to deal

with the situation. If you enter into a struggle with a problem of that kind you

cannot enter it with your forces divided. You cannot enter it upon the

beautifully balanced plan of a federal system. You must have a strong power

which is supreme and which will draw to itself whatever strength there is in the

public spirit of South Africa, and you must apply that power to the solution of

these questions" (Smuts, The Star, 3 March 1903:12).

At this period of history in 1986, the South African Government was facing a mass

insurrection of unparalleled proportions from opponents of its apartheid system. Maximum

centralization of power seemed a viable option for the then State President, PW Botha, who

had just been empowered by the 1983 Constitution to virtually rule by decree at the "advice"

and "direction" of the President's Council (Constitution Act 110,1983:s78). The Provincial

Government Act 69 of 1986 was one of the securocratic reform instruments that was

introduced. It is worth noting that the anti-Apartheid mass insurrection of the 1980s was

treated as an "emergency" and, therefore, dictated centralization of power to the highest

Executive office (The Presidency). The correctness of this approach, as argued in the

definition of federalism, remains academic.

The design of the Provincial Government Act, (Act 69; 1986) acknowledged the potential

jurisdictional conflicts that might arise between and amongst the Independent States (TBVC

States), the self-governing territories and provincial administrations. The Act already provided

for a possible re-demarcation of South Africa into additional Provinces [Act 69, 1986:s5]. The

Act provided the President, after consultation with the administrators concerned, and by

proclamation in the Gazette, with wide-reaching powers to declare a new province, to divide an existing province, to determine new provincial boundaries, to amalgamate provinces, to include into a province a particular territory (including self governing territories) as well as to provide for transitional arrangements (Act 69; 1986:s5). The above provisions created legislative space for multi-racial second tier governments, within the separate but equal philosophy of that government. In tandem with the recognition of the existence of sub-national government, provincial government was delegated to provincial administration and became primarily concerned with the implementation of Acts passed by Parliament on general affairs.

The Provincial Government Act became a pioneer Act in respect of regulating in deliberate terms IGR between and amongst tiers of government. It made provision in Chapter 3 of the Act for co-operation arrangements and it provided for joint executive action by the provincial executive authority concerned and the government or governments of the self-governing territories (Act 69; 1986:s5). It also provided for the performing of provincial functions outside the province that would encompass a "foreign state", another province and any other territory established in terms of the National States Constitution Act (Act 69; 1986). However, it should be noted that these reforms were instituted at a time when the ruling National Party, was considering power sharing options with an inevitable Black majority government. This possibility was articulated by Dr Stoffel van der Merwe, the erstwhile Minister of Communications, when he declared that:

"Unions, federations, confederations and even consociations are all types of

political systems which were developed in the western world for western

circumstances. The circumstances in South Africa are so different from typical western circumstances that none of those systems can successfully be transplanted to these "parts" of the world without major adaptations. Because of this fact we are in the process of designing and developing our own particular system in South Africa – a system which will in no doubt have some features of one or all of those systems, but would not answer to the description of any particular one of them. We will develop our own system according to the requirements of our own circumstances, and then we shall leave it to theoreticians to dream up a name for it" (Van der Merwe, in NP Position Paper No 1, Power-sharing, July 1986:4).

The sum of these reforms implied an elevation to second tier status of provincial administrations, self-governing territories, the TBVC states, the three Houses of Parliament for own affairs and organized Black local government as an urban Black voice. The manner of operation for these structures was formalized through the legislation referred to above. In essence, the picture of government between 1983 and 1993 represented an array of relationships that were particularly used as mechanisms of social control and controlled separate development, informed by the apartheid philosophy of that government.

The interconnections between the racially determined governance structures represented a series of relationships between organs, levels and institutions of government. The intensity of these relations was both to ensure and to instruct the smooth transition to democracy of the South African state. Ironically, the existence of a plethora of structures in government created an atmosphere and a training ground for the constitutional negotiations process that

liquidated the 1983 Constitution. (This was the last of the Constitutions to be drafted by an exclusively white Parliament.)

It is worth mentioning that the 1983 to 1993 era, despite its IGR intensive character, was driven from the office of the Executive State President with the assistance of the President's Council. The office of the President, with the provincial government act and other Apartheid reversing acts being the most notable, drove the restructuring of relations. The various departments dealing with provincial, self governing territories, own and general affairs, urban Black as well as independent states matters would have not been able to co-ordinate at such a high level the inter-relationships between these organs and their levels. The Presidency did not only co-ordinate those structures where politicians were involved; it also ensured that the service delivery obligations of Parastatals and other organs of state supported this intergovernmental machinery.

The most celebrated of these efforts was the reported results of the Development Bank of South Africa on the nine economic development nodal areas, which was to be used as a critical criterion in effecting a provincial government system for the new dispensation (DBSA, 1992). This Report, and particularly, its scientific nature and racial neutrality, brought together opposing parties to the 1990-1994 Constitutional negotiation table, in terms of the future state, economic modalities and the rationale used to determine the jurisdictions of South Africa. The Report represented one of the few areas where there was almost immediate consensus and it formed the basis for the present provincial system and the later local government system, in so far as determining metropoles was concerned.

3.4   THE NATIONAL-PROVINCIAL IGR STRUCTURES: 1993-1996

The period between 1983 and 1993 represents a transition phase from Apartheid rule to non-racial democratic rule. Contrary to the dominant view that describes the South African transition phase to have started in 1993 and ended in 1996, this study submits that the passing of the Provincial Government Act (Act 69 of 1986), marked a decisive move by that government to seriously restructure rather than to reform. The restructuring, particularly of the second tier of government, would not have been possible without an acknowledgement of the franchise rights of "non-white" South Africans, particularly native Africans.

The adoption of the 1993 Interim Constitution marked a fourth point in the constitutional history of South Africa (see Figure 1).

Figure 1: Constitutional Phases
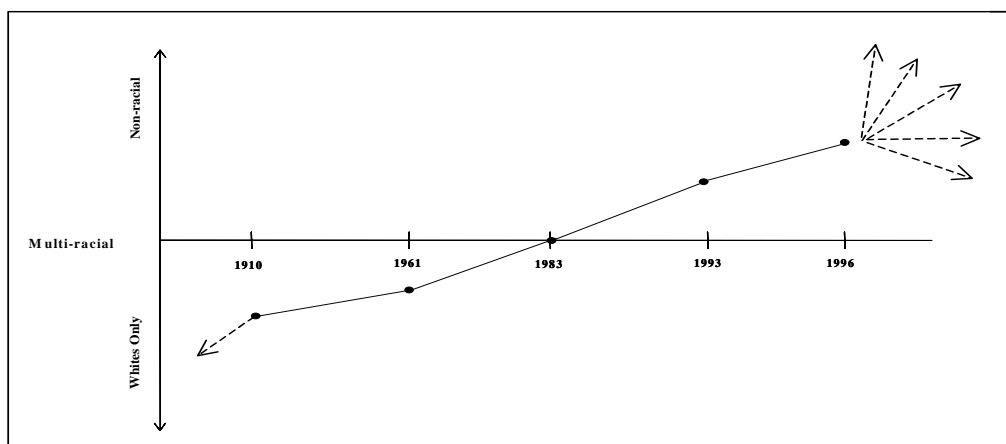
As configured by the Author, FM Mathebula 2002

The graph indicates the fact that South African constitutional development has never been a static process, particularly as it relates to its movement towards non-racialism. Clearly, the 1910 Constitution catered for the interests of White South Africa. Although the 1961 Constitution confirmed the most horrendous system of institutionalising White supremacy, it began to move closer to multi-racialism through its recognition of the Bantu tribal authorities and the need to review the position of the Coloured and the Indian people, notwithstanding the enforced separate development environment. The upward curve from 1961 to 1983 represents the many pieces of legislation that were passed up until the adoption of the tri-cameral system of government. The curve from 1983 to 1993 includes the abolishing of pass laws, sections of the Group Areas Act and other such legislations. The 1983 to 1993 curves represent a de-facto - though minimalist in character - non-racial South Africa minus any political or economic equality or equal voting rights for all. The 1993 to 1996 period represented an acceleration of non-racialism and the institutionalisation of the long held view that South Africa belongs to all who live in it. The fact that the 1996 Constitution did not reach the apex of the non-racial axis, is a function of the historical reality that continues to define resource allocation and general economic access. An improvisation of other curves such as economic control of the commanding heights, the skills acquisition curve and many others should see such curves below the multi-racial cut-off point. The dotted and multi-directional lines represent possibilities on the non-racial growth rate that further research may clarify.

The circumstances leading to the adoption of the 1993 Constitution were indicators of the type of emergent IGR system. The 1983 Constitution and the Provincial Government Act, Act 69 of 1986, increased the IGR intensity over the period demarcated by the study. The context within which the 1993 Constitution was adopted deserves mention in order to contextualise

this IGR system. South Africa was divided along tribal, racial, urban and rural lines. The 1983 Constitution gave impetus to the realignment of anti-apartheid reform forces to an extent that the privileged White section of the South African community became divided regarding their future in South Africa. The formation of the United Democratic Front, the Congress of South African Trade Unions and the South African National Civic Organisation in the second half of the 1980s, intensified the need for democratic change (ANC Anniversary Statement, January 08, 1984:1). On the international front, the African National Congress (ANC) had also intensified its efforts to deepen the crisis of isolation for South Africa to a level where, multi-lateral bodies such as the United Nations, Commonwealth of Nations and the Non-aligned movement became unanimous in declaring that the solution to South Africa's problems lay in a settlement between the National Party and the ANC as the liberation movement of the time (Harare Declaration, 1989:1).

The internal turmoil and uprisings resulted in the institution of successive states of emergency and the centralization of government power into the hands of the State President of the time, PW Botha. There was an increased focus on liberation politics through the apartheid state securocrats, the militarisation of South African Society through the proliferation of right wing "self defence units", and the growth in underground ANC military activities (ANC Anniversary Statement, January 08, 1986:1). The crisis was to be starkly visible in the arming of homeland vigilante groupings, dissent by certain homeland defence forces and police forces, and an increase in urban terror against Black communities that aligned themselves with the liberation movements, particularly with the ANC. These conditions were aggravated by a business reality that South Africa could not have its products competing on an international market as a result of the strengthened economic sanctions. Internally organized business began to put

pressure on government not only to reform but also to start negotiating with the ANC. It is the contention of the author that the involvement of business in facilitating political governance solutions, was informed by their need to access international financial markets, to expand their domestic markets to include more Black consumers as well as to annexe the African continental market. The above scenario presents a country in crisis yet searching for its socio-economic and political soul.

The crisis period of 1985 to 1990 placed the question of negotiating with the ANC on the agenda of the ruling class and the ruling party. The parameters of negotiations included the definition of the type of state that South Africa would become, minority rights and self-determination issues, the suspension of the armed struggle by liberation movements, the position of the judiciary including the separation of powers and the position of traditional leaders. The above matters became critical determinants of the 1993 Constitution and its subsequent amendments. The ruling party's intention to negotiate was confirmed by their making contact with Mr Nelson Mandela in prison. That contact initiated the exploratory moves towards a settlement, thereby salvaging the country out of its potential chaos and destruction. Simultaneously, a number of constitutional negotiations options arose from political parties, academia, research institutions, as well as the business community. Such constitutional options started to shape the future of South Africa and, subsequently, the type of IGR system that was to emerge.

It should be noted that the tri-cameral system of government, the homeland system, as well as the Black Local Authorities municipal government system created within the South African community, a specific group of persons. Such a group was likely to defend the perpetuation of

the separate but equal local governance system, modified slightly to include Black people at the decision making core. This grouping argued strongly for sustaining the acquired ruling class privilege. It is the author's opinion that the Bantustan leadership who assumed they had the right to join the negotiations table, notwithstanding their blackness, sounded like cloned separate development social scientists of the 1950s.

 The growth in momentum of the negotiations option, sounded alarm bells for banned liberation movements outside South Africa and a team of exiled constitutional experts, led by, amongst others, the current constitutional court judge Albie Sachs, began smuggling constitutional options into the country. The most significant document to emerge during this period was the Harare declaration that became a well-orchestrated diplomatic coup by the ANC on the ruling National Party government.   The declaration galvanized international support for a negotiations process directed by South Africans. The declaration also marked one of the last diplomatic masterpieces to be presided over by Oliver Tambo, the then ANC president. Not only did he preside over a process that ensured the declaration of Apartheid as a crime against humanity, but built the ANC in exile into a South African government in waiting.

The Harare declaration acknowledged the readiness of the then government to engage in genuine negotiations, and encouraged all peoples of South Africa to rally behind this historical call to duty (Harare Declaration, 1989:1). Those constitutional principles put in place to direct the outcome of such negotiations therefore spawned both the 1993 and the 1996 constitutions. The Harare Declaration (1989:1-2) contained the broad principles listed below.

- South Africa shall become a united, democratic and non-racial state.

- Its entire people shall enjoy common and equal citizenship and nationality regardless of race, colour, sex or creed.

- Its entire people have the right to participate in the government and administration of the country on the basis of a universal suffrage exercised through one person one vote, under a common voters' roll.

- All shall have the right to form and join any political party of their choice provided that this is not in furtherance of racism.

- All shall enjoy universally recognized human rights, freedoms and civil liberties, protected under an entrenched Bill of Rights.

- South Africa shall have a new legal system, which shall guarantee equality of all before the law.

- South Africa shall have an independent and non-racial judiciary.

- There shall be created an economic order, which shall promote and advance the well being of all South Africans.

- A democratic South Africa shall respect the rights, sovereignty and territorial integrity of all countries and pursue a policy of peace, friendship and mutually beneficial co-operation with all people (The Harare Declaration, 1989:1-2).

The ANC's constitutional principles were adopted by the Organisation of African Unity, the Non-Aligned Movement and the United Nations as a foundation for an internationally acceptable solution which would enable South Africa to take it's rightful place as an equal partner amongst an African and the world community of nations (Harare Declaration, 1989:1).

Intergovernmental Relations Reform in a Newly Emerging South African Policy

The circumstances around a possible negotiated settlement liquidated the moral reservoir of the National Party in its attempt to continue ruling South Africa. First there was the removal from office of State President PW Botha with FW De Klerk sworn in as President of South Africa. He immediately seized the historical opportunity to preside over South Africa's transition to a non-racial democracy, thus completing the assignment half-done by HF Verwoerd who only decolonised South Africa. President De Klerk, mandated by a Whites - only referendum of 1989 to reform, implemented the conditions set out in the Harare declaration to create a climate conducive to negotiations by releasing Nelson Mandela as an indication of his commitment to negotiations (Sunday Times, 1990, Feb 4:1). In fulfilling the guidelines of the Harare Declaration, a Convention for a Democratic South Africa (CODESA) was convened and the Harare Declaration formed the basis of a declaration of intent by all parties represented at that Convention (CD: 91/DEC/21). The various administrations and executives of the self-governing territories and homelands were given participant status at the Convention, an action that acknowledged the existence of a government infrastructure in those territories.

The CODESA negotiations resulted in the adoption of an interim Constitution, which reflected deeply held positions on IGR. Initially, the Convention was divided into two groups, both informed by historical experience and mistrust in terms of establishing a future government. It is the author's contention that there was a group which propagated a Unitary state with a top-down system of decentralization while on the other hand, there was a Federalist to Confederalist grouping that wanted to dismember and balkanise the country into as many fiefdoms as possible. The nature of any negotiation process dictates that participants should

find middle ground. As it was characterized by points of agreement, this found resonance with the South African constitutional negotiation process.   In relation to the structure of government, a determinant of an IGR system, CODESA adopted a set of guiding principles for the drafting of new constitutions.   The guiding principles made it obligatory for the constitution making body to ensure that a new constitution for South Africa recognises, in an IGR setting that:

- legislative organs at all levels of government adhere to formal legislative procedures;

- government shall be structured at national, provincial and local levels;

- at each level of government there shall be democratic representation;

- the powers and functions of the national and provincial government shall be defined in the constitution;

- powers and functions of the province defined in the Constitution, shall not be substantially inferior to those provided for in the 1993 Constitution;

- a special majority of legislatures should be determined to amend or alter the powers, boundaries and functions of provinces;

- exclusive and concurrent powers of the national and provincial spheres be defined in the constitution;

- each level of government shall have legislative and executive powers and functions, although this will be instructed by financial viability and the need to facilitate effectual functioning of government; and

- provisions should be made to minimise national encroachment whilst protecting sub-national repugnancy (Constitution Act 200, 1993:Schedule 4).

The challenge facing CODESA and the new Constitution was to rationalize the governing structures created by the tri-cameral Parliament and all preceding Constitutions. As a response to this challenge, the 1993 Constitution provided for a National Parliament consisting of the National Assembly and Senate, whereby the Senate would be constituted of ten representatives from each of the nine provinces. The joint sitting of the National Assembly and Senate would also constitute a constitution making body, which was tasked with the drawing up of a "final" Constitution over a five-year period (Constitution Act 200, 1993:s68). The Senate became the official structure that represented provincial interests in Parliament.

In rationalizing the various states, the Constitution followed the Development Bank of South Africa's nine-development region demarcation and defined the nine regions to be the nine provinces of South Africa; however, there were disputed areas that were recorded as such (Constitution Act 200, 1993:Schedule 1). The establishment of nine provinces created a quasi-stable second sphere of government for the country. The relationship between the provincial and the national spheres was regulated through Section 126 of the 1993 Interim Constitution (Constitution Act 200, 1993:s126). The constitution provided for the legislative competence of provinces as well as for the popular repugnancy clause carried over from previous constitutions (Constitution Act 200, 1993:Schedule 6). The question of provincial competencies was informed by party positions on the subject of a federal or unitary state. The Interim Constitution only provided a framework within which South Africa was to steer its transition from its apartheid past into a non-racial democratic future. The 1996 Constitution was to be a key determinant in the constitutional future of South Africa.

The various constitutional structures of government and legislatively created organs of state had to be co-ordinated in order to ensure uninterrupted service delivery to its citizenry. The co-ordination of such structures would be a responsibility of officials, executive office bearers and political office bearers within government. In the 1993 Constitution, most of the structures that co-ordinated the work of government between the National and Provincial spheres remained intact with slight modifications. The interaction between National Ministers and their Provincial counterparts have continued to exist; these structures were informal in nature and could only make recommendations to the National executive on matters such as budget allocations, service delivery priorities and policy co-ordination matters (IGR Audit Report, 1999:15). A number of multi-lateral treaties signed with self-governing territories and independent states were maintained during the transition period to enable government to rationalize them into either statutory or non-statutory bodies still to evolve with and within the final Constitution. The interactions and transactions that characterize these structures constitute the core of IGR.

3.5   THE NATIONAL-PROVINCIAL IGR STRUCTURES: 1996 – 2000

The circumstances surrounding the adoption of the 1996 Constitution were a continuation of events that lead to the 1993 Constitution. The Constitution drafting process revealed to South Africa a deep-seated mistrust within and amongst the country's political leadership, despite the fact that those individuals had committed themselves to a South Africa that belongs to all who live in it. The drafting process exposed a number of contentious issues that needed smoothing over by the insertion of certain clauses in the Constitution, the most visible of

which were secessionist tendencies disguised as federalist ones by the non-ANC controlled provinces.

The fiercest of the debates in the Constituent Assembly raged around the allocation of powers to provinces and the regulation of IGR. The author observes that the debate was such that IGR and federalism could not be distinguished, for IGR is a means to an end whereas federalism has developed into an end itself. IGR therefore, was inserted into the Constitution and the compromise terminology of "co-operative government" that represented a system of government between a unitary state and a federal state was devised. The 1996 Constitution provides for the establishment of South Africa as one sovereign democratic state constituted as national, provincial and local spheres of government, which are distinctive, interdependent and interrelated (Constitution Act 108, 1996:s41).

In institutionalising this co-operative government the Constitution provides for "must" principles to be adhered to by all organs of state. These principles are based on the three ground rules, identified during the constitution making process, as loyalty to the Constitution, the Republic and its people; respect for each other's constitutional status, institutions, powers and functions, and, non-encroachment into geographical, functional and institutional integrity of another sphere (Discussion Document, Sub-Committee 2, Constituent Assembly, 1996:1-2). In a study on IGR, the Department of Provincial and Local Government identifies the principles in the following broad categories: national unity, decentralization, co-operation, fostering friendly relations, informing and consulting one another on matters of common interest, co-ordinating actions and legislation with one another, assisting and supporting one another, adhering to agreed procedures and avoiding legal proceedings (IGR Audit Report,

2000:9-12). The Constitution made further provision for legislation to regulate IGR, the merits of which shall receive attention in subsequent chapters of this study.

The implementation process of Chapter Three of the 1996 Constitution required a review of the IGR mechanisms (structures) in existence and an evaluation of whether there was a need to establish new ones. The structures or mechanisms that existed, as a cut-off point of this study, will be categorized into broad categories, that is, into the statutory and the non-statutory (formal and informal). The statutory structures or mechanisms include, for example:

- the Budget Council established in terms of the Intergovernmental Fiscal Relations Act, [Act 97 of 1997];

- The Council of Education Ministers and the Heads of Education Department Committee established by the National Education Policy Act [Act 27 of 1996];

- The Financial and Fiscal Commission [Act 99 of 1997];

- The Loan Co-ordinating Committee [Act 48 of 1996];

- The Local Government Budget Forum [Act 97 of 1997]; and

- The National Council of Provinces [Act 108 of 1996].

