

Intergovernmental relations and co-operative government in South Africa: The ten-year review

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Abstract

The system of intergovernmental relations and co-operative government in South Africa is rapidly evolving, not only because of its constitutional/legal framework but also because of the statutory commitment of the various spheres of government to the implementation of the principles of co-operative government and intergovernmental relations. This system of intergovernmental relations is crucial if policies are drafted or projects and programmes planned and implemented. Through the establishment of various institutional arrangements for intergovernmental relations – and the successful operation of these structures – it is expected that all three spheres of government will continually strive to co-operate with one another in mutual trust and good faith. Without the effective operation of intergovernmental relations in South Africa, projects and programmes cannot succeed. In this article, the intergovernmental relations system in South Africa and its evolution over the past ten years of democracy will be reviewed. Reference will be made to the successes and failures of the current system of intergovernmental relations and possible solutions to remedy the mentioned failures will be suggested.

I. Introduction

After the first democratic elections in the Republic of South Africa, the new South African government was faced with numerous challenges. The government realised that the ultimate goal of any state should be the advancement of general welfare and peace and that, in a developing and transforming state such as South Africa, this can only be obtained through the promotion of intergovernmental relations and co-operative government. The focus of the government of the day rested on a common understanding that the new democratic South Africa would have to be a developmental one and that policies need to redress past imbalances

through integrated, participatory and partnership-orientated governance, planning and management.

The post-1994 government recognised the challenge of creating a system of government that will promote co-operation and intergovernmental relations as outlined in Chapter Three of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) (the Constitution) because a major challenge and recurring theme in the practice of intergovernmental relations is that the Constitution introduces a natural 'tension' between the relative autonomy of a particular sphere of government on the one hand, and the pursuit of a coherent government for South Africa through inter-governmental relations and collaboration on the other.

The Constitution envisages a state that supports interaction and co-operation among the three spheres of government on a continuous basis and therefore provides a set of principles to direct the manner and quality of those interactions. According to Tapscott (2002, 6), these principles in chapter three cannot be separated from the Bill of Rights contained in chapter two. The latter refers to the basic rights of individuals and 'the social sections on housing, healthcare, food, water, social security, education and many others – which find application to all laws, administrative decisions taken and acts performed during the period in which the Constitution is in force' (p. 6). These issues inform the subjects of debate in formal and informal intergovernmental institutions.

The principles of co-operative government and intergovernmental relations recognise the interdependence of the three spheres of government in South Africa (namely the national, provincial and local spheres) which are distinctive and interrelated and place a duty on the spheres of government to respect each other's powers, functions and institutions and to inform each other of new policies. The formulation and implementation of these policies have to be consistent with the political, social, economic and sustainable development priorities of the democratic South Africa and also take into consideration the diverse nature of the state.

The distinctiveness of the various governments in South Africa refers to the legislative and executive autonomy of each sphere. Interdependence of the spheres of government, as stipulated in the Constitution, emphasises the co-relationship between national, provincial and local government 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 a dependent sphere. The interrelatedness of spheres of government refers to the responsibility of each sphere to co-operate with each another and to avoid litigation against one another.

The commitment of the South African government to co-operative government and the promotion of intergovernmental relations is also emphasised by section 41(2) of the Constitution, which stipulates that an Act of Parliament must establish or provide for processes, structures and institutions to promote and facilitate intergovernmental relations and provide for appropriate mechanisms and procedures to facilitate settlement of intergovernmental disputes.

The system of intergovernmental relations and co-operative government in South Africa is rapidly evolving, not only because of its constitutional/legal framework but also because of the statutory commitment of the various spheres of government to the implementation of the principles of co-operative government and intergovernmental relations. Through the establishment of various institutional arrangements for intergovernmental relations – and the successful operation of these structures – it is expected that all three spheres of government should continually strive to co-operate with one another in mutual trust and good faith.

2. Defining relevant concepts pertaining to intergovernmental relations and co-operative government

For the purpose of conceptual clarity, it is necessary to define the concepts: intergovernmental relations and co-operative government.

