

UNIVERSITY OF KWAZULU-NATAL

**CO-OPERATIVE GOVERNANCE AND INTERGOVERNMENTAL RELATIONS
IN SOUTH AFRICA: A CASE STUDY OF THE EASTERN CAPE**

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A Dissertation submitted in partial fulfillment of the requirements for the degree

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Supervisor: Prof Purshottama Sivanarian Reddy

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DECLARATION

In submitting this research paper, I, Mzwandile Eric Mdliva, declare that the entirety of the work contained therein is my own, original work, that I am the owner of the copyright thereof (unless explicitly stated otherwise) and that I have not previously in its entirety or in part submitted it for obtaining any qualification.

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30 November 2012

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DEDICATION

I dedicate this dissertation to my loving fiancée, Makunga's mother, Pumeza, for her support, understanding and the encouragement she has provided for many years, particularly at the time of writing this Dissertation.

I also dedicate this Dissertation to my parents, my father Lungile Mdliva, my mother Nomsa Mdliva, Makunga my youngest lovely son, and my late sister, Nombulelo Mdliva, for their moral support.

ABSTRACT

The ending of apartheid and the transformation process in South Africa, the transition to democracy brought with them fundamental changes to the form and function of the State. In particular, they bring a restructuring of co-operative governance and intergovernmental relations. The responsibilities, functions and powers of the three spheres of government (national, provincial and local) were changed and streamlined as stated in the Constitution of the Republic of South Africa Act, 108 of 1996. The system of intergovernmental relations delineated in the Constitution differs significantly from that of the previous dispensation, particularly in its ambitions to advance democracy and to improve service delivery to all South Africans. Of particular significance is the respect in the fact that instead of the inherently conflicting intergovernmental relations that characterises most modern states, the Constitution actively promotes co-operation between different levels of government. The Intergovernmental Relations Framework Act, 13 of 2005 was promulgated on 15 August 2005. The Act provides for an institutional framework for the three spheres of government to facilitate coherent government, effective provision of services, monitoring the implementation of policy and legislation, and realisation of developmental goals of government as a whole. All spheres of government must provide effective, efficient, transparent, accountable and coherent government in order to ensure the progressive realisation of constitutional rights. One of the most pervasive challenges facing the country as a developmental state is the need for government to redress poverty, underdevelopment, marginalisation of people and communities and other legacies of apartheid and discrimination. This challenge can only be addressed through a concerted effort by government in all spheres to work together and integrate as far as possible their actions in the provision of service, alleviation of poverty and development of the communities. Co-operation and integration of actions in government depends on a stable and effective system of intergovernmental relations, one in which each of the spheres respect the relative autonomy of the other whilst appreciating the interrelatedness and interdependence of the three spheres. The study elaborated on the research as well as the research problem. In so doing, it further looked at the historical overview of the transition to a democratic South Africa which brought a significant change in the reconfiguration of the state. The studies further deals with a critique of co-operative governance and intergovernmental relations in the Eastern Cape and discuss the perspective on service delivery. In order to critically evaluate the notion of co-operative governance and intergovernmental relations in South Africa with specific reference to Eastern Cape, the study recommended that intergovernmental planning and budgeting, management of change, support and capacity building, communication and stakeholder engagement and institutional arrangement interventions be embarked upon.

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CHAPTER 1

1.1 INTRODUCTION

The democratic South Africa brought a significant change in the reconfiguration of the State during its transition. The functions and powers of the three spheres of government - national, provincial and local - were redefined, as were their interrelationships under the principle of co-operative government.

Despite the interest being shown in South Africa in the evolving and complex system of ensuing intergovernmental relations (IGR), the subject has not been extensively researched or theorised.

This chapter introduces the research study as well as the research problem. It further looked at the historical overview of the transition to a democratic South Africa which brought a significant change in the configuration of the State. Under the principle of co-operative government, the powers and functions of the three levels of government - national, provincial and local - were redefined as was the inter- relationship between them. Thoroughly discussing on background on evolution of Intergovernmental Relations in South Africa is revisited as well as the significance of this study. Outline of this study is incorporated in this chapter.

According to Levy and Tapscott, essential restructuring of the form and function of the State accompanied the ending of apartheid and transition to democracy in South Africa. Whereas under the previous regime, political and administrative power had been, for the most part, concentrated from the centre, South Africa's transitional leadership sought rather to negotiate these powers between equal partners under a system of co-operative government (Levy & Tapscott, 2001:1). They concurred that the responsibilities of the different levels of government delineate, in broad terms, the structure of the State as set out by the new constitution. As a consequence, the elaboration of a system of intergovernmental relations in South Africa is still at a formative stage.

Before 1994, fragmented administrations in the apartheid government were designed

to spend public resources and deliver services along racial lines. The structure of intergovernmental relationships during this era was inadequate and poorly defined. Despite the division of central, regional and local levels of government, all power was in the central government. Levy and Tapscott (2001: 4) concluded that “in the closing stages of the apartheid era, intergovernmental relations were characterised by autocratic central rule, increasing administrative inefficiency, growing corruption and minimal popular legitimacy. The provincial legislatures lacked any significant law making function and generally served to rubber- stamp legislation from the central executive. Local authorities had no original powers“. (Levy & Tapscott 2001: 3). Since local government therefore had little power, it was seen as a service provider rather than a level of government (Levy & Tapscott 2001: 4), and did not share equal status with other spheres of government (national and provincial). The restoration of the rightful status of local government can be considered one of the most important challenges for co-operative government.

The White Paper on Local Government (1998: 15-16) listed some of these challenges as: “skewed settlements”, “extreme concentration of taxable economic resources in former white areas”, “huge backlogs in service infrastructure in historically underdeveloped areas”, “creating viable municipal institutions for dense rural settlements”, “inability to leverage private sector resources for development”, “entrenched modes of decision-making, administration and delivery”, “the need to rebuild relations between municipalities”, as well as “substantial variations in capacity and the local communities they serve”.

1.2 BACKGROUND ON EVOLUTION OF IGR IN SOUTH AFRICA

Eighteen years on, South Africa has a national government, nine provincial governments and 278 municipalities. Where, in the past, budget decisions were highly centralised, now the bulk of State expenditure (62%) is delivered via provincial and local governments.

The nature of the South African State was one of the key issues of the constitutional negotiations following the unbanning of the liberation movements in 1990. The

liberation movements, including the African National Congress, by and large advocated a unitary State that would be able to effect the transformation of society after three centuries of racial discrimination and domination.

A federal state, which the then-government proposed, would produce a weak central government while protecting regional interests. The eventual compromises that emerged in the Interim Constitution of 1993 and were later consolidated in the Constitution Act 108 of 1996 are:

- The establishment of a decentralised state with a strong central government;
- The Executive was established, along with nine provinces with elected legislatures and jurisdiction over a number of functional areas;
- Local government was given limited autonomy on local service delivery matters;
- National government was set to supervise provinces and local governments, who were to exercise their authority within a framework and direction; and
- In fiscal matters the role of the national government became paramount(Constitution of the Republic of South Africa, 1996).

National and provincial governments have a crucial role to play with regards to intergovernmental relations in the local sphere (White Paper on Local Government, 1998: 39-40). Section 40(1) of the Constitution Act 108 of 1996 of the Republic of South Africa stipulates that government is constituted as the national, provincial and local spheres of government, which are distinct, interdependent and interrelated.

The three spheres of government and the organs of state in each sphere are constitutionally bound by principles of co-operative governance. It is widely accepted that their interdependent and relatively autonomous status under the Constitution provides significant strength to the country. But it also means that there are limits to the extent to which the spheres can direct or control the approaches taken by each other.

The Constitution sketches only the broad outlines and principles of South Africa's

intergovernmental relations and the context in which they operate. This lack of detail reflects an understanding that the intergovernmental relations system in South Africa must be flexible and negotiable within certain broad parameters. The details have to be filled in through practice by the spheres of government. At the same time, however, other official government policy statements have begun to define and inform what intergovernmental relations constitute.

The creation by the Constitution of this decentralised governance system, comprised of three distinct but interrelated spheres of government, also gave rise to the need for a systematic framework of intergovernmental relations, to give effect to the principles of co-operative government.

To realise these principles, the Intergovernmental Relations Framework Act was promulgated on 15 August 2005. The Act provides for “an institutional framework for the three spheres of government to facilitate coherent government, effective provision of services, to monitor the implementation of policy and legislation, and the realisation of developmental goals of government as a whole” (www.dlpg.org.za).

The adaption of the interim constitution in 1994 and final constitution in late 1996 represented the formal and final repudiation of apartheid rule. Significantly, the new constitution also specified the configuration of the state and stipulates that there be national, provincial and local spheres of government that these be distinctive, interdependent and interrelated (Section 40.1).

The relationship between provincial and local tiers of government, however, was of an entirely different nature and was the source of frequent conflict. In the first instances, municipalities derived their power from provincial under an ultra vires doctrine, local authorities had no original powers and were prohibited from carrying out any activity that was not specifically defined by the central or provincial authority (Levy & Tapscott, 2001:4). Since local government therefore had little power, it was seen as a service provider rather than a level of government (Levy & Tapscott, 2001:4).

Local government therefore did not really share equal status with other spheres of government (National and Provincial). The restoration of the rightful status of local

government can be also be considered one of the most important and challenges for co-operative government(Levy&Topscott,2001:4).

While impressive strides has been made over the last decade regarding policy development and coordination in the field of intergovernmental relations, particularly with regard to the direction provided by the Constitution and IGR Framework Act, policy implementation and achieving the expected outcomes remain a challenge. The assumption seemingly prevalent in the Constitution and the Act is that the spheres of government would work together almost spontaneously and organically (Baatjies, 2011:1).

South Africa has only recently attained democracy. Consequently, the development of a framework for intergovernmental relations would take some time to evolve as the practical implications of the new Constitution and new legislative and policy development have to be considered in its entirety (Reddy, 2001:35).

Various uncertainties regarding the responsibilities and administrative allocation between different spheres of government still exist. The extent to which these uncertainties will affect the capacity of service rendering must receive particular attention(Reddy,2001:22-23) Cameron (1994:23) described intergovernmental relations as: “the geographical division of powers among the various spheres of government in the nation-state. The division of powers implies that each structure has a unique and independent role to play in the intergovernmental domain”.

Wright (1988:1) defined intergovernmental relations as “an interacting network of institutions at the three levels, which has been created to enable the various parts of government to effect institutional arrangements in a coherent manner”. Thus, intergovernmental relations can be defined as the interaction between the various levels of government, each of which has an independent and unique role to play, as well as the tiers within a level of government, for example, the local level with the view to achieving common goals to the benefit and well-being of a country.

Van der Walt and Du Toit (1997: 162) said that intergovernmental relations refer to

“the mutual relations and interactions between government institutions at horizontal and vertical levels”. This is in line with Thornhill’s (2008:8) definition that “intergovernmental relations consist of transitions of politicians and officials in national and sub-national units of government and state organs”. All of which are in line with Adamolekun's (1999:53) position, which defines intergovernmental relations as “the interactions that take place among the levels of government within a state”. Crucial to this relation amongst spheres of government are statutory bodies (legislative backing) and non-statutory bodies (constituted by government for specific tasks) as these can promote intergovernmental relations in the form of committees, boards or a range of other bodies (Kuye, Thornhill, & Fourie, 2002:45).