The non-statutory structures or mechanisms included those created by executive order or decision and aimed at co-ordinating the activities of National and Provincial government. These included the following: an Intergovernmental Forum (established by President Mandela) that promoted "dialogue" between national and provincial governments; the President's Co-ordinating Council (established by President Mbeki) consisting of the President and Premiers with a "strategic" dialogue focus; and IGR Committees of Ministers

and Members of provincial Executive Councils (MinMecs), established for those areas where provincial and national government competencies are concurrent matters. In those areas where there is a national competency a number of *ad hoc* structures emerged as partner institutions. Also, the forum for South African Directors-General was established by cabinet to help co-ordinate policy and to facilitate intergovernmental co-operation at the horizontal and vertical level of government (Thornhill *et al.*, 2002:21).

3.6   CONCLUSION

The historical development of IGR in South Africa has been driven mainly by the prevalent constitutional dispensation. By creating four provincial governments with substantial autonomous legislative and executive powers, the 1910 Constitution triggered a contestation of powers for provinces that was to bedevil subsequent constitutions. In both Constitutions, from 1910 to 1996 the position of the Executive head of government as being pivotal to IGR was an unwavering one.

The nature of IGR as the interactions and transactions conducted by executives (in the constitutional sense) between and amongst governments in a country, underwent a number of cyclical journeys. In the early constitutional days it was given recognition through the trust displayed by the Union government with respect to provinces, through to the 1961 dispensation which left such powers untouched. The 1983 Constitution and a number of pieces of Black self-government legislation further recognized the relative importance of co-ordination. It was actually during this period that most powers were decentralized and devolved, though racially, to sub-national units of government. The National government

relied heavily on the goodwill, the attitude and the commitment of sub-national units to co-ordinate its service delivery drive.   The principles of asymmetry and subsidiarity enjoyed prominence during the 1983-1993 era where sub-national units were allocated powers based on their capacities.

It is the author's submission that the adoption of the last two constitutions saw a movement towards centralization of decision making, thereby ignoring the potential of interactive and transactional governance amongst spheres. The IGR structures or mechanisms established from May 2000 began to signal a movement towards a centrally driven IGR. The Presidential co-ordinating Committee and cabinet cluster initiatives are just a few examples of the pivotal role that a central office such as that of the Presidency can play in co-ordinating IGR. The evaluation of the IGR structures established and disestablished, especially in terms of their efficiency and effectiveness, will be handled in the ensuing chapters. Such evaluations will be based on an understanding of the nature of IGR, its origins and other theoretical underpinnings of IGR including forms of government.

CHAPTER 4

4.   LITERATURE REVIEW: THEORETICAL ISSUES IN INTERGOVERNMENTAL RELATIONS

4.1   INTRODUCTION

The historical development of the South African Constitution and its intergovernmental relations (IGR) system indicates that future reform and restructuring should be based on sound theory.   The theoretical underpinnings of past IGR interventions were clearly informed by the apartheid political philosophy, particularly its native control bias.   The movement towards considerations such as the Development Bank of South Africa's nine economic development nodal points, as prime regional demarcation criteria, ushered in a science-informed era of constitutional solutions.   This era subjects to inquiry a number of issues around IGR and these vary from the terminological nature of IGR to the historical pattern it denotes.

This chapter investigates the origin of IGR as a concept in government, wherein the various government systems, as they impact on IGR, will be explained through the employment of authority relationship models. The chapter will also focus on the distinctive features of IGR, the normative guidelines in IGR and factors that influence them.   These will be supported by specific South African experiences both from a historical and current perspective.

4.2   ORIGIN OF INTERGOVERNMENTAL RELATIONS: A COMPARATIVE OVERVIEW

There is insufficient evidence regarding the exact historical moment when the concept of IGR originated. According to Wright (1988:13), IGR originated in the United States, during the Roosevelt's New Deal era. The origin was however a result of the challenges posed to the different tiers of government in the co-ordination of State affairs. The author argues that the challenge of welfare states to concern themselves with effectual service delivery within limited means, stringent macroeconomic frameworks and chronic societal imbalances, during the course of history, has influenced governments to improve on centralised regulatory control in favour of sufficiently devolved and decentralised service delivery systems.

IGR as a concept has been an operational term employed by public officials in an attempt to explain their day to day activities within multi-jurisdictional service delivery mandates. The prevalence of the term in most federal states has resulted in IGR being confused with federalism, co-operative federalism and the new federalism (Wright, 1988:13). The establishment of an IGR Commission in the United States of America repositioned the notion of IGR in academic discourse, research, and governmental resource allocation activities. This development had a global impact on all multi-sphered and multi-tiered regimes.

Increased use of the term IGR has created the impression that it may be equated to or is synonymous with federalism (Agrannof and McGuire, 2002:2). In multi-tiered or multi-sphered unitary systems, there is an equivalent tendency to equate IGR with decentralisation or a form of allocating certain constitutional or any other form of power to sub-national units. Federalism instead, is defined to mean a league formed by a treaty

amongst sovereign states, that can be either be after a war or a product of constitutional negotiations (Wright, 1988:37). This research contends that the sovereignty of states within a federation may be compromised in recognition of the sovereignty of a central authority, whilst retaining certain residual powers of government. These vary from exclusive executive authority over some state/province/region (SPR) specific matters to concurrent authority.

The critical feature of federalism is its reliance on clearly demarcated legal powers, formality in action as well as insistence on written agreements, protocols and treaties (De Villiers, 1993:1-2). Whilst most federations want to be seen as not having a hierarchical relationship with sub-national units, in practice there is a clear hierarchy whereby officials display super-ordinate and sub-ordinate tendencies. In other words, national authorities perceive themselves as having a monitoring and/or supervisory role over sub-national authorities and sub-national governments have an almost perpetual expectation for the central authorities to build their capacity. Sections 100, 139, 154 and 155 of the South African 1996 Constitution, in prescribing supra-ordinate intervention in case of crises as well as performance monitoring emphasises this fact (Constitution Act 108, 1996).

Federalism has a deep-rooted ideological history in terms of it being used to define power relations between and amongst societies. The author contends that the 16th century voyages of discovery that resulted in the redrawing of the world map regarding the imperial and colonising authority has, in many countries, created geographical units that are defined by resources class, race and colonial loyalty. The historical reality of the decentralisation inherent in federalism, and the bringing of government closer to the people, has resulted in most post-colonial governments considering federalism with suspicion. This study submits that most liberation movements in Africa, including South

Africa's ruling African National Congress, may have suspected this. Some liberation movements in Africa understand the federal option to be a product of colonial dismemberment of African "nations" thus, perpetuating some form of imperialism. The prospect of viewing pure regionalisation as a foundation for future stability in African states becomes the first casualty, amongst many, in the hostility toward federations. The imprecise intentions of federalism yielded within its own ranks a need to qualify it as co-operative federalism, competitive-federalism and new federalism: these have put the need for IGR squarely on the government/governance faculty.

Notwithstanding the above, IGR concerns itself with interactions and transactions conducted by executives (in a constitutional sense) between and amongst governments in a country. The author argues that IGR does not restrict itself to government entities but recognises relations amongst officials from all combinations of government entities, it stresses the human dimension of governance as it transcends the legalistic focus (often prevalent in –ism systems) and includes within it a range of informal and otherwise submerged actions and perceptions of officials. Furthermore, the equality of stakeholders within an IGR environment removes the hierarchical status in favour of providing an operational platform where no level assumes superiority except that of ultimate accountability. The accountability element of defining superiority relegates super-ordinate and sub-ordinate political undertones to the level of a managerial tool, where both can assume each other's position as per circumstantial dictate.

The apparent ideological neutrality of IGR removes the emotional tendencies usually associated with the extremes of unitary and federalist government systems. IGR ideologically concerns itself with the operating currencies of the governance exchange market that manifests itself best within a networked environment governed by service

delivery as an application protocol. The ideological position of IGR is aptly put by Hanfas cited in Agrannof (1990:3) when he states that "the ability of individual decision units to achieve their own objectives will depend not only on their own choices and actions but also on those of others; actions at any one level of decision making will be influenced by the relationship that exists between levels as well as across functional boundaries".

A major task confronting political systems in any country is therefore that of securing co-ordinated policy actions through networks of separate but inter-dependent organisations where the collective capabilities of a number of participants are essential for effective problem solving, or where the activities of individual units are to be guided by more general policy considerations. The above quotation confirms that IGR brings to the public eye the political and administrative landscape within which service delivery has to occur. The study of IGR is therefore not synonymous with that of federalism because as much as IGR is one of the critical platforms upon which federal political systems must operate, it is also equally critical in multi-sphered or multi-tiered political systems within the extreme confederal to the extreme unitary continuum of political systems.

4.2.1   The Distinctive Features of Intergovernmental Relations

The definition of IGR and the comparative explanation of the federal-unitary continuum as shown in the distinction between IGR and federalism reflects the following distinctive features of IGR that are encapsulated as follows:

The first feature is that intergovernmental relations transcend constitutionally recognised patterns of government involvement to include a variety of relationships including national-local, provincial-local, inter-provincial and inter-local. The South African experiences

reflect a growing number of governmental units involved in IGR. A closer look at the IGR intensity of ministries, agencies and departments within the national and provincial sphere as well as in municipalities with varying jurisdictional types, reflects a staggering need for connections needing to operate like a human nervous system (Agrannoff, 1999:3). The author argues that the need to ensure that these relationships converge at a particular co-ordinating centre, resembling human nerve centres, makes IGR a transcending platform. The limits of Constitutional precincts and dictates are easily repudiated by the ability of IGR to be enabling and profoundly facilitative.

Secondly, intergovernmental relations is a function which is made operational by the activities of individuals and other functionaries within government, in order to constitute the activities and attitudes of persons occupying official positions for the effective management of the affairs of the respective tiers of government in the nation state. Hence the adage that "there are no relationships between governments, there are only relations amongst officials who govern different units" (Agrannoff, 1999:6). Agrannoff maintains that "it is human beings clothed with office who are the real determiners of what relations between units of government will be". This leads one to conclude that IGR has to be formulated largely in terms of human relations and behaviour (Agrannoff, 1999:6). This implies that IGR will always be held to ransom regarding attitudes, perceptions, affiliations and the egotistic whims of public officials and politicians.

The complexities of IGR, particularly in multi-sphered governments, confirm the axiom that IGR are, first and foremost, a profoundly human undertaking (Dion, 2000:4). In multi-ethical, multi-cultural and multi-racial societies, IGR will have to be characterised by consensus building, mutual adjustment and pacifying dominant coalitions. The growing realisation that "in diverse societies where inter-group interactions have been

uncooperative, the fundamental problem has been a failure to develop political institutions able to accommodate such diversity" (World Bank Report, Can Africa Claim the 21st Century, 2000:13) lends further credence to the human element dominant in IGR. The regional complexities of racial, ethical, political and per capita geographic domestic product concentrations in South Africa, makes IGR a natural priority for government because such complexities have proved to be the dominant currencies in igniting most regionally defined conflicts in both the developing and the developed world. The chronic nature of ethnic conflicts in The Great Lakes region of Africa and the Balkan states of Central Europe supports this assertion.

Thirdly, the relationship between officials involves their continuous conflicts and exchanges of information and views. IGR practitioners concern themselves with the practical, informal and goal oriented arrangements that can be realised within the official's formal, legal and constitutional context. The goal orientedness of practitioners is within the realisation of the government's service delivery objective. However, this is done within the following traditional operating currencies of IGR: regulations, standards, guidelines and interpretations that accompany grants (Agranoff, 1990:6). The South African treasury regulations that regulate the behaviour, conduct and operations of public officials have emerged in the recent period as the most instructive document within the IGR's landscape of South Africa. These regulations regulate, for instance, the financial management framework, treasury management and accounting officer responsibilities within the broad IGR framework South African Treasury Instructions: 2000, Table of Contents).

All types of *public officials are potential or actual participants in the intergovernmental relations' decision-making process*, and this includes all elected and appointed officials. The concept of internal client relationships where units within an organisation identify who

their internal suppliers are as well as to whom do they supply a service has brought into prominence the importance of each official as an IGR participant. This may be illustrated in South Africa through the corporate service role of the Department of Public Service and Administration and certain agencies of the Department of Public Works, Treasury, Provincial and Local Government and The Presidency at the apex. These departments and agencies, as their core activity, have an interacting and transacting role with other organs of state across all spheres. This state of affairs, therefore, attests to the fact that all officials in these departments are IGR practitioners.

IGR has a policy dimension defined as the intentions and actions of public officials. This would involve examining interactions of actors across jurisdictions surrounding the formulation, implementation and evaluation of policy. Fiscal issues are at the core of IGR policy concerns (Wright, 1988:42). The policy traffic around development facilitation in South Africa through the Development Facilitation Act, Act 67 of 1995, the Local Government Municipal Structures Act, Act 33 of 2000, the Local Government Municipal Systems Act, Act 32 of 2000, The Public Finance Management Act, Act 1 of 1999 as well as the Local Government Municipal Finance Management Bill, August 2001, has put the questions of intergovernmental (fiscal) relations on the centre stage of rolling out the constitutional development agenda of government. The strategic planning requirements of the treasury regulations and the process of drafting local development objectives within the integrated development planning mandate of local government introduces into the South African intergovernmental policy making process a revenue driven policy implementation dispensation (South African Treasury Instructions, 1999:15).

The features of IGR occur within particular models of IGR operation and these are examined below.

4.3   MODELS OF IGR

The practice of IGR is both a cause and an effect of authority relationships between the different levels, and (in the South African and Australian nomenclature) spheres of government. The manner in which these authority relationships occur creates a continuum of various government forms within which IGR can flourish. The continuum, as will be explained later, provides an analytical framework that is outside the traditionally hostile federal versus unitary discourse often dominant in the study of relationships within multi-sphered government systems. The various authority relationships in government systems have so many complexities that it becomes almost compulsory to provide a model of such relationships.

A model is a simplified (often mathematical, three dimensional or graphic) description of a system to assist calculations, predictions and descriptions (Tulloch, 1993:979). A model is a representation of something else and is designed for a specific purpose. The general purpose of models is to provide readers and analysts with a visual reminder of what may be real. Hogwood and Gunn (1984:42) argue that, historically, models have been used to simulate circumstances within which phenomena may have to operate, thus assisting in hypothesizing and experimentation. The fundamental purpose of abstract model building, particularly in policy analysis and policy making, is to represent, simulate, explain, predict, experiment and test hypotheses of an operating phenomena (Hagwood and Gunn, 1984:42).

Models, therefore, are mental constructs that deal with entities which exist nowhere in real life but can help scientists to understand and explain real phenomena and refine statements of what is desired (Hagwood and Gunn, 1984:43). They are actually

abstractions of realities. Whilst models are designed to assist understanding, they tend to make certain theoretical underpinnings of social science phenomena difficult to describe. In governance, for instance, there are complexities and realities often shaped by societal political values, historical mandates as well as the limitedness of service delivery resources that a simplified model may not clearly explain (Wright, 1988:39). It is the submission of the author that models are pictorial tangibles that interface through abstraction, the reality of thought and imagination with structure. This study will, in this section and within the theoretical limitations imposed by modelling theory, make use of such models to explain IGR.

The multi-faceted nature of government systems has in common three jurisdictional areas – national, provincial and local. The distinguishing factor amongst them all is the degree to which sub-national units receive recognition within the reigning legal and political system. IGR as a platform upon which government systems can transcend constitutional and legal barriers, does not subscribe to legal precincts except where they become an operating currency to get things done. There are a number of authority relationship models, but Wright (1988:40) identifies three generic types, namely, the co-ordinate authority, the inclusive authority and the bargaining models. These models will assist this study in discovering the model within which the South African IGR system operates, although there is always a risk and/or advantage of discovering permutations of the models, given the hybridised South African government system.

Intergovernmental Relations Reform in a Newly Emerging South African Policy

4.3.1   The Co-Ordinate Authority Model

Figure 2: The Co-Ordinate Authority Model
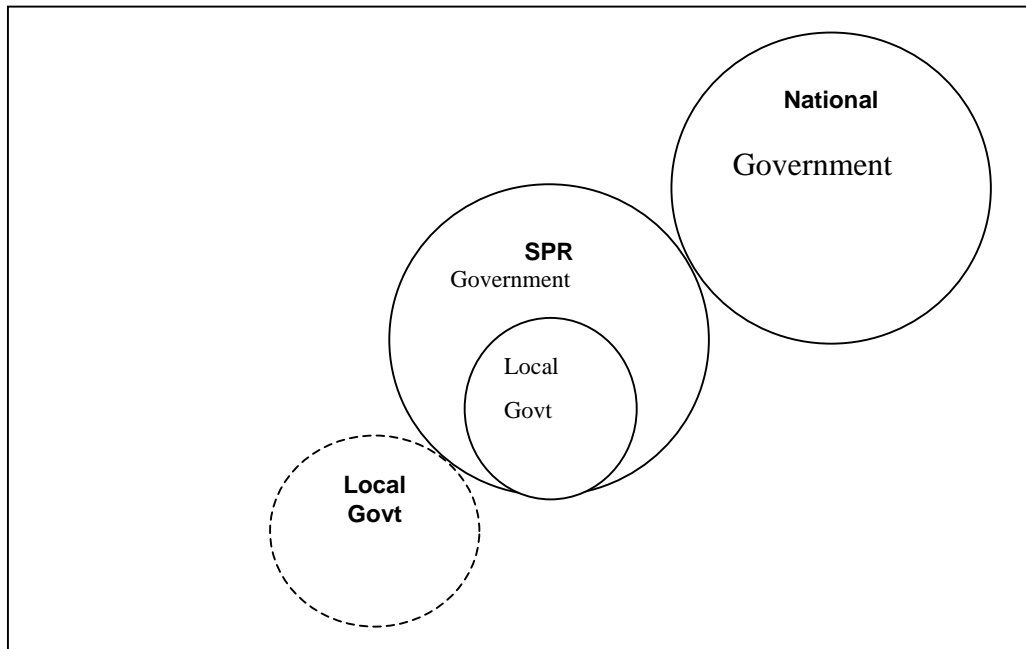
Author's reconfiguration, Mathebula FM, 2002

In this model sharp, distinct boundaries separate National Government and Provinces. There is generally no formal recognition of local self-government as a distinct tier/sphere of government. Local government is seen as being sub-ordinate to provincial government and may exercise only those powers expressly granted (Wright, 1988:40). The most recognised relationship between Provinces and National Government is that there is a tangential link denoting a relatively high degree of independence and autonomy. The co-ordinate authority model advocates a non-interference paradigm of IGR.

The model however had relevance at particular historical points of national–provincial relations in South Africa. The early colonial governments could manage provincial from the imperial headquarters that acted as a virtual central government for its Southern African colonies of the Cape, Free State, Transvaal and Natal. After de-colonisation,

indigenous governments created a national parliament that operated as an on-site imperial headquarter, since most systems were left intact. The South African 1909 Constitution is one such example because it only created seats for the four provinces at a national level and took over certain imperial responsibilities, though much was still in the hands of a resident Governor-General who by definition represented the imperial government (South Africa Act, 1909:s90). The four provinces remained tangentially linked to the Union Parliament albeit within a repugnancy clause in the Constitution, that amounted to the fact that no provincial law shall override an existing or future determined Union Law. This was despite the original legislative powers that provinces had at that time.

The 1961 Constitution was more focused on national sovereignty than on redefining national-provincial relations; it went to the extent of replacing, in an almost mechanical manner, Her Majesty The Queen and Governor-General, with a State President, and that signified a status quo maintenance approach to changing the type of authority relationship amongst levels of government (Constitution Act 32 of 1961:s3). The recognition of local self-government only evolved as a mechanism of making separate development practical, but the entire national-provincial authority relationship remained within the characteristically tangential mode of the co-ordinate authority model, that clearly displayed an administrative colonial heritage.

The introduction of self-government for Black people in South Africa within the infamous 1913 Land Act parameters, only de-concentrated political, fiscal and administrative powers to newly created self-governing territories. This was despite the need to devolve such powers. However, the requirement of a modern democratic state led to this model becoming obsolete through the need to protect sub-national units from an unrestrained exercise of national power. The requirement of decentralisation of power from the centre

as a good governance practice, limits the development of this model, particularly within the defined criteria of global funding agencies for development aid (World Bank, 49:2000). The co-ordinate authority model, however, is still being pursued in countries like Australia, where state governments have, at least legally, sharp, distinct boundaries that separate them from national government. The only stabilising and reforming factor is the degree to which national and state party political strength can amend the model through practice. It can be conclusively argued that this model belongs to the far end of the federalist axis on the federal-unitary continuum.

4.3.2   The Inclusive Authority Model

Figure 3: The Inclusive Authority Model
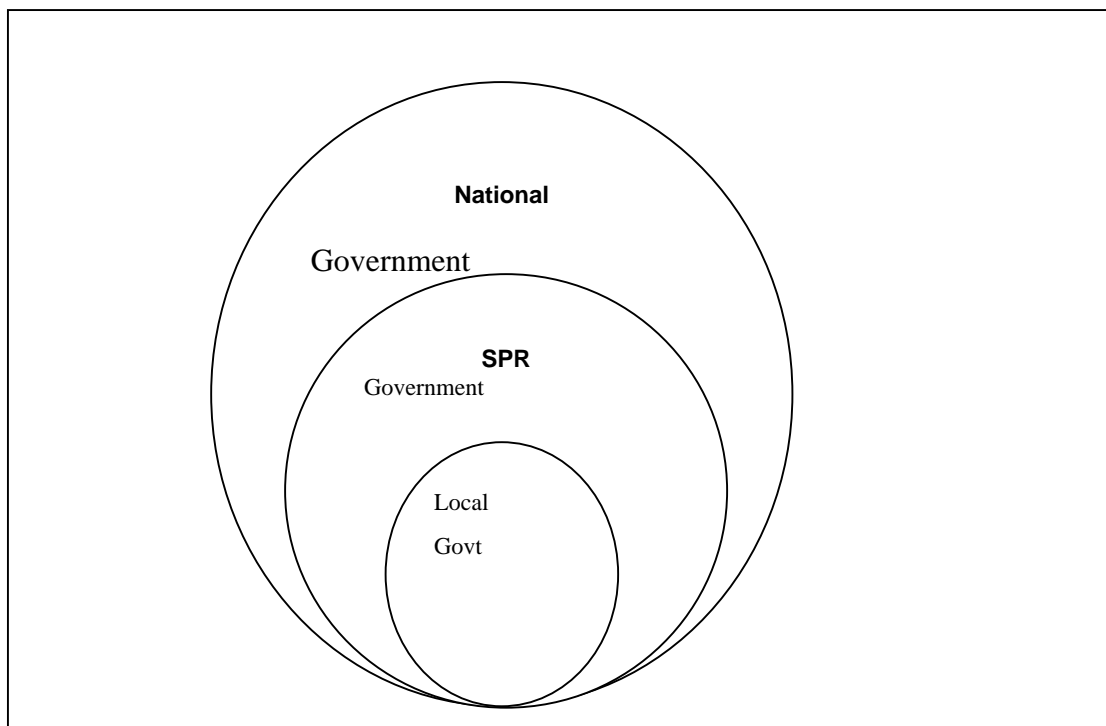
Author's reconfiguration – Mathebula FM, 2002

The concentric circles in the figure define an authority relationship shaped by diminishing power as represented in the size of the three circles. The elasticity of the circles is controlled by the dominant and overarching circle of national government by either

expanding its circle of influence and jurisdiction whilst keeping at a constant, other circles, or reducing the size of the internal circles without touching the outer circle thereby expanding its influence through conquest and take-over (Wright, 1988:43). The author argues that slogans such as nation building, redressing historical imbalances as well as addressing emergency situations have been at the forefront in the justification of power contraction and expansion. The rationalisation of inland security in the aftermath of the September 11th bombing in the United States of America illustrates this point.

The power expanding or reducing strategies above were practised over the entire constitutional history of South Africa. The Union of South Africa Parliament, when dealing with native affairs and land questions did not consider the opinions of sub-national units. This is because the provinces of Natal and Cape Province had relatively native-friendly policies that were a threat to the land ownership and resource access policy of the colonial government (Walshe, 1987:43). The collusion of the National Parliament in the process leading up to the 1913 Land Act displays a clear expansion of national influence at the expense of the provinces. The 1948 to 1994 National Party government also expanded and contracted the circles at will, particularly as it related to native affairs. The introduction, for instance, of Bantu Education in 1953 essentially took away the power of provincial government over native education and this amounted to an expansion of the circle of influence whilst keeping internal circles intact. The granting of limited franchise to Coloured and Indian people as well as nominal independence to certain Black self-governing territories was also an expansion of the national circle and contraction of the SPR and Local government circles.

Whilst the above circumstances created IGR intensity on the governmental landscape of South Africa it was also entrenching the expansion and contraction culture predominant in the inclusive authority model. The 1993 interim and the 1996 final Constitutions that

marked the final repudiation of apartheid and its racio-ethnically determined sub-national units sought to create an enabling constitutional model that encouraged bargaining as opposed to dominance of one sphere by another. This, however, did not impact on the established governance cultural pattern of dominance as was reflected in the manner in which the national Department of Public Service and Administration expanded its circle of influence through the reduction of provincial governments' influence in determining and influencing public service reform. The discontinuance of Provincial Service Commissions marked a decisive move toward centralized public service reform, administration and management.

This model conveys in clear terms the essential hierarchical nature of authority where SPRs and localities become mere minions of national government with little to no impact on national politics and public policy (Wright, 1988:44). The supine nature of sub-national units in this model, as a result of their being governing entities in name only, can be traced to the following four perspectives on sub-national units:

The first is that which recognises the existence of an elite group of national leaders that dictate the power and direction of sub-national units. Sub-national political and administrative leaders play a significant role in affecting important political or societal choices, unless they are given political space by their national counterparts (Wright, 1988:45). The appointment of Provincial Premiers and Mayoral candidates by central bodies of political parties in South Africa is at most, a manifestation of this model in the country's IGR practice. In a comment to show the insignificance of sub-national units within this model, Seepe (Daily Mail & Guardian, www.mg.co.za, 2001: July 27:1) asserts, "the unfettered political control and influence in political appointments at both the national and provincial levels has arguably reduced appointees to tasks better performed by

parrots or puppets. It is this puppetry that has allowed government to go unchallenged and/or dissuaded from its pseudo-intellectual escapades". The dominance of the national political elite over sub-national elites has an indirect regulatory effect on the ability of premiers and local government leaders to challenge centrally considered decisions.

However, there is a parallel advantage of facilitating development in the short term for governments within transitional economies, like South Africa. The constitutional position of premiers in terms of primary involvement in resource allocation and executive decision-making, reduces such offices to administrative appendages of the national executive. The fact that premiers have hollow executive power as defined in the Constitution and do not sit on the national executive reduces them to being recipients of cabinet decisions and their only recourse is within political party caucuses. This is a historical phenomenon of global proportion.

The second perspective is that of the technocratic-pluralist position that identifies the dispersal of decision-making power into parastatals and sectorally dominant coalitions that are national in scope (Wright, 1988:45). The existence of a strong civil society movement in South Africa (a function of the immediate historical past experience in the fight against apartheid) has further subjugated sub-national units to mere implementers of nationally determined priorities and programmes. These coalitions manifest themselves in the form of organised labour, business, non-governmental organisations (NGO's) and local government. The access of these powerful coalitions to the ruling elite and opposing elite make them natural spokespersons on almost all matters of public policy. The material conditions governing co-existence in sub-national jurisdictions also tend to be ignored or bankrupted by centrally considered civil society participation and opposition.

The third perspective is that which recognises the central role of the factory community in carrying out certain delegated societal functions such as employment, poverty reduction, and social responsibility (Wright, 1988:46). This perspective acknowledges the inherent strength of private capital, within the private domain of human co-existence, to expand and to contract its circle of influence on sub-national governments. A manifestation of this power is the ability of private firms to relocate within sub-national units as a result of the firms' nationally considered decision; an activity that can potentially reduce the ability of sub-national governments to perform their duties as a result of shrinking tax bases, reduced consumer spending power, increased social ailments associated with the resultant growth of unemployment, and a reduction of the gross geographic domestic product of sub-national jurisdictions. The strength of this sector can be so dominant in a country to the extent that particular regions can dictate the economic direction and pulse of the state. The headquartering of core capital to the Western Cape region, growth of the Eastern Cape, and the economic dominance of Gauteng would fall into this category.

The fourth perspective sees SPRs and localities such as the administrative province of national governments, effectively reducing political heads of such entities to administrative conduits of the centre. The current rollout of the government's transformation programme in South Africa, with its associated deployment and redeployment policy of the dominant party in government, gradually centralises and fuses the IGR system to be operated with the expansion and contraction of the political cockpit of a central office.

This model is therefore premised on the following: sub-national governments depend totally on decisions that are nation-wide in scope. The election promise of free water where a nationally considered political party manifesto has put fiscal pressure on relatively under-capacitated municipalities to deliver on this promise, is a classic South African

example (ANC; 2000:2). There is a general atrophy in non-national political institutions and functions of SPR and localities are fused into a centralised, hierarchical system (Wright, 1988:48).

4.3.3   The Bargaining Authority Model

Figure 4: The Bargaining Authority Model
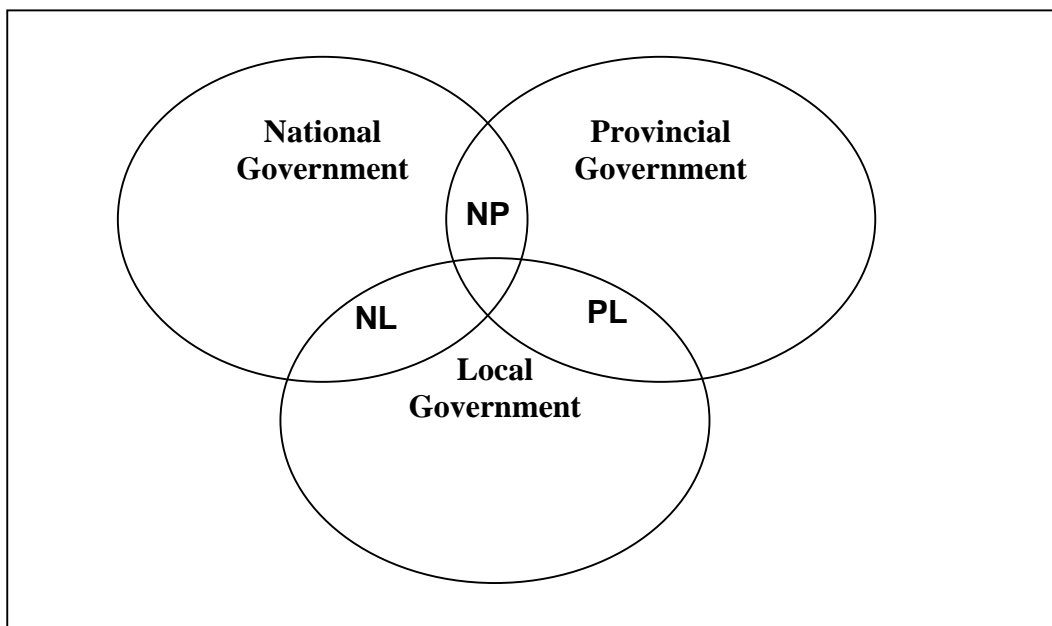
Authors reconfiguration- Mathebula FM, 2002

The bargaining authority model plays an important role in bridging the divide that exists between different stakeholders within close polarities (Wright, 1988:49). It attempts to create trade-offs that create viable win-win paradigms in complicated political scenarios.

The bargaining model further represents a combination of the two previous models at the opposite ends of the federal-unitary continuum. An exemplary notation of this scenario is the South African system. Similar scenarios exist in South Africa with the constitutional progression of South Africa from a unitary government of the erstwhile White minority regime to a multi-sphered and quasi-federal system. The existence of nine provincial

jurisdictions, about two hundred and eighty-four municipal jurisdictions, and a further subdivision of municipal jurisdictions into district, metropolitan and local municipality types, present overlaps in terms of service delivery target areas. The hierarchical and autonomous elements of the previous models characterise the bargaining model in an integrated manner.

The model is represented through an overlay of three non-hierarchical but interdependent, interrelated and yet distinctive circles. The interdependence and inter-relatedness of circles yield four intersecting areas that denote common and/or concurrent jurisdiction. The intersections also reflect the existence of relations between two levels to the exclusion of the third. A closer look at the model shows that there are areas where a particular sphere has exclusive powers. The expansion and contraction of circles at the initiation of a particular sphere has to be negotiated with another sphere. The negotiations and bargaining that characterise this model will result in the primary expansion of the centre intersection. However, in this model there are substantial areas of government operations involving both levels simultaneously, and areas of single-jurisdiction independence and full discretion that are comparatively small (Wright, 49:1988). Further, the power and influence available to any one jurisdiction is significantly limited by its inability to operate unilaterally unless expressly set out by or in law.

The model is chiefly characterised by the exchange and agreement elements of bargaining where supra levels offer grants-in-assistance to sub-levels in exchange for their agreement and co-operation to implement a program or carry out a project. At the adoption of the integrated rural development strategy, a programme to accelerate rural development in South Africa, government declared "it is now in a position to implement a rural development programme for the integrated development of rural areas [which] will bring together all government departments and all spheres of government including traditional

leaders" (Mbeki: 25 June 1999, Cape Town). The declaration defines the relationship between levels as it advocates an implementation strategy that will use and develop existing institutional, planning, management and funding mechanisms to focus the expenditure of government in the three spheres to more effectively respond to needs and opportunities…. thereby increasing the efficiency in the application of public funds in rural areas to create appropriate outputs in the places where they are most needed (ISRDS, November 2000:1).

The quest to achieve synergy and higher effectiveness in departmental programmes through a strengthened integrative mechanism at all levels lends sufficient credence to a bias by the South African government towards the overlapping authority model of IGR (SRDS, 2000:2). The bias towards this model is a direct consequence of the obligatory constitutional IGR parameters that, amongst others, specify that all spheres of government must "respect the constitutional status, institutions, powers and functions of government in other spheres; not assume any power or function except those conferred on them in terms of the Constitution; exercise their powers and functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere" (Constitution Act 108, 1996:s41).

This model is characterised by the following: limited and dispersed power; modest and uncertain areas of autonomy; a high degree of potential or actual interdependence; simultaneous co-operation and competition; bargaining exchange relationships; and negotiation as a strategy for reaching agreement (Wright, 1988:42), but these need to be reconciled. Critical to this reconciliation are the various organs of civil society with political parties occupying the pyramid's apex. The growth in appropriateness of party politics, as

a reconciling mechanism does have the disadvantage of obfuscating the dynamics inherent in IGR and in this model in particular. The South African IGR landscape provides a case study as the dominant political party, the ANC and its 2000-2004 government of national unity coalition partner in the Kwa-Zulu Natal province, the Inkatha Freedom Party, attempts to be provide a platform for integration. In this coalition, public policy disputes tend to be resolved through party structures, thus compromising set rules and regulations, service delivery and rendering irrelevant those provincial issues that should underpin South African IGR.

The potential for certain South African sub-national governments to be politically controlled by regional parties may introduce to the IGR landscape a market-type overlapping authority model where multiple agencies, serving the same people with different bundles of public goods and services, are viewed as multiple firms in public service industries. This market, given its competitive character, over time, will be prey to the market rules of supply and demand which are often in conflict with the South African development agenda in particular, and those of transitional and developing economies in general. A closer look at the emerging macro-economic framework in South Africa indicates a shift from the inherited policy positions of the ruling party towards a market driven approach to service delivery and public policy. This shift has a significant impact on governance and on IGR philosophy.

The historical development of the South African IGR system during the period demarcated by the study shows a progression from one end of the IGR models towards the overlapping model. The movement however, shows an erratic navigation from one model to another and backwards. The 1961 Constitution, despite the element of racial exclusion, had already started moving towards the overlapping model. The gradual introduction of

Black self-government within the separate development apartheid philosophy attempted, tangentially to link the National sphere with self-governing territories on the one hand and the four provincial governments on the other, whilst maintaining a grip on the power to expand and contract its sphere of influence on any emerging policy issue not defined in the reigning legislative framework.

This state of affairs persisted through the 1983 Constitution despite the existence of the independent states (Transkei, Bophutatswana, Venda and Ciskei), virtual Coloured and Indian self-governing territories and the virtual urban Black territories created in terms of the Black Local Authorities Act of 1982. In all instances, this movement was characterised by a generic IGR maturation process. This growth was further boosted by the adoption of a non-racial Constitution that rationalised the balkanised administrative units into nine provincial governments, 47 district municipalities, six Metropolitan municipalities and 232 local municipalities thereby increasing the intensity of IGR in South Africa.

The form and nature of IGR models yields the following two theoretical questions:
  o   In a normative sense what should guide IGR; and
  o   What factors influence IGR?
An exposition of these conceptual issues will inform the broad study particularly in terms of a proposed reform path to be considered as a possibility for the next historical period.

4.4   THE INTERGOVERNMENTAL RELATIONS NORMATIVE GUIDELINES

The interacting and transacting nature of governmental relations is a function of human activity and therefore, subject to norms and standards of humanity. The involvement of people in any activity has a cogent tendency to result in the ignorance of the normative

characteristic of human activities which is sometimes defined in cosmic terms as the ideal of: "what should be"? (Botes *et al.*, 1997:285). The adoption of the interim Constitution in 1993, the 1994 first non-racial democratic elections and the adoption of the 1996 Constitution saw an introduction of a quasi-federal IGR system under the leadership of President Mandela. President Mandela's attitude towards government may be characterised as being contained in the Jefferson adage that "government which governs best, governs least" (Agranoff, 2001:7). The relationship between the centre and provinces was operationalised through the inherited national minister and provincial Member of Executive Council committees called MinMecs (Thornhill, *et al.*, 2001:27-59]. The fact that IGR is practised within a public administration environment means there are norms and values to which it should subscribe. Normative guidelines are therefore values and norms that a society aspires to live up to, and serve as criteria for public conduct (Botes *et al.*, 1997:285). IGR therefore, should occur within the following five normative guidelines below.

4.4.1   Supreme political authority

The interaction of public officials and politicians to co-operate in order to realize a particular programme should be subject to the chief political authority of the state. Political authority is distinguished from political supremacy in that some democracies have their political authority being subject to the supremacy of their constitutions and, subsequently, an independent judiciary, whereas others subject their constitutions to Parliamentary supremacy (Botes *et al.*, 1997:285-87). This often makes societies vulnerable to ideological dogmatism reminiscent of dictatorships, one party states and multi-partied one party states.

The author defines a multi-partied one party state as a state that has a number of political parties with perpetual minorities and yet dominated in size and historical legitimacy terms, by one party. The South African situation has such characteristics. These states are mostly found in transitional economies where a "liberation movement" was converted into a Political party thereby maintaining an electoral dominance that is historically derived as opposed to being a product of electoral market forces.

The condition of a multi-partied one party state, in most instances, is a product of the "nation building and post democratic paradigm" that is often consequential to liberation struggles and wars. It is the observation of the author that, there is a tendency in these dispensations to allow post-democratic challenges and post-war restructuring manoeuvres to supersede the basis of political authority, namely, a public accountability.

The importance of this guideline in IGR is that whilst the need to get things done drives an IGR environment, the decisions of the political authority in the form of legislation, budgets, proclamations, regulations and decisions of the political executive office bearers (Botes *et al.*, 1997:286) should guide the conduct of public officials when interacting and transacting. The South African political authority is vested in the President as head of the executive and leader of the majority and ruling party (Constitution Act 108 of 1996:s85). The influence of The Presidency on IGR, therefore, will be an unavoidable feature in the South African IGR landscape. Conversely, the leadership style of a President in a country will also determine both the pace and heartbeat of its IGR. The successive South African Presidents or Heads of the Executive up till President Mbeki, have all shaped and moved the IGR approach of South Africa to a particular level. These ranged from a centrist Verwoerdian (HF Verwoerd was the first Prime Minister of the Republic of South Africa and architect of Apartheid in South Africa) era, characterised by nominal autonomy in so far as

an entrenchment of separate development is achievable, to a Mbekian centralism, characterised by the objective of total emancipation of the African majority as well as loyalty to the central democratic structures of the ruling party.

4.4.2   Public accountability

The interacting and transacting government officials in any state should be publicly accountable and responsible for their activities. The informal nature of IGR created an impression that it is an activity outside the public eye and therefore, not subject to public scrutiny. This misinterpretation, however, is blind to the reality that public officials, by market exchange standards, are a commodity bought by taxpayers to perform functions specified in codified mandates often referred to as legislations. The exchange of information, commodities and public goods for citizen satisfaction, is a contested terrain for the political and economic influence of societies by established coalitions, such as, political parties, business and civil society. The contest would therefore, attract coalitions that aim to serve these interests through IGR transactions and interactions of public officials.

Legislative institutions (as legitimate and legalised coalitions), for instance, have institutionalised processes such as parliamentary debates, parliamentary committee sessions and constituency debates to gather such information. Government departments, on the other hand, have devised internal mechanisms such as inspections, delegation of appropriate authority to ensure decision ratification, annual reporting, regular audits, and daily supervision and management (Cloete, 1988:163). The judiciary ensures this accountability through administrative law trials, judicial inquiries and related juridical proceedings while the public is constantly informed by the media, by access to special

investigatory bodies such as the Public Protector and Human Rights Commission, and by Ombudsman institutions.

4.4.3   Efficiency and effectiveness

The bargaining requirement of IGR dictates a need to be sensitive to the balance between effectiveness, efficiency and productivity.   The IGR exercise within the socio-political parameters set by issues such as political mandate, development agenda and sovereign hegemonic agendas is vulnerable to excessive compromises and deadlocks (Botes *et al.*, 1997:287). These compromises and deadlocks are catalysts to productivity, efficiency and effectiveness, hence IGR practitioners have to be guided by how effectual their decisions are. South African IGR structures have, in the early stages of the 1996 constitutional era, been prone to transacting outside their budgetary limits, thereby yielding unaffordable and yet potentially effective decisions.

The development assignment of the first Black majority government, with its potentially emotive ideals, required of government, in some instances, to make sentimental as well as practical policy pronouncements.   However, these tended to be difficult to cost and therefore, impacted on the efficiency/effectiveness balance sheet such that policy implementation liabilities exponentially exceeded policy implementation assets, thereby resulting in a policy implementation deficit as manifested in the chronic human capital turnover (DPSA Annual Report, 2000:64) experienced at the management echelon of government. Sensitivity to sustaining an effectual balance becomes a critical guideline for IGR practitioners.   The decision to embark on a policy process, that is, from conceptualisation to implementation, would require an efficiency and effectiveness quality control system as the various spheres, levels and units of government activity come into

contact with the policy. An education policy, for instance, would have to cascade in a manner that takes cognisance of the plethora of stakeholders from the national executive to a school governing body. In each of these levels, particular authorities, powers and mandates have to be assigned in a way that do not defeat any nationally set guideline.

4.4.4 Legal probity

The intensity of the IGR process, unintentionally, tends to galvanise government decision-makers into the ultra-vires mode thereby undermining constitutionalism and the rule of law. The execution of public service functions must be within the legal rules of the state and administrative law. There is a constant and non-negotiable obligation on any government official to ensure that all actions taken are lawful, and the correct administrative procedures are followed (Botes *et al.*, 1997:287-88). This guideline ensures that, whilst officials pursue jurisdictional as well as multi-jurisdictional ambitions, they are equally bound to protect constitutionalism and the rule of law.

The bastardisation of public administration and management with a cryptic business management approach has created a grey area between the private and the public sector. This grey area is in the legislative and regulatory detail that is dominant in the public sector. This state of affairs often causes public officials to ignore rules and regulations, in their pursuit of service delivery goals that are often classified in the private sector as bureaucratic red tape and as state interference. The growth of quasi-public and commercialised state enterprises lends credence to the need for public officials to respect the rule the law, particularly since these institutions operate within a public sector distanced from regulatory framework. Recognition of the rule of law and legal probity will create a framework conducive to IGR.

4.4.5   Societal values

The respect of societal values probably constitutes one of the most important IGR guidelines. Multi-tiered/sphered government systems create an opportunity for the growth and the development of regional and sectoral interests, and these are propelled by the existence of a common language, race, culture, religion, class and so on.   These orientations shape the values of a society over long historical periods resulting in bonded coalitions. The fact that the habits of elders, leaders and historically triumphant societies shape the values of new generations, makes values remain a constant set in human relations, and therefore, in IGR.   However, one's value system remains dynamic and subject to societal changes in attitudes and developments.

In South Africa, the existence of divergent historical experiences towards the development of one nation, poses a challenge when considering the crafting of a common value system. The extreme traditional and the uncompromisingly western divide prevalent in South African society puts additional pressure on societal values.   The recognition of the oneness in diversity by the Constitution through, for instance, the language clause, offers guidelines for IGR, particularly in terms of representation in the bureaucracy as well as for the eclectic nature of public policy. The issues, as elaborated upon earlier, which are similar to those in other societies, form the basis for an IGR system.

4.5   FACTORS THAT **I**NFLUENCE **I**NTERGOVERNMENTAL **R**ELATIONS

In the light of preceding discussions, a number of factors influence the IGR process and practice within multi-sphere regimes. Public officials, as potential IGR practitioners should at all times be alert to these factors, some of which will be discussed below.

4.5.1   Constitutional jurisdiction

The jurisdictional definitions found in constitutions define the scope and necessary IGR. Issues such as distribution of authority, assigned subject matter, the extent of concurrency in jurisdictions and the national framework within which provinces may exercise authority, become critical (Levy and Tapscott, 2001:27). Other constitutional jurisdictional issues impacting on IGR relate to the degree to which the constitution of a country requires laws to be delegated to another sphere as well as to provisions for voluntary delegation of legislative or administrative jurisdiction.

Multi-sphered governments operate within protocols usually defined in constitutions. The provenance of protocols is in the manner in which national or central governments want to influence the direction of sub-national governments. The South African Constitution, whilst attempting to make spheres of government look equal, also provides for a hierarchy-based relationship. Sections 100, 125, 139 and 154 provide, for instance, for supervisory, monitoring, capacitating roles by super-ordinate spheres as well as national overriding powers (Constitution Act 108: 1996). Constitutions, by their nature, are the primary source of IGR. They lay down the rules of IGR and determine who the players are, what moves are allowed and what stakes are involved (Hanson, 1983:28).

4.5.2   Form and character of second chambers

The history of second chambers in parliaments is associated with the feudal character of government where class distinctions define representation. The second chamber would be used to accommodate either a popularly elected class (usually the so-called working class or proletariat) or the dominant aristocratic landowning class. The 18th century social movements that propagated the ideals of Rousseau - namely, liberty, fraternity and equality - triggered a review of second chambers over the subsequent centuries. A revisit of governance, accompanied by a renaissance within the political science theoretical domain, as well as a repositioning of power relations within a state, resulted in second chambers being seen as structures that ensure sub-national representation in centres of decision and policy making. The German Lander governments' representation in the Bundestrat, the USA Senate House, as well as in the South African National Council of Provinces (NCOP), provides living examples of this strategic shift in the role of second chambers, although the degree of the mandate as per constituency represented differs (Levy and Tapscott, 2001,27).

In the German instance, representatives have a positively defined mandate on how they represent Landers, however this is characteristic of the federal nature of a state (De Villiers, 1995:16). The USA Senate also exercises a relatively autonomous mandate, but subject to nationally determined priorities, the unity of the state governs in this instance. The South African National Council of Provinces has a relatively low mandate, although it can influence the second chamber processes in terms of local government oversight functions (Thornhill *et al.,* 2001:2-3). The representation element of second chambers has affected and redefined the role of these chambers in IGR.

4.5.3   The political party systems

The form and character of political parties within a state could have the potential of determining the so-called political "heartbeat" of IGR. In almost all states, the ruling party has the authority to make final policy pronouncements within the parameters of ensuring continued voter and/or citizen favour (Botes *et al.*, 1997:307). The structure of a political party in terms of its regional and local branches dictates internal party policy coalitions that impact on the nature and form of IGR.

The ANC Constitution is introduced as follows: "the ANC constitution defines the character and nature of the organisation, it reflects the ANC's dual position as a liberation movement and political party" (ANC Constitution Introduction, 1997). This opening statement obliges members of the party, and therefore the majority in the executive of government, to work towards the attainment of the ANC's party and liberation movement objectives. The oath of acceptance into the ANC further includes a commitment to respect its Constitution and structures, and to work as a "loyal" member of the organisation and to defend the unity and integrity of the organisation and its principles, and combat any tendency towards disruption and factionalism (ANC, 1997:Rule 4.15). The IGR influence is further entrenched in the duties of members whereby it is expected of "members who hold elective office in any sphere of government at national, provincial or local level to be members of the appropriate caucus, to function within its rules and to abide by its decisions under the general provisions of the ANC Constitution and its structures". The above ANC constitutional provisions may obligate politicians and senior members of the bureaucracy affiliated to the ANC to transact within party lines, thereby compromising normativeness in favour of political correctness.

The organisational structure of the ANC consists of the National Conference, the Provincial Conference, the Regional Conference and the Branch Annual general meeting of which each is the "supreme" jurisdictional ruling and controlling body of the ANC (ANC Constitution, 1997:Rule 6.1,9.1 and 17.1). The organisation of government, since 1994 to the December 2000 local government elections, has been gradually aligned to the organisational structure of the ruling party. It is the submission of the author that the introduction of regional government within provincial government in the form of District Municipalities and Metropolitan Municipalities and their executive-legislative powers, position the party caucus structure, within a party leadership deployment policy paradigm, to centrally influence government policy making, implementation and funding. The above state of affairs becomes a critical factor in IGR because there is an inherent assumption that the jurisdictional entities that are electorally won by the ruling party will co-operate and interrelate with relative ease. The number of jurisdictions contesting cases brought before the constitutional court by ANC-controlled sub-national jurisdictions attest to this assumption.

By the same token, the structure and geographical predominance of the opposition parties determine the relationship between the sub-national and supra-national governments. The authority relationship structure will influence the resource allocation and devolution of power tendencies of the supra sphere. The basic tenets of IGR, namely, asymmetry and subsidiarity within a bargaining authority relationship IGR model, are compromised in the process. It is the author's view that there is emerging evidence that the structure of the political party and/or ruling coalition, in most multi-sphered/tiered government systems, is nonconformist in organised constitutional structures. Incongruities in the distribution of power amongst party organisational structures undermine the jurisdictional executive

power of sub-national governments with cataclysmic consequences both to representative government and to service delivery.

4.5.4   The judicial system

The extent to which a country's judiciary plays a role in an IGR system could shape the attitudes, approaches and disposition of public officials when dealing with cross-jurisdictional matters of governance. The reliance of the United States government on Dillion's rule, as early as the 19th Century, positioned the central importance of an independent judiciary in the refereeing of intergovernmental disputes. The necessity of legislating IGR disputes is therefore bankrupted by the significance of court judgements on such IGR disputes. Further to this, the legal and constitutional relations between the states of United States and their local governments, have been guided for more than one century by Dillion's Rule, a rule named after a judgement made by Judge Dillion in the *City of Clinton v Cedar Rapids and Missouri River Railroad* in 1868 (Wright, 1988:41), who, whilst expressing state-local relations, asserted that there is no common-law right of self government; local entities are creatures of the state and therefore subject to the unfettered discretion of the state (Wright, 1988:41). Successive changes to this rule emanated from court judgements in relation to IGR disputes.

The South African Constitution declares that the judicial authority of the Republic is vested in the courts, and obligates organs of state to be bound by court decisions. This provision is equally applicable to persons in those decisions that apply to them (Constitution Act 108, 1996:s165). The implication of these provisions is that conflicts between persons and institutions (including government) can only be pronounced upon within an independently constituted court system. However, the constitution further obligates all spheres of

government and organs of state to adhere to specified principles of co-operative government and IGR with a requirement that an Act of Parliament must provide for appropriate mechanisms and procedures to facilitate settlement of intergovernmental disputes (Constitution Act 108, 1996:s41). This appears to be the cause, in the national legislature and the independent judiciary, of fierce debates on the autonomy issue. The fact that courts are independent makes the requirement for a legislated dispute resolution mechanism restrictive. The author contends that, it will therefore be desirable, given the USA experience of the Dillion's Rule, to allow IGR resolutions to evolve over time and in tandem with the constitutional maturity of the recipient society.

4.5.5   The financial state of each sphere

The ability of a sub-national unit of government to raise its own revenue determines its relationship with supra-national units. The traditional conditioning of intergovernmental grants for loyalty and co-operation by supra-sphere/tiers regulates the jurisdictional rights of sub-national governments in favour of the granting sphere or tier (Levy and Tapscott, 2001:32). This is often a direct result of the degree to which sub-national units have or lack autonomous financial resources to match their expenditure requirements or obligations, and the degree of disparity (created or natural) in the financial resources of different sub-national units requiring corrective arrangements for redistribution of financial resources.

4.5.6   Human behaviour

The author suggests that the appointment of persons into public positions should be based on their specialist knowledge and experience. Therefore, it may be expected that the value

systems of such persons would dominate their approach and attitude toward IGR. The knowledge base of persons, in terms of the impact of their decisions and activities (or indecisiveness and inactivity) on the economic growth of a country, will accelerate or decelerate the speed upon which IGR responds to such challenges. The human disposition toward an integrative approach as opposed to a hierarchical and fragmented approach to government, is a function of peoples' exposure to the bargaining software associated with IGR. The software includes the bargaining tools of diplomacy, compromise, win-win approaches, and equal but pecking-order relationships. It is the view of the author that the experiences of persons, shaped by their value systems, perceptions, attitudes and pre-career socialisation, in most instances, are in alignment with their understanding of policy implications and therefore inter-sphere relations. The IGR adage that persons relate to each other but governments don't" places emphasis on this factor.

4.5.7   Circumstances

Circumstances in a society are created by changes in both *time* and *place*, and they themselves are not static (Botes *et al*., 1997:308). Circumstances around which IGR occurs change the policy requirements of government to respond. These often manifest themselves in the areas listed below.

Crises such as threats of war, internal political unrest, natural disasters, economic depression and disease pandemics may require of government to withdraw certain devolved powers and to centralise them, thereby reducing the decision making centres characteristic of IGR. The mayhem surrounding the September 11, 2001, World Trade Centre disaster, provides a classic example of respect for jurisdictional autonomy by the Bush Administration. The American President was confined to dealing with issues of

National Security and international relations in terms of building a coalition "against terrorism", whilst the Mayor of New York was left to deal with issues of disaster management as a metropolitan function. In another vein the Cape Floods in South Africa demonstrated a different scenario whereby responsibility for the management of the Crossroads flood-induced disaster, became a political contestation with no jurisdiction taking ultimate responsibility. The South African HIV/AIDS debate, particularly as it relates to the administration of anti-viral drugs and neviropine, has drawn attention to the influence of crises within IGR. While the National Ministry of Health debates the approval of the health drug system, Provincial Governments have started to administer the promotion of a healthy society through appropriate hospital management. The IGR interplay of roles and jurisdiction was still not clearly defined at the time of this study and requires further research.

International protocols and treaties that countries enter into may change the policy direction of a state and, subsequent IGR structures. The author argues that the decentralisation drive of the World Bank, as well as the structural adjustment programmes of the International Monetary Fund (IMF), have not only changed the macro-economic frameworks of loan and grant recipient countries, but also the manner in which they programme their budgets and structure their public sector spending patterns. The accompanying economic restructuring pressures such as public private partnerships brought about by such grant and loan requirements, has necessitated a review of relationships between what were traditionally state enterprises and spheres of government. The process of creating public utilities at the local sphere of government in South Africa, as evidenced in the establishment of the Johannesburg Metropolitan Government's public utilities, redefines not only the service delivery relationship between citizen and government but also the fiscal complexities around the flow of

intergovernmental grants to the semi-private entities. The above factors form part of the IGR faculty. The human resource funding and per capita cost implications for such services, remain an actuarial exercise, set to impact on the inflationary behaviour of the fiscus.

Economic paradigms as they manifest themselves in forms of economic inflection points, often shape the role of government in human interactions and co-existence, from the agrarian to the information economy. The economic inflection points do not only change the power relations between government, business and labour but also between government and citizens and spheres of government. The digitisation of information, growth of cyber-corporations, speed of information dissemination, the one-stop service culture driven by shopping malls, and the virtual retailing community requires an adaptation of government processes to this economy. The growth of cyber corporations implies a silent revolution within the government sector towards cyber government. The flow of information during this era of governance will enable IGR to be based on real time and accurate information. There may, for instance, be an identification system that keeps records of citizen information in terms of migration, health patterns, geographic per capita spending per particular service to be delivered, and so on. This will enable IGR practitioners to interact and transact with relative ease. The speed and availability of information will definitely increase the intensity of IGR and thus redefine its scope and application.

4.5.8   Demographic and geographic factors

The size of the country, the size of the population and the distribution of the population on the territory may affect IGR structures and processes (Cameron, 2000:2). States establish

intergovernmental mechanisms to suit their physical and demographic conditions. If a country is relatively small, then there is less of a need for sub-national governments, thereby necessitating an appropriately centralised state (Thornhill *et al*., 2002:12). Larger states, however, may be obliged to decentralise thereby creating a plethora of IGR challenges. Furthermore, the establishment of these mechanisms may be subject to population distribution. The size of Namibia, for instance, is 825 418 square kilometres with a population distribution of 2,1 persons per square kilometre whereas South Africa has 1219 912 square kilometres of area with a distribution of over 80 persons per square kilometre. Mauritius on the other hand has 634 persons per square kilometre but only occupying an area of 1860 square kilometres (Thornhill *et al*., 2002:77 and 103). The *intergovernmental relations* and decentralisation configurations of these countries are indicative of such demographic influences. The above issues and figures provide credence to the fact that the geography and demography of a state dictates its IGR system. The state's subscribing to regionalisation principles of asymmetry and subsidiarity, neutralises this.

4.5.9   Historical factors

The force of tradition and common political experience will affect the capacity of a state to sustain or overhaul its IGR (Cameron, 2000:4). The political history of a community tends to make its political and governance discourse to default to historical comfort zones. The South African Constitution of 1996 introduced to the South African political landscape, elements of federal government and governance that requires from government functionaries skills of discussion, negotiation, exchange and consensus building. The historical reality, however, provides experience of a centralised state managed by an Afrikaner ethnic bureaucracy that demonstrated over time loyalty to the political ideology of

the day, namely, Apartheid. The inauguration to power of a Black majority government did not neutralise this, since the Black majority know only in practice, the workings of a centralised governing system. The centralist tendencies demonstrated in the office of the current President, Thabo Mbeki, are a further indication of the influence of the British centralised system.

4.6   CONCLUSION

The theoretical co-ordinates presented in this chapter identify IGR as a historical practice of the functionality of government through public officials in the bureaucracy. The statutory use of IGR has fuelled the research impetus into the theory and practice of IGR. The relationship between IGR and federalism lays to rest the federal/unitary political divide often associated with IGR theory in South Africa. However, South Africa has a unitary type of government within a federal growth path as reflected in the political organisation and identities of sub-national jurisdictions, hence it is often referred to as quasi-federal. This chapter has identified, through the various authority relationship models, that IGR is an operating platform for governance and, therefore, ideologically neutral and subject to the computer programming adage of "garbage in-garbage out", which means that whatever your political system advocates IGR will produce.

The manner in which IGR transcends patterns of government through its human driven form and character as well as reliance on the exchange of information and views to resolve conflicts, removes IGR from the contesting domain into a process facilitation realm. The policy dimension of IGR introduces the reliance on IGR as an operating platform characterised by integrated and interlinked data filled windows on policy pronouncements such as legislation, rules and regulations, standards and guidelines. This

study refers to these as the IGR operating currency. The practice of IGR within the public administration and management discipline requires a link with the normative environment within which the discipline and, therefore, IGR operates. These were identified as supreme political authority, public accountability, public efficiency and effectiveness, legal probity and societal values.

The author has argued that several factors influencing IGR have been identified within the demarcated parameters of the study. Further to this assertion, specific efforts have been made to identify these. These theoretical and conceptual issues introduce this study to the process of IGR reform in South Africa and the associated human functions.

To this end, therefore, it is expedient to investigate the manner and process in which the whole issue of IGR in South Africa continues to unfold. IGR is one of the fastest growing contextual terminologies, with changing constitutional dimensions as it unravels itself for constitutional reform. It is within this context, that the discussion in Chapter Four will need to be observed.

CHAPTER 5

5. THE NATIONAL-PROVINCIAL INTERGOVERNMENTAL RELATIONS INSTITUTIONS IN SOUTH AFRICA: A CRITICAL REVIEW

5.1 INTRODUCTION

In Chapter Three the author argued for and presented a framework within which intergovernmental relations (IGR) can be analysed. The discourse addresses the South African quasi-federal system, which cites a number of cases for substantive analysis. The national-provincial executive IGR structures are a demarcated area of this study. The IGR faculty relates mostly to the relationship of executive institutions, particularly within the submission of this study, where IGR is an operating platform within which government decisions must integrate services for effectual delivery. The focus on executive IGR structures does not discount the equally important interacting mechanisms such as conditional grant mechanisms, intergovernmental agreements, joint administrative bodies and referrals from one level of government to another.

This chapter will examine the executive IGR structures at the national-provincial spheres of government. The following will be described: The Intergovernmental Forum established after the 1994 democratic breakthrough in South Africa; The President's Co-ordinating Council established first as The Premier Forum by President Mandela's Government and revived as the PCC by President Mbeki's Government; the intergovernmental relations committees of Ministers and Members of Provincial Executive Committees (MINMECS); the Forum of South African Directors-General (FOSAD) including the Forum of Provincial Directors-General; and the Cabinet Committees/clusters in The Presidency. The

description will be in the mode of analysis of the IGR structures that will raise questions for the construction of an IGR reform framework. Whilst the study focuses on national-provincial executive (in the constitutional sense) IGR, the unique role of the National Council of Provinces warrants attention, particularly because of the manner in which provincial representatives are appointed into the NCOP. The provincially derived mandate and the "appointment" element surrounding their selection as well as the special delegate status of 40 percent of NCOP members, creates a legislature-executive grey area in their intergovernmental role (Constitution Act 108, 1996:s62).

5.2 THE NATIONAL COUNCIL OF PROVINCES (NCOP)

The National Council of Provinces (NCOP) is one of the bicameral structures established in the South African 1996 Constitution. The Constitution defines the task of the NCOP as that of representing the provinces to ensure that provincial interests are taken into account in the national sphere of government (Mathebula *et al.*, 2002:17). The NCOP is, by design, supposed to be the melting pot of provincial interests including those of local government despite its distinct status as a sphere of government. The representative nature of the NCOP reflects a compromise-influenced shift from the previous Senate, which was, by design, not directly representative of Provincial interests. The provincial representation function is executed by the NCOP through its participation in the following structures: the legislative process; oversight over the executive; scrutiny of national and provincial executive actions affecting the distinctiveness of another sphere with an overriding power; and, participation in the activities of the Judicial Service Commission (Mathebula *et al.*, 2002:17). The NCOP's participation in the legislative process is limited to its role in constitutional amendments, matters that fall within the provincial sphere or both the Section 76 and the Section 75 legislation. In terms of the Constitution the NCOP requires

the vote of at least six provinces for a constitutional amendment that affects its operations, provincial boundaries, powers, functions or institutions or a specific provincial matter (Constitution Act 108, 1996:s65). In matters that fall within the concurrent legislative competency of national and provincial spheres (the schedule four functions) the NCOP has a veto power over a national bill that could not fetch a two-thirds majority in the National Assembly. The NCOP's views can influence the court system in matters dealing with the overriding powers of the national legislature over provincial legislation (IGR Audit, 1999:114). The NCOP has, on those matters not specified in the Constitution with regard to jurisdictional competency, a "sober and second" role on national legislation (Thornhill *et al.*, 2002:5).

The NCOP's executive oversight function is a derived function in the sense that the Constitution is not specific about the NCOP's oversight role. As an accepted public administration norm, the oversight function of a legislature is in the main that of calling the executive to account on their actions in terms of policy implementation and associated expenditure patterns. By virtue of the NCOP being part of Parliament and therefore also of the national legislative process, it has a derived power to call the executive to account, in all spheres of government on sub-national government matters. The ability to focus on provincial matters makes the NCOP a policy-integrating centre particularly in that its right of existence is based on ensuring that provincial interests are taken into account in the national sphere of government.

The review function of the NCOP includes the approval and/or disapproval of certain national and provincial executive functions. This function includes the review of delegated legislation since it is dependent on the NCOP's approval in cases of conflict between delegated legislation and a national or provincial Act (Constitution Act 108, 1996:s146). It

also includes the review of national intervention in a province in terms of Section 100(2) of the South African Constitution, which empowers national government to assume responsibility for an executive obligation of a province, should it demonstrate an inability to do so (Constitution Act 108, 1996:s100). The NCOP, therefore, is charged with the function of approving such intervention. The review of the supra-sphere intervention function is also applicable when a provincial executive assumes responsibility for an executive obligation that a municipality cannot or does not fulfil (Constitution Act 108, 1996:s139).

The NCOP also reviews the halting of transfer of funds to provinces by treasury in terms of Section 216(3) of the South African Constitution, which relates to absence and/or breach of sound financial management (Constitution Act 108, 1996:s216). The decision of the NCOP, however, may be overridden by a two-thirds majority of the National Assembly. The existence of sub-national jurisdictions of government, as a traditional feature, deals with the management of conflicts. As part of the NCOP's functions, the South African Constitution obligates, in terms of Section 125 (4), national and provincial governments to submit for resolution, within 30 days, any matter where there is disagreement over the province's capacity to administer national legislation effectively Constitution Act 108, 1996:s125 (4)).

In its participation in the Judicial Service Commission, the NCOP has a representative function, which is designed to ensure that provincial interests are included in the appointment of the judiciary and in dispensing the country's jurisprudence (Constitution Act 108, 1996:s178(i)). The NCOP as a "legislative" institution, charged with IGR, has a number of limiting factors, thus restricting its IGR decision-making abilities. During the

period of this study, the NCOP encountered an array of challenges impacting on its ability to convincingly tackle the South African IGR challenge.

The work of the NCOP is designed to ensure that all provincial interests are taken on board at the national sphere. This primary function is based on a number of assumptions. The *first assumption* is that the South African provincial system has matured to the extent that certain provincial matters can be handled outside political party allegiances and handled according to the need to put matters of the province first. This assumption implies that appointed delegates to the NCOP have a thorough understanding of the provincialism embedded in the second chamber provincial representation system. It is the submission of the author that the circumstances that prevailed in South Africa before the adoption of the 1994 Constitution equated the idea of provincial identity with the secessionist and separate development tendencies that characterised party political positions of the then "rightwing" parties. That ideological aura, accompanied by a growing denial by the traditionally communist-type commandist party positions of the African National Congress to accept the demise of central planning, as demonstrated by the collapse of the eastern European countries, made the provincialist work of the NCOP difficult, as far as IGR is concerned.

The growth of provincialism started to take root immediately after 1994 when South African Provincial Premiers, including those from the ANC, demanded more powers from the center. This push for devolution and provincial identity-in-government within the ruling party and coalition has appeared more muted since the inauguration of the President Mbeki government. The silence should however not be construed to be in compliance with the growing centrist tendencies, but could be perceived as a function of President Mbeki's style of keeping dissent behind closed doors. The perceived slow maturation pace of

provincialism within the NCOP should also be seen within this context. There is however, certainty in the fact that as provinces grow in capacity and confidence (particularly because they perform the key step between the policy of central government and its implementation) they will begin to impact on the provincialism requisite in NCOP activities. The reality however, is that an acceptance of the peculiar and material conditions defining the South African provinces dictate the embrace of provincialism as a guiding principle for NCOP functioning. These conditions manifest themselves in the form of ethnic, racial, industrial and cultural concentrations that define the demographic landscape of the country.

The *second assumption* is that the NCOP has political clout that can override, overrule and, in some cases, completely block a policy emanating from the National Assembly. The reality is that delegates sent to the NCOP enjoy a relatively low political status in comparison to other political representatives in legislative bodies. The permanent delegates sent to the NCOP are in most instances, politicians of a lower rank on the party electoral lists, thereby devaluing the institution to the level of a political depository, with the exception of the chairperson of the NCOP. The interesting development is the growth in requests by NCOP politicians to be re-deployed to local councils by the party deployment committees. Further to this problem is the fact that in the current NCOP there are few members who are serving on the ruling party's National Executive Committee and this translates into a particular measurement of the political influence and stature of the NCOP.

The author further argues that the devaluing of the NCOP could further exacerbate the turnover rate of permanent and special delegates, thereby reducing the level of political confidence required of NCOP delegates. The fact that NCOP delegates are not directly elected, which would boost their political credibility and standing, does not only liquidate

the political courage of individuals therein, but also the political might of the NCOP. Rapoo, cited in Opeskin (2001:1), notes that since most NCOP appointees are from provinces controlled by the ruling coalition, the political ineffectiveness of the NCOP is therefore guaranteed. Signs of dissent from the NCOP started growing when a relatively senior party member, Patrick Lekota, elevated the importance of the NCOP (Opeskin, 2001:1). This was however, curtailed by his appointment as Defence Minister under the President Mbeki government, thereby, causing the NCOP to revert to its former position. A review of party delegates who should be in line with promoting and encouraging in-party provincialism and provincial co-options, will have to be embarked upon. The review should target the raising of the political stature of the NCOP and its delegates.

The *third assumption* is that the NCOP has a well-maintained relationship with provincial legislatures. The relationship between the NCOP and provincial legislatures should be characterised, in the main, by regular feedback, legislated and/or proclaimed provincial mandates and joint hearings. The existence of a communications infrastructure should transcend the geographical limitations imposed by the location of the NCOP and provincial legislatures and present an opportunity for NCOP hearings to be synchronized on-line with those of provincial legislatures, thereby enabling the NCOP to tap into the relatively dormant political capacity, abundant in Provincial legislatures. The apparent non-involvement of provincial-executive structures (unless summoned) as a result of the attitude of the national executive toward the NCOP, does not only weaken the efficiency of the NCOP but also diminishes the collective positive attitude of Provincial executives towards the NCOP. The ineffectual functioning of the NCOP as an IGR legislative institution validates a need for an effectual provincial legislative and administrative process.

The pace at which provincial governments dispense of their responsibilities will be reflected in the NCOP's ability to have "teeth". The overplayed distinctiveness of spheres of government, political ambivalence about the future of provinces and an undefined form of state, undermines the NCOP as an IGR instrument. The work of provincial legislatures, therefore, should be synchronised with that of the NCOP thus ensuring that all provincial legislation that does not emanate from a nationally legislated mandate, has recognition within the national parliamentary system. The integration of activities of other executive intergovernmental structures to inform the provincial legislative process simultaneously with the national process will increase NCOP relevance and protect provincial interests in Parliament.

The *fourth assumption* is that the NCOP delegates possess above their advanced political sense, the technical and diplomatic skills required of an integrating institution. The political advancement of most NCOP delegates was a result of the historically defined challenges that faced South Africa as a nation and, the pre-career socialization of most delegates and hence, it can be deduced by implication that few delegates chose to be in the NCOP. The reality that most politicians in South Africa chose their current career paths as their ongoing responsibility to liberation or to "the struggle" has had an impact on the efficiency and functioning of government: the NCOP in one example. The growing political careerism and its competing party deployment system that characterises the SA political landscape exacerbates this anomaly. The requirement for real time information for NCOP delegates is dependent on their ability to access such information and that requires more than just political advancement, it also requires technical skills. The skills level of some of the permanent delegates is still undergoing constant development; given the reality that some of them had little to no formal education (IGR Audit Report, 1999:116). Ideally, the

introduction of relevant and more formal training for NCOP delegates should become a priority for NCOP.

The *fifth assumption* is that the national and provincial legislative programmes are synchronized in those matters categorized as Section 76 legislation. The South African budget cycle which gives provinces and state departments an opportunity, well in advance, to send their estimates to treasury, is a good (though not perfect) example of how the legislative programme of legislatures can be synchronized (Treasury Regulations, 2000:8). The present state of affairs is that most legislation is considered by the NCOP after it has been negotiated at an "executive" level with provincial executive committees, relevant provincial standing committees, the national executive as well as committees of the National Assembly. The process before NCOP consideration can extend to more than one parliamentary session whereas the NCOP is limited to consider such legislations within four weeks. This process does not preclude the NCOP from seeking recourse to become involved in the intergovernmental forums that precede the tabling of such legislation at the NCOP. These may include deploying its research contingent to those forums albeit dependent on the availability of a set programme.

The *sixth assumption* is that the NCOP has the capacity and resources to handle the IGR function. The intervention review function of the NCOP, at present, is made possible by the relatively low cases of supra-national intervention to sub-national units. The research and study-intensive nature of the intervention review function of the NCOP operates within a sub-minimal research culture prevalent in both national and provincial legislatures. To illustrate the incapacities, the NCOP by law, is composed of 90 members of whom 54 are permanent and 36 are special delegates. The delegates have to operate in 11 joint committees of the National Assembly in addition to the NCOP standing committees.

These result in NCOP functions being both non- and human resource as well as time intensive.

Relief would be possible if provincial legislatures would consider the activities of the NCOP and send them to the NCOP for ratification. Despite the fact that this is a resource management issue, the reality is that some legislatures have 30 members of provincial legislatures, including the speaker and other presiding officers. This state of affairs renders the NCOP unable to cope with the exacting demands of legislative scrutiny and analysis (IGR Audit Report 1999:116). The establishment of an NCOP specialised bureaucracy headed by a functionary above the position of chief-director and accountable to the NCOP chairperson should be considered as an NCOP capacitation programme. The functions of this functionary should include the co-ordination of the provincial legislative process with the National legislative process and with the National legislative timetable. NCOP delegates should be provided with adequate research and follow-through capacity by such an office.

The *seventh assumption* is that the party political system is friendly to a decentralised view of provincial matters, thereby allowing conscientious opinion making. The design of the NCOP is such that its members are selected by and are accountable to provincial legislatures and by default, to the provincial ruling party. The origin of the NCOP as a second chamber is traced to the German model that is composed of representatives of the executives of member states of the federation, who are usually ministers in the member state cabinet (De Villiers, 1993:8). Whilst the German system is as asymmetrical as the South African one, it is based on the will of the member state executives and, therefore, is multiparty in nature. Reminiscent of majority governments, the South African government, with an overwhelming two-thirds majority African National Congress (ANC) – Inkatha

Freedom Party (IFP) coalition government of national unity, makes the NCOP a rubber stamp of some national positions. This is compounded by its constant participation in joint standing committee matters thereby creating a national representative identity as opposed to being a provincial interest custodian.

The central dominance of the executive structures of the two parties as well as the centrist tendencies visible in the leadership style of the ANC and IFP presidents, further creates a rubber-stamping environment that conditions the NCOP. Lorimer (2001:1) notes that South Africa's ruling party has a powerful majority in Parliament, controls seven of the nine provinces and is in a coalition government in an eighth. The central party discipline of the dominant political party in the NCOP, the African National Congress, also promotes the brokering of legitimate provincial/national disputes within party political lines. As these are often subjective in nature they tend to limit any vibrant debate within and among provinces that should characterize the NCOP. The key tension however, is the inherent centralist value system amongst delegates of the ruling party, contrary to what the Constitution advocates. The combination of a federal framework with a ruling coalition with centrist tendencies has, according to Lorimer, undermined the elaborately written constitutional measures aimed at protecting the rights of provinces and accordingly the provincialism that should underpin the NCOP (Lorimer, 2001:2).

The above assumptions have attempted to define some of the perceived or real issues, which plague the legislative branch of IGR. In the analysis of the NCOP through the mentioned assumptions, it becomes clear that IGR between the national and provincial sphere occurs, in the main, at the executive level of government. The executive structure of IGR is a critical part of this thesis. This thesis will further address critical issues for

reform and reconstruction of IGR for a comparative analytical overview. We will, therefore, examine other national provincial IGR structures.

5.3   THE INTERGOVERNMENTAL FORUM (IGF)

The 1994 democratic breakthrough, as confirmed by the swearing in of President Nelson Mandela as the first Black President of South Africa, marked a new era in the operation of an intergovernmental system. The electoral provincial victories of the Inkatha Freedom Party and the National Party in KwaZulu Natal and the Western Cape, determined the necessity to align national policy pronouncements with provincial priorities of non-ANC governed provinces. The demographic make-up of the South African settlement patterns characterised by gross underdevelopment in historically Black areas and a seemingly first world development in historically White areas also identified a need to integrate government efforts in a multi-sphered approach. The election manifestos of the three major political formations propagated a governing system that had to find a compromise position on a highly centralised but re-distributive government to an extremely decentralised re-distributive government continuum.

The Mandela government, therefore, was faced with the immediate challenge of establishing an IGR system that had to ensure each sphere of government respected the constitutional status, institutions, powers and functions of the other sphere. The anti-unitarist political emotion that characterised some of the working groups, which was still alive at the inauguration of the new government, pointed to the generic approach that the executive followed in designing an IGR system. The reconciliation approach and style of President Mandela created a reconciliatory administrative aura that was characterised by unlimited transparency, sufficient consensus, inclusivity, consultation and political

compromise. The constitutional principles as enshrined in the 1993 interim Constitution were at this historical stage beginning to permeate into the deeply held views about government across the political spectrum. The rainbowist approach to nation building accompanied by the "sunset clause" compromise philosophy began to dictate the milieu within which the various spheres of government had to operate. The above atmosphere was to guide and determine the form and structure of the intergovernmental forum (IGF).

The establishment of the IGF was based on the need to promote co-operation on matters of mutual concern to all spheres of government. Its membership was limited to include, on a permanent basis, the entire national and provincial executive, including directors-general and provincial heads of departments (IGR Audit Report, 1999:17). The Chairpersons of the NCOP and Portfolio Committee on Constitutional Affairs represented the legislative arm of government as evident in the IGF. The Chairpersons of the Financial and Fiscal Commission, Public Service Commission and a representative of the Independent Electoral Commission were also members. The IGF's composition reflected the multi-sectoral nature of IGR and was thus inadequate considering the service delivery institutions that were outside government. The IGF's terms of reference include the following: discussion of important line function matters and issues that were potentially conflict-laden; consideration of functions that could not be discussed by MINMECS; formulation of an integrated and co-ordinated intergovernmental policy and development framework; addressing of multi-sectoral policy and constitutional issues; and discussion of matters pertaining to effectual governance and governmental resource matters, including those financial and fiscal (IGR Audit Report, 1999:16).

The main function of the IGF was to implement Chapter 3 of the Constitution, although the exclusionary elements in its composition affected its original mandate to succeed (IGR

Audit Report, 1999:16). Politically speaking, the IGF was supposed to work because of its intentions but this did not materialize. However, precedents from countries like Canada have shown that different provinces still attempt to co-operate whether based on a federal structure or that of a confederation. The establishment of the Canadian federation necessitated closer IGR and institutions to facilitate co-operation. The federal-provincial conferences that can be likened to South Africa's IGF grew in stature and purpose despite their non-statutory and non-constitutional nature (De Villiers, 1993:7). The Nigerian Council on IGR, is a neutral technical body charged with the objectives of representing a Nigerian equivalent of the South African IGF, namely, monitoring the functioning of the federal system and making recommendations on the improvement of intergovernmental relations; undertaking research on the federal relationship; and providing a platform for co-operative discourse, interaction and research and governance (Kuye in Konrad Adenauer Stiftung Seminar Report No7, 2001:21).

Reminiscent of the political need and aura of the time, the IGF was expected to accomplish the following: to promote consensus between spheres of government; to ensure implementation of identified programmes; to provide a multi-lateral, intergovernmental, policy planning and implementation directive platform; to provide a strategic political platform for policy dialogue, intergovernmental consultation, co-operation, consultation and joint decision making between political executive office bearers and the bureaucracy across the three spheres of government; and to facilitate interaction at the highest political level (IGR Audit Report, 1999:17). The structure of the IGF in terms of composition, functions and terms of reference, implied by design that the agenda for the IGF would be amorphous. The core activities of the IGF relegated and/or upgraded it to become an un-elected parliament for there would practically be no issue that it could not discuss, a matter chiefly responsible for its demise. The sheer size of the forum could not

encourage and accommodate meaningful dialogue. The IGF's institutional location was the Department of Provincial Affairs and Local Government (formerly known as Department of Constitutional Development) that determined through a "consultative" process the agendas and facilitated the meetings (IGR Audit Report, 1999:17). The IGF was South Africa's attempt at an inclusive forum of government officials and politicians to meet and consider line functions and strategic matters of governance.

The size and nature of IGF's function grew commensurate with the development challenges facing the country, thereby necessitating an almost continuous review of its agenda length, frequency of meetings, composition and the extent of technical support required. As an intergovernmental structure, the IGF provided an operating platform for the evolution of an IGR system. However, since evolution targets, as its first casualty, large structures and entities, the IGF also succumbed. The important role that it played in the early stages of the Government of National Unity was that it afforded the country's elected and appointed leadership an opportunity for growth in terms of an all-inclusive-governance path. As mentioned in the IGR audit report the IGF failed as a multi-lateral, intergovernmental and policy planning body upon which government could rely for support, advice and implementation of its reconstruction and development plan (IGR Audit Report, 1999:20).

The failure of the IGF to become an effectual IGR mechanism, however, does not imply the demise of the concept of getting the highest political and administrative leadership of the country together for co-ordination. The proper functioning of the IGF would be dependent on a number of prerequisites. These will be proposed as recommendations of the study in Chapter Six.

The IGF provided South Africa with an opportunity to experiment with its consultative and consensus driven government approach to IGR. The IGF was created at a time of chaos and political confusion in South Africa. Based on its intent at that time of SA's post-apartheid history, it temporarily served a viable function. However, now is the time for reform, reconstruction and re-visiting. It is the author's observation that, the apparent lack of decision-making that characterised the IGF alerted the ultimate decision-making centre of the Executive which is The Presidency, to reconsider the Intergovernmental mechanisms which could be appropriate to the new South African situation. The potential of the IGF as an IGR mechanism should neither be underrated nor overestimated as an evolutionary approach that recognises the history, currency and strategic future of the country. Some of these propositions, calling for a strengthened approach of The Presidency in the activities of the IGF, draw support from the erstwhile Presidential Review Commission which noted that "concerns about weaknesses at the centre of government were a recurring theme during public hearings" and that the Office of The Presidency (now reconfigured as The Presidency) ought to be "the core and apex of the whole system of governance in South Africa" (Presidential Review Commission, 1998:29). This will be covered in the analysis and recommendation part of this study.

5.4   THE PRESIDENT'S COORDINATING COUNCIL (PCC)

The functioning of the Intergovernmental Forum and its associated dysfunctionalities triggered a review of the IGR system between the national and provincial spheres of government. The Intergovernmental Forum (IGF), by establishing a Premiers' forum as a structure between its meetings, recognised the central role of Premiers in the inter-sphere governance interface. It was during the 1999 Intergovernmental conference that Provincial premiers began to question their actual role in IGR, a primary concern being the absence

of a national-provincial forum at the highest executive level (IGR Audit Report, 1999:28). The idea of a Presidential Co-ordinating Forum (PCC) arose from those concerns, and was established as a first IGR policy directive of the Mbeki government in October 1999. The terms of reference for the PCC were derived from the constitutional, positional and political role of Premiers as executive heads of Provinces.

The 1996 Constitution prescribes, other than directives for management, the following as functions of Premiers: implementing and monitoring policy and the application of legislation in accordance with the Constitution, including consulting and reporting on the fulfilment of executive obligations to national government and various intergovernmental structures; and, developing and implementing provincial policy (Constitution Act 108, 1996:127). The Premiers have the additional roles of: championing urban and rural development; promoting good governance in the provinces, including sound financial administration, accountability, transparency, constitutionalism and civic responsibility; intergovernmental co-ordination with local government and the integration of service delivery in local government; administration of key national functions assigned to the provinces or shared with national government, where a high political profile is required; and promoting effective intergovernmental co-operation and relations with other provinces, national government, the NCOP and local government (DPLG PCC Discussion Document, 1999:5-6). The Premier as a *de facto* political chief executive of the Provincial government, has the following duties: overall management and co-ordination of the functions of the provincial administration and its departments; human resource development; championing the transformation of the public service within the province; strategic planning; and the outreach function of strategic liaison and communication with communities and the public (DPLG PCC Discussion Document, 1999:6).

The distinct feature of the PCC compared to the IGF is that it hopes to have an IGR focused strategic agenda that deals with the substantive issues of provincial governance. The PCC will provide Provincial Premiers with an opportunity to act jointly within the chapter 3 constitutionalised principles of co-operative governance giving impetus (together with National government) to their oversight, monitoring and evaluation of sub-national government services (IGR Audit Report 1999:28). The PCC is designed to ensure that all matters of concurrent concern amongst spheres are dealt with in the best manner possible. The composition of the PCC, which includes the DPLG will ring-fence local government transformation and delivery at the highest possible political executive level of government.

The PCC, during its 1999 inception, identified the following as its key functional areas:

• Avoiding of supra-national intervention in terms of Sections 100 and 139 of the South African Constitution;

• Containing the harmful consequences of the local government municipal demarcation process that would potentially nationalise South Africa's local government structures from over 800 municipalities to 284 municipalities;

• Managing, collaboratively, the newly created cross-border municipalities with their socio-political jurisdictional intricacies;

• Oversight of a single planning process that integrates planning with all three spheres of government;

• Establishing a co-operative model for communication and consultation with the institutions of traditional leadership; and

- Facilitating the use of information technology and sound management systems including financial management and the one-stop shop concept of concentrating service delivery at accessible locations for the citizenry (DPLG PCC Discussion Document, 1999:6).

The PCC is a current structure and therefore subject to scrutiny as it evolves. The PCC represents a critical stage in the evolution of South African IGR because it integrates the Executive. Elsewhere in this study, the author has submitted that IGR should be seen as the software behind the reconciliation of competing interests in the public policy market place. The PCC's design positions itself as an institution that can perform such functions because it enhances the political status of IGR; it provides an integration approach towards service delivery; it increases its decision-making capability relative to the IGF and Premier's forum; and it removes the adhocracy reminiscent of the previous forums, provides for a secretariat and meets as frequently as it can afford.

The institutional location of the PCC makes its operations vulnerable to competition with other central co-ordinating departments. Questions of cost within the PCC will continue to be thorny issues on the South African IGR evolutionary landscape and include: the prioritisation of service delivery areas; the executive nature of the PCC's decision vis-à-vis those of national and provincial cabinets; the position and role of sectoral executive IGR structures such as MINMECS and the budget council; and the role of constitutionalised bodies such as the NCOP. The growth in importance and the strategic position of the PCC, make the above questions and issues develop into areas of contestation and political discourse. This study will provide guidelines for review, reform and restructuring.

5.5 THE INTERGOVERNMENTAL RELATIONS COMMITTEES OF MINISTERS AND MEMBERS OF PROVINCIAL COUNCILS [MINMECS]

South African constitutional history is characterised by a maturation process that is inextricably linked to its socio-political and economic growth. The concentration and deconcentration of industrial growth instructed past governments to incrementally centralise the commanding heights of the South African economy and thus increase the scope of concurrent functions. The growth of concurrent functions meant the growth of national Cabinet portfolios as well as Provincial executive committee positions of the erstwhile four-province Republic of South Africa. The introduction of the tri-cameral parliament with its legislative and executive institutions created yet additional own affairs executive centres that required co-ordination and integration. This was to be compounded by the parallel existence of black self-governing territories, the nominally independent TBVC states as well as the Department of Bantu Affairs in its evolutionary name changing states. The existence of these structures during the period that preceded the 1993 Constitution also represented an IGR intensive state and therefore, had to have IGR committees for the national and sub-national executive.

The similarities in the evolution of decentralization, IGR and federalism in South Africa, Canada and Australia as a result of their relative reliance on Westminster "guidance" reflect the conventional nature of MINMECS. In Canada these are referred to as Ministers Meetings and enjoy the technical support of the Federal Provincial Relations Office, which informs deliberations in most ministerial meetings (De Villiers, 1993:8) The Australian equivalent is the Ministers Council that formulates coherent national policy, undertakes planning and implement policy (De Villiers, 1993:6). This is done through the exchange of information, negotiation of financial grants, the formulation of uniform legislation and the

administration of joint administration agencies similar to cross-border municipalities in South Africa (De Villiers, 1993:8). The notion of MINMECS therefore, is a product of the constitutional history of South Africa and evolved as a result of past practice and convention.

The purpose of MINMECS is to provide for a platform for National Ministers, Provincial members of executive councils and organised local government to transact and interact at an executive level on matters of mutual concern. The critical drivers for this interaction and transaction are the encouragement of a common understanding of goals, the provision of strategic direction, the utilisation of the forum as a means for co-operation, alignment and policy co-ordination, and putting into practice the principles of co-operative government as espoused in Chapter Three of the South African Constitution (Levy and Tapscott, 2001:91). The generic terms of reference for MINMECS are identified as the following: the provision of mutual advice on sectoral issues; anticipating potential areas of intergovernmental conflict; co-ordinating the policy and legislative development process; determining within a national framework's long- and short-term priorities; discussion of fiscal and budgetary matters affecting the provincial sphere of government; and exchanging information and discussing any matter referred to it by participating executives (IGR Audit Report 1999:36). MINMECS are by design limited to sector-specific issues and, therefore, require an intersecting mechanism to co-ordinate their activities.

The generic composition of MINMECS includes the National Minister on a permanent basis, nine Members of provincial councils representing each province in that sector and Organised Local government recognised in terms of the Organised Local Government Act, Act 52 of 1997 on the proviso that the particular MINMECS deals with issues affecting local government in an executive sense (Thornhill *et al.*, 2002:27-59). The technical

management of MINMECS is left to Directors-General and heads of provincial departments, and the Minister chairs all meetings (Thornhill *et al.*, 2002:27-59). Except for those MINMECS that are established in terms of an Act of Parliament, MINMECS are non-statutory bodies patterned within a consensus-driven architecture. Their decisions are not binding upon constituent role players, but can be treated as priority recommendations for relevant executive and legislative centres.

The manner in which MINMECS reports to Provincial government remains questionable, since there is insufficient evidence to suggest that its matters are given appropriate executive attention in Cabinet or Provincial Councils. The status of MINMECS decisions also affects the efficacy of the system, hence the growing debate on the desirability of legislating and/or formalising MINMECS. The experience of the Budget Council and the Committee of Education Ministers as statutory bodies will provide an interesting case study regarding the legislative effectiveness of ministerial committees (Thornhill *et al.*, 2002:27-59).

The operation of the MINMEC system, particularly because most of them are non-statutory and therefore not legally binding, triggers a number of process questions. These questions range from the reliability of feedback mandates to and from the MINMECS, the time-lapse to be allowed in the consultation and consensus seeking process, the nature and scope of agenda items particularly as they relate to costing, the binding strength of their decision and/or recommendations to constituents, their position within the policy making and implementation process, and the reconciliation of politically driven dominance by the party in debates versus the need to create a consultative ambience within MINMECS (IGR Audit Report, 1999:39-40).

There is a further need to question the position-influence and role of the bureaucracy *vis-à-vis* that of the articulation of political mandates derived from the electoral process, the synchronization of MINMECS forums with the critical stages of the national budgeting cycle including that of local government, the intensity of meetings required as well as the level of representation on certain agenda items, to how statutory and integrated MINMECS should be (IGR Audit Report, 1999:39-40).   As national-provincial IGR structures, MINMECS would require co-ordination with other intergovernmental forums, thus enhancing decision-making and, therefore, service delivery.   The how-to of integrating such structures is a target point for parts of this study as will be discussed in subsequent sections.

5.6   FORUM FOR SOUTH AFRICAN DIRECTORS-GENERAL (FOSAD)

The submission that IGR is a human activity and therefore subject to the value systems of the persons involved, provides a good reason why a structure for Directors-General is a necessity for IGR.   The appointment of a person into a position of Director-General assumes the person's managerial capabilities required for such a position.   Master, as cited in Adie and Thomas, (1982:296), submits that truly meritorious performance in public administration will depend at least equally upon the values, the objectives and the moral standards which the administrator brings to his decisions and upon his/her ability to weigh the relevant premises judiciously in his/her approach.   The position of Directors-General in the government's administrative and service delivery machinery triggers the traditional bureaucracy-politician debate.

The common view of the bureaucracy, which is not different from the generic view in most commonwealth countries, is that elected representatives should control a bureaucracy

(Adie and Thomas, 1982:262). There is a growing acceptance for the commonwealth view that bureaucracies (namely, appointed officials) must be loyal and responsive when new parties (namely, governments) come into office. This view, however, is conscious of and sensitive to the politico-administrative dichotomy that often characterizes the bureaucratic dilemmas of obedience and independence; stability and adaptability; administrative power and restraints on power; and co-operation and resistance (Adie and Thomas, 1982:262). These dilemmas define the daily challenges of Directors-General in South Africa, as they often have to strike a balance between these competing realities. Directors-General are collectively responsible for the biggest public budget and are therefore critical catalysts of the consumption of commodities and services in the South African economy. The collective purchasing power of the departments they are heading can potentially build and/or break down the pace and direction of economic growth, and where there is no economic growth, the accompanying social problems could destroy the legitimacy of the political system.

The strategic "position" of South African Directors-General to promote the co-ordination of socio-economic growth and government, and balance the politician-bureaucrat co-option therefore, dictates a need to establish a forum that enables Directors-General to interact both as persons, colleagues and administrative office-bearers. The South African Cabinet, in recognition of the professional and positional status of Directors-General (DGs) established a non-statutory forum with a mandate to help in policy co-ordination and the facilitation of vertical and horizontal intergovernmental co-operation (IGR Audit Report, 1999:40). The design, form and nature of the Forum of South African DGs is such that it could only co-ordinate and implement national policy, advise elected government officials, as well as actioning Chapter 3 principles of the South African Constitution, Act 108 of 1996.

The above functions form part of the interacting and transacting arm of governance, which the study refers to as IGR. FOSAD has the following IGR roles: fostering a dynamic interaction between political structures and those of appointed persons at national and provincial levels of government; horizontally and vertically co-ordinating government activities; brokering sound relations between DGs and Members of the National Cabinet; directing public sector management and transformation; providing technical service to the national-provincial intergovernmental forum; and facilitating the establishment and sharing of best practices in public management (Thornhill *et al.,* 2002:21). The assumed, expertise in FOSAD is one of the critical assets justifying its existence since cabinet is expected to benefit from its collective application.

The 1994 democratic breakthrough, apart from triggering South Africa's re-distributive development agenda, also unleashed a need for "suitably qualified" human resources to occupy senior public sector positions within a demography-reflecting equity system. The dominant human resource deployment paradigm after the 1994 elections was to resource public sector bodies with the "best" available Black brainpower. Public sector bodies refer here to both the political and administrative sections of government activity. The result of this deployment was that persons in the public service, who were politicians in their own right, and as a result of pre-career socialization, ended up occupying senior administrative positions ranging from of Director to Director-General. The consequence of this deployment became a public service corps composed of 'generals' and 'commanders' at the management echelon.

The historical reality about most DGs created a perception that they viewed themselves as the ultimate authorities to the extent that some national DGs perceived themselves to be

politically above Provincial Premiers and Members of Provincial Executive Councils. The historical political position of some DGs caused them to be viewed within the realm of political competition. The growth and development of governance politics, therefore, dictated to members of the executive to assume that DGs would, if allowed to operate in a forum like FOSAD, sequestrate Cabinet's ability to direct public policy and service delivery priorities. The most important gripe of this assumption is that DGs, with accounting officer powers bestowed upon them by various finance legislations, would be "politically" more powerful than Ministers. The validity of this situation is aptly captured in this study when it declares in Chapter Three that IGR will always be held to ransom regarding attitudes, perceptions, affiliations and egotistic whims of elected and appointed officials.

Despite the above "political" position of DGs, there are still strategic functionaries in the completion and resolution of the South African IGR impasse. FOSAD provides the highest institutional platform for public management and policy "think-tanking" in a semi-statutory setting. However, the challenge for DGs in the current politico-historical milieu, is to strike a balance between the degree to which they would be responsible for and/or accountable to the Constitution (and therefore, the SA citizenry) for their collective performance, and the degree to which they would be responsible to individuals (through established dominant coalitions such as political parties and ideological communities) for their performance. Encoded into the process of appointing DGs in South Africa are various subjective processes that are in the main, characterized by political party loyalty, ethnic origin, struggle history, political exile status, racial status within the affirmative action programme as well as identification and loyalty to dominant individuals within the ruling elite. The public policy service delivery, including of course the IGR implications of the above characteristics, are chief ingredients for a controlled migration of a state from a multi-party democracy to a pure multi-partied one party democracy, a democracy with a

parliament consisting of different parties but locked into the will of the dominant majority party. The accompanying resourcefulness of FOSAD members makes it one of the few taxpayer-financed think tanks in South Africa.

The role of FOSAD, according to its founding document, is to assist in good governance and best practice within the public service and to promote the basic co-operative governance and public administration principles as set out in Chapters 3 and 10 of the constitution (Thornhill *et al.*, 2002:22). The atmosphere within which FOSAD was founded was not that of creating a Technical Intergovernmental Committee to support the IGF, but rather as an institution that would incorporate other existing structures and meetings by Directors-General (IGR Audit Report, 1999:58). Different from the IGF technical committee(s) FOSAD would craft the unique role of assessing the adequacy of existing and proposed legislation, addressing matters of professional management, and dealing with matters beyond conferences and meetings (IGR Audit Report, 1999:58).

The defined roles and terms of reference of FOSAD, to casual public management analysts and inexperienced politicians, mirrors a bureaucrat's trade union and/or a Cabinet of DGs. According to Vil-Nkomo when closing an IGR school programme of the PAIR Institute (August, 2001), FOSAD should have the capacity to attract to some of its meetings DGs from the previous regime, resigned DGs, DGs from other countries particularly those that resemble the unique transitional features that South Africa has, accomplished corporate leaders from parastatals and private sector bodies, and members of the science and intellectual community. The professionalism assumed within FOSAD should reflect at its core a capacity to build bridges between abstract, historic and comparative knowledge and concrete policy issues, so as to arrive at recommendations for

action based on the best possible data, theories, creativity, analysis and contemplation (Dror, 1997:8).

The position and role of FOSAD in the South African IGR setting is unquestionable – the issue is how other IGR structures relate to FOSAD thereby eliminating, in operational terms, a duplication of resources. The assumed intellectual repository inherent in FOSAD should be viewed as having sufficient capacity to be able to provide a review service on the strategic direction of cross-cutting issues and the monitoring of policy alignment. The existence of un-co-ordinated IGR structures creates a culture of duplication within the South African IGR system. This study will propose guidelines for consideration, which could address this issue.

5.7 CABINET CLUSTERS (COMMITTEES) SYSTEM IN THE PRESIDENCY

The Executive Authority of the Republic of South Africa is vested in the President who exercises it together with members of the Cabinet (Constitution Act 108, 1996:s85). Cabinet is defined in the Constitution as being composed of the President (as its head), the Deputy President and Ministers. Cabinet exercises its authority by implementing national legislation unless otherwise stated by law, developing and implementing national policy, co-ordinating functions of state departments and administrations, preparing and initiating legislation, and performing all such duties as may be assigned to it by the Constitution and national legislation (Constitution Act 108, 1996:s91). The horizontal and vertical intergovernmental nature of Cabinet makes it the highest constitutional executive intergovernmental relation structure.

The South African Cabinet has historically operated on the basis of Cabinet committees (Cloete, 1988:143) that facilitated solidarity and confidentiality. The doctrine of collective ministerial responsibility is primarily a convention, rather than a legal requirement, albeit the critical need for democratic control over the use of political power (Adie and Thomas, 1982:263). The function of these committees was to support the Cabinet decision making process by facilitating the integration of sectoral policy decisions towards a nationally co-ordinated policy (Cloete, 1988:143). Three years into the government of President Mandela, he appointed a Presidential Review Commission (PRC) with the mandate to evaluate government's performance. The Commission identified the need to strengthen the Cabinet and recommended the establishment of a Cabinet Office comprising a Cabinet Secretariat and Cabinet Operations; this was effected in 1999 (Cabinet Working Document on Cabinet Structures, Functions and Systems, January 2000:3). The PRC identified the period preceding the Cabinet Office era during which twelve inter-ministerial committees performed the functions of a Cabinet committee, as being a meeting- and a time-intensive process that delayed decision making (PRC Report, 1988:19). The overall recommendation of the PRC was for the Cabinet Office to cluster service delivery areas into manageable entities capable of having their performance appraised and managed (PRC Report, 1998:33). In pursuit of this rationalisation process the President Mbeki government, after a study of various Cabinet systems in the world adopted a Cabinet clustering system similar to the British super ministerial cabinet committee system introduced during the Margaret Thatcher government (Carstens, 2000:103-105).

The President Mbeki Cabinet established six Cabinet committees to facilitate creative, cross-sectoral thinking on policy issues and to move away from agendas driven by narrow departmental interests to an integrated approach to governance (Cabinet Working Document on Cabinet Structures, Functions and Systems, January 2000:4). The President

or the Deputy President chairs the Cabinet committees. Inter-ministerial committees would be collapsed into the new committees. The management and administration of the new system would be undertaken by the Cabinet Office located in The Presidency under the administrative leadership of a "National Director-General" (Cabinet Working Document on Cabinet Structures, Functions and Systems, January 2000:3). According to the Cabinet Working Document, the functions of the Cabinet office are as follows: to support Cabinet in providing basic services of a Secretariat, ensuring consistency between Cabinet decisions and its strategic framework and priorities; ensuring co-ordination among departments in the introduction and implementation of policies in order to discourage the pursuit of sectoral interests to the detriment of national objectives; the screening and quality control of integrated memoranda before they are put before Cabinet; and to provide a follow-up service on outstanding Cabinet matters (Cabinet Working Document on Cabinet Structures, Functions and Systems, January 2000:3).

The Cabinet committees would receive support from DGs of the corresponding state departments in a cluster (Cabinet Working Document on Cabinet Structures, Functions and Systems, January 2000:3). The day-to-day administration of the committees would be concentrated in the Policy and Advisory Services Unit in office of The Presidency. The unit would create positions at the Chief-Director level, which would be linked to a corresponding DGs cluster (Cabinet Working Document on Cabinet Structures, Functions and Systems, January 2000:3). The frequency of the Cabinet committees meeting would be set for at least once a month and, at most twice a month. The Policy Unit in The Presidency would implement a monitoring function. The Cabinet cluster system, to date, has increased the collective control of Ministers and The Presidency over the general policy direction, but it has also compromised and/or qualified the extent to which individual

ministers can be held responsible for the policies in their domains (Adie and Thomas, 1982:289).

The outcome-output dichotomy, as it relates to government, illustrates the individual ministerial responsibility issue succinctly. The author defines outcomes as describing the results that government as a service delivery entity ultimately wants but has no total control over, while output represents a set of activities and deliverables that an entity produces and has total control over in the production process. Cabinet Clusters, therefore, by design are concerned with broad government outcomes that are dependent upon the contributions of individual ministries and other defined executive centres of the state. The focus of these clusters on outcomes, positions them as the ultimate strategic decision integrating centres before Cabinet within the broader IGR system. Like other executive IGR structures, the Cabinet cluster system assumes in its design that matters under consideration in the clusters represent the collective decisions of "sub-ordinate" and "sub-national" IGR structures. The views of Provinces and local government are taken on board in the clusters through DGs and Ministers who interface with the different MINMECS. The truth, however, is that decisions of other IGF structures are considered indirectly, and through cabinet cluster role players. The ensuing chapter will explore this in detail.

5.8   CONCLUSION

The national-provincial IGR assessed in this chapter reflects a critical need to review these structures in order to encourage synergy and co-ordination. The composition of these structures has the representation of DGs as a common feature in all of them, thereby indicating the central role public officials play in IGR. The political role of the executive is

the second common feature of these intergovernmental structures, their role here serving to interface electoral mandates based on party political manifestos and administrative challenges.   The reconciliation of the competing interests of sub-national jurisdictions lends further credence to the continued involvement of legislatures in IGR. The factual co-ordinates around the South African IGR system at national and provincial level, as critically reviewed in this chapter, triggers a number of analyses and raises a number of questions.

Questions raised are as follows: how IGR structures should be integrated to provide an IGR system based on the flow of decisions; what are the executive challenges facing national and provincial IGR; what should be the key functions of the different national IGR structures; and whether an IGR structure should be legislated or not? These questions will remain issues for research for many generations.   The reform focus of this study will provide a proposal for the construction of the national-provincial IGR system required to produce a framework for reform, in the next chapter. The framework will be submitted as a rationalisation proposal with a leadership-driven approach to achieve the aims of government within a functional governance-restructuring proposition.   The concentration of co-ordinating functions in the office of the DGs in the office of The Presidency, lends further credence to the desirability to have a central co-ordinating centre for the entire IGR system.

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-statals. 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   <u>Accountability</u>

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 <u>Legislating intergovernmental relations</u>

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:

  o 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

  o 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 the 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 (Agrannoff, 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 he 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
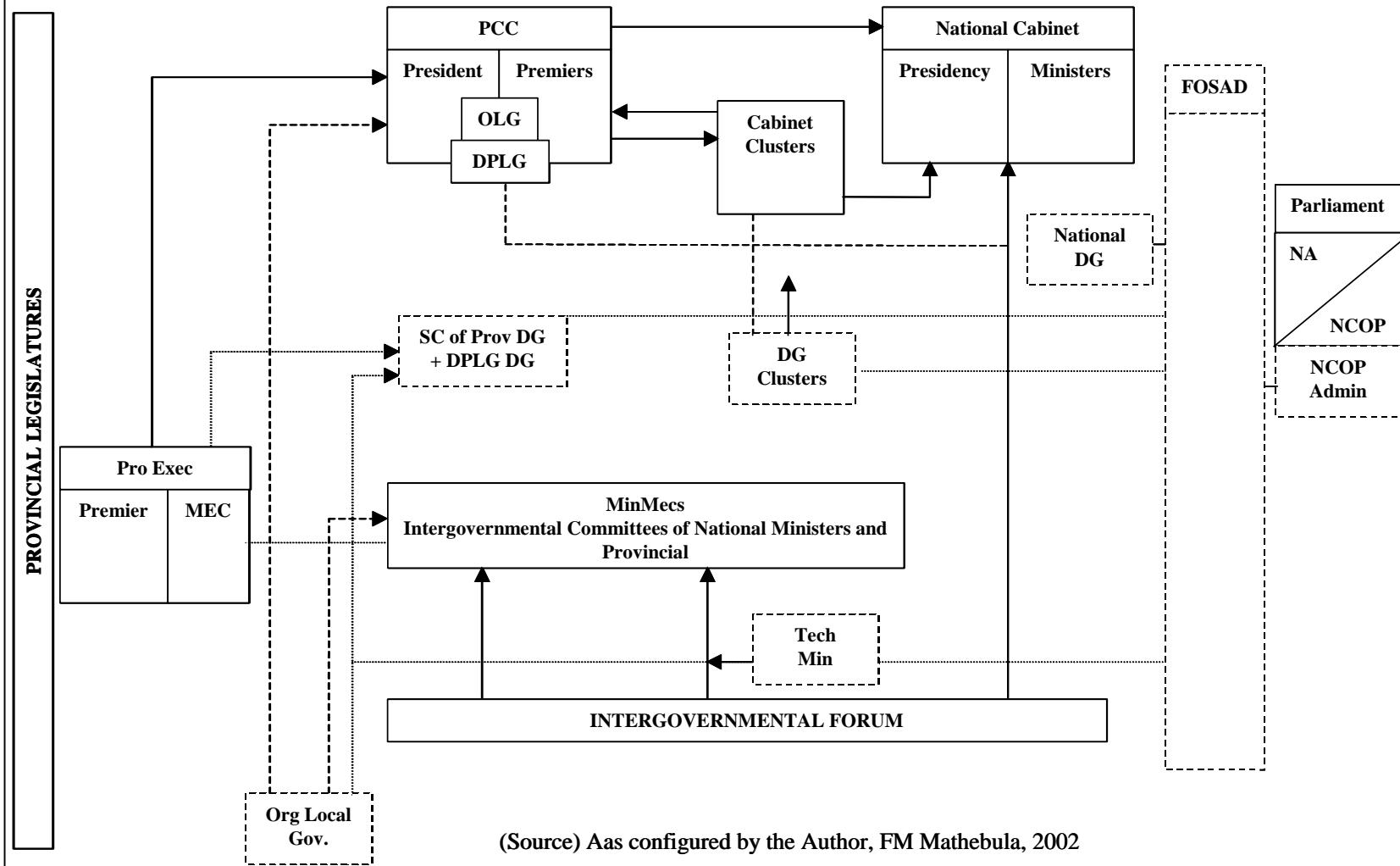
Figure 6 **PROPOSED IGR STRUCTURE IN THE PRESIDENCY**

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                        ┌────────────────────┐
                        │   The Presidency    │
                        └────────────────────┘
                                  │
                        ┌────────────────────┐
                        │   State President   │
                        └────────────────────┘
                   ┌──────────────┴──────────────────────┐
        ┌────────────────────┐          ┌──────────────────────────┐
        │  Deputy President   │          │ Minister in the Presidency │- - - - - ┐
        └────────────────────┘          └──────────────────────────┘          │
                   └──────────┬────────────────┘                               │
                    ┌──────────────────────────┐                              │
                    │  National Director-General │                              │
                    └──────────────────────────┘                              │
                                  │                                            │
                    ┌──────────────────────────┐                              │
                    │  Policy Co-ordination and  │- - - - - - - - - - - - - - ┘
                    │     advisory services      │
                    │     Director-General       │
                    └──────────────────────────┘
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| Chief Director Cluster A | Chief Director Cluster B | Chief Director Cluster C | Chief Director Cluster D | Chief Director Cluster E | Directorate IGR Management Information |

**Director Cluster
Specific MINMEC**

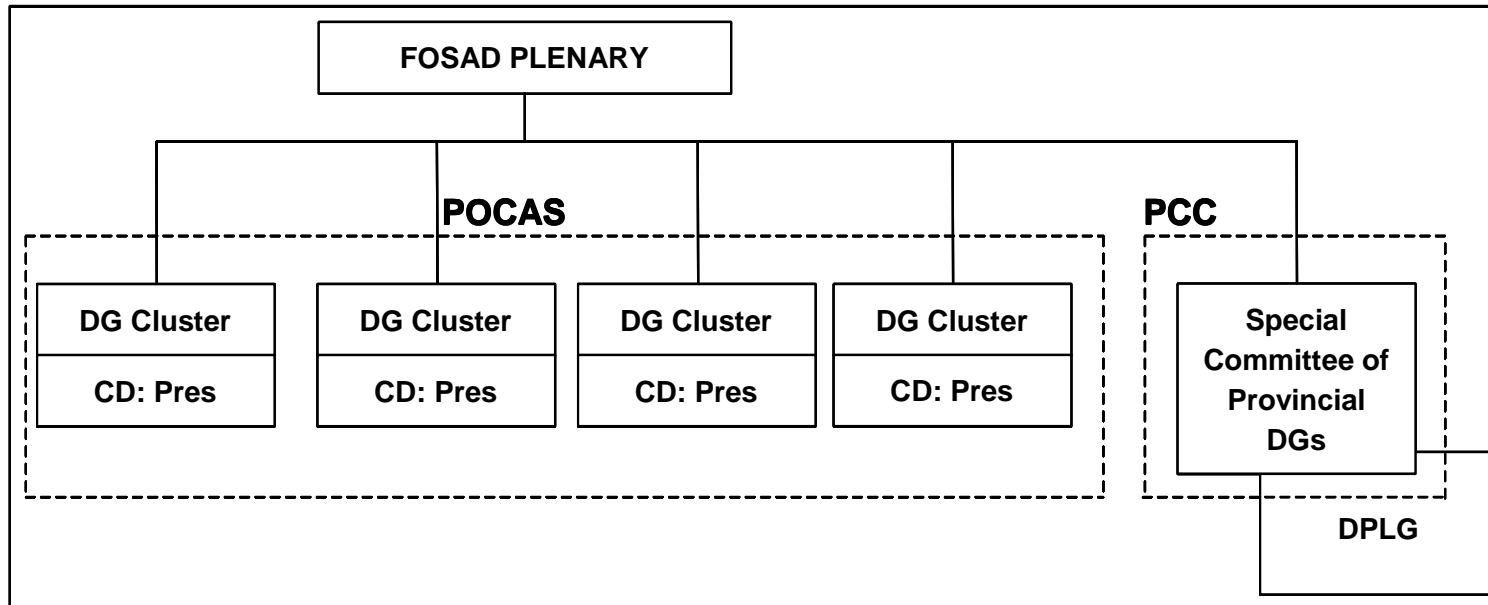**Co-ordination**
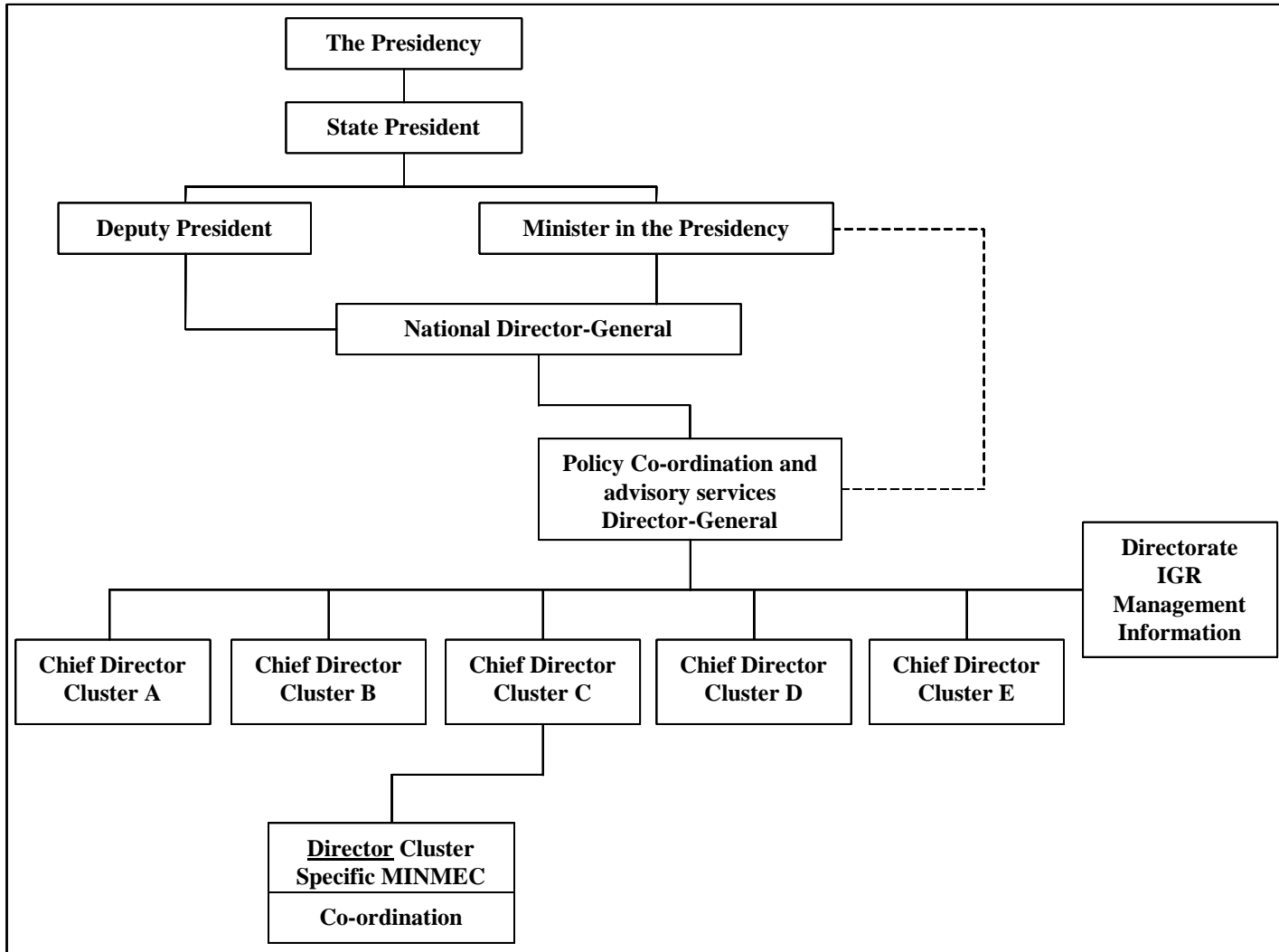
(Source) As Configured by the Author, FM Mathebula :2002

Figure 7   **FORUM OF SOUTH AFRICAN DIRECTORS-GENERAL**

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

CHAPTER 7

7.   SUMMARY AND CONCLUSIONS

7.1   INTRODUCTION

The South African intergovernmental relations system is evolving in an atmosphere characterised by a definitional deficit, in terms of what form of state is South Africa? The anti-colonial wars fought by both the white and black nationalists sought to remove from power, the colonizer and/or oppressor. The concomitant result of the phased anti-colonial victories of 1961 (when South Africa gained political independence from Britain) and 1996 (when the White minority apartheid colonial rule ended) respectively, was a tendency to adopt the intergovernmental relations culture and practices of the preceding regime.

The South African Constitution making process of the 1990's deliberately stood clear of defining or locating South Africa in definite terms on the unitary-federal continuum. The result of this action was the bastardisation of the South African Constitution, whereby it assumed a high degree of fiscal centralisation, underpinned by extreme political decentralisation. The sub-jurisdictional tensions of policy-making autonomy, regional (provincial) self-determination and the geo-demographic features of South Africa were to be reconciled by party-political loyalty and the reconciliation mood that characterised constitution making.

The party political process generated an intellectually bankrupt discourse on what form of state should South Africa be. The associated conceptual naivety often associated with the

perceived federal-unitary divide became lionized in the process, and this resulted in intergovernmental relations enjoying prominence in the Constitution. The resultant obligation for all organs of state and all spheres of government to co-operate, support and consult each other when governing, amplifies the view of being optimal in constitutional reform, as opposed to structure being the optimal focus (a condition where the latter focuses on the effectiveness of structure and the former on the efficiency of government).

The purpose of this study was therefore, to propose an intergovernmental relations reform framework. The study has been able to define intergovernmental relations, co-operative governance, federalism and decentralization that are considered key concepts for intergovernmental relations reform. A literature study on the historical development of intergovernmental relations in South Africa was conducted, thereby capturing through historical demarcations, the reform opportunities presented by the new constitutional dispensation. This was underpinned by a review of intergovernmental relations theoretical issues and an analysis of the intergovernmental relations status quo as at the demarcated period of the study.

This study postulates that the South African intergovernmental reform programme should be based on the country's historical experience, empirical theoretical underpinnings and the already existing (though in muted tones) vibrant provincialism, often mistaken for secessionism or the "demon of regionalism". The philosophical basis and significance of the study is premised on the comprehensive nature of development challenges within multi-sphered jurisdictions. The synergistic and strategic role of a central government agency (with sufficient political power and leverage such as the Presidency) as an intergovernmental relations management and administrative centre, was instructive to the approach and direction of the study.

This chapter highlights the findings of this thesis and their implications on policy. The chapter is structured to include conclusions on a brief synthesis of the chapters. The implications of the study on policy will be discussed and this will follow the direction of highlighting the directly applicable implications as well as broader public policy issues. The chapter will conclude with recommendations for further research.

7.2   CONCLUSIONS

The tone of relationships within the concept of intergovernmental relations elevates the activity of intergovernmental co-operation, collaboration and mutual support to a realm often reserved for interpersonal relationships. Intergovernmental relations are defined as the various combinations of interactions, interdependencies, influences and transactions conducted by government officials between and amongst spheres of government (this also includes organs of state). The study therefore concludes that, i*ntergovernmental relations is a process driven activity that seeks to reconcile sub-national jurisdictional tensions in favour of service delivery and good governance.*

The discussion in Chapter One has shown that intergovernmental relations occurs optimally in dispensations that embrace a government philosophy based on a reciprocal obligation to spheres (levels, tiers) of government to trust, support and assist one another in co-ordinating the delivery of service to the community. The philosophy recognises the predominance of the equal-before-the Constitution principle and constitutionally protected autonomies and sub-national status.

The colonial era realities of South Africa continue to bedevil all facets of the South African governance machinery. The pre-1961 federal experiments of the British colonial

government and the post-1961 Afrikaner minority government's experiments of separate-but-equal federalism have shaped the political demography of South Africa. The power centres that evolved during the said period have also entrenched in sharpened proportions, the geo-demographic differences as manifest in the special arrangements of ethnic, racial, poverty and economic concentrations on the socio-economic landscape of South Africa. These realities dictate the pace at which power will be deconcentrated or decentralised from the centre to sub-national units of government. The degree to which power is decentralised determines the pulse of intergovernmental relations, particularly the relations realm. The study concludes that, t*he constitutional history of South Africa remains a determining factor in the reform of the intergovernmental relations system.*

Chapter Two of this study presented the historical development of intergovernmental relations in South Africa. It outlined the development of intergovernmental relations in terms of the 1961, 1983, 1993 and 1996 Constitutions of South Africa. The chapter was mainly historical in perspective, while indicating the environment within which intergovernmental relations developed in South Africa. The author observes that the historical background of intergovernmental relations in South Africa has, as its epicentre, the colonial era federal experiments of the British government particularly, from 1910 to 1961. The British imperial government saw federations as the co-ordinating frontier for its Southern African colonies, as well as an instrument to disarm the Afrikaner challenge to British supremacy, and neutralization of the native African majority threat. This informed the structure of government and therefore, of intergovernmental relations.

The regional socio-economic imperatives as manifest in transport, communication, agriculture, growth of the manufacturing industry, native control as well as land ownership triggered debates around the form and nature of a South African constitutional state in the early 1900s. The constitutionalisation process through the Union of South Africa formation

process put on the governance agenda questions of policy co-ordination, devolution and decentralization. Such an agenda expanded over time to include interactive and transactional relations between and amongst organs of state and spheres of government.

It has been argued that successive South African constitutions have overtly defined the political moods of the times in which they were drafted, and therefore dictated the design, pace and practice of intergovernmental relations. The evolutionary nature of the South African non-racial maturity process and the growth of the South African party political system, has dictated the direction and culture of intergovernmental relations. In other democracies, the tendency to refer to such systems as personality federalism, such as Reagan federalism, also define the political mood and direction of IGR at a particular time

It was concluded that in both historical periods under review, the decisive role of the Governor-General, Prime Minister and later the Executive State President in the management of intergovernmental relations is crucial. The importance of retaining original legislative powers, with repugnancy provisions, was established as a critical ingredient for intergovernmental relations reform. This is however, subject to a scientific application of the subsidiarity and asymmetry provisions that are characteristic of multi-tiered or sphered governments. The intricacies of balancing equity in development as opposed to a separate but equal paradigm liquidated the intergovernmental intent of the erstwhile apartheid-type homeland system. However, the movement towards the use of the economic development rationale as part-determinants for jurisdictional, regional and provincial demarcation redefined the intergovernmental relations intents of sub-national jurisdictions and organs of state. This did not only de-racialise but also began to deal with the disparities of spatial development only negotiable in restitutive settings through intergovernmental relations. The 1993 Constitution became a first in South Africa, in so far

as a regional demarcation criterion was concerned. Whilst this represented an attempt at levelling regional disparity, it left the equalisation process to the evolution of governance. Intergovernmental relations emerged here as a panacea. The study concludes that, *intergovernmental relations have a potential of being a panacea in the negotiations of socio-economic and political disparities in regionalised societies.*

It was further concluded that the 1990-1996 constitutional negotiations process has, through recognizing the centrality of decentralizing government power, redefined the South African intergovernmental relations landscape. This recognition elevates the importance of interdependence, interrelatedness as well as the distinctiveness of sub-national units of government. The resultant benefit of such recognition, argues the author, has been the growth in significance of the need for a central agency to manage and direct intergovernmental relations. The experiences of the 1983 to 1993 low-key reform programme of the then apartheid government continue to instruct the evolution of the South African intergovernmental relations system, particularly as it related to the pivotal role of the then Presidency.

It was concluded that whilst it is difficult to trace in exact terms the origin of intergovernmental relations as a process in government, authoritative literature purports that it originates in multi-sphered democracies from all ends of the federal-unitary continuum. There is a need for the co-ordination of the affairs of the state from their political embryonic state to a public policy implementation state, to be put on the intergovernmental relations agenda of multi-sphered governments. The study concludes in Chapter Three that IGR concerns itself with interactions and transactions between and amongst executives-in-government. However, the author has argued that such interactions do not restrict themselves to government entities, but go through to personal

interrelationships of officials. The fact that IGR transcends the legalistic focus of government in favour of human-centred governance, supports the notion that IGR is a human activity, hence the conclusion that, *intergovernmental relations is a traditional practice in the functionality of government through public officials in a bureaucracy and is therefore, a human activity.*

The study has further argued that the hierarchy debates often associated with the federal-unitary and decentralization discourse is repudiated by the equality of stakeholders on the intergovernmental relations platform. The assumption of superiority and subordinate status of spheres of government only prevails when accountabilities and decision centres per issue have to be clarified, an activity reminiscent of a pecking order that characterises activities involving the humans. It was also argued that IGR brings to the public eye the political and administrative landscape within which service delivery has to occur. The study concludes therefore, that *the study of IGR is not synonymous with that of federalism because IGR is one of the critical platforms upon which multi-sphered political systems along the extreme confederal to extreme unitary continuum, must operate.*

The adage that there are no relations between governments, but relations amongst officials who govern and manage different units, elevates to higher proportions the centrality of personal chemistry and human behaviour in IGR. The design therefore, of any intergovernmental relations system should be based on the assumption that the beneficiary society is built on sound interpersonal relations. The geo-ethnic, racial and geographic domestic products concentrations of South Africa accompanied by the spatial development challenges present chronic regional complexities reconcilable through sound intergovernmental relations. The natural choice of intergovernmental relations as a development equalisation mechanism places these regional complexities in remote

locations as currencies for overt conflicts similar to those in the Great Lakes region of equatorial Africa and Central Europe. The study concludes therefore that, *the ability of the relational element within intergovernmental relations to soften the precincts and limits imposed by constitutions, amplifies the profoundly facilitative and enabling strategic governance nature of IGR.*

The employment of authority models by this study to explain the various intergovernmental relations permutations reconfirmed the ideological neutrality of intergovernmental relations. The study concludes that the reliance of intergovernmental relations on the exchange of information and therefore knowledge management, removes IGR from the hegemonic contestation domain through to a win-win facilitation realm, which is inherent in relational environments. The practice of government within the co-ordinate authority model results in approaches that limit development and that are unfriendly to decentralization as a tested development-facilitating paradigm of governance. The growing demand by sub-national jurisdictions (even in unitary states) in modern democratic states for restraint in the exercise of national power, dictates an obsolescence of the power expanding (co-ordinate) authority model. The author however, concludes that the desirability of applying the co-ordinate model should be dependent on the socio-political exigencies regulated by an independent judiciary.

The study further argues that the ability of the inclusive authority model to expand and contract has the advantage of facilitating the development challenges of restitution, economic redress and affirmative action. The development responsibility bestowed on sub-national units of government can only be checked, in terms of its equalisation impact, through the spasmodic employment of the inclusive authority model. The chapter demonstrated how the employment of this model has shaped for the better or worse, the South African intergovernmental relations landscape. The author further stresses the

federal-unitary continuum upon which the various models can be plotted repetitively and in line with the historical development exigencies. The bargaining model (with its limited and dispersed power, modest and uncertain areas of autonomy; profoundly high degree of potential and/or actual interdependence as well as a win-win relationship paradigm) becomes therefore, a logical intergovernmental relations model. The erratic movement from one model to another and backwards, that characterised the South African intergovernmental relations evolutionary process, lionises the centrality of bargaining exchange relationships and simultaneous co-opetition in the design of any intergovernmental relations framework. The study concludes therefore that, *intergovernmental relations should be designed as an ideologically neutral process that can adapt to any authority-defining model.*

The Chapter argues that the human nature of intergovernmental relations activities, makes IGR subject to endogenous and exogenous societal influences. The endogenous realm focused on the normative framework that instructs the practice of public administration and management. The author explained the impact of supreme political authority, particularly as it manifests itself as constitutional and/or parliamentary supremacy. The impact of IGR's informality on public accountability, efficiency, legal probity and adherence to societal values, were described. The author also observed that, at an endogenous level the influence of the South African Constitution's recognition of the diverse oneness of the South African society as well as the eclectic nature of public policy, provide a sound normative platform for intergovernmental relations reform and design. The author further argued that interactions between spheres of government should be underpinned by a normatively coherent atmosphere of co-operation. The exogenous realm noted the constitutional jurisdiction, form and character of the National Council of Provinces, the party political system, the judicial system, the financial position of each sphere, human

behaviour, and historical and demographic factors, as prime influences. Given the above the study concludes therefore, that t*he endogenous and exogenous normative factors influencing the practice of public administration and management have an impact on intergovernmental relations.*

The political heartbeat of intergovernmental relations has the party political system as its supporting veins and arteries. The author argued that the behaviour of elected and appointed officials serves here as ventricles that control the intergovernmental relations flow, the power to regulate the heartbeat lies, unfortunately, with the officials. The South African party political system, despite its hybridised liberation movement to political party challenges, presents a classic example of how the structure of the party influences intergovernmental relations. The professed democratic centralism governance approach of the ruling party (the ANC) compromises the requisite of provincialism of the present sub-national jurisdictions. The reference to the (often real) geo-demographic features of South Africa as "demons" by senior ANC members reduces the velocity of asymmetry in government's service delivery approaches.   The issues of administrative law and jurisdictional contestations are often interpreted in party political terms as opposed to sheer intergovernmental management and logic. The author argues, therefore, that intergovernmental relations have the effect of transcending such dysfunctionalities. Adherence to party political discipline by a bureaucracy removes the citizen as the centre of government activity and puts the party at the centre. It is the conclusion of this study that, t*he structure, form and history of the party political system instruct the nature of intergovernmental relations.*

The study examines, in Chapter Four, the contextual terminological nature of intergovernmental relations with a specific focus on the present IGR structures.   The

structures were reviewed within an analysis framework that begins to forge a synergistic and coordinative reform paradigm. To this end the author presented questions that are informed by the prevalent factual co-ordinates around the South African IGR system at the national and provincial spheres. The questions range from how to integrate IGR structures to provide a decision flow driven intergovernmental relations system; what are the executive challenges facing national and provincial IGR, through to what should be the key functions of the currently operational national IGR structures.

The study notes that the 1994 democratic breakthrough in South Africa established new IGR structures and restructured old ones. The executive intergovernmental relations focus of the study could not ignore the centrality of the NCOP, particularly given its provincial representative nature. The structures that were subjected to this analysis were the Intergovernmental Forum, the President's Co-ordinating Council, the Committees of Ministers and members of Provincial Councils (MINMECS), the Forum for South African Directors General and the Cabinet Cluster System in the Presidency.

The study observes that co-operation on mutual matters by all spheres of government was the chief rationale for the establishment of the Intergovernmental Forum (IGF). The IGF represented a groundbreaking attempt to create a government-wide inclusive forum that considered line function and strategic matters of governance. The IGF's failure as a multi-lateral, intergovernmental and policy planning body upon which government could rely for support, advice and implementation did however, present opportunities for growth, in so far as inclusive government-wide planning was concerned. The decision making character of the IGF presented a number of operational dysfunctionalities that were, in the main, managerial and co-coordinative in nature. The growing importance and stature of Provincial Premiers as a result of the provincialism embedded in the South African

constitutional culture brought the role of Premiers to the foreground of IGR. The executive character of the office of the Premier led to the establishment of the Premiers Forum as an IGR support structure, save to mention it's dormancy until it was resuscitated by President Thabo Mbeki.

It was also established that the MINMECS were established to provide a forum to interact for political executives from the national and provincial spheres. The study raises questions about the reliability of the feedback mechanism governing MINMECS, the time-lapse allowable between the consultation and consensus seeking nature of the MINMEC process, the scope and nature of agenda setting or determination as well as the binding force of MINMEC decisions given the non-statutory nature of most MINMECS. The unquestionable position of Directors-General in the South African intergovernmental relations arena as well as their strategic functionary character was also described in this chapter. The assumed intellectual prowess of Directors-General as capacity required in providing a policy review service on the strategic directions of intra-governmental, intersectoral and cross cutting issues, as well as the monitoring of policy alignment was emphasised. Further, it was found that the absence of a centralised intergovernmental relations co-ordination mechanism breeds structural duplication that drains the available capacity, particularly since intergovernmental relations management is a meeting, communication and time intensive exercise. The study concludes therefore, *that intergovernmental relations structures are established to facilitate interactions, co-operation and transactions on mutual matters by all involved (spheres of government and organs of state).*

In Chapter Five the study evaluates the status quo with the intention to explore and provide alternative approaches towards an understanding of the South African IGR

System.   The arguments in this chapter indicated that the core questions in the reconstruction and reform of the South African IGR System range from how effectual should such a system be, to how the process of implementing policies should be co-ordinated in order to achieve the historic development challenges facing the country. The author argued that the attainment of societal development priorities is a collective responsibility of all spheres and organs of state, and therefore relies on the operation of an effective intergovernmental relations system.   The intent of the study, which is to investigate the extent to which a central agency such as the Presidency can be involved in the administration and management of intergovernmental relations, instructed the approach of this study.

In the construction of the character of the South African IGR system it was argued that the current IGR structures consist of policy implementation gaps, that can be reconciled through an acceptance that governmental relationships are not random phenomena but require planning.   The critical drivers of the South African intergovernmental relations system, according to the study, have been the need to determine a strategic and focused agenda; the accountability of participants in the IGR structure; the status of executive intergovernmental decision centres; and the desirability of legislating for intergovernmental relations.   The agenda should provide for mechanisms of accountability both in terms of political representation, stakeholder participation, and generic inclusivity as well as in creating a high level planning focus as opposed to the traditional functional focus.

In an attempt to provide alternatives, the study establishes that the fragmentation that defines the interconnectivity of intergovernmental relations structures, has a dampening effect on the volume and velocity of multi-jurisdictional and multi-sectoral service delivery. The review of what form of state South Africa is, and the political relevance of the

Constitutional detail, has demonstrated a potential to limit a focus on national emergencies, such as restitution and the HIV pandemic, over it's short history. The author argued for the resuscitation of the Intergovernmental Forum with a planning focus to include government, business and civil society. The centrality of the Presidency at the apex of initiating policy debates and direction is provided as the strategic aspect of the Forum. The repeat of the national IGF process in sub-national government-wide inclusive planning was also muted.

The study further proposes terms of reference for MINMECS. The author argues against outright legislation of the MINMEC process and proposes that the public sector market forces should determine areas that require a legislated regulatory framework in an evolutionary manner. The executive significance of Premiers through the President's Co-ordinating Committee is further identified as a fundamental feature for South African intergovernmental relations reform. The study proposes a revisitation of the Presidency to make provision for an intergovernmental ministerial focus therein. The functional responsibilities of the President's Coordinating Council were also proposed as well as how they interconnect with other intergovernmental relations structures.

Chapter Five also reconfigures the Cabinet Cluster system where the position of the National Director-General is proposed with a Director-General responsible for policy co-ordination being given an intergovernmental relations focus. The Forum of South African Directors-General, as an operating platform of the South African intergovernmental integration process, is also outlined in this chapter. The fact that Directors-General, in the main, manages various IGR structures makes them user-friendly fast-find icons in the operation of intergovernmental relations software. The technical competence of the institution of the Director-General is further emphasised as a requirement for the

intergovernmental relations package proposed in Figure 7 of this study. In relation to the NCOP, an administrative state view is proposed whereby a chief executive for the NCOP, who will also be a member of FOSAD, is proposed. The study argues for an NCOP bureaucracy that is supported by a proper politically constituted NCOP, where the philosophy of provincial identity instructs the modus operandi. The study concludes therefore that, *the present intergovernmental relations structures in South Africa should be redesigned to eliminate policy implementation spasms, thereby accelerating the speed and pace of multi-jurisdictional and multi-sectoral service delivery.*

7.3   POLICY IMPLICATIONS AND RECOMMENDATIONS

The coherent nationalist positions of the African National Congress and the National party during the CODESA constitutional negotiations process amplified the importance of history in South Africa. The coincidence of a one-year difference in the founding of these political players further signifies how important historical destiny is, in the design of constitutions. The South African Constitution of 1996 is not a non-fiction work that does not have a history. The Constitution was designed from a rich history that has fraction points denoting a migration along the unitary-federal continuum. The design of the legislation envisaged in Section 41 of the 1996 Constitution Act should therefore, be based on the historical realities of South Africa. The history of South Africa has, over time, entrenched a geo-demographic reality that has shaped provincial and local government.

The intergovernmental relations system should also accept the historical truth that decades of British colonial and apartheid predominance in shaping the South African State has created an intergovernmental relations culture. This culture has national centralised decision-making, sub-national indecision, buck passing, disregard for consultation and a

planning framework with a minority bias. This culture still predominates the present public service delivery paradigm.

It is therefore the submission of this study that the reversal of this culture will require an antithetical tradition informed by past experience and the need to introduce new intergovernmental paradigms. The cultural fracture requisite for the way forward should rely on established systems to sustain the capacity of the state to meet its obligations. The study recommends therefore, that *the design of an (South African) intergovernmental relations system should be cognisant of the historical realities of the society it is designed for.*

A reconstructed and designed intergovernmental relations system must recognise that at the time of drafting the 1996 Constitution, the political environment was characterised by issues such as fear of black majority domination, the protection of ethnic hegemony, centralized and commandist dogmas, a resolve to keep the South African state in tact as well as the predominance of global funding institutions on sovereign public policies. These trends informed the outcome of the constitutional negotiations. The reality is that, a trust relationship has grown over the new Constitution experimentation period, and should therefore; start to permeate into issues such as the allocation of powers and the redefinition of authority relationships between spheres. The political coalitions that have emerged since 1999 between the ANC and IFP (Kwa-Zulu Natal and National), the Democratic Party and the National Party (Western Cape), the Minority Party and the ANC (in Durban) are indicative of the cooling down of political tensions since the 1996 Constitution making process. The latest cooperation between the ANC and the New National Party in the Western Cape as well as the emerging neo-liberal economic policies of the ANC signify a quantum leap in terms of governance environments.

It is the submission of this study that the political atmosphere that made it difficult for South Africa to consider a federal option is in a state of decimation. There is therefore, a compelling need for the policy-making community to consider multi-jurisdictional governance mechanisms such as the asymmetrical allocation of powers. Politically determined jurisdictions such as Provincial and Metropolitan Governments should be given sufficient autonomy in areas where they display marked competency. This will release energies for deployment in areas categorized by this study as development exigencies. The study recommends that *an (South African) intergovernmental relations system must be capable of reconciling the historical societal tensions as manifest in ethnic, racial, and political identity*

The present party political management paradigm is antithetical to the integration of intergovernmental relations management principles into the generic political management of the South African state. The jurisdictionally imposed conditionalities of public service delivery are often subject to the imperatives of party political loyalty. The "deployment" of the bureaucracy along party lines as a political function is sometimes detrimental to independent managerial judgement on issues of an intergovernmental nature. The conclusion that is drawn here is that the structure of government seems to be in conflict with the party political system. It is the submission of this study therefore, that sufficient in-political party autonomy should be given to sub-national jurisdictions. The monolithic approach to governance and government is a form of dictatorship. It is mind boggling for a country with the geo-demography of South Africa not to have constitutional court battles between members of the same party. This can only be possible if the citizen is at the centre first in party terms and then in country terms. The study recommends therefore, that

political parties (ruling) must be structured to accommodate IGR paradigms entrenched in constitutions. In the case of South Africa, the paradigm is quasi-federal.

The co-ordination of government-wide planning and consultation within an IGR paradigm must be underpinned by a conscious resolve to involve at highest levels the leadership in a country. The compositional position of the IGF as an IGR platform dictates a need to reconfigure the IGF to include a much broader mandate. The mandate should inform electoral contestations without vitiating the essence of managing the National development agenda. The proper functioning of the new IGF will be predicated on the issues listed below.

- Intergovernmental co-ordination and/or the co-operative governance agenda should be based on the attainment of defined outcomes

- Sufficient executive authority should underpin the operation of such structures, thereby eliminating the immunity of the "talk shop" syndrome.

- The information and data exchanged at this forum should add sufficient value to a common understanding of what government is doing and what it is about.

- The forum should provide a mechanism that guarantees political equity thereby, limiting the intimidation of "junior" political office bearers and sub-national representatives.

- The agenda should provide for a futuristic and strategic approach to policy making and development. Issues related to current policy should by design be relegated to reporting and evaluating for improvement.

- The forum should, by design, provide for an effectual communication mechanism that ensures that all spheres of government participate from a sufficiently informed position.

- The forum should provide a cyclical opportunity for intergovernmental structures and institutions to interface in programme and policy development, This could be started by ensuring that intergovernmental decisions of other forums receive a larger stake at IGF meetings.

- The management and administration of the forum should be assigned to a politically higher office whereat policy co-ordination and integration will be enforced through the Presidency. This will ensure an integration orientation within government, a critical requirement in the design of an intergovernmental relations system.

The design of an intergovernmental relations system should be premised on the finding that IGR transcends the limitations imposed by constitutions and ideology.   The comprehensive nature of the intergovernmental relations activity dictates that such a system must have a capability to operate under any conditions. This study submits that even in the most absurd of dictatorships, intergovernmental relations between and amongst centres of political or any other power occurred. A functional IGR system will be dependent on the need by those involved to share information and experiences for the common good of governance. The non-dogmatic nature of IGR makes it the foremost neutral mechanism to facilitate service delivery, irrespective of the form of state a country is. The divisive tendencies as manifest in rural-urban, Black and White, developed and developing are easily liquidated if officials interact and transact at programmatic and implementation level. The intergovernmental relations function is a thread that connects government activity along the unitary-federal continuum. The study recommends therefore

that, *intergovernmental relations should be viewed as a functional rather than as a transcendent matter.*

The authoritative position of The Presidency as well as its symbolic nature makes it a candidate for the co-ordination of the intergovernmental relations function. To this end, The Presidency should be restructured to include the IGR function at Ministerial level. The administrative back up for this function should be through the creation of a Director-General position to manage this function. The position of the present Director-General in the office of the President should be elevated to that of National Director-General. The proposed IGR Director-General in the Presidency should assume the responsibility of managing the entire IGR machinery with the Cabinet Clusters as a top-down epicentre and the proposed IGR framework (see page 189) as the bottom-up epicentre. The Director-General should be viewed as a policy-co-ordinator and not policy maker. This should remain a functional activity of sectoral government agencies/departments. The study recommends therefore that, *the Presidency as the apex of the execution of government activity should take responsibility for the intergovernmental relations function.*

The growth in size of sub-national governments with the advent of globalisation and the 1989 collapse of commandist and central planning regimes, put decentralization politics on the global agenda. The co-ordination of these sub-national units within a nation-state and trans-frontier regional paradigm has put intergovernmental relations on the governance agenda. There is therefore, a need to expand the study of Public Administration to include intergovernmental relations administration. This has curriculum design implications. The study recommends that, the *intergovernmental relations theoretical co-ordinates presented in this study must be developed into a focus area of study and teaching in Public Administration.*

The conversion of information into consumable commodities through the Internet has not only put a stress on governments to deliver, but also brought with it enhanced governance challenges. The results of these challenges are the homogenisation and diffusion of societal values through various media. The consequence of homogenisation is either an improvement or disappearance of the societal normative pillars. The practice of intergovernmental relations in a tight and process-driven approach must establish a normative regime that is congruent with the prevailing socio-political system. The heterogeneity of the South African society must be seen as being an asset in the establishment of a normatively coherent society.

The volatility of the policy-making process that manifests itself in the form of discontinuity at the implementation level of government, does not only bring uncertainty in government but creates unstable governance paradigms. The recognition therefore, of the African governance value system and how it interfaces with the western model of governance becomes therefore, non-negotiable in the design of an intergovernmental relations system. The African worldview that propagates spiritual collectiveness over individualism, consensus rather than dissention, and, humility and helpfulness, should underpin the coherency of the normative environment. This is notwithstanding the realities of western influence and the need to be functional. The study recommends that, *the practice of intergovernmental relations administration and management should be within a normatively coherent atmosphere that is regulated by sufficient political influence.*

7.4   RECOMMENDATIONS FOR FURTHER STUDIES

The definition of intergovernmental relations stresses the interactive and transacting nature of this function, and this places a number of challenges on the subject. The focus

of this study is on Provincial-National relations, notwithstanding the plethora of sub-national jurisdictions in the Local sphere of Government. The transacting nature of the IGR function does not limit it to intra-state relations but also cross border relations between and amongst sub-national jurisdictions. The study proposes therefore, that in the South African context further studies need to be undertaken on the following issues.

- The challenges of intergovernmental relations to the nation state and its ability to dispense centrally considered policies.

- The restructuring of intergovernmental relations within the local sphere of government with particular reference to fiscal autonomy.

- The management of natural trans-frontier regions as a sub-national intergovernmental competence, the case for Southern African states.

- The impact of geo-ethnicity on intergovernmental relations.

- Constitutional reform in South Africa: the aftermath of 1996 and the challenges of the federal option.

7.5   CONCLUSION

The author further submits that intergovernmental relations are a human activity and no Constitution, law or regulation can dictate the relationship warmth underpinning it. The submission of this study is that the Presidency, as the apex of government, should be the epicentre of any government reform programme. Intergovernmental reform should therefore, be located in the Presidency because the President is the head of government and the Public Service. The executive authority of the Presidency qualifies it as a reform driver. It is the submission of the author that, the intergovernmental relations debate in

South Africa lacks the intellectual depth characteristic of federal democracies. The political growth and the non-racial maturation process of the South African society clearly discount pre–1996 Constitution anti-federal nuances. There is therefore, a need for South Africans to face-up to the reality that, South Africa is a federal state and should therefore, manage the intergovernmental relations system as such. The exact position of the South African type of federalism on the unitary-federal continuum remains as issue for further research and investigation.

The greatest intergovernmental relations challenge though, is the degree to which the South African political resolve is prepared to disengage with a unitarist paradigm of intergovernmental relations. This perspective places a premium on the internal dynamics of the South African public administration and management discourse. Therefore, the mobilisation of an intergovernmental relations ethos in the governance of South Africa, is more important than to view the problematic in federal-unitary discourses, in terms of the Public Administration and management nomenclature.

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