2.1 Intergovernmental relations

Intergovernmental relations encompass all the complex and interdependent relations among various spheres of government as well as the coordination of public policies (including policies on sustainable development) among national, provincial and local governments through programme reporting requirements, grants-in-aid, the planning and budgetary process and informal communication among officials (Fox and Meyer 1995, 66). Intergovernmental relations also refer to the fiscal and administrative processes through which spheres of government share revenues and other resources generally accompanied by special conditions that must be satisfied as prerequisites to receiving assistance. Intergovernmental relations are therefore a set of formal and informal processes as well as institutional arrangements and structures for bilateral and multilateral co-operation within and among the three spheres of government.

According to Anderson (1960, 3), intergovernmental relations are important interactions occurring among governmental institutions in all spheres. The distinctive features of intergovernmental relations suggest the increased complexity and interdependency of political systems. The characteristics of these more complex and interdependent systems are: the number and growth of governmental institutions, the number and variety of public officials involved in intergovernmental relations, the intensity and regularity of contacts among those officials, the importance of officials' actions and attitudes, and the preoccupation with financial policy issues (Wright 1978, 8).

From these definitions of *intergovernmental relations* it could be argued that the nature of the interaction among different spheres of government varies constantly in terms of the degree of co-operation, depending on the dynamics of the system and

the role-players involved at any given time and in accommodating and managing interdependence, geographical and social diversity, as well as ongoing comprehensive transformation.

It is important to note that the success of intergovernmental relations is a function of the level of participation by the key role-players in the system, and that the extent of participation, whether of a competitive or co-operative nature, finally determines the ontological state of the system of intergovernmental relations (Mentzel and Fick 1996, 101). It may, therefore, be evident that governmental institutions are dependent upon other institutions and officials for resources required to enable the institutions to formulate policy, render services and promote general welfare and sustainable development through the actions, attitudes and behaviour of officials and office-bearers.

Six main objectives of intergovernmental relations that co-operative government requires from all state institutions to abide by are the following:

- achieving key national policy goals, with clear objectives informed by provincial and local circumstances
- cost-effective and sustainable service provision, responsive to needs of communities and accessible to all
- clearly demarcated areas of responsibility and accountability for all state institutions
- deliberate management of devolution to provincial and local governments while exploring asymmetrical options for devolution when capacity is poor
- the encouragement of creativity for collaboration and partnership while strengthening performance and accountability of distinctive institutions
- elimination of wasteful and unnecessary duplication – avoiding ‘turf battles’.

2.2 Co-operative government

According to the Discussion Document of the former Department of Constitutional Development (1999, 4), co-operative government represents the basic values of the government as stipulated in section 41(1) of the Constitution as well as the implementation of these values through the establishment of structures and institutions. Co-operative government is a partnership among the three spheres of government requiring each government to fulfil a specific role. Co-operative government does not ignore differences of approach and viewpoint among the different spheres but encourages healthy debate to address the needs of the people they represent by making use of the resources available to government.

Co-operation applies to circumstances in which people decide or are instructed to work together, also where citizens are given the feeling of involvement while exercising little real power (Fox and Meyer 1995, 28). No sphere of government can function effectively without co-operation with the other because of the interdependency and interrelatedness of some governmental functions, spill-overs in

services, scarce resources and poor economic conditions and popular accountability as well as grassroots pressure (De Villiers 1994, 430).

There is a conceptual difference between co-operative government and intergovernmental relations. Co-operative government is a fundamental philosophy of government (constitutional norm) that governs all aspects and activities of government and includes the deconcentration of power to other spheres of government and encompasses the structures of government as well as the organisation and exercising of political power (Department of Constitutional Development 1999, 21). It is specifically concerned with the institutional, political and financial arrangements for interaction among the different spheres of government. Co-operative government is thus about partnership government as well as the values associated with it – which may include national unity, peace, proper co-operation and coordination, effective communication and avoiding conflict. Intergovernmental relations is one of the means through which the values of co-operative government may be given both institutional and statutory expression and may include executive or legislative functions of government (Department of Provincial and Local Government 1999, 12). Chapter three of the Constitution states that co-operative government should be the conceptual framework through which the aim of promoting a development-orientated state is achieved.