However, the South African Constitution Act 108 of 1996 sketches only the broad outline and principles of intergovernmental relations and the context in which they operate. This lack of detail reflects an understanding that the intergovernmental relations in South Africa must be flexible and negotiable within certain broad parameters. The details have to be filled in through practice by spheres of government. At the same time, the strategic aim of the system of intergovernmental relations includes but is not limited to:

- Promoting and facilitating co-operative decision-making;
- Co-ordinating and aligning priorities, budgets, policies and activities across interrelated functions and sectors; and
- Ensuring the smooth flow of information within government and between government and communities, with the ultimate aim of enhancing the implementation of policies and programmes.

All spheres must provide effective, efficient, transparent, accountable and coherent government in order to ensure the progressive realization of constitutional rights. One of the most pervasive challenges facing South Africa as a developmental state is the need for government to redress poverty, underdevelopment, marginalization of people and communities, and other similar legacies of apartheid

and discrimination. This challenge can only be addressed through a concerted effort by government in all spheres to work together and to integrate, as far as possible, their actions in the provision of services, the alleviation of poverty and the development of communities. Co-operation and amalgamation of actions in government depends on a unwavering and effective system of intergovernmental relations, one in which each of the spheres respects the relative autonomy of the other, whilst also appreciating their interrelatedness and interdependence.

This study proposes to argue that the transformation process brought many challenges for South Africa, one of which was co-operative government. Policy and legislative issues must support the principles of co-operative government.

Hence the purpose of this study is to assess and evaluate the role of intergovernmental relations and the extent to which intergovernmental relations facilitate the performance of the provincial and local spheres of government in the delivery of services, with specific reference to the Eastern Cape government.

More specifically, the research questions which drive this study are:

- What are the challenges facing co-operative government with particular reference to the Eastern Cape;
- Do co-operative government and intergovernmental relations consists of and facilitate systems and relationships that enable the units of government to participate effectively and carry mandates so that governmental goals are achieved ;
- What are the practical problems within intergovernmental relations?

Various uncertainties regarding the responsibilities and administrative allocation between the different spheres of government still exist. The extent to which these uncertainties will affect the capacity of service rendering must receive particular attention (Reddy 2001:22-23).

South Africa has a diverse range of agencies in place to strengthen the arms of government in service delivery. These include statutory bodies, such as the Financial

and Fiscal Commissions, the Auditor General, the State Tender Board, the Public Protector, the President's Co-ordinating Council, Interdepartmental Forums, the South African Local Government Association, the National Council of Provinces, ministerial forums, ministers and members of Executive Council and other agencies that can contribute to better service delivery (www.afesis.org.za).

The January 2010 Cabinet Lekgotla approved an outcome based approach to service delivery. There are twelve outcome areas and for each outcome, a draft series of strategic outputs and activities. The President, in his February 2010 State of the Nation Address, announced the outputs for each of these outcomes for the period 2010-2014. A high level "performance agreement" and a fully detailed and negotiated "delivery agreement" is expected to be developed by the Minister and the Department with key partners who need to co-operate to deliver these outputs (Presidency, Statement, 2010:5).

The overall objective of the outcomes based approach is to improve service delivery through two key interventions. First, the aim is to introduce a more strategic approach through outcomes which reflect the focus of government, which can be regularly reported to Cabinet. Second, the approach seeks to introduce a more systematic planning, monitoring and evaluation focus, starting with outcomes and then working backwards to identify the required outputs and activities to achieve and identify measurable indicators at activity, output and outcome level.

Hence the Zuma administration has created a new National Planning Ministry and Performance Monitoring and Evaluation Section, under Trevor Manuel and Collins Chabane respectively.

1.3 RESEARCH DESIGN AND METHODOLOGY

In order to address the objectives of this research, the study will follow two avenues: a literature study and a qualitative analysis of the data collected through a review of case studies particular in the Eastern Cape.

Data and supporting information will be obtained through a literature review of books, journals, electronic databases, internet websites and documents, official reports and observations. Interviews will be conducted with relevant officials associated with the Eastern Cape Legislature. These will, firstly, provide a background framework and, secondly, assist in drawing appropriate conclusions and recommendations.

The study's hypothesis is that: Co-operative government and intergovernmental relations consist of facilitative systems and relationships that enable the units of government to participate effectively and carry out mandates so that governmental goals are achieved with specific reference to the Eastern Cape Provincial Government."

1.4 IMPORTANCE/SIGNIFICANCE OF THE STUDY

There is still uncertainty over the precise responsibilities of the different levels of the administrative echelon (particularly in areas of concurrent responsibilities) and, to an extent, this might affect the capacity of the Eastern Cape government to deliver social service and redress the inequities of the past. According to the Presidential Review Committee of 1998, the relationship between and within different spheres of government had, at that time, emerged as a key concern and weaknesses were reported in the structure and practices of intergovernmental relations. This, the Committee said, had led to poor co-ordination within and between different departments and spheres of government, creating an incapacity to implement national programmes and a consequent failure to deliver basic service(PRC,1998).

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

Report, 1998:44 as cited in Mathebula, 2004:5).

Furthermore as echoed by Mathebula, (2004:5) that the general reform landscape presents opportunities for a study of all aspects of administrative reform. Perhaps most significantly, the introduction and establishment of a revised socio-economic of the country on the center stage and IGR system has become a key component of that debate. By introducing a sphere in the IGR system, the 1993 and 1996 Constitution created a broad bandwidth for intellectual as well as academic discourse on definitional issues around policy development, policy management and, most significantly, patterns and loci of IGR as an executive activity of government(Mathebula,2004:5).

Based on the above, the significance of this study lies in identifying the challenges and affecting the poor citizens of the Eastern Cape. The ending of apartheid and transition in South Africa brought with them fundamental changes to the form and function of the state. In particular, they brought a restructuring of intergovernmental relations and a redefinition of responsibilities of different tiers now spheres of government. The system of intergovernmental relations delineated in the new Constitution differs significantly from that of the previous political dispensation, particularly in its ambitions to advance democracy and to improve service delivery to all South Africans (Levy & Tapscott, 2001:1).

The study will add to the existing and South Africa specific theory on IGR, notwithstanding the fact that, there is still dominant pre-1994 partisan Public Administration writing that has influenced these theories. A specific contribution will be made to the body of literature dominant in the Public Administration and Management domain of academic, intellectual, socio-political as well as public discourses.

Given the above argument, the main purpose of this study is to analyses (deconstruct, interpret and reconstruct) the system of intergovernmental relations as delineated in the Constitution which differs significantly from that of the previous

political dispensation, particularly in its ambitions to advance democracy and to improve service delivery to all South Africans.

More specifically the objectives of the study are to:

- Critically evaluate the notion of co-operative governance and intergovernmental relations in South Africa;
- Examine intergovernmental relations and co-operative governance with particular reference to the Eastern Cape;
- Highlight the challenges of IGR and co-operative government facing the Eastern Cape and propose solutions to address the issues highlighted; and
- Develop a proposed model for co-operative government and IGR in the Eastern Cape.

1.5 OUTLINE OF THE STUDY

The study will be presented in five chapters:

Chapter 1 introduces the research study as well as the research problem. It further looked at the historical overview of the transition to a democratic South Africa which brought a significant change in the configuration of the State. Under the principle of co-operative government, the powers and functions of the three levels of government - national, provincial and local - were redefined as was the inter- relationship between them.

Chapter 2 will contain a literature survey, which focuses on the available literature that is relevant to the study. Intergovernmental relations will be discussed, as well as the way in which the spheres of government are distinct, interdependent and interrelated, and how they must conduct their activities within the parameters of Chapter 3 of the Constitution. The historical development of intergovernmental relations in South Africa will be illustrated, and problems that existed between spheres of government will be discussed in this chapter.

Chapter 3 will deal with a critique of co-operative government and intergovernmental

relations in the Eastern Cape, and will discuss the perspective on service delivery. Current co-operative governance challenges from the Eastern Cape government will be discussed in detail. Furthermore, current intergovernmental relations challenges facing the Eastern Cape will be explained and discussed. This chapter will also deal with potential programmes and projects in the Eastern Cape. Lastly, a conceptual framework will be unpacked.

Chapter 4 will deal with the purpose of the study, research design, and methodology and data collection. The findings are incorporated in this chapter.

Chapter 5 will present the recommendations and conclusions of the study. The research question will also be reviewed in order to establish if it has been answered.

1.6 LIST OF ACRONYMS

COGTA	-	Cooperative Governance & Traditional Affairs
CBEPWP	-	Community Based Expanded Public Works Programme
CMIP	-	Consolidated Municipal Infrastructure Programme
DG	-	Director-General
DIF	-	District Intergovernmental Forum
DPLG	-	Department of Provincial and Local Government
EPWP	-	Expanded Public Works Programme
FFC	-	Financial and Fiscal Commission
FOSAD	-	Forum of South African Directors-General
GDP	-	Gross Domestic Product
IDP	-	Integrated Development Programme
IEC	-	Independent Electoral Committee
IGF	-	Intergovernmental Forum
IGR	-	Intergovernmental Relations
IRFA	-	Intergovernmental Relations Framework Act
ISRDP	-	Integrated Sustainable Rural Development Programme
IYM	-	In-Year Monitoring System
KPI	-	Key Performance Indicators

LEDf	-	Local Economic Development Fund
MEC	-	Member of Provincial Executive Council
MFMA	-	Municipal Finance Management Act
MinMec	-	Ministers and Members of Executive Council
MIG	-	Municipal Infrastructure Grant
MIP	-	Municipal Infrastructure Programme
MTBPS	-	Medium Term Budget Policy Statement
MTEC	-	Medium Term Committee
MTEF	-	Medium Term Expenditure Framework
MTSF	-	Medium Term Strategy Framework
NCOP	-	National Council of Provinces
NGO	-	Non-Governmental Organization
NSDP	-	National Spatial Development Programme
PCC	-	President's Co-ordinating Council
PGDS	-	Provincial Growth and Development Strategy
PGDP	-	Provincial Growth and Development Plan
PIF	-	Provincial Intergovernmental Forum
PoA	-	Programme of Action
PRC	-	Presidential Review Commission
SALGA	-	South African Local Government Authority
SDBIP	-	Service Delivery and Budget Implementation Plan
URP	-	Urban Renewal Programme
WSCF-		Water Service Capital Fund

1.7 LIST OF FIGURES

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- FIGURE 2.6 Six Cabinet Clusters
- FIGURE 2.7 District Municipal IGR Forums

1.8 CONCLUSION

This chapter dealt with the introduction to the study as well as the brief research design and methodology being used. Furthermore, it also dealt with the significance of this study as well as the outline of the whole study.

The year 1994 marked the beginning of a new and democratic system of governance in South Africa. The apartheid system, which was based on racial discrimination, was dismantled and a significant reconfiguration of the state was embarked upon. A new system of intergovernmental relations (IGR) was introduced, built around the existing three spheres of government (national, provincial and local). This chapter deals with the origin of modern government, the different approaches of intergovernmental relations and how intergovernmental relations are classified.

Indeed as concurred by Reddy (2001:37) that the ushering in the new Constitution was indeed a watershed in the history of local government in South Africa. The actual implementation of the provision of the new Constitution has placed tremendous challenges on the new governmental system, particularly in relation to intergovernmental relations. The intergovernmental relations system has to be formalized as a matter of urgency. Constitutional provision has been made for a mechanism to solve disputes. Critical to the success of intergovernmental relations is

the introduction of legislation or move specifically an act on intergovernmental relations. Failure to be proactive in this regard will result in more powerful spheres dominating thereby challenging the constitutional commitment to cooperative governance. However, on the other hand, the system should not be too prescriptive thereby negating the principles enshrined in the Constitution, he concluded.

Reddy (2001:37) further states that local government in South Africa has been constitutionalised. It is imperative that local authorities have a defined formal intergovernmental relation framework within which they will be able to carry out their constitutional mandate. In the final analysis, intergovernmental relations and more specifically the local government system will have to be geared towards improving the quality of the local citizens.

Levy & Tapscott (2001:2) are of the opinion that the transformation process brought many challenges for South Africa. In fact, one of these challenges was co-operative government. Policy and legislative issues must support the principles of co-operative government. Establishing co-operative government is a process that is very complex in the first place, requires a technical balance for interaction between the structures of the government in the second place and implies clarity regarding political power relations in the third place; hence the introduction of the Intergovernmental Framework Act, 2005.

CHAPTER 2:

2. THEORY AND PRACTICE OF CO-OPERATIVE GOVERNMENT AND INTERGOVERNMENTAL RELATIONS IN SOUTH AFRICA

2.1 INTRODUCTION

This chapter will contain a literature survey, which focuses on the available literature that is relevant to the study. Intergovernmental relations will be discussed, as well as the way in which the spheres of government are distinct, interdependent and interrelated, and how they must conduct their activities within the parameters of Chapter 3 of the Constitution. The historical development of intergovernmental relations in South Africa will be illustrated, and problems that existed between spheres of government will be discussed in this chapter.

Watts (1994:75) is of the opinion that there has been considerable debate within South Africa about whether the new Constitution and principles binding the proposed Constitutional Assembly creates a federal or unitary system. One of the most notable features of the discussions leading up to the adoption of the new Constitution has been a preoccupation with disputes over such terms as 'federal', 'unitary', and 'confederal' systems, 'regions', 'states', and 'provinces', and 'centralisation' and 'decentralisation'. The unitary-federal distinction seems particularly to have generated considerable heat in those discussions and in the assessment of the Constitution that has been produced. He further concurs that those favouring a federal solution in order to protect regional and minority from domination by a predominant majority have expressed concern that what they perceive to be fundamentally unitary elements in the Constitution will undermine the operation of the protection which federal or even confederal system could offer regional and minority interests. On the other side, many concerned with the importance of nation building have expressed the opinion that the excessive attention given to provincial government and their roles in the new Constitution and principles for the future drafting placed in Schedule 4 will raise barriers to creating a strong united nation with a sense of common purpose.

Watt further states that the distinction between 'federal' and 'unitary' systems is not unimportant and does have implications both for the protection of regional and minority interests and for nation building. But there are dangers in getting 'hung up' on such terms when precise definitions are lacking and these terms have emotive connotations (Watts, 1994:75).

2.2 IS SOUTH AFRICA AN UNITARY SYSTEM OR FEDERAL STATE?

It was Watts (1994:75-78) who concurs that although nation states are treated as discrete and unified entities as far as international politics is concerned, each nation state incorporates a range of internal divisions and levels of power. Most significantly, there are territory-based and local divisions between central or national government and various forms of provincial, state and local government. These divisions are crucially shaped by a state's constitutional structure, that is, by whether it has a federal or unitary system of government. Each system establishes a particular territorial distribution of government power, thus providing a framework within which centre-periphery relationship can be conducted, he concluded.

2.2.1 Political Ideology

Cameron (1996:20) stated that the Constitution Act 200 of 1993 "showed many of the features of federalism, such as a senate representing provincial interests, a schedule of provincial powers and a constitutional court as the final arbitrator of intergovernmental conflict. However, Parliament had extensive overriding powers over the provinces which negated some of the federal principles. The African National Congress favoured a unitarist state, while the National Party and the Inkatha Freedom Party a federalist state. The Constitution Act 200 of 1993, however, did make provision for a relatively autonomous local sphere of government".

Cameron clarified that "the Constitution Act 108 of 1996, as with its predecessor the Constitution Act, 1993, makes the Constitution the supreme law of the country and, therefore, any law inconsistent with it is invalid. Provision is made for a three-sphere system of government comprising national, provincial and local spheres (levels),

which are distinctive, interdependent and interrelated. The principle of co-operative governance underpins intergovernmental relations” (Cameron, 1999:225-226).

According to Leemans (1970:31), the ideology underlying a country’s political system has great influence on the structure and functioning of its system of national, regional and local government and administration. “The government will develop a system in accordance with the basic ideological principles which it has adopted, and which are therefore likely to be reflected in regional and local institutions and their relationship with central government” (Leemans, 1970:31).

Gildenhuis (1991:166), in concurring, added that “the question of political ideology of a particular government, especially central government institutions in a unitary state, influences access to public decision-making structures at the lower levels. The most important manifestation of political ideology is seen in the policy-making process at the lower levels of government, the basis of which is linked to the political ideology and is seen as a precursor to executive and finally operational policy, which respectively stands in a vertical relationship with each other”. Constitutions provide organizational frameworks for governments. It is common for constitutions to contain several sections, for example, the legislative, executive and judicial branches of government. Gildenhuis (1991:26) added that, whatever their form, “nearly all constitutions contain the plan according to which the various units of government are organized, the range of powers allocated to each unit of government, and the way in which these powers are to be exercised. They usually include the levels (referred to as “spheres” in the Republic of South African Constitution Act, 1996 (Act 108 of 1996) of government of the political system, that is, how many Constitutions provide organizational frameworks for governments. It is common for constitutions to contain several sections, for example, the legislative, executive and judicial branches of government. Gildenhuis (1991:26) added that, whatever their form, “nearly all constitutions contain the plan according to which the various units of government are organized, the range of powers allocated to each unit of government, and the way in which these powers are to be exercised. They usually include the levels (referred to as “spheres” in the Republic of South African Constitutions Act, 1996 (Act 108 of

1996)) of government of the political system, that is, how many levels of government there will be, and from its organization one can deduce whether nations will be more federal or unitary . They may describe what powers are included and excluded from the national government as well as the powers vested in the regional and local levels of government.

“Therefore, all constitutions, whether written, unwritten, flexible or rigid, lay down the framework within which the various organs and officers and of government in a country must operate, as well as the duties, powers and relationships of such functional units. From constitutions it can be determined whether a country has more dominant federal, unitary or consolidative features. Although many countries have a combination of features of the aforesaid systems of government, there are certain dominant features in each political system” (Gildenhuy, 1991:165).

2.2.2 Systems of Government

The federal and unitary systems of government are common to many States around the world.

2.2.2.1 Unitary System

Mahler (1995:30) explained that a unitary system “usually comprises one level of government above the local level”. Mahler cited Britain as an example, where the power to make political decisions ultimately resides with parliament, despite there being city and county governments, and parliament has control over their decisions. “Parliament has the power to grant the cities or counties more influence, or to take away policy jurisdiction they may already control” (Mahler, 1995:30).

Hague & Harrop (1987:176) stated that “in a unitary state sub-national governments, whether regional or local, may make policy as well as administer it, but they do so at the pleasure of the national government.

In a unitary system, Gildenhuy, concluded, governmental relations are mostly the

result of “enforced duties as prescribed by the constitution or statutes which control lower authorities by virtue of the centralized control of authority” (Gildenhuis, 1991:165). Craythorne (1990:38) added that “most legislation tends to set out principles, leaving all the detail to be stated in regulations. Where regulations are made by central government, they are usually administered by public servants. This gives public servants a great deal of authority, including in many cases the authority to change local decisions or even to set them aside”.

2.2.2.2 Federal System

In a federal system there are usually two levels of government above the local level, each enjoying relative autonomy with regard to certain functions, as Mahler (1995:31), and Hollis and Plokker (1995:84) both agreed. For example, the central government “may have the sole authority to coin money, raise an army or declare war, and foreign affairs, whilst the intermediate level of government, such as states (United States of America), cantons (Switzerland) or lander (Germany), may have sole authority to regulate education, criminal or civil law, local institutional structures and economic development. Federalism allows for both the expression of regional goals and a co-ordinated expression of national goals” (Mahler, 1995:31 and Hollis & Plokker, 1995:84).

According to Hague and Harrop (1987: 169-170), federalism is “a system of government in which legal sovereignty is shared between the central and the other levels of government. Each level or sphere of government, central and state, has constitutional authority to make some decisions independently of the other. Citizens of a federal state remain subject to the authority of both the central and state governments, each of which impacts directly on the citizen”.

Gildenhuis (1991: 165) wrote that, “In a federal system the formal stipulations in the constitution define the authority of governmental institutions at federal, state and local levels”.

2.3 IDENTIFICATION AND EVALUATION OF THE CONSTITUTIONAL FRAMEWORK

2.3.1 Intergovernmental Relations Framework Act, 2005

The aim of the Intergovernmental Relations Framework Act 13 of 2005, was “to establish a framework for the national government, provincial governments and local governments to promote and facilitate intergovernmental relations; to provide for mechanisms and procedures to facilitate the settlement of intergovernmental disputes, and to provide for matters connected therewith”(www.info.gov.za).The following is the short summary of Preamble as it set out in the Constitution of South Africa.

Preamble

The preamble expressly distinguish the injustices of South Africa’s past, honours those who worked in support of liberty and aims to heal the separation of the past. “We the people of South Africa declare that ... there is a need to craft a fresh order in which all South Africans will be at liberty to ... take pleasure in and implement their basic rights and liberty.”(Preamble to the Constitution of the Republic of South Africa).

The Intergovernmental Relations Framework Act 13 of 2005 (IRFA) was pioneering in that, for the first time, intergovernmental relations were formally defined and procedures were provided. While the Constitution sketches only the broad principles of South Africa’s intergovernmental relations, as previously explained, the IRFA puts the constitutional requirement to work by legislating the promotion of intergovernmental relations, as well as the mechanisms and procedures that encourage co-ordination between the spheres of government, and help facilitate and resolve disputes.

- Although the intergovernmental relations system in South Africa is still a work in progress, evolving and strengthening through best practices, its ideal is to promote values such as certainty, stability, predictability, transparency and

accountability.

2.3.2 How does the Act seek to achieve this?

The Act establishes a broad statutory framework dealing with:

- (a) Key principles of co-operative government and IGR;
- (b) Intergovernmental forums that form the institutional spine of IGR;
- (c) Implementation protocols that facilitate integrated service delivery; and
- (d) Rules for the settlement of intergovernmental disputes(www.info.gov.za).

2.4 POWERS AND FUNCTIONS OF SPHERES OF GOVERNMENT AND CHALLENGES

Every society establishes a mode of governance that best suits their particular social and economic developmental interests. South Africa adopted the democratic model of co-operative governance (Layman, 2003:9), and enshrined it in its new Constitution. Here, the foundation was laid for a system of intergovernmental relations.

Before 1994, South Africa's administrations were fragmented, with its citizens divided geographically by population groups, with only a small minority of residents benefiting from development. Now South Africa has a unitary, yet decentralised, state with nine provincial governments and 278 municipalities. Their structure, authorities and responsibilities are outlined below, to enable a better understanding of the importance of their interrelationship.

2.4.1 National Government

The Constitution established a national government, comprising a Parliament and a National Executive. National legislative authority is vested in Parliament, which

consists of the National Assembly and the National Council of Provinces (NCOP).

The NCOP comprises of delegations from each province. National Executive authority, which includes the power to implement national legislation, is vested in the President, who exercises this authority together with the other members of the cabinet. Cabinet members are collectively and individually accountable to Parliament. (Constitution of Republic of South Africa, 1996)

2.4.2 Provincial Government

The Constitution established and demarcated nine provinces, each with a provincial legislature and a provincial executive. Provincial legislatures range from 30-80 members, elected for a five-year term. A province's executive authority is exercised by the Premier together with the other members of the Executive Council. They are collectively and individually accountable to their provincial legislature. (Constitution of the Republic of South Africa, 1996)

2.4.3 Local Government

The Constitution provided a framework for a system of local government, which became operational in 2000. This framework is complemented by a number of important pieces of legislation, including:

- The Local Government: Municipal Structures Act 117 of 1998, which provides for the establishment of municipalities, their internal structures and the division of powers between local and district municipalities.
- The Local Government: Municipal Systems Act 32 of 2000, which provides the framework for local government functioning, including integrated development planning, community participation and service delivery.
- The Local Government: Municipal Demarcation Act 27 of 1998, which establishes the Municipal Demarcation Board, responsible for municipal boundaries and important advisory functions.
- The Local Government: Municipal Electoral Act 27 of 2000, which

regulates the local government elections.

- The Local Government: Municipal Finance Management Act 56 of 2003 and the Local Government: Property Rates Act 6 of 2004, which address local government finances.
- The Intergovernmental Relations Act 13 of 2005 (IRFA) - provides a framework for local government's participation in intergovernmental relations(White Paper on Local Government,1998).

2.4.4 Categories of Municipality

South Africa is divided into 278 municipalities made up of:

Eight metropolitan municipalities Tshwane, EThekweni, Johannesburg, Nelson Mandela Bay, Buffalo City, Mangaung Municipality and Cape Town. These are solely responsible for local government functions in their respective areas.

44 district municipalities.

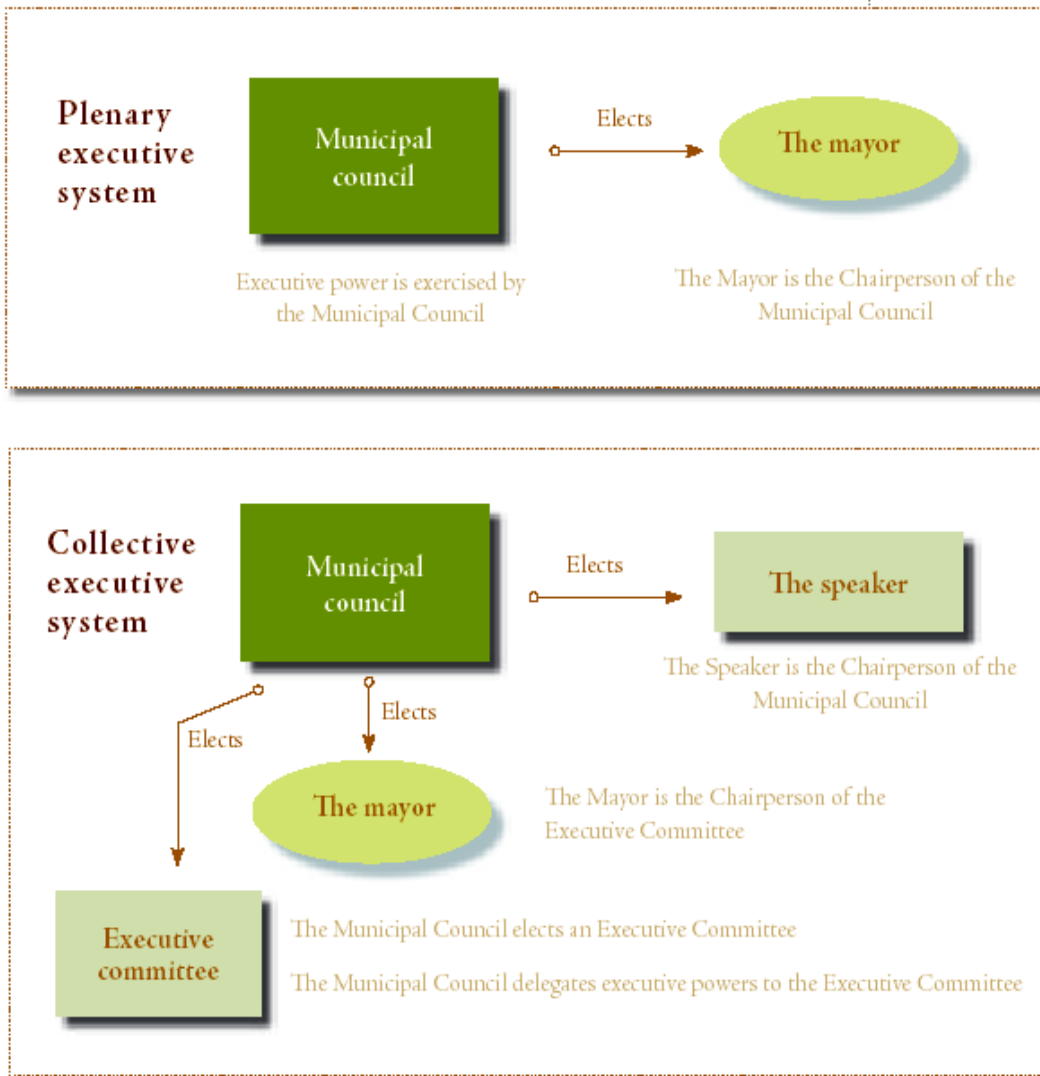
226 local municipalities.

A district municipality and the local municipalities in its area share the local government functions in the district area. The precise modality of the sharing of functions between district and local municipalities may vary from municipality to municipality (Municipal Structures Act, 1998).

2.4.5 Electoral System

Metropolitan and local councils generally comprise of 50 per cent ward councilors and 50 per cent proportionally elected councilors. Sixty percent of the district councilors are appointed by the local councils in the district. The remaining 40 per cent are directly elected by the district as a whole.

FIGURE 2.1: Municipal Executive System



Source: Practitioners guide to the IGR system in South Africa, (2007:5)

2.4.6 Legislative and Executive Powers

Both the legislative and executive authorities of a municipality are vested in the municipal council. The Constitution does not provide for the separation of executive and legislative powers at municipal level.

Therefore, a municipal council can exercise both legislative and executive functions, unlike a provincial legislature or Parliament. The Local Government Act provides for

some separation of power through the election of a municipal executive, which exercises most executive powers at municipal level.

This executive committee may be elected by the council from its members and the council also elects one member of the committee as mayor.

FIGURE 2.2: Municipal Executive System



Source: Practitioner’s guide to the intergovernmental relations system in South Africa, (2007:5)

In terms of legislation impacting on intergovernmental relations, the mayor of a municipality, irrespective of the municipality’s governance structure, is the key political office-bearer. Legislation similarly prescribes that the mayor is the political office-bearer that drives the preparation and implementation of the municipality’s budget. These activities are particularly important in terms of intergovernmental relations.

2.5 THREE CENTRAL THEMES: DISTINCTIVE, INTERDEPENDENT AND INTERRELATED

Chapter 3 of the Constitution states that the three spheres of government are “distinctive, interdependent and interrelated”. These terms are fundamental and warrant further discussion.

2.5.1 “Distinctive”

“Distinctive” refers to the Constitution’s allocation of certain functions and final decision-making powers to each sphere. For example, the Constitution lists certain matters over which provincial governments can make laws. Similarly, there are other matters on which only national governments can regulate. Local government has also been allocated certain areas to deal with. Each sphere therefore enjoys a degree of autonomy over those matters allocated to it by the Constitution (Constitution of the Republic of South Africa, 1996)

In addition to the division of powers and functions, the Constitution also permits the transfer of more functions and powers to provincial and municipal governments.

The legislative authority in South Africa is divided between Parliament, the Provincial Legislature and Municipal Councils. Because this is stated in the Constitution, these legislative powers are guaranteed and cannot be taken away (other than by changing the Constitution).

In the *City of Cape Town v Robertson*, for example, the Constitutional Court made it clear that municipalities derive powers from the Constitution: “A municipality under the Constitution is not a mere creature of statute otherwise moribund save if imbued with power by provincial or national legislation. A municipality enjoys „original“ and constitutionally entrenched powers, functions, rights and duties that may be qualified or constrained by law and only to the extent that the Constitution permits(www.dplg.gov.za).

Similarly, in *Fedsure Life Assurance v Greater Johannesburg Transitional Metropolitan Council*, the Constitutional Court remarked: “Local government is no longer a public body exercising delegated powers. Its council is a deliberative legislative assembly with legislative and executive powers recognized in the Constitution itself”(www.dplg.gov.za).

2.5.1.1 Powers are never unfettered

Autonomy is never unfettered and always bounded. A number of principles guide the recognition and exercise of this autonomy. These principles are articulated in the Constitution as well as in Constitutional Court judgments. The most important principles are:

Principle 1: The Constitution itself defines the autonomy of each sphere

According to the Municipal Demarcation Board (2011), “no sphere can claim to have powers or functions outside of the framework of the Constitution”. **Section 41(1) (f) of the Constitution** states that: “All spheres of government and all organs of state within each sphere must not assume any power or function except those conferred on them in terms of the Constitution.”

Principle 2: Respecting others’ autonomy

“All spheres of government must respect the constitutionally-defined authority of another sphere of government” (Municipal Demarcation Board, 2011). **Sections 41(1) (e) and (g) of the Constitution**

state: “All spheres of government and all organs of state within each sphere must respect the constitutional status, institutions, powers and functions of government in the other spheres and exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere.” The High Court judgment in *Van Wyk v Uys* is a case in point when it comes to the co-operative government principle of respect for institutional autonomy. The Cape High Court was asked to decide whether an MEC for local government had the right to suspend a councillor for breach of the Code of Conduct for councillors before the municipal council had concluded its own investigation. The Code provides that the MEC can dismiss or suspend a councillor; however it is not immediately clear whether the MEC can do this on his or her own initiative or only after a request from the council. In dealing with this problem, the High Court emphasized the principle of co-operative government and the respect for the institutional integrity of local government that it demands. It led the Court to determine that the MEC could only suspend or remove a councillor after a request from the council (www.thepresidency.gov.za).

Principle 3: Non-divisive Use of Autonomy

Section 41(1) (a) of the Constitution states that: “All spheres of government and all organs of state within each sphere must preserve the peace, national unity and the indivisibility of the Republic.” They must not only look at the interests of their own jurisdiction but ensure and be loyal to the well-being of all the people of the Republic.

Section 41(1) (b) and (d) of the Constitution further states: “All spheres of government and all organs of state within each sphere must secure the well-being of the people of the Republic and be loyal to the Constitution, the Republic and its people.”

Principle 4: Bounded Exercise of Autonomy

“In exercising their authority all spheres of government are bound by the founding values of the Constitution and by the Bill of Rights” (Municipal Demarcation Board, 2011). Section 1 of the Constitution states that: “The Republic of South Africa is one, sovereign, democratic State founded on the following values:

- a) Human dignity, the achievement of equality and the advancement of human rights and freedoms.
- b) Non-racialism and non-sexism.
- c) Supremacy of the constitution and the rule of law; and
- d) Universal adult suffrage, a national common voters’ roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness

Principle 5: Responsible Exercise of Autonomy

“All spheres of government must provide effective, transparent and accountable government”. Section 41(1) (C) of the Constitution states: “All spheres of government and all organs of state within each sphere must provide effective, transparent, accountable and coherent government for the Republic as a whole.”

Principle 6: Asymmetrical Autonomy

“The reach of powers and functions need not be the same for each province or municipality. Legislative and executive authority to provinces and municipalities may be assigned asymmetrically” (Municipal Demarcation Board, 2011).

2.5.1.2 Functional Authority and Responsibilities of the Three Spheres

In order to grasp the importance of the above guiding principles and the general principles of co-operative government, it is critical to know and understand the reach of each sphere’s authority. This sub-section briefly describes the main areas of responsibility of each sphere in terms of the Constitution.

This is done with reference to the two schedules in the Constitution (**Schedules 4 and 5**) that deal with the functional areas of the three spheres of government.

Chapter 3 (Co-operative Government) of the Constitution states that government of the Republic is constituted as national, provincial and local spheres of government. These spheres are distinct, interdependent and interrelated and must conduct their activities within the parameters of chapter 3. All spheres of government and all organs of state within each sphere must observe and adhere to principles of co-operative government and intergovernmental relations.

In short, in practising co-operative government, each sphere of government retains its own unique character but cannot function totally independently of each other spheres, they participate and co-operate in mutual and reciprocal relationships. The fact that there are 'shared-rule' and the division of 'environment' as a functional area shared between the national government and provincial governments, serve as a good example.

The sharing of ('concurrent') legislative competencies signifies that certain environmental matters are better dealt with by the national government (e.g. the uniform norms, standard and framework of the Act that apply nationally), while others are unique 'provincial spheres' of government are referred to and not 'levels' of government or 'central' government, indicates a more 'horizontal' status and relationship: that is, one without a distinct hierarchy in which the 'lower' or 'smaller' levels are subject to the 'higher' or 'central' level of government (Bray, 1993:3).

Through co-operative government a balance is struck between the principles of 'self-rule' or even 'local' character (Bray, 1999:4).

Another feature of co-operative government is capacity development. It applies in particular to the traditionally 'smaller or 'weaker' spheres of government and enables them to govern effectively within their own spheres and participate and co-operate on their own terms (as equals) in intergovernmental relations. In short, the Constitution

determines that municipalities have the right to govern the local government affairs of their communities, but subject to national and provincial legislation. However, the national or provincial government may not compromise or impede on a municipality's ability or right to exercise its powers or perform its functions. In fact, the national government and provincial government must support and strengthen by means of legislative and other means, the capacity of municipalities to manage their own affairs, and exercise their powers and perform their functions (e.g. to promote social and economic development and a safe and healthy environment).

The national government must assist the provinces through legislation and other measures to develop capacity which is required for the effective exercise of their environmental powers and functions (Constitution of the Republic of South Africa, 1996).

Co-operative government offers many opportunities for sharing of expertise to improve government and deliver a better service. Modern governments face complex issues that demand greater co-operation and better coordination, joint planning and sharing of resources. In this context co-operation means strength, not weakness. However, if the provincial and local government spheres are not developed and their individual capacities increased, they will not be able to take their rightful place in co-operative governmental and intergovernmental relationships. This could result in unbalanced or skewed relationship in which the traditional stronger sphere (eg national government with its existing expertise and resources) would once again dominate government relations and environmental affairs could for example; become centralised (Bray, 1999:5).

Therefore, all spheres of government (and organs of the state) must provide effective, transparent, accountable and coherent government and co-operate in mutual trust and good faith with one another to achieve a well-balanced co-operative relationship. The Constitution does not only deal with the co-operative relationship between and among spheres of government (in government), but also stipulates which norms and

values underpin the public administration... For example, in terms of chapter 10 (Public Administration) the national, provincial and local administrations, organs of the state and public enterprises must, inter alia:

- Be developmental-oriented and accountable;
- Provide services impartially, fairly, equitably and without bias;
- Respond to people's needs and encourage public participation in policy-making;
- Foster transparency by providing the public with timely, accessible and accurate information; and
- Be broadly representative of the South African people and redress the imbalances of the past to achieve broad representation (Constitution of the Republic of South Africa, 1996).

This clearly indicates co-operation and participation by civil society (and not only the elected few in government) in the governing of the country. Co-operative governance in this context means to govern with the people (civil society) rather than for the people. The broader community will therefore become actively involved in the democratic decision-making processes, share the responsibilities and be held accountable for the decision it has taken (Bray, 1999:6).

Finally, one has to admit that co-operative relationships within government spheres and between government and civil society form the backbone of the South African constitutional democracy and its objectives of open, transparent, participatory and accountable government (Bray, 1999:6).

A provincial legislature may also adopt a constitution; however, this constitution may not contradict the national Constitution. Provincial constitutions must be certified by the Constitutional Court. To date, the Western Cape is the only province that has a constitution. The Western Cape Constitution Act assented to on 15 January 1998. The Constitution of the Western Cape was certified by the Constitutional Court in re: Certificate of the Constitution of the Western Cape, 1997 (www.dplg.gov.za).

- Authority of Local Governments:

Municipal councils may make and administer laws on matters listed in Schedule 4B and 5B of the Constitution. These include some key functions related to the built environment, such as water and sanitation, electricity reticulation, refuse removal and storm water management. Municipal councils also make laws on matters assigned to them by national or provincial legislation, and they may also administer matters that have been assigned to them by agreement.

Division of Powers between District and Local Municipalities

A district municipality must pursue the integrated, sustainable and equitable social and economic development of the district. It performs this role by:

- Ensuring integrated development planning for the district as a whole
- Building the capacity of local municipalities to perform their functions
- Exercising local municipal powers where capacity is lacking
- Promoting the equitable distribution of resources between the local municipalities in its area.

The standard division of functions between district and local municipalities is regulated in Chapter 5 of the Local Government Municipal Structures Act 117 of 1998. The Act also provides for mechanisms to make changes to the standard division. The Act lists the functions that belong to the district municipality, including key areas such as water, sanitation, bulk electricity and municipal health services, and also includes functions that service the entire district, such as firefighting, passenger transport, markets and promotion of tourism.

All remaining local government functions are vested in the local municipalities. The Local Government Municipal Structure Act, No 117 of 1998 assists in providing for the establishment of municipalities in accordance with the requirement relating to categories and types of municipality; to establish criteria for determining the category of municipality that may be established in an area; to define the types of municipality that may be established within each category; to provide for an appropriate division of functions and powers between categories of municipality; to regulate the internal systems, structures and office-bearers of municipalities; to provide for appropriate

electoral systems; and to provide for matters in connection therewith (Local Government Municipal Structure Act 117 of 1998).

2.5.2 “Interrelated”

The “interrelatedness” means that the exercise of autonomy by a sphere is supervised by the other spheres of government. While local government has been allocated certain matters to deal with, municipalities are supervised by provincial and national governments. Similarly, national government exercises a degree of supervision over provincial governments.

The notion of interrelatedness is not about making legally binding decisions that affect another sphere. Instead, it is about co-operation through joint planning, fostering friendly relations and avoiding conflict. It helps to ensure effective development and service delivery, and to avoid abuse of power.

Supervision emerges from the Constitution and the relevant legislation in three different ways, namely monitoring, support and intervention (Constitution of Republic of South Africa, 1996).

2.5.2.1 Monitoring

Monitoring occurs when one sphere measures the compliance of another sphere with legislative directives. Both national and provincial governments have a constitutional duty to monitor local government. The constitution provides in Section 155 (6) (a) that provincial governments must provide for the monitoring and support of local government in the province. Section 155 (7) of the Constitution provides that national and provincial governments must see to the performance of municipalities.

a) Monitoring of Local Government

The Local Government Municipal Systems Act 32 of 2000 provides for national and provincial setting of standards for and monitoring of local municipalities by both the MEC for local government and by the minister responsible for provincial and local government. The Local Government Municipal Systems Act 32 of 2000 also provides

for a more intrusive form of monitoring. This instrument can only be applied by the MEC for local government to a specific municipality when it fails to adhere to a legislative directive or when there is maladministration, fraud, corruption or any other serious malpractice in the municipality. It empowers the MEC to demand information or to appoint a commission of enquiry.

The Act also established a framework for performance management within municipalities and contains a number of instruments that can be used for monitoring local government. For example, after the end of their financial year, municipalities must produce an annual report. Municipalities are also compelled to report, in terms of their own performance management systems, on a set of general key performance indicators (KPIs), prescribed by the minister responsible for provincial and local government. Each of these KPIs is applicable to all municipalities. The minister must also compile an annual report on the performance of municipalities based on these general KPIs, for submission to Parliament and to the MECs for local government.

b) Monitoring In Terms of the Municipal Finance Management Act

The Practitioner's Guide, (2007:5) asserts that the national and provincial treasurers monitor whether municipalities comply with the Municipal Finance Management Act 56 of 2003(MFMA) and with norms and standards of sound financial management. The MFMA instructs each municipality's municipal manager, as well as its accounting officer, to submit a variety of information, returns, documents, explanations and motivations to the national and provincial treasuries.

These are used to monitor the municipality's finances. The national and provincial treasuries also monitor the budgets of municipalities to establish whether they are consistent with the national government's fiscal and macro-economic policy and whether they have taken account of the provincial budget. Once a municipal budget is tabled in the Council, it must be submitted to the provincial treasury.

A more intrusive form of monitoring is the power of the national treasury to investigate

a municipality's system of financial management and internal control, and make recommendations for improvements.

c) Monitoring in terms of Sector Legislation

In addition to generic and financial monitoring, sector departments oversee local government performance through instruments in their own sector legislation.

One example of this is the South African Police Services Act 68 of 1995 which enables municipalities to set up municipal police services and provides a monitoring role for the National Police Commissioner. Similarly, the Water Services Act 108 of 1997 enables the minister responsible for water Affairs and Forestry to monitor local governments' performance in water delivery"(www.dplg.gov.za).

2.5.2.2 Support

Support refers to the measures of assistance from one sphere of government to ensure that another sphere is able to perform adequately. In Section 41 (1) (h), the Constitution generally instructs all three spheres to support one another. Chapter 3 of the Constitution also lays the basis for a system of mutual dependency between each level of government.

- **Section 125 (3)** of the Constitution instructs the national government to support the provinces.
- **Section 154 (1)** of the Constitution instructs the national and provincial governments to support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions. This section places an obligation on both the national and provincial governments to support and strengthen the capacity of municipalities to manage their own affairs, exercise their powers and perform their functions.
- **Section 155 (6)** obliges provinces to promote the development of local capacity to enable them to perform their functions and to manage their affairs(Constitution of Republic of South Africa, 1996).

These responsibilities give provinces an important role in the institutional development of municipalities, which is pivotal in ensuring the success of the local government system. The constitutional duty to support can be fulfilled in a number of ways, including fiscal relations and capacity building via specific support programmes.

1) Fiscal Relations:

Constitutional support is a basis for the system of intergovernmental fiscal relations. Central government is obliged to support provincial and local government by means of the transfer of grants to enable these spheres to perform adequately. This does not mean, however, that the provincial or national governments can be held liable for the debts of municipalities.

Example:

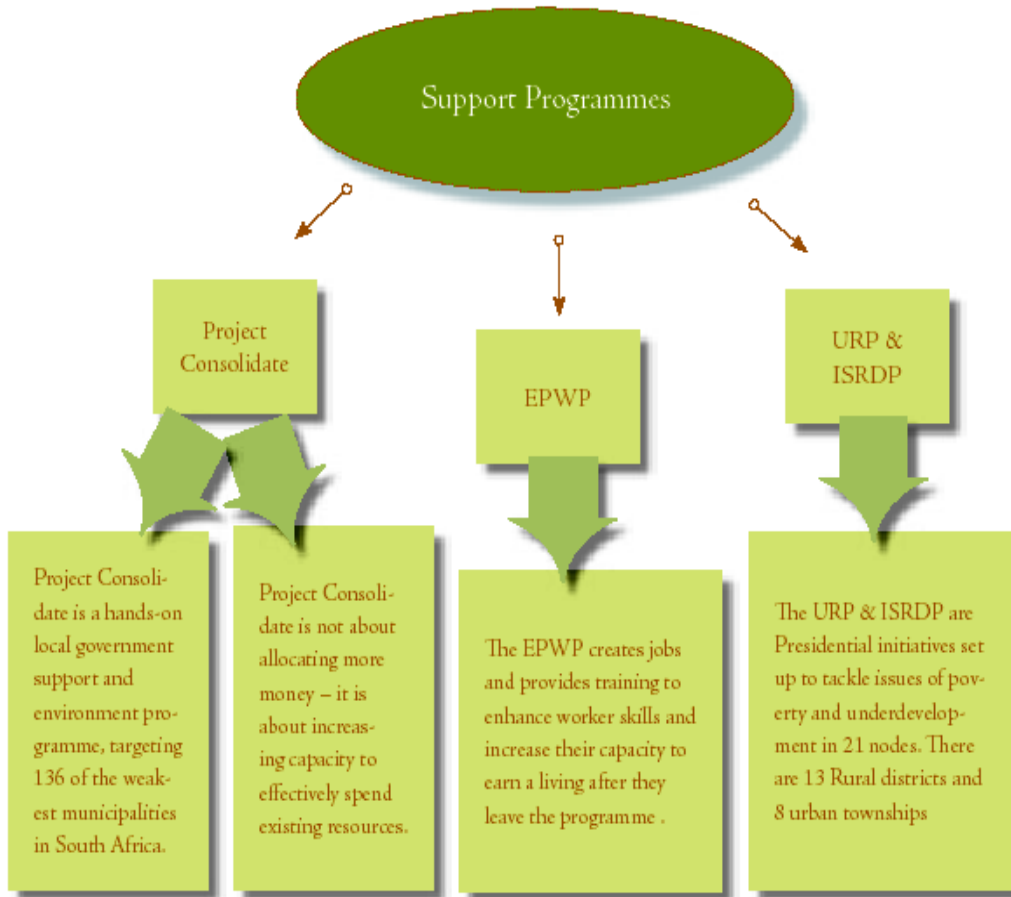
In *MEC for Local Government, Mpumalanga v Independent Municipal and Allied Trade Union (IMATU)*, the provincial government was sued by IMATU because a municipality failed to pay pension, medical aid and bond contributions to its employees. IMATU wanted the court to order the provincial government to pay the money because, under Section 154 of the Constitution, the provincial government has a duty to support municipalities. The Court disagreed with IMATU and ruled that this duty to support could only be invoked by the municipality itself, not by a creditor. Secondly, even if this duty to support was invoked by a municipality it would not mean that the provincial government was liable for municipal debts. It could, however, mean that a provincial government may be asked by a court to show what it has done to support the municipality (www.thepresidency.gov.za).

(2) Capacity Building:

The focus of the constitutional duty to support is shifting from fiscal support to support in the form of capacity building, in order to assist provincial and local governments to discharge their responsibilities. Government has launched a number of support programmes to assist local government to discharge its constitutional mandate, as illustrated in the graph below. What follows is a brief overview of the most important

support programmes, exercised jointly by national and provincial governments.

FIGURE 2. 3: Support Programmes



Source: Practitioners guide to the intergovernmental relations system in South Africa, (2007)

(i) Project Consolidate

The skills shortage confronted by municipalities is partly due to the fact that many professionals prefer to work at provincial or national level rather than at local level. This is especially true when it comes to rural municipalities. Further aggravating this state of affairs is the fact that many local authorities operate with outdated technology and information systems. One of the most telling reflections of this incapacity can be

seen in the fact that 136 municipalities have been placed under the Department of Provincial and Local Government's Project Consolidate, which aims to support faltering local government in their provision of services (Republic of South Africa, 2004a). One of these municipalities, is the Emfuleni local municipality in Gauteng. In Emfuleni, just 26.8 per cent of homes have water and 24 per cent have no access to sanitation at all. The municipality also has a housing backlog of 65 668 units which amount to a total housing backlog budget of R1.8 Billion (cited in Mail & Guardian, 2005).

In his opening address at the 2006 National Conference on Developing Local Economies, the Honourable Minister Sydney Mufamadi (then-Minister of Provincial and Local Government) commented that Local Economic Development (LED) was "not about local government as such. Rather, it is about what the entirety of government does in local spaces. In other words, our collective efforts must be directed towards ensuring optimization of intergovernmental impact on every part of our spare economy".

Where necessary, specialist teams, of administrators are deployed to municipalities to tackle weaknesses. The focus is on basic service delivery, infrastructure development and stronger Local Economic Development (LED). Where necessary, municipal institutions are developed. A key task is achieving financial viability for the municipality, as is improving governance and public participation, and eliminating corruption.

(ii) Expanded Public Works Programme (EPWP)

The Expanded Public Works Programme (EPWP) is one of government's national initiatives and is aimed at drawing a significant number of the unemployed into productive work. It consists of four sectors, namely: infrastructure, Environmental and Cultural, Social and Economic sectors.

The benefit for local government is not more money but opportunities for Local Economic Development. Local governments are expected to maximize the benefits of

the EPWP by carrying out infrastructure projects (for example, roads) as labour-intensively as possible. In this, they must liaise with the Department of Public Works. One of the conditions of the Municipal Infrastructure Grant (MIG) is that projects it funds must be as labour-intensive as possible. The DPLG has an MIG Management system which can assist to promote this goal, and further collaboration is needed with the Construction Sector Education and Training Authority to provide proof of qualifications and skills learned „on the job“ by workers.

(ii) Urban Renewal Programme and Integrated Sustainable Rural Development Programme the Urban Renewal (URP) and Integrated Sustainable Rural Development (ISRDP) programmes are presidential initiatives aimed at providing targeted support to 21 rural and urban areas.

These 13 rural districts and 8 urban townships represent the largest concentrations of poverty in South Africa. All agencies of government have been encouraged to pay special attention to poverty alleviation in these 21 areas and Cabinet plays an oversight role in monitoring progress in these areas. The URP and the ISRDP rely, for success, on cross-departmental and intersperse co-operation. Numerous sectoral departments are involved. The programmes are supported by technical teams and the allocation of political champions.

The central focus of both the URP and the ISRDP programmes is to intensify the offensive on poverty and underdevelopment in these targeted areas, called rural and urban nodes. Common features of the programmes include:

- poverty targeting and alleviation as an explicit objective;
- a focus on micro and local economic development imperatives;
- improved coordination and integration of service delivery across government, with a particular focus at a local level;
- the decentralisation of decision-making and setting of priorities at a local level;
- the need for a demand-driven approach to development, where local projects are identified through the Municipal Integrated Development Planning process;

- recognition that various partnerships will be necessary to ensure the success of each of the programmes(Practitioner's Guide, 2007:5).

The URP nodes were selected because of their common features. These include:

- apartheid townships;
- Poverty and high levels of crime;
- depleted formal engineering infrastructure that needed rehabilitation/upgrading;
- shortage of formal housing stock, including informal housing components;
- inadequate operation and maintenance budgets;
- low internal economic opportunities;
- low education and skills levels of resident population;
- poorly connected to surrounding neighbourhoods.

The presidential urban nodes in terms of the URP are:

- Alexandra in the City of Johannesburg
- Mitchell's Plain and Khayelitsha in the City of Cape Town
- Inanda and KwaMashu in the eThekweni Municipality
- Mdantsane in the Buffalo City Municipality
- Motherwell in the Nelson Mandela Metropolitan Municipality
- Galeshewe in the Sol Plaatjie Municipality (Practitioner's Guide, 2007:5)

FIGURE 2.4: Presidential Rural Nodes

The presidential rural nodes in terms of the ISRDP are:

Eastern Cape	KwaZulu-Natal
Chris Hani DM	UGu DM
UKhahlamba DM	UMzinyathi DM
O.R. Tambo DM	Zululand DM
Alfred Nzo DM	UMkhanyakude DM
Free State	Northern Cape
Thabo Mafutsanyana DM	Kgalagadi DM
Limpopo	Western Cape
Sekhukhune DM	Central Karoo
Maruleng LM	
Mpumalanga	
Bushbuckridge LM	

Source: Practitioner's Guide to the Intergovernmental Relations *System in South Africa, (2007)*DPLG

In the spirit of a co-ordinated, integrated approach to rural and urban development, all three spheres of government are required to play their roles. Each node has its „political champions“ in the form of specific (deputy) ministers and/or MECs. Furthermore, political and technical champions have been appointed both within provinces and nodal municipalities.

The Department of Co-operative Governance and Traditional Affairs plays a vital linking role between national, provincial and local leaders. The roles of these national political champions include:

- promoting the development priorities that emerged from their node's IDP;

- monitoring and influencing the allocation, re-alignment and reprioritization of national programmes and budgets as they pertain to the development of their nodes;
- addressing strategic challenges at a political level, which prevent these nodal development priorities from being achieved;
- mobilizing critical national level stakeholders (private sector, parastatals, donors and non- governmental organizations) for the purpose of harnessing additional resources for government’s efforts in the nodes;• visiting nodes regularly so as to maintain strategic visibility of the government’s programmes and to advocate for appropriate changes and adjustments in the delivery process;
- sharing experiences in a structured forum with other political champions
- translating the broad annual work plan into a node-specific set of actions, in conjunction with provincial and nodal level champions;
- acting as mentors to the other political champions and, in particular, nodal champions.

2.5.3 “Interdependent” Co-operation

According to the Practitioners Guide to the Intergovernmental Relations System in South Africa (2007), “interdependent” means that “each sphere must exercise its autonomy to the common good of the country by co-operating with the other spheres”. For government to implement its national priorities and to deal effectively with socio-economic challenges (including poverty alleviation, job creation and enhanced service delivery) all spheres of government are required to work in partnership. Intergovernmental relations are not merely about exercising autonomous powers or supervising the exercise thereof, most of the challenges of integrated governance are met through co-operation.

The Practitioners Guide to the Intergovernmental Relations System in South Africa (2007:64-65) describes co- operation as “the act of aligning and integrating governance across spheres so as to ensure coherence. It is different from supervision

in that it takes place in a context of equality: Each participating sphere is an equal partner.”

Broadly-speaking, the four most important types of instruments for achieving intergovernmental co- operation are:

1. Intergovernmental planning and budgeting
2. Intergovernmental forums
3. Implementation protocols and
4. Dispute resolution

2.5.3.1 Intergovernmental Planning and Budgeting

Coherent and integrated governance requires the alignment of policies and priorities across spheres. Strategic planning and budgeting are therefore vital aspects of this co-operation. There are a number of planning tools that are designed to achieve alignment:

-Provincial Growth and Development Strategy (PGDS)

A PGDS is a long-term view of a province’s development trajectory. According to the Department of Provincial and Local Government, “it should be informed by both the national priorities and the integrated development plans of municipalities in the provinces”. It takes its cues from the National Spatial Development Programme (NSDP) and the Medium-Term Strategy Framework (MTSF). The PGDS is the “core alignment mechanism” (DPLG) for each province, providing a strategy of both co-ordination and implementation. In those provinces where the PGDS is already in place, district metropolitan and local municipalities have to be involved in a programme for co-ordinated action.

The PGDS consists of two parts:

Part 1: Long-Term Strategic View

The first part takes the form of a Problem Statement, an assessment of Assets, Opportunities and Constraints, and a Vision and Values Statement, followed by key strategies to be implemented. The interventions must clearly identify roles, and provide for the overall co-ordination of investment and service delivery by all

stakeholders. It must include resource allocation, integrated development plans, priorities and mechanisms for involving the private sector and civil society.

A PGDS requires a thorough analysis of the demographic, spatial, environmental, economic, social and migratory trends and dynamics of the province. The context for this is the principle of sustainable development, the spatial analysis of the province, and the patterns and trends in the provincial economy. The focus should be on identifying key areas of need and investment potential based on solid analytical foundations.

The PGDS must take into account the "triple bottom line" of economic viability, social equity and ecological sustainability. As part of this, the province must formulate a Provincial Spatial Development Framework, including areas of growth potential, capacity assessment and constraints.

Part 2: Implementation, Monitoring and Evaluation Plan

The second part includes a set of annually-revised implementation goals, the identification of „political champions“ (for example, the provincial premier) for specific projects, effective communication across government, appropriate technical support structures and capacity, resource allocation, co-ordination and budgeting, as well as monitoring and evaluation. In this sense, the PGDS itself is an implementation tool for national priorities and programmes. (Practitioner's Guide, 2007:64-65)

- Implementation and Monitoring

Several agencies monitor each PGDS, reflecting its horizontal and vertical alliances across government spheres and between line departments. These include the Presidency, the Department of Provincial and Local Government, and the Premier's Office. They extend to the national and provincial sector departments, while the strategy must also be integrated with the National Spatial Development Perspective (NSDP), and co-ordinated across the 53 district and metropolitan areas of South Africa.

The Premier's Office is the main driver and co-ordinator of the strategy. The Premier's Intergovernmental Forum assists with co-ordination and communication. For its part, the Policy Co-ordination and Advisory Services Unit in the Presidency ensure that each PGDS is harmonised and aligned with the National Spatial Development Perspective (NSDP) and with municipal Integrated Development Plans (IDP) processes. This generates reports for the Presidency and the Department of Provincial and Local Government on the performance of provincial and national sector departments, and district and metropolitan municipalities. (Practitioner's Guide, 2007:64-65)

- Integrated Development Plans (IDPs):

The Local Government Municipal Systems Act 32 of 2000 and the Municipal Finance Management Act 56 of 2003 instructed each municipality to develop a five-year municipal strategic plan, called the integrated development plan (IDP). This plan is the basis for the municipal budget. The IDP is adopted by the municipal council and reviewed annually.

The IDP has three important features.

- First, it is based on extensive public participation and therefore contains the needs and priorities identified by the local communities
- Second, IDPs must be aligned with the development plans and strategies of other affected municipalities and the national and provincial governments
- Third, IDPs must complement and influence the development plans of and strategies of other affected municipalities and the national and provincial governments.

In 2006, former-President Thabo Mbeki said: "Integration of planning and implementation across the government spheres is one of the prime areas of focus in

our programme for the next term of local government. In this regard we will be guided by the Intergovernmental Relations Framework Act” (State of the Nation Address of the President of South Africa, Thabo Mbeki: Joint Sitting of Parliament 3 February 2006).

Service delivery by all spheres of government comes together in a focal point of co-ordination and alignment at local government level. The White Paper on Local Government (1998) stated that “local government is increasingly being seen as a point of integration and co-ordination for programmes of other spheres of government and one of the most important methods for achieving greater co-ordination in integrated development planning. IDP is one of the most important instruments of co-ordination between provincial and local government.” (www.info.gov.za).

Realising integration across spheres

The municipal plans in determination of them will not realize the integrative potential of the IDP. True integration of plans and budgets requires commitment from all three spheres to utilise the instruments provided for the IDP framework.

The IDP process, designed by the municipality, must include extensive consultation with relevant national and provincial departments and parastatals so as to ensure alignment. Municipalities must inform themselves of planning requirements that relate to them, and incorporate them into their IDPs. Similarly, national and provincial sector departments and parastatals must ensure that they are part of municipal IDP processes and of their annual review, so that they can then be aware of and influence the content of IDPs (Practitioner’s Guide, 2007:54).

District Municipalities and IDP

District Municipalities play a lead role in intergovernmental planning. They adopt a district IDP as well as a district framework. This framework guides all IDP processes in the district. The district framework acts as a channel through which many of the national and provincial plans and priorities reach municipalities. It also acts as a

binding force, outlining principles and procedures according to which the district will ensure a working plan.

MEC for Local Government

The MEC for local government is instrumental in facilitating alignment in the IDP Framework. Each IDP is submitted to the relevant MEC and reviewed, particularly for consistency with national and provincial plans and priorities. In this review process, the MEC for Local Government pulls together all relevant national and provincial stakeholders and departments, and requests their comment. The MEC recommends changes to the IDP. If there is disagreement between the MEC and a municipality, a special dispute resolution mechanism applies (Practitioner's Guide, 2007:55).

- **National Spatial Development Perspective (NSDP)**

The National Spatial Development Perspective acts as a policy co-ordination and indicative planning tool for the three spheres of government. It is an instrument that reforms their respective development plans. The apartheid government's legislated segregationist ideals distorted investment planning and led to unsustainable industrial development on the fringes of the former Black Bantustans, or the diversion of investment solely to White urban areas of South Africa. Since 1994, the concern in government has been to avoid reinforcing these trends. The NSDP provides a context for government programmes in all three spheres to ensure that underdeveloped areas of the country are not neglected.

The NSDP was drafted in 1998 and is updated regularly. It incorporates key demographic, economic and environmental trends, and a set of normative principles to guide dialogue about government's spatial priorities. Local and provincial governments are specifically urged to help identify the relative comparative advantage of localities, to direct infrastructure investment and development programmes most effectively.

"The NSDP is not a national development plan; it is a guiding principle of national

planning and intergovernmental planning co-ordination. It provides a “common language” for different spheres of government to frame their development priorities”(www.idp.org.za).

2.6 CLUSTER SYSTEM AT NATIONAL AND PROVINCIAL GOVERNMENT

The President and the Cabinet are key players in the intergovernmental relations arena. Another important instrument for intergovernmental co-ordination is the Cabinet system that “clusters” the work of departments in six related functional areas (Municipal Demarcation Board, 2011):

1. Social Cluster
2. Economic Cluster
3. Investment and Employment Cluster
4. International Relations Cluster
5. Peace and Security, Justice and Crime Prevention; and
6. Governance and Administration Cluster.

2.6.1 Support

A cabinet office exists for each of the above six cluster committees of Cabinet, each with its own technical team to provide support. Each cluster is supported by the directors-general of the departments involved and the Policy Co-ordination and Advisory Services, situated in the Office of the Presidency.

2.6.2 Performance Management

Each cluster is subject to high expectations in terms of measurable progress in key performance areas. Every second month, the Cabinet clusters report to Cabinet on the implementation of development programmes. Progress within each cluster is eventually monitored from within the Office of the Presidency. The President himself, through his Office, is thus the watchdog of South Africa’s drive to higher levels of economic growth, social and economic equity and job creation.

2.6.3 Effects for IGR

The implication of the cluster system has been that it has led to an approach that seeks integrated government with all those involved in a particular sector of activity, from all areas of government (for example, governance and administration) represented within the cluster meetings. These committees are supported by the national minister concerned as well as his or her provincial counterparts - the nine MECs.

This cluster system also provides for provincial participation by including provincial directors-general as members of clusters. Some provinces have also implemented their own cluster system.

The cluster committees operate within the five-year rolling Medium-Term Strategy Framework (MTSF), which, in turn, formed the Medium-Term Expenditure Framework (MTEF) in which the annual budget is contextualized. Every national department and every provincial government is thus under pressure to use the overall planning framework of government as agreed by Cabinet to develop their own planning cycles. Provincial planning cycles then fit in with the national cycle, and national plans and priorities.

2.7 BUDGET CYCLE

The budget cycle is perhaps the most important tool for intergovernmental coordination. This section will provide an overview of some key themes and terms in the budgeting cycles of national, provincial and local government. It will then proceed to highlight the most important milestones in the budgeting process.

Intergovernmental planning has to take into account that the government works in different budgeting cycles. The financial year for national and provincial governments is from 1 April to 31 March. Local government's financial year starts on 1 July and ends 30 June (Practitioner's Guide, 2007:66).

2.7.1 Medium-Term Expenditure Framework (MTEF)

The Medium Term Expenditure Framework (MTEF) was adapted in 1998 as part of a wide package of budget reforms which included the Intergovernmental Fiscal Relations Act of 1997 (IGRA). That year for the first time, the annual budget included 3-year spending plans. Although only the single upcoming fiscal year is voted on by Parliament each year, the government presents numbers for the following two years as well. The MTEF is a tool to encourage cooperation across ministries and planning over a longer horizon than the immediately upcoming fiscal year (www.idasa.org).

2.7.2 Medium-Term Strategic Framework (MTSF)

The Medium-Term Strategic Framework (MTSF) seeks to identify the development challenges that government has to confront in the first five years of the decade. It is also meant to serve as a backdrop to guide planning and budgeting across the three spheres of government. The MTSF will help inform five-year strategic plans that the national and provincial department will be asked to table alongside their budgets in early 2005. It will be reviewed annually during the July Cabinet Makgotla(www.thepresidency.gov.za).

2.7.3 Medium-Term Budget Policy Statement (MTBPS)

The Medium-Term Budget Policy Statement (MTBPS) is published by the National Treasury in October/November. Some provincial treasuries also publish their own MTBPS. The MTBPS is a broad statement of fiscal policy which covers the medium term of three years. It deals with macro-economic projections, frameworks for taxation, and spending, borrowing and policy priorities for the MTEF. Setting out the main policy choices that government confronts as it finalises the budget, the document summarises governmental strategy and anticipated service delivery outcomes and challenges.

The broad estimates and policies outlines in the MTBPS in November are fleshed out and detailed further in the Main Budget, published every February. The MTBPS is thus a precursor to the Main Budget, and is sometimes referred to as a “mini-

budget”(www.treasury.gov.za).

2.7.4 Municipal Budgets and IDPs

The Integrated Development Plan (IDP) for each municipality sets out its strategic objectives, rationale and service delivery objectives over the medium term. This document must be updated on a regular basis. The IDP sets out the direction for the municipality and should feed directly into the municipal budget, which allocates the resources required to achieve the service delivery objectives. Municipal IDPs must be adopted within 16 months after the election of a new municipal council and updated annually.

2.7.5 In-Year Monitoring (IYM) Reports and Service Delivery Budget Implementation Plan (SDBIP)

The Service Delivery Budget Implementation Plan (SDBIP) is an invaluable tool used by municipal councillors and managers, as well as other stakeholders, to track progress, improve transparency and hold local governments accountable. It includes timeframes, measurable targets and performance indicators. The mayor of a municipality adopts the SDBIP within 28 days following the approval of the Budget.

According to the In-year Monitoring System (IYM) set out in the MFMA and PFMA, municipalities submit monthly reports regarding their revenue and expenditure to Provincial Treasury. They also include projections for the remainder of the financial year.

2.7.6 State-Owned Enterprises

State-owned enterprises (for example, Eskom) are also expected to align their planning cycles to the National Planning Framework (NPF). Overall leadership of the NPF falls to the Policy Co-ordination and Advisory Services Unit in the Presidency, supported by FOSAD (Practitioner’s Guide, 2007:68-70).

2.8 CHALLENGES FACING INTERGOVERNMENTAL RELATIONS

Intergovernmental relations are conventionally defined as “interactions between governmental units of all types and levels within a political system” (Watts, 2001:22). According to Watts(2001:22), the reason intergovernmental relations are so significant in a multi-sphere political system is because “it is impossible to distribute administrative or legislative jurisdictions among governments within a single policy into watertight compartments or to avoid overlaps of functions. Interdependence and interpenetrating between spheres of government within a multi sphere regime are unavoidable” Hattingh (1998:132-137) as cited in Kahn, Madue and Kalema (2011:82-83) is of the opinion that there has been very poor coordination of activities between national departments. To date very little has been done to put a mechanism in place to coordinate administrative activities at this level. Almost all the committees, technical teams and working groups that have been established to promote intergovernmental relations tend to focus on relations between national and provincial departments, rather than strengthening cooperation and coordination between national departments.

He further concurs that it is clear that this is in part due to the historical legacy of the previous political dispensation that allowed national departments to run with a considerable degree of independence, as intergovernmental relations were not a high priority. The homeland system and racial segregation of areas and services also serve to fragment governmental activity to a considerable extent. In addition , the interim Constitution did not provide any guidance on the question of intergovernmental relations, and thus for the first two years that the new government was in power , there were lack of clarity as to what form intergovernmental relations would take. Clearly it will take time to build a culture of intergovernmental relations between national departments and the public service as a whole (Kahn, Madue and Kalema, 2011:82-83).

The major challenge facing intergovernmental relations in South Africa is firstly, proving that coordination and cooperation are paying dividends, and secondly, ensuring that all the inequities of apartheid are being addressed to promote democratic governance. In the third place, convincing evidence should be provided

that the promotion of intergovernmental relations is, in fact worth pursuing within a fragmented political framework. Despite political conflict, it is possible to provide the necessary services through effective, cooperative practices (Murray, 2001:81).

“Mechanism is needed to promote consistency in policy formulation on intergovernmental relations to ensure compliance with decisions taken by intergovernmental structures and institutions. All structures for intergovernmental relations need to be stable and durable to promote the principles of cooperation” (Barnyard & Malan, 2002:107). At the moment, therefore, there are no formal structures to facilitate intergovernmental relations (Reddy, 2001:35).

Modern government faces many complex issues and demands, and therefore needs to cooperate with other entities. Coordination that is more effective, collective planning and sharing of resources are needed. To cooperate successfully with others, the provincial and local spheres of government should develop their own capacity and work towards receiving more recognition for the respective roles they play. This confirms the importance of equal status (Bray, 1999:5).

Factors contributing to ineffective intergovernmental relations are inadequate communication and the uncoordinated, overlapping manner in which functions and responsibilities are allocated to different spheres of government. The importance of proper coordination cannot be overemphasized (Uys, 1995:58). “Good intergovernmental relations enhance cohesion and are prerequisite for the efficient execution of governmental functions” (Uys, 1995:58).

“The distinctive features of intergovernmental relations suggest the increased complexity and interdependency in political systems. Characteristics include: the number and growth of government institutions; the number and variety of public officials involved in intergovernmental relations; the intensity and regularity of contacts among those officials; and the importance of official actions and attitudes” (Brynard & Malan, 2002:103).

“Although the machinery of co-ordination has improved at the national level, it is far less coherent at the provincial level where administrative capacity is more limited and where clear policy lines and clear channels of reporting are not sufficiently evident. As a consequence, provinces have been criticised for their inability to plan and implement multi-sectoral programmes (Levy & Tapscott, 2001:18).

Mentzel and Fick (1996:101) suggested that “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). Anderson (1960:3) similarly suggested that “intergovernmental relations are interactions occurring between governmental institutions of all types and in all spheres”.

Mathebula (2004:20) put forward the opinion that “the tone of the relationships within the concept of intergovernmental relations helps to enhance the activity of intergovernmental co-operation, collaboration and mutual support to a level which is often reserved for interpersonal relationships. He defined intergovernmental relations as “the various combinations of interactions, interdependencies, influences and transactions conducted by government officials between and amongst spheres of government” (this also includes organs of state). His study therefore concluded that intergovernmental relations are “a process driven activity that seeks to reconcile sub-national jurisdictional tensions in favour of service delivery and good governance”.

Mathebula's views showed that intergovernmental relations occurs primarily in dispensations that embrace a government philosophy based on a reciprocal obligation to embrace other levels of government, and to trust, support and assist one another in co-ordinating the delivery of service to the community. This philosophy recognises the predominance of the “equal-before-the-constitution” principle, and constitutionally protected autonomies and sub-national status (Mathebula, 2004:20)

2.8.1 Inheritance of Past Policies

The colonial era realities of South Africa continue to bedevil all facets of the South African governance machinery. The pre-1961 federal experiments of the British colonial government and the post-1961 Afrikaner minority government's experiments of separate but equal federalism have shaped the political demography of South Africa. The power centers of that period also entrenched, in sharpened proportions, the geo-demographic differences as manifested in the special arrangements of ethnic, racial, poverty and economic concentrations on the socio-economic landscape of South Africa. These realities dictate the pace at which power may be deconcentrated or decentralised from the centre to sub-national units of government. The degree to which power is decentralised determines the pulse of intergovernmental relations, particularly the relations realm. In conclusion, the constitutional history of South Africa remains a determining factor in the reform of its intergovernmental relations system.

Mathebula (2004:10) also presented the historical development of intergovernmental relations in South Africa. His work outlined the development of intergovernmental relations in terms of the 1961, 1983, 1993 and 1996 Constitutions of South Africa. It is the author's observation that the historical background of intergovernmental relations in South Africa has, as its epicenter, the colonial-era federal experiments of the British government, particularly, from 1910 to 1961. The British imperial government saw federations as the co-ordinating frontier for its Southern African colonies, as well as an instrument to disarm the Afrikaners' challenge to British supremacy, and to neutralise the native African majority threat. This informed the structure of government at the time and therefore, of intergovernmental relations.

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

policy co-ordination, devolution and decentralisation. Such an agenda expanded over time to include interactive transactional relations between and amongst organs of state and spheres of government.

Levy and Tapscott (2001:4) noted that the relationship between provincial and local tiers of government, however, was of an entirely different nature and was the source of frequent conflict. In the first instance, municipalities derived their power from provincial under an ultra vires doctrine; local authorities had no original powers and were prohibited from carrying out any activity that was not specifically defined by central or provincial authority (Levy and Tapscott, 2001:4).

Since local government therefore had little power, it was seen as a service provider rather than a level of government. Local government therefore did not really share equal status with other spheres of government (national and provincial). The restoration of the rightful status of local government has also been considered one of the most important problems and challenges for co-operative government. (Levy & Tapscott, 2001:4).

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

2.8.2 An Evolutionary Path Forward

The adoption of an interim constitution in 1994 and a final constitution in late 1996 represented the formal and final repudiation of apartheid rule. Significantly, the new constitution also specified the configuration of the State and stipulated that there be

“national, provincial and local spheres of government and that these are distinctive, interdependent and interrelated” (Constitution Section 40.1).

Steytler (2001:17) added that the shift towards centralisation had not been curtailed by the Constitutional Court. “While it has been willing to adjudicate the competition between the spheres of government, it has deemed that a low level of scrutiny would be appropriate for the necessity of national legislation. As a result it has been unable to rule in favour of provinces in any meaningful way.” Steytler went on to say that “The Court is developing a concept of co-operative government with a strong unitary emphasis that eschews any form of competition between provinces. With the emphasis on political processes to deal with issues of concurrency, key decisions on legislation will be made at executive level, outside the public forum and debate of provincial legislatures.” (Steytler, 2001:17).

Malherbe (2001: 1) suggested that one may perhaps entertain the thought that the Constitutional Court has no part in the development of provincial autonomy since, as the unbiased watchdog over the Constitution; its only role is to enforce the Constitution. That would be playing with words though. Though the Constitution provides for a particular form and degree of provincial autonomy, the Court inevitably contributes to the establishment and development of the constitutional position and status of the provinces. Alternatively, taking into account the relatively small harvest of court decisions on the issue, it may be inferred that, even if the court does have a role to play, it fulfills only a peripheral function in the matter of provincial autonomy. That may be misleading though, as a single judgment may have a profound influence on a particular matter (Malherbe, 2001:1).

The national government has, on four occasions intervened, in provinces under Section 100 of the constitution. All these cases dealt with budget deficit. Interestingly, in three of the four cases the provinces called for the assistance of the national government, so the issue of whether the interventions were necessary did not arise.

The above-mentioned problems subsequently manifested in recent events in the Free State, Eastern Cape and small fraction of Gauteng (Khutsong). At the end of October 2004, there was much publicised news events surrounding the chaos the Free State's municipalities had fallen into. Certain municipal districts were placed under the administrative control of the Provincial Government because they "could not perform their basic functions" (Momborg, 2004).

The "chaotic conditions" at municipalities could, according to Steyn (2004) also be seen as resulting from political infighting that had a negative impact on the level and quality of services rendered by the municipalities. Steyn (2004) further noted that there were "serious problems with the Municipality's administration and especially with managers" (Cooperative Government Study Guide, 2006).

2.8.3 Interaction between Government Spