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# CONSERVATION MANAGEMENT AND INTERGOVERNMENTAL RELATIONS: THE CASE OF SOUTH AFRICAN NATIONAL AND SELECTED PROVINCIAL PROTECTED AREAS

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## ABSTRACT

The purpose of this article is to investigate conservation management and intergovernmental relations with reference to the national and selected provincial parks. A number of structures and institutions for intergovernmental relations are analysed. The relevance of those structures for intergovernmental relations pertaining to conservation management in particular is investigated. A model for intergovernmental relations pertaining to conservation management is developed and recommendations regarding the promotion of intergovernmental relations are made.

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## 1 INTRODUCTION

A model of co-operative government and a state that presupposes continuous interaction between the national, provincial and local spheres of government are established by the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996). The study of the different relations between the three spheres of government is very complex because of the increasing number of government institutions, organs of state and people involved in the various government bodies as well as the growing number of functions performed by these institutions and people.

Particular functions and powers are allocated to the spheres of government and may be divided between powers exclusive to one sphere of government (Schedule five of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]),

concurrent powers shared between two or more spheres of government (Schedule four of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]) and specific constitutional powers. To regulate and govern the interaction and co-operation between the three spheres of government, a set of principles for co-operative government and intergovernmental relations is stipulated in Chapter three of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996).

This article will be limited to the study of intergovernmental relations only, focusing on conservation management. The nature and complexity of the total field of study of governmental relations would have been too comprehensive (bearing in mind that governmental relations comprise inter, intra and extra governmental relations) and therefore the demarcation. A further demarcation was also necessary due to the number of spheres of government in South Africa. The South African government is divided into three spheres of government namely national, provincial and local spheres and for the purpose of this article, the focus will only be on intergovernmental relations between the national and provincial spheres up until December 1999. The choice to focus on the national and provincial spheres of government only is a result of a decision to analyse conservation management pertaining to the South African National Parks and selected provincial protected areas. Provincial parks and reserves, equivalent to national parks, are named provincial protected areas for the purpose of this article. Section 44(1)(a)(ii) together with Section 104(1)(b)(i) of the *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996) provide for concurrent national and provincial legislative competence to particular spheres of government and one of the concurrent functions is nature conservation, excluding national parks, national botanical gardens and marine resources. National parks are mentioned as an exception as being an exclusive national competence with the implication that other conservation issues are the responsibility of provincial government. The principles of co-operative government and intergovernmental relations, such as co-operation of spheres of government in mutual trust and good faith, respect for the powers and functions of the various spheres and the provision of effective, transparent, and coherent government, should be adhered to where concurrent competence exists and, therefore, the necessary demarcation (Chapter Three of the *Constitution of the Republic of South Africa, 1996* [Act 108 of 1996]). Protected areas in KwaZulu-Natal and Mpumalanga were selected because KwaZulu-Natal province has the largest number of protected areas while the largest national park is situated in the Mpumalanga province.

The importance of an Act of Parliament to provide for structures and institutions to promote and facilitate intergovernmental relations is emphasised by Section 41(2) of the current *Constitution of the Republic of South Africa, 1996* (Act 108 of 1996). Although the envisaged Act is not in place yet, the process of drafting such an Act has begun. The drafting of legislation and the formulation of policy to implement legislation will require an informed process of planning and decision-making.

## **2 INTERGOVERNMENTAL RELATIONS**

The distinctive features of intergovernmental relations suggest the increased complexity and interdependency in political systems. The characteristics of the above-mentioned 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). The jurisdictional diversity of intergovernmental relations is revealed by the number and types of governmental institutions, for example institutions and government departments on national and provincial levels, while the concept of intergovernmental relations has to be formulated largely in terms of human relations and human behaviour (Wright 1978:8). Intergovernmental relations include officials' continuous, day-to-day patterns of contact and exchanges of information and views where policy is generated by interactions among all public officials in the different spheres of government.

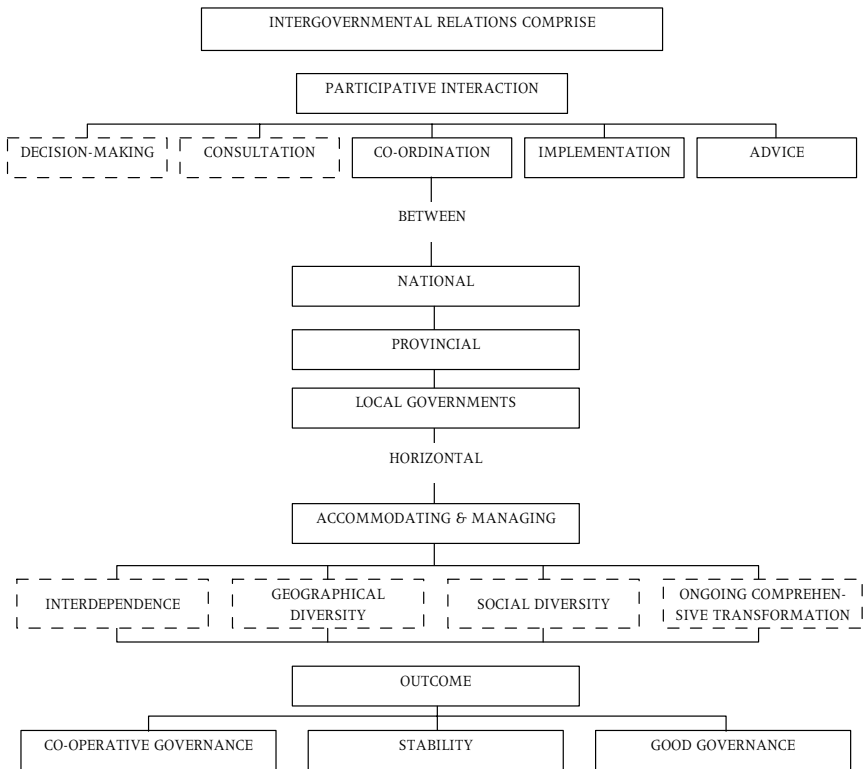
Mentzel and Fick (1996:101) define intergovernmental relations as follows:

a mechanism for multi and bi-lateral, formal and informal, multi-sectoral and sectoral, legislative, executive and administrative interaction 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 governmental activity.

Referring to Figure 1, 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 governmental institutions and officials for resources required to enable the institutions to formulate policy, render services and promote general welfare through the actions, attitudes and behaviour of officials and office-bearers.

The success of intergovernmental relations is a function of the level of participation by the key role-players in the system and the extent of that participation finally determines the ontological state of the system of intergovernmental relations (Mentzel and Fick 1996:101). According to Anderson (1960:3), intergovernmental relations are interactions occurring between governmental institutions of all types and in all spheres. From the definitions of intergovernmental relations it becomes clear that the nature of the interaction

**Figure 1 A synoptic illustration of the nature and content of inter-governmental relations**



**Source:** Mentzel, C and Fick, J 1996. Transformation perspectives on policy management: Dynamics of intergovernmental relations with specific reference to the Eastern Cape. *Africanus*. Vol 26(2):p102.

between 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.

Organs of state concerned with conservation management, such as the South African National Parks as well as the provincial conservation authorities in KwaZulu-Natal and Mpumalanga, need to interact and co-operate with one another to ensure that conservation goals are attained. Organs of state are

established by legislation to ensure that conservation goals are attained and managed for the promotion of the general welfare of present and future societies. An organ of state is defined as any department of state or administration in the national, provincial or local spheres of government or any functionary or institution that exercises power or performs a function in terms of the national or provincial constitutions or in terms of legislation (Section 239 of the *Constitution of the Republic of South Africa*, 1996 [Act 108 of 1996]). The South African National Parks, KwaZulu-Natal Nature Conservation Service and KwaZulu-Natal Nature Conservation Board as well as the Mpumalanga Parks Board are included in the definition of an organ of state. Fragmentation, the lack of co-ordination and the duplication of efforts need to be addressed through sound intergovernmental relations pertaining to conservation management. Institutions and structures for intergovernmental relations should be used effectively to eliminate factors hampering conservation management in South Africa.

### **3 STRUCTURES FOR INTERGOVERNMENTAL RELATIONS**

Due to the complex nature of intergovernmental relations, structures are created to promote and ensure sound intergovernmental relations. It is important to clarify different intergovernmental institutional arrangements in order to motivate the necessity of structures for intergovernmental relations. The relevance of certain structures for intergovernmental relations pertaining to conservation management is addressed later in the article.

#### **3.1 Legislative intergovernmental institutional arrangements**

Legislative intergovernmental relations refer to the structures, functions and terms of reference which are regulated by the *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996) or other legislation and therefore regulate the relations between Parliament, especially the National Council of Provinces (NCOP), and the provincial legislatures (Mentzel and Fick 1996:121). The NCOP, as a House of Parliament, could serve as an important instrument in the promotion of intergovernmental relations in South Africa. The role of the NCOP with regard to promoting intergovernmental relations pertaining to conservation management in particular, is aimed at introducing and approving legislation regarding conservation issues.

#### **3.2 Executive intergovernmental institutional arrangements**

Executive intergovernmental relations are relations aimed at bringing together executive heads (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

are the Committee of Ministers and Members of Executive Councils (MINMEC) and the Intergovernmental Forum.

The MINMEC consists of the national line-function Ministers and the provincial Members of the Executive Councils (Setai 1994:228). Mentzel and Fick (1996:120) regard the MINMEC as an informal, advisory and implementational executive structure which deals 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; executing 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. Although the contributions of the MINMEC to the development of efficient and effective intergovernmental relations have been substantial, the Presidential Review Commission on the Reform and Transformation of the Public Service in South Africa (1998:38) found a number of shortcomings related to the Committee as a unit and these shortcomings may be summarised as follows: the large number of meetings of the MINMEC leads to poor attendance or attendance by low ranking officials; the management of meetings and the preparation of supporting documentation are poor; there is a lack of clarity over the decision-making authority of the Committees and meetings are dominated by national government representatives which may lead to consensual decision-making.

Other examples of executive and legislative intergovernmental structures are: the Intergovernmental Forum, Provincial Intergovernmental Forums, Cabinet Clusters as well as the President's Co-ordinating Council (Discussion Document 1998:23). Further executive intergovernmental relations structures are the Budget Council and the Local Government Budget Forum. Because of the very minor and indirect role that these above-mentioned structures play in intergovernmental relations pertaining to conservation management in particular, no further attention will be given to them in this article.

### **3.3 Administrative intergovernmental institutional arrangements**

Administrative intergovernmental relations are the relations between officials and structures which exist for administrative purposes. An example of a structure for informal administrative intergovernmental relations is the Technical Intergovernmental Committee (TIC) (Mentzel and Fick 1996:123).

The TIC has been created to co-ordinate 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 namely the MINMEC and the Intergovernmental Forum (Mentzel and Fick 1996:123). The TIC has however been criticised for its failure to promote intergovernmental relations in the national sphere of government and the reason may be the failure of legislative intergovernmental

structures leading to the poor functioning of technical support committees (Presidential Review Commission 1998:39). Mechanisms are needed to promote consistency in policy formulation on intergovernmental relations to ensure compliance with decisions taken by intergovernmental structures and institutions.

### **3.4 Advisory intergovernmental institutional arrangements**

The role of advisory intergovernmental structures is to give advice and make recommendations. Relating to advisory intergovernmental structures for conservation management, a Committee for Environmental Co-ordination as well as a National Environmental Advisory Forum may also be established in terms of the *National Environmental Management Act*, 1998 (Act 107 of 1998). The relevance of these two structures in promoting intergovernmental relations pertaining to conservation management are addressed in later paragraphs.

The Department of Provincial and Local Government is in the process of formalising the systems of intergovernmental relations by drafting legislation on intergovernmental relations and is therefore playing an important role in the facilitation and co-ordination of relations between different spheres of government. During 1999 an audit was conducted whereby all existing structures and processes for intergovernmental relations in South Africa were analysed. Various extensive interviews were conducted to determine the current reality of intergovernmental relations across the three spheres of government. The recommendations and suggestions that will emanate from this audit will benefit the Department of Provincial and Local Government in the formulation of legislation regarding intergovernmental relations.

All structures for intergovernmental relations need to be stable and durable to promote the principles of co-operation. The formalisation of intergovernmental structures will lead to national legislation concerning intergovernmental relations and subsequently to provincial legislation on such matters. In this article, the focus will be on analysing and developing structures for intergovernmental relations pertaining to the management of national parks and provincial protected areas in KwaZulu-Natal and Mpumalanga only.

## **4 THE SOUTH AFRICAN NATIONAL PARKS AND PROVINCIAL PROTECTED AREAS**

National parks should be controlled by the highest conservation authority of a state because national parks are national assets. In South Africa, the highest conservation authority is the South African National Parks which has to ensure that the national parks are managed for the benefit of all the people in South Africa. Besides these official conservation areas, proclaimed by legislation as national parks and equivalent provincial protected areas, South Africa also has

other conservation areas such as private game (nature) reserves, zoos and terrestrial and marine protected areas. Focus in the article will however not be on the management of these other conservation areas.

#### **4.1 South African National Parks**

The South African National Parks has been involved in conservation and, through its World Conservation Union (WCU) membership, runs bilateral projects, provides assistance, encouragement and advice on issues regarding the protection and use of natural resources. The vision of the South African National Parks is that national parks will be the pride and joy of all South Africans, while its mission is to acquire and manage a system of national parks that represents the indigenous wildlife, vegetation, landscapes and significant cultural assets of South Africa for the pride and benefit of the nation (Anon 1999). South African National Parks co-operates and shares information within and outside of the organisation and strives to be sincere and honest in its dealings with different parties. It strives to provide a high quality service to all and to maintain a culture of transparency through openness and communication (Anon 1999). Other values of the South African National Parks are to uphold environmental ethics in relation to conservation of resources and to be dynamic in responding to the changing environment and community needs.

The South African National Parks are managed by a board consisting of 18 members appointed by the Minister of Environmental Affairs and Tourism for a period not exceeding five years: one person nominated by each of the Premiers of the nine provinces, who is by virtue of knowledge capable of promoting the objectives of the board in an unbiased manner; and nine members appointed by the Minister of Environmental Affairs and Tourism in consultation with Cabinet or a Cabinet Committee (Section 5 of the National Parks Act, 1976 [Act 57 of 1976] as amended). One of the members shall be designated by the Minister of Environmental Affairs and Tourism to act as chairperson of the board. The board shall control, manage and maintain the national parks to meet the objectives set out in Section four of the *National Parks Act, 1976* (Act 57 of 1976), as amended, and utilise its revenue for that purpose.

#### **4.2 Institutions for KwaZulu-Natal protected areas**

The amalgamation of the previous Natal Parks Board and the provincial Department of Nature Conservation was undertaken with the promulgation of the *KwaZulu-Natal Nature Conservation Management Act, 1997* (Act 9 of 1997). Some of the sections of the mentioned Act are in the process of being amended with the introduction of the *KwaZulu-Natal Nature Conservation Management Amendment Bill, 1999* which provides for institutional structures for nature conservation in the province of KwaZulu-Natal and establishes control bodies and



mechanisms to monitor conservation management. The amendments will however not have a major impact on the focus of this article. Conservation management in the province of KwaZulu-Natal is the responsibility of the KwaZulu-Natal Nature Conservation Board and the KwaZulu-Natal Nature Conservation Service (*KwaZulu-Natal Nature Conservation Management Act, 1997* [Act 9 of 1997]). The KwaZulu-Natal Nature Conservation Board consists of between nine and 14 members appointed by the Member of the KwaZulu-Natal Executive Council under whose portfolio the responsibility for the protection and conservation of the environment and of nature conservation resides as well as the Chief Executive Officer of the KwaZulu-Natal Nature Conservation Service who will act as an *ex officio* member.

The primary functions of the KwaZulu-Natal Nature Conservation Board are, according to the *KwaZulu-Natal Nature Conservation Management Act, 1997* (Act 9 of 1997), to supervise and direct conservation management within the province and protected areas, and to develop and promote ecotourism facilities within the protected areas. The KwaZulu-Natal Nature Conservation Board may also undertake investigations and advise the Member of the Executive Council concerned with conservation with regard to legislation and policies pertaining to conservation as well as the financing and co-ordination of projects associated with protected areas. The KwaZulu-Natal Nature Conservation Service is accountable to the KwaZulu-Natal Nature Conservation Board for the performance of its functions, powers and duties (*KwaZulu-Natal Nature Conservation Management Act, 1997* [Act 9 of 1997]).

The KwaZulu-Natal Nature Conservation Service is headed by a Chief Executive Officer appointed by the Member of the Executive Council concerned with nature conservation in consultation with the KwaZulu-Natal Nature Conservation Board. The main functions of the KwaZulu-Natal Conservation Service is the promotion of nature conservation inside and outside protected areas and to provide support to the KwaZulu-Natal Nature Conservation Board.

### **4.3 Institutions for Mpumalanga protected areas**

Protected areas in the province of Mpumalanga are managed by a statutory board, namely the Mpumalanga Parks Board. The Mpumalanga Parks Board consists of not more than nine members, two of whom are appointed by the Member of the Executive Council concerned with environmental affairs and agriculture as Chairperson and Deputy Chairperson (*Mpumalanga Parks Board Amendment Act, 1998* [Act 9 of 1998]). One member from the Board will also be appointed as the *ex officio* Chief Executive Officer. Members of the Mpumalanga Parks Board are appointed for different periods and upon different conditions but are normally appointed for a two-year period.

The objective, powers and functions of the Mpumalanga Parks Board are outlined in the *Mpumalanga Parks Board Amendment Act, 1998* (Act 9 of 1998).

Functions will include the inventorying, assessing and monitoring of natural resources in the Province, administering and managing laws in respect of conservation and the evaluation of development proposals, recreation policies and strategies relating to conservation. The members of the Mpumalanga Parks Board are in constant contact, mostly through its Chief Executive Officer, with the Member of the Executive Council concerned with the environment and agriculture, to advise him/her about appropriate policy as well as the legislative, administrative and financial framework regarding conservation management in the province (General Manager: Research and Development 2000).

Effective intergovernmental relations between governmental bodies and institutions concerned with conservation management, such as the South African National Parks and its board as well as the KwaZulu-Natal Nature Conservation Board, the KwaZulu-Natal Nature Conservation Service and the Mpumalanga Parks Board, are of utmost importance to enable co-ordination of policies and legislation and to promote the principles of co-operative governance.

## **5 FINANCIAL RESOURCES OF PROTECTED AREAS MANAGED BY THE SOUTH AFRICAN NATIONAL PARKS AND THE KWAZULU-NATAL AND MPUMALANGA PROVINCES**

Funding for conservation management in a protected area is essential to ensure the wise utilisation of resources to achieve efficient use of land and the enhancement of its wildlife, its appearance and historical and cultural associations. The South African National Parks submit an annual budget to the Department of Environmental Affairs and Tourism outlining its priorities and needs. The Department of Environmental Affairs and Tourism then allocates a portion of its funds, obtained from the National Revenue Fund, to the South African National Parks. The allocation forms only a small part of the South African National Parks' total budget. The total budget of the South African National Parks is managed by the Board.

The nature conservation budget of a province forms part of the general provincial budget. Provinces receive only a portion of their funds from the National Revenue Fund. Less than one percent of the provincial budget is spent on the environment with only a portion thereof being given to the management of provincial protected areas (Kumleben Report 1998:33). The KwaZulu-Natal Nature Conservation Board may however, subject to the prior approval of the Member of the Executive Council concerned with conservation and finance, borrow money or obtain overdraft facilities from financial institutions; acquire interests in companies or partnerships and acquire, sell, lease, hire or exchange immovable property (*KwaZulu-Natal Nature Conservation Management Act, 1997* [Act 9 of 1997]). Other sources of obtaining income are therefore also available to the provinces. Intergovernmental relations also exist in terms of financial

resources for protected areas and conservation management in the sense that KwaZulu-Natal is partially dependent on funding from national government for the rendering of functions and services.

The financial arrangements of the Mpumalanga Parks Board are described in the *Mpumalanga Parks Board Amendment Act, 1998* (Act 9 of 1998) and the relations between the Mpumalanga Parks Board and the Member of the Executive Council responsible for agriculture, conservation and the environment are evident. The revenue of the Mpumalanga Parks Board is obtained by means of subscriptions, donations and bequests by it from the public or through money raised in terms of the *Mpumalanga Parks Board Amendment Act, 1998* (Act 9 of 1998). Funds are also raised through penalties, fines and proceeds from sales of forfeited or recovered items allocated to the Board. A small component of revenue of the Mpumalanga Parks Board is allocated to the Board by the Provincial Legislature of Mpumalanga through the provincial Department of Agriculture, Conservation and Environment. The Mpumalanga Parks Board should therefore submit quarterly and annual reports to the Member of the Executive Council responsible for agriculture, conservation and environmental affairs which set out the objectives and functions of the Board, state the manner in which the Board has achieved its objectives and should contain information pertaining to the efficient and effective application of financial and other resources (*Mpumalanga Parks Board Amendment Act, 1998* [Act 9 of 1998]). The Chief Executive Officer and the Mpumalanga Parks Board are therefore accountable to the Member of the Executive Council responsible for agriculture, conservation and the environment and, hence, to the Provincial Legislature.

The national Department of Environmental Affairs and Tourism plays an important role in intergovernmental relations, especially financial intergovernmental relations pertaining to conservation management. It is therefore necessary to explain the role of the Department of Environmental Affairs and Tourism in intergovernmental relations by outlining and indicating the vision and mission of this Department and by supplying detail regarding its structure.

## **6 THE DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM**

The Department of Environmental Affairs and Tourism is a national government department with the vision of leading environmental management and tourism in the interest of sustainable development for all. The mission of the Department of Environmental Affairs and Tourism is to contribute towards the improvement of the quality of life of all South Africans by promoting the sustainable development, utilisation and protection of natural and cultural resources and harnessing the skills, experience and knowledge of the environment of all South Africans. Working together with all relevant stakeholders and spheres of government (including the South African National Parks and KwaZulu-Natal and Mpuma-

langa conservation authorities) in the spirit of effective governance, forms part of the mission of the Department of Environmental Affairs and Tourism, implying that intergovernmental relations should be promoted.

The Department of Environmental Affairs and Tourism has seven chief directorates (Department of Environmental Affairs and Tourism 1999:1). Of importance for this study is the Chief Directorate: Biodiversity and Heritage because it is this chief directorate that relates with the South African National Parks as well as the provincial conservation authorities on matters pertaining to conservation management in particular (Director: Biodiversity and Heritage 1999). The relevance of existing structures for the promotion of intergovernmental relations in general as well as between the Department of Environmental Affairs and Tourism, the South African National Parks and the selected provincial conservation authorities of KwaZulu-Natal and Mpumalanga will be explained in further detail.

## **7 THE RELEVANCE OF STRUCTURES FOR INTERGOVERNMENTAL RELATIONS PERTAINING TO CONSERVATION MANAGEMENT**

A large number of the structures for intergovernmental relations focuses on the promotion of intergovernmental relations in general and not necessarily on national-provincial intergovernmental relations. It is however necessary to analyse relevant structures and institutions for intergovernmental relations to be able to explain whether the structures contribute directly or indirectly to the promotion of intergovernmental relations pertaining to conservation management, with specific reference to the statutory organs of state concerned with the management of national parks and provincial protected areas (such as the South African National Parks and the selected provincial conservation authorities namely the KwaZulu-Natal Nature Conservation Service, the KwaZulu-Natal Nature Conservation Board and the Mpumalanga Parks Board). A model for intergovernmental relations pertaining to conservation management is developed to assist legislatures, officials and practitioners in the co-ordination of the management of national parks and provincial protected areas. The demarcation of the article, as described in the introduction, will guide the focus of the recommendations and suggestions in the development of a model for intergovernmental relations pertaining to conservation management.

### **7.1 Committees of Ministers and Members of Executive Councils (MINMECs)**

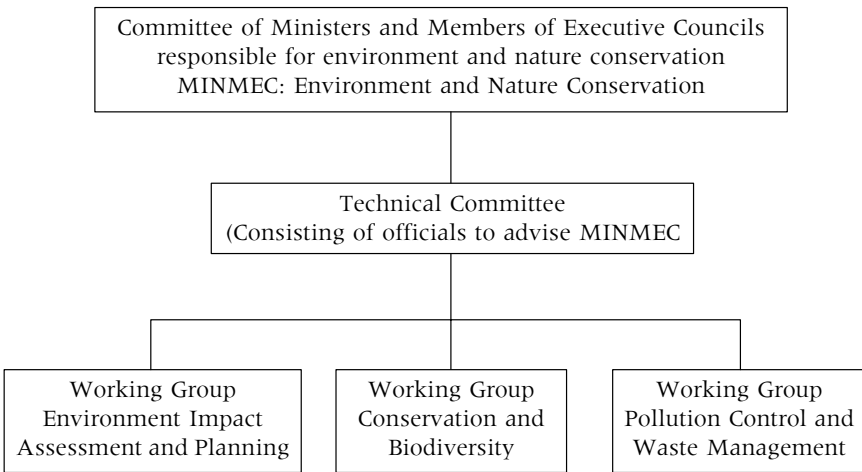
Based on the outline of the respective MINMECs, a Committee of Ministers and Members of Executive Councils was established to function as an intergovern-

mental structure for conservation management, namely the MINMEC: Environment and Nature Conservation. The aim of the MINMEC: Environment and Nature Conservation is to reach agreement at political executive level on issues of environmental and nature conservation concern to the provinces and national government (Department of Environmental Affairs and Tourism 1996:1). This Committee will act as the focal point for the Minister of Environmental Affairs and Tourism as well as the various provincial Members of the Executive Councils responsible for the environment and nature conservation. Although the statutory organs of state, such as the KwaZulu-Natal Nature Conservation Service, the KwaZulu-Natal Nature Conservation Board and the Mpumalanga Parks Board, are not under the guardianship of the respective provincial departments responsible for the environment and nature conservation, they do however receive transfer payments from the provincial departments as part of the total budget of these departments (Chief Executive Officer 1999). The link of the statutory organs of state to the Department of Agriculture and Environmental Affairs in KwaZulu-Natal and the Department of Agriculture, Conservation and the Environment in Mpumalanga is strictly financial because of part of the provincial departments, budget that are transferred to the statutory organs of state to promote and manage conservation in their provinces. The respective organs of state have a direct line of communication to the two Members of the Executive Councils responsible for the environment and conservation in KwaZulu-Natal and Mpumalanga through the Chief Executive Officers of the KwaZulu-Natal Nature Conservation Service with the approval of the KwaZulu-Natal Nature Conservation Board and the Mpumalanga Parks Board. The Members of the Executive Councils who are represented in the Committee of Ministers and Members of the Executive Councils for the Environment and Nature Conservation (MINMEC: Environment and Nature Conservation) are therefore indirectly also representative of the various statutory organs of state in the Committee. This particular Committee of Ministers and Members of the Executive Councils wanted to be advised by administrative staff for the carrying out of functions and therefore a Technical/Heads of Departments Committee (Technical/HOD MINMEC), consisting of the Director-General and two Deputy Directors-General of the Department of Environmental Affairs and Tourism, heads of provincial departments responsible for conservation management as well as the Chief Executive Officers of the South African National Parks and National Botanical Institute was established (Director: Biodiversity and Heritage 1999).

At a meeting towards the end of 1998, the Technical Committee of the Council of Ministers and Members of Executive Councils decided that all intergovernmental co-ordination in the environment and nature conservation sector of government, should be managed by three working groups, namely Working Groups for Conservation and Biodiversity, Environmental Impact Assessments and Planning as well as Pollution Control and Waste Management (Department of Environmental Affairs and Tourism 1998:1). The main purpose of the working

groups, established as a sub-unit of the MINMEC, was for the national Department of Environmental Affairs and Tourism and its provincial counterparts to properly arrange and co-ordinate their concurrent environmental responsibilities and functions. Each of the working groups should be chaired by an official at least at Chief Director level in the Department of Environmental Affairs and Tourism and should meet on a regular basis. The provincial representatives to working groups, including officials of the KwaZulu-Natal Nature Conservation Service and the Mpumalanga Parks Board, should have to be formally identified in writing by their Heads of Departments or Chief Executive Officers (Department of Environmental Affairs and Tourism 1998:2). Chairpersons of the various working groups are required to attend the Technical Committee meetings to report on their progress and should also ensure that detailed minutes are kept at every working group meeting and made available to the Technical Committee members in time. Figure 2 indicates the relations between the MINMEC and its Technical Committee as well as the working groups.

**Figure 2 Committee of Ministers and Members of Executive Councils**



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

For the purpose of this article, focus is on the functioning of the specific Committee of Ministers and Members of Executive Councils established for the environment and nature conservation as a whole, but also on the Working Group:

Conservation and Biodiversity. The reason for this particular focus is a result of the case study dealing with intergovernmental relations between institutions concerned with conservation management, in particular the South African National Parks and the provincial conservation authorities of KwaZulu-Natal and Mpumalanga. It is in the Working Group: Conservation and Biodiversity that the South African National Parks as well as the different provinces are represented.

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

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

Although the three working groups all focus on different aspects of the environment and conservation, they are still sub-units of the specific Committee of Ministers and Members of Executive Councils: Environment and Nature Conservation. There is however a large number of Committees of Ministers and

Members of Executive Councils (MINMECs) with each one addressing different issues.

Although the contributions of the MINMECs towards promoting intergovernmental relations and co-operation have been substantial, the contributions are not without deficiencies and constraints. Policy formulation in the MINMECs are fragmented because of the fact that the latter are mainly sectorally focused (Levy and Tapscott 1999:8). Because of the large number of meetings held by the various MINMECs, attendance of and technical support for meetings are poor. A clearly defined organisational and administrative infrastructure is necessary to support and promote the growing number of functions of the MINMECs, because their functions range from the harmonisation of legislation and negotiation on national norms and standards to the monitoring and development of joint projects and defining the roles and responsibilities between the national and provincial spheres of government (Levy and Tapscott, 1999:8). The capacity of the MINMECs could be strengthened by creating an office and the secretariate to distribute agendas of the meetings to relevant parties well in advance and to allow for national and provincial representatives to formulate their viewpoints and require the necessary mandates to participate successfully in meetings. If representatives of members serving in the MINMECs do not have the proper mandate from their Minister or Members of Executive Councils of their provinces for participating in the meetings, lengthy follow-up debates occur because members have to return to either the Minister or Member of the Executive Council to give feedback (Ramathodi 1999:3). Debates then have to be re-opened to address issues that have already been dealt with. Regulations for the requirement of mandates should address this problem. The MINMECs should be a consensus-seeking structure and Ministers and Members of Executive Councils should be encouraged to participate on an equal basis to avoid domination of national government in the meetings. Decisions taken in the meetings of the various MINMECs should be better communicated, by means of an office and secretariate of the committees, to all national and provincial departments and statutory organs of state affected by the decisions.

## **7.2 The Committee for Environmental Co-ordination (CEC) and the National Environmental Advisory Forum**

The establishment of a Committee for Environmental Co-ordination (CEC) was first outlined in accordance with the *Environmental Conservation Act, 1989* (Act 73 of 1989). The functions of the CEC was to co-ordinate actions of departments which will have an impact on the protection and utilisation of the environment; promote co-operation between departments concerned with environmental and conservation management and advise departments about matters affecting the environment (Section 13 of the *Environmental Conservation Act, 1989* [Act 73 of 1989]). It is clear that, because of its co-ordinating role, that the CEC could have



contributed significantly to promoting intergovernmental relations pertaining to conservation management. The CEC consisted of the Director-General and the Deputy Director-General of the Department of Environmental Affairs and Tourism as well as the Directors-General of various national departments and provincial administrations. An executive committee, elected from its members, as well as a number of sub-committees could have been established by the CEC. The following sub-committees were established by the CEC: the sub-committees of Biodiversity, Agenda 21, Climate Change, Environmental Education and Environmental Impact Management (Director: Biodiversity and Heritage 1999). Statutory organs of state such as the South African National Parks, the former KwaZulu-Natal Parks and Wildlife and the Mpumalanga Parks Board were included as members of the Sub-committee: Biodiversity. Although the sub-committees could have been an important structure for intergovernmental relations, criticisms against their effective functioning were numerous. The sub-committees had no real decision-making power and proposals made to the CEC and its executive committee, could not be evaluated effectively because of the poor attendance by the various Directors-General (Director: Environmental Impact Management 1999). In a report of the Committee on the Restructuring of the Council for the Environment and other related matters (1995:4) it was suggested, after numerous inputs from interested parties, that the functions of the CEC be reviewed to ascertain whether there was a need for functions to be performed by a structure of that nature. The CEC in its former form, was subsequently dissolved.

The working groups as part of the MINMEC: Environment and Nature Conservation took over the functions of co-ordinating activities of institutions and organs of state concerned with conservation management. The *Environmental Management Act, 1998* (107 of 1998) however, again provided for the establishment of a new CEC that, by the time of the completion of this article, would just have been established (Director: Environmental Impact Management 1999).

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

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

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

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

A structure for intergovernmental relations, focusing exclusively on promoting interaction and co-ordination between statutory organs of state responsible for the management of national parks and provincial protected areas, is necessary to ensure the integration of conservation management and sustainable use. This model for intergovernmental relations pertaining to conservation management is based only on the South African National Parks, the KwaZulu-Natal Nature Conservation Service and the KwaZulu-Natal Nature Conservation Board as well as the Mpumalanga Parks Board as part of the focus of this article. This proposed model could, however, also be applicable to other provinces that choose to manage provincial protected areas by means of a statutory organ of state in the future. The proposed intergovernmental structure could be named the Forum for Protected Areas Management and would complement the meetings of the current Working Group: Conservation and Biodiversity as part of the MINMEC: Environment and Nature Conservation. The proposed Forum for Protected Areas

Management will however only address issues pertaining to the management of national parks and provincial protected areas. The three working groups of the MINMEC: Environment and Nature Conservation, will deal with all issues pertaining to the environment and nature conservation as a whole. Representatives of the statutory organs of state concerned with the management of protected areas are not represented in the CEC, as proposed by the *Environmental Management Act*, 1998 (Act 107 of 1998). Statutory organs therefore need their own structure to promote conservation management.

The Forum for Protected Areas Management will consist of the Chief Executive Officers of all statutory organs of state in the national and provincial spheres of government concerned with the management of national parks and provincial protected areas. A chairman could be elected at the first meeting and the Forum could then also decide how regularly the Forum for Protected Areas Management should meet. The chairman of the Forum for Protected Areas Management will then submit proposals of the Forum to the MINMEC: Environment and Nature Conservation for further consideration.

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

## **9 CONCLUSION**

The fragmented nature of institutional arrangements for conservation management in South Africa, especially institutions involved in the management of protected areas, may negatively influence intergovernmental relations between these institutions. Statutory organs of state, concerned with the management of protected areas, exist on a national level in the form of the South African National Parks and in only a small number of provinces in South Africa. It is recommended that all provinces establish statutory organs of state taking responsibility for the management of protected areas. These uniform institutional arrangements could promote intergovernmental relations pertaining to protected areas management.


Contentious issues regarding conservation management (such as deciding between a devolved or centralised authority for the management of protected areas) and the classification of protected areas, are issues that can be addressed in the meeting of the Forum for Protected Areas Management. Activities of the Forum should compliment the functions of the Working Group: Conservation and

Biodiversity of the MINMEC: Environment and Nature Conservation. Various shortcomings in the functioning of various MINMECs were identified, and should be addressed. The Department of Provincial and Local Government can play an important role in addressing these shortcomings by formulating policy pertaining to intergovernmental relations. Informal intergovernmental relations exist between various statutory organs of state concerned with protected areas management, but the Forum for Protected Areas Management should serve as a formal structure for the promotion of intergovernmental relations. Although other structures for environmental co-ordination and intergovernmental relations, such as the CEC and the National Environmental Advisory Forum are provided for, the statutory organs of state, such as the South African National Parks, the KwaZulu-Natal Nature Conservation Service and the Mpumalanga Parks Board play only a minor or no role at all in those structures. The proposed Forum for Protected Areas Management should promote intergovernmental relations pertaining to conservation management, with reference to the management of protected areas in particular, because only issues relating to the management of protected areas will be addressed at the meetings. The need for a structure for intergovernmental relations such as the proposed Forum for Protected Areas Management is evident, and the implementation thereof should be promoted.

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