3. Constitutional and institutional framework for co-operative government and intergovernmental relations

The democratic government of South Africa has, over the past ten years, created a constitutional and institutional framework to encourage co-operation and interaction between the three spheres of government. An extensive policy environment has been created to promote intergovernmental relations among the various spheres of government (briefly summarised in Table 1):

Table 1: Policy environment for intergovernmental relations

Policy	Intergovernmental relations implications
<i>White Paper on Reconstruction and Development, 1994</i>	Policy document that stipulated the importance of a participatory local government system to encourage provincial-local intergovernmental relations.
Development Facilitation Act 67 of 1995	The Act provides a basis for a coherent framework for land development according to a set of binding principles – promotion of intergovernmental relations among all spheres of government and stakeholders in the process of land development.

Table I (continued)

Policy	Intergovernmental relations implications
Auditor-General Act 12 of 1995; South African Qualifications Framework; Housing Act 107 of 1997; National Water Services Act 108 of 1997; <i>Rural Development Strategy, White Paper on Transforming Public Service Delivery</i> , 1997; National Environmental Management Act 107 of 1998; Skills Development Act 97 of 1998; <i>White Paper on Municipal Service Partnerships</i> , 2000, among others	Reflect some principles of co-operation, integration and the promotion of governmental relations pertaining to development, planning and service delivery issues.
Constitution of the Republic of South Africa 108 of 1998	Chapter three – principles of co-operation and intergovernmental relations.
Organised Local Government Act 52 of 1997	Relationship between provinces and municipalities was formalised – monitoring, supervision and intervention.
Financial Fiscal Commission Act 99 of 1997 and Intergovernmental Fiscal Relations Act 97 of 1997	Make provision for the establishment and determination of fiscal intergovernmental relations among the three spheres of government.
Division of Revenue Act – for each financial year	Provides for the equitable division of funds to all three spheres of government – promotes transparency during the budget allocation process.
<i>White Paper on Local Government</i> , 1998	Encourages provincial governments to support the promotion and maintenance of intergovernmental relations.
Municipal Demarcation Act 27 of 1998; Local Government Municipal Structures Act 117 of 1998 and Municipal Systems Act 32 of 2000	Formalisation of the various roles of provincial governments in terms of provincial-local intergovernmental relations.
Municipal Finance Management Act 56 of 2003 and Public Finance Management Act 1 of 1999	Modernise the financial management system and ensure accountability. Define the relationship between spheres of government in terms of local government financial management as well as the supervisory and monitoring roles of provincial governments.

Table I (continued)

Policy	Intergovernmental relations implications
Intergovernmental Relations Framework Act, 2005 (Act 13 of 2005)	Seeks to provide focus, clarity and certainty regarding core aspects of intergovernmental relations at the executive level of government. Provides for the establishment of intergovernmental structures (President's Coordinating Council, National intergovernmental forums, provincial intergovernmental forums, municipal intergovernmental forums) as well as the conduct of intergovernmental relations and the resolution of intergovernmental relations disputes.

Source: Adapted from Thornhill, C., M. J. Odendaal, L. Malan, F. H. Smith, H. G van Dijk, N. Holtzhansen, M. Crous, and D. M. Mello 2003, 13–20.

The various spheres of government have shown over the past ten years that they are dependent on each other for the sharing of various resources (constitutional and legal resources, among others). Constitutional and legal resources are the discretionary authority delegated from a higher to a lower authority by means of the Constitution, as well as formal legal procedures and arrangements. The National Council of Provinces acts as an important legislative co-operative government structure. This house represents the different provinces to ensure that provincial interests are protected when making decisions in the national sphere of government through participating in the national legislative process and by providing a national forum for public consideration of issues affecting provinces.

A major structure created for the promotion of intergovernmental relations in South Africa is the President's Coordinating Council. The President's Coordinating Council was created to assist in improving relations and coordination among national and provincial government and help with the development of linkages between intergovernmental institutions and structures. The President's Coordinating Council consists of the president, deputy president, Minister in the Presidency, the Minister of Provincial and Local Government, the Minister of Finance, Minister of Public Service and Administration, the premiers of the nine provinces and the Chairperson of the South African Local Government Association. The agenda of the President's Coordinating Council is to address substantive issues pertaining to provincial government with the support of the national Department of Provincial and

Local Government, while acting as a consultative forum for the president. The president convenes the meetings and determines the agenda of the Council. The President's Coordinating Council must meet at least twice a year.

Executive intergovernmental relations are relations aimed at bringing together executive heads (i.e., premiers, members of executive councils of provinces and ministers) to deal with governmental line functions and lateral issues (Mentzel and Fick 1996, 119). Institutions created to promote executive intergovernmental relations in South Africa are the various national intergovernmental forums such as the Committees of Ministers and Members of Executive Councils (MINMEC). Some examples of such committees are the MINMEC for Social Development, MINMEC for Local Government and the Department of Environmental Affairs and Tourism MINMEC. The Committee of Ministers and Members of Executive Councils consists of the national line function ministers, deputy ministers and the provincial members of the Executive Council responsible for a similar functional area in their respective provinces (Setai 1994, 228).

These national intergovernmental forums are established to discuss matters of national interest within a specific functional area with provinces and, if appropriate, with organised local government. These structures should also discuss performance in order to detect failures and to propose preventative or corrective action. In national intergovernmental forums, the development of national policy and legislation relating to matters affecting the functional area is discussed as well as the implementation of these policies. Other matters for discussion in the national intergovernmental forums should be the coordination and alignment of strategic and performance plans as well as the priorities, objectives and strategies across national, provincial and local governments. The national intergovernmental forums should also report back to the President's Coordinating Council on any matter referred to it by the Council.

The current MINMEC structures are faced with numerous challenges. Some of the challenges are that these Committees are informal, advisory and implementational executive structures and therefore do not have real decision-making powers. A large number of meetings lead to poor attendance or attendance by low-ranking officials and the management and preparation of supporting documentation are usually very poor. The MINMEC structures, however, currently assist with the drafting of intergovernmental line-function policies and strategies which may guide the spheres of government in the formulating of own policies; transfer of information; allocation and utilisation of financial resources; execution of policies and strategies; harmonisation of legislation and programmes, and consultation and negotiation with regard to national minimum norms and standards in the undertaking of joint projects. The role and functions of the various Committees of MINMEC were formalised in terms of the Intergovernmental Relations Framework Act, 2005, to enable these structures to have more binding decision-making powers.

An example of a statutory MINMEC structure is the Budget Council (established and regulated by the Intergovernmental Fiscal Relations Act, 1997 (Act 97 of 1997)). The Budget Council serves as a statutory financial Committee of MINMEC and consists of the Minister of Finance as well as the various members of executive councils concerned with finance of each province. Because of the fact that any sustainable development policy, strategy or programme has financial implications, this structure could provide the forum in which the financing of these matters could be addressed. The Minister of Finance acts as chairperson of the Budget Council (sec. 2 of the Intergovernmental Fiscal Relations Act, 1997). The functions of the Budget Council will include consultation on any fiscal, budgetary or financial matter and the evaluation of proposed legislation or policy pertaining to finance. Issues concerning financial management, or the monitoring of finances of the provinces, may also be discussed in the meeting of the Budget Council twice every financial year (sec. 3 and 4 of the Intergovernmental Fiscal Relations Act, 1997). The Budget Council, being a statutory body, may make binding decisions and differs from other Committees of MINMECs because of its statutory nature.

In the Local Government Budget Forum the Minister of Finance, as well as the various members of the executive councils of provinces responsible for finance and organised local government, is represented. Representatives of all three spheres of government share information and consult with one another on financial matters in South Africa. The role of local government in realising sustainable development is of utmost importance, because municipalities are given the responsibility for being proactive and innovative in dealing with developmental needs (this is evident from their role in drafting integrated development plans). According to Minister Mufamadi (2002, 2), the South African government has taken the process of co-operative government and intergovernmental relations a step further by recommending that local integrated development plans should serve as the basis for aligning policy, planning and budgeting processes across all three spheres of government. The aforementioned will give meaning to the concept that 'development is local' and that sustainable development can only be achieved through integration of the activities of all spheres of government.

Other examples of statutory intergovernmental relations structures, focusing on the promotion of sustainable development, are the Committee for Environmental Coordination and the National Environmental Advisory Forum (established in terms of the National Environmental Management Act, 1998 (Act 107 of 1998)).

Six Cabinet clusters were also formed to promote co-operative government and intergovernmental relations in South Africa. The Cabinet clusters are grouped together in different sectors that bring together ministers of Cabinet. Because the focus of government is a developmental one, these clusters will also address issues pertaining to sustainable development. Meetings take place to discuss cross-cutting issues and issues of mutual interest (Department of Provincial and Local Government 1999, 272). The Office of the Deputy President supplies the necessary

support and coordination for the various Cabinet clusters. Clusters set priorities but have no budget function and the planning done during cluster meetings is neither institutionalised nor regulated in budget legislation. Because clusters cannot implement or account for performance, their role is limited. The composition of clusters limits effectiveness because organised local government is not a member. The voice of local government is therefore not represented. National and provincial clusters also do not meet to align priorities.

Various provincial coordinating structures also exist and their establishment is provided for in the Intergovernmental Relations Framework Act, 2005. Some examples of such provincial intergovernmental relations structures are the following: the Eastern Cape Provincial Political Intergovernmental Forum, Free State Provincial and Local Government Coordinating Committee, Gauteng Intergovernmental Forum, Gauteng Premier's Coordinating Committee, KwaZulu-Natal Provincial Cabinet Clusters, Mpumalanga Intergovernmental Relations Forum, North West Intergovernmental Forum and the Western Cape Provincial Advisory Forum (Thornhill et al. 2002, i). The premier of a province may establish a formal provincial intergovernmental forum to promote and facilitate effective and efficient intergovernmental relations between the province and local governments in the province with respect to a functional area. These above-mentioned provincial structures should play an important role in addressing sustainable development issues through co-operative government in their respective provinces.

The Intergovernmental Relations Framework Act, 2005 also determines that the premier of a province must establish a premier's intergovernmental forum that should consist of the premier, the member of the executive council responsible for local government in the province, at least the mayors of district and metropolitan municipalities and a representative of organised local government in the province. The premier's intergovernmental forum would be a consultative forum for the premier where matters arising in the President's Coordinating Council affecting local government interests in the province should be discussed. The Office of the Premier would provide administrative assistance to this forum.

The establishment of inter-provincial forums is also encouraged by the Intergovernmental Relations Framework Act, 2005. Premiers of two or more provinces may establish an inter-provincial forum to promote and facilitate intergovernmental relations between those provinces.

The envisaged establishment of municipal intergovernmental forums (also called district intergovernmental forums) will also promote intergovernmental relations between the mayor of a district municipality and the mayors of the local municipalities in the district. Draft national and provincial policy and legislation relating to matters affecting local government interests can be discussed as well as service delivery, coherent planning and development in the district.

Two or more municipalities may also, according to the Intergovernmental Relations Framework Act, 2005, establish an inter-municipality forum to promote and facilitate intergovernmental relations between them.

Administrative intergovernmental relations are the relations between officials and structures that exist for administrative purposes. Examples of structures for informal intergovernmental relations are the Forum for South African Directors-General and the Technical Intergovernmental Committee (Mentzel and Fick 1996, 123). The Forum for South African Directors-General was created to discuss mutual problems, share experiences and learn from each other in terms of the administration of the different provinces and to promote coordination between national and provincial departments. The overarching objective of the Forum for South African Directors-General is to promote section 41 of the Constitution, pertaining to co-operative government. National directors-general as well as directors-general responsible for the provinces are represented in the forum. according to the Audit Report (Department of Provincial and Local Government 1999, 92) the Forum of South African Directors-General contributes towards promoting intergovernmental relations by encouraging communication as well as vertical and horizontal coordination between political and administrative structures in the national and provincial spheres of government. The Department of Provincial and Local Government provides technical support to this forum and is currently considering the inclusion of the chief executive officer of the South African Local Government Association (SALGA) as a member of Forum for South African Directors-General.

The Technical Intergovernmental Committee has been created to coordinate and debate functions falling outside the competence of the provinces (Mentzel and Fick 1996, 125). The role of this structure is to provide technical, administrative and advisory support to executive intergovernmental structures such as the various Committees of MINMECs (p. 123).

Advisory intergovernmental institutional arrangements further promote co-operative government in South Africa. These intergovernmental institutions will contribute only indirectly towards promoting sustainable development in South Africa. The role of advisory intergovernmental structures is to give advice and make recommendations. Examples of advisory intergovernmental institutional structures are the Public Service Commission and the Financial and Fiscal Commission.

In South Africa, a national Department of Provincial and Local Government guides and regulates co-operative government and intergovernmental relations. A chief directorate in the department is also responsible for formulating legislation that promotes intergovernmental relations. Various other national and provincial departments also have divisions/sub-directorates established for the sole purpose of encouraging co-operative government. The existence of numerous provincial and local government structures of co-operative government and intergovernmental relations in the provincial and local sphere of government also proves that these two spheres are committed to promoting co-operation and interaction.

4. Intergovernmental relations processes

The process of intergovernmental relations refers to a matrix of interactions among organs of state and institutions of government, with particular reference to the executive and legislative components of government. Intergovernmental processes are derived from the Constitution. Examples of processes of intergovernmental relations in South Africa are dispute settlement; consultation and information-sharing, coordination of actions, and intervention of one sphere of government in another.

4.1 Dispute settlement mechanisms in intergovernmental relations

Chapter three of the Constitution stipulates that national government should establish dispute resolution mechanisms to reduce unnecessary litigation between organs of state (because the principle of co-operative government determines that a negotiated rather than a conflict approach should be followed when dealing with disputes). A number of dispute resolution mechanisms for intergovernmental relations are proposed by the Department of Provincial and Local Government and it is suggested that provincial and local government implement their own dispute resolution procedures which are in line with national procedures (Department of Constitutional Development 1999, 56). The focus of the spheres of government should be on efficient and effective intergovernmental co-operation to ensure that dispute settlement procedures are a last resort. Court action should be avoided in the solving of disputes and a system of administrative courts may serve as an option.

Because of the fact that there is still uncertainty regarding key features of the Constitution's dispute settlement procedures that are not clarified in legislation and in an attempt for formalise dispute settlement mechanisms in intergovernmental relations, Chapter Four of the Intergovernmental Relations Framework Act, 2005, outlines principles for the resolution of intergovernmental disputes, and the role of facilitators and the minister or member of the executive council for local government in disputes.

4.2 Information sharing and consultation

The three spheres of government are required to inform each other and consult (create active dialogue) with one another when matters of common interest are at stake (chapter three of the Constitution). Information-sharing refers to the exchange of information between governmental institutions by, for example, attending conferences, congresses, seminars or making use of any other medium of communication. Information-sharing and consultation may be informal – by telephone, e-mail and through informal meetings, or formal, for example meetings of the various intergovernmental relations structures (see paragraph 3).

Consultation may occur when joint decision-making takes place (in consultation with) or when non-binding recommendations need to be considered (after consultation with). Consultation between spheres of government and organs of state should occur timeously to enable the parties involved to make appropriate input by following the correct procedure (Department of Constitutional Development 1999, 67). Time-sharing and consultation are generally not applied in isolation but are utilised to a greater or lesser degree in the normal course of interaction among governmental institutions in South Africa.

The sharing of information between spheres of government is mostly concerned with laws, executive orders, legislation and procedures pertaining to the controlling and accessing of information (Schwella, Burger, Fox and Müller 1996, 183). Computerised information systems and systems technology are not only important communication mechanisms but may also promote intergovernmental relations among spheres of government if used effectively. The computerised information system may, according to Stevens and McGowan (1985, 3) include the following: 'personal or microcomputers, intelligent terminals, work stations, networking, word processing, telecommunication and large mainframes'. The computer may become the most important instrument of information-sharing and consultation and may assist formal structures for intergovernmental relations to function effectively.

4.3 Coordination and intergovernmental relations

Coordination becomes an adversarial issue of governance whenever functions are formally shared between various spheres of government (with each having a specific responsibility), or when exercising a function in one sphere has consequences for the functions of another. Too much or poor coordination undermines performance and risks confusing mandates, responsibility and accountability. Uncoordinated performance may, in turn, may perhaps result in efficiency but not necessarily lead to effectiveness. Coordination is the process that ensures that those activities and functions of the three spheres of government do not overlap and that no duplication of functions occurs. Coordination is a major criterion for an effective system of government consisting of decentralised units. Section 85(1) of the Constitution refers to the coordination of functions of state departments and other administrations, implying that national government should coordinate its functions and legislation with the other spheres of government while the national executive authority should coordinate the functions of state departments with provincial departments and administrations, while the same is true for provincial and local departments.

The right balance between coordination, performance and accountability may be the key to better intergovernmental relations and to improving the capacity of government to deliver on key priorities. The goals of coordinated action should be clearly outlined and each institution should be clear about its role in achieving common goals.

4.4 Monitoring and intervention

Provinces and municipalities are subject to the intervention and monitoring powers of national and provincial government respectively, within restrictive limits. Monitoring is defined as the periodic oversight of a process, or the implementation of an activity with the purpose of determining to what extent the objectives within an organisation are achieved so that timely action can be taken to correct any deficiencies that are detected. (Thornhill et al. 2003, 21). The monitoring role of provincial government in terms of municipalities is outlined in section 139 (as amended) of the Constitution and further complimented by various acts and other policy documents. Provinces monitor municipalities in two ways: by determining whether a municipality meets its executive obligations in terms of legislation, and how well it performs its duties. Thornhill et al., (2003, 23) are of the opinion that when the role of provinces in terms of monitoring is considered, the impression is created that a strong link exists between the provincial governments and municipalities, which may not always be the case. The new system of local government is fairly young and during the past years, national and provincial government have been assisting the local sphere of government to grow and settle. The Department of Provincial and Local Government is of the opinion that the proposed Intergovernmental Relations Framework Act, 2005 draws on ten years of intergovernmental experience to address the relations between the various spheres of government (also with regard to the monitoring role of provinces) (Department of Provincial and Local Government 25 June 2004).

Section 100 (as amended) of the Constitution provides for national intervention and supervision of provincial administrations. The national executive authority may intervene in the activities of a province when a province cannot or does not fulfil an executive obligation in terms of the Constitution or legislation. Regarding the relations between national and provincial legislation, it is stated that national legislation will prevail over provincial legislation if the provinces cannot effectively regulate a matter through legislation. National legislation will deal with matters that require uniformity across the nation by establishing norms and standards, frameworks or national policies. National legislation is also necessary for the maintenance of national security, the maintenance of economic unity and the protection of the common market in respect of the mobility of goods, services, capital and labour. National legislation is further important for the promotion of economic activities across provincial boundaries, the promotion of equal opportunity or equal access to government services, and the protection of the environment. National legislation will also override provincial legislation to prevent unreasonable action by a province, for example, action of a province that is prejudicial to the economic, health or security interest of another province of the state or impedes the implementation of national economic policy (Van der Waldt and du Toit 1997, 42).

The National Council of Provinces plays a major role in respect of intervention under Section 100 (as amended) of the Constitution, where national supervision of provincial administrations is described. Written notice of national intervention should be tabled in the Provincial Legislature as well as in the National Council of Provinces.

It is important to note that intervention 'is not a form of punishment but should be seen as a form of assistance in cases where municipalities could not address a specific issue' (Thornhill et al. 2003, 29). Pertaining to provincial intervention in the activities of municipalities, it is difficult for provinces to determine during what stage a municipality does not fulfil its obligation. Municipalities do not all have the same resources and most municipalities are struggling to fulfil specific obligations and maintain essential standards of service rendering. Intervening provincial governments are faced with the challenge of indicating precisely which executive obligation was not fulfilled. Section 139 (as amended) of the Constitution states that municipalities should 'maintain essential national standards or meet established minimum standards for the rendering of a service' with the implication that an intervention by a province can only occur when a municipality fails to meet the *minimum standard*. It is difficult for provincial governments to determine when to intervene in the activities of municipalities because municipalities are not required to fulfil an obligation fully. The objective with intervention, according to Thornhill et al. (2003, 31), is to restore the functioning of a municipality, and the process of intervention should stop when that objective has been reached.

It is difficult to determine to what extent national and provincial government are successful with their monitoring and intervention roles in the various aspects of public and municipal administration. Issues such as the lack of a proper, clear and recognisable process for monitoring and intervention, insufficient budget allocations for these processes and a lack of a proper consultation processes with stakeholders impede the development of national – provincial as well as provincial–local intergovernmental relations. Interventions usually come too late – early warning systems either do not exist or are not used. The relationship between one sphere's duty to support another and its power to intervene is irregular and needs attention.

5. Conclusion

The system of intergovernmental relations in South Africa requires the three spheres of government to forge strong, flexible goal-directed partnerships that can promote collaboration without weakening performance and accountability. This can only happen if political office-bearers and officials in the public sector change their mindset to embrace co-operation. To ensure sustainable development (whether it is economic, social, or environmental sustainability), government and government institutions should be committed to promoting intergovernmental relations and co-operative government by focusing on capacity building as well as institutional strengthening. Capacity defines the potential for development. In

most instances, the national and provincial spheres of government in South Africa create the institutional structures to facilitate sustainable development, whereas local government is seen as the delivery agency for development programmes and projects.

Practice, however, shows that the intergovernmental relations system is hampered by two main deficiencies:

1. The determination and execution of key national development priorities involving all three spheres of government is an unpredictable and incoherent process at most (if not all) spheres of government, with the clear exception of the budget process. A variety of processes and structures exist whose status, role and interrelationships remain uncertain.
2. The management of service delivery programmes is based on questions of jurisdiction between departments, organs of state or spheres of government when policy priorities cut across ministerial mandates and traditional policy fields. The mechanisms for managing service delivery through intergovernmental relations are ad hoc and lack institutional definition. The result is a poor integration of services at community level, duplication, real or perceived unfunded mandates, and a general inability to forge collaborative partnerships or to find common ground for joint action.

It is important that the devolution of functions to provincial and local governments should be in line with their capacity to implement these functions in order to prevent unfunded mandates being devolved to provincial and local government. It is necessary that national government not only has a policy on the intervention of national government, but also on the resumption of functions delegated to the other spheres.

The system of intergovernmental relations should assist government to set, execute and monitor key development priorities regarding the creation of work, fighting poverty and reinforcing national pride, given the relative autonomy of provincial and local government in key areas of social delivery. The importance of co-operative government and intergovernmental relations in promoting sustainable development cannot be ignored. It would be a test for policy-makers involved in the ongoing policy process in South Africa, on how far they succeed in making the development process sustainable. Good governance (based on the principles for co-operative government and intergovernmental relations) is necessary to strategically manage and administer the developmental needs and priorities of the citizens of South Africa. The following basic principles should be followed, namely common loyalty as well as effective, transparent, accountable and coherent government where the distinctiveness of each sphere is respected. Government should not just manage sectors, but coordinate and integrate the functions in order to promote sustainable development. Numerous policy documents have been formulated in the past decade to create a platform and policy context for the promotion of intergovernmental

relations and co-operative government. The challenge is to what extent government will be able to give practical effect to these policy documents and whether they would be able to confront key issues during the process of fulfilling their mandates. Although the intergovernmental relations system and institutions in South Africa have shortcomings, they still provide a co-operative model of developmental governance.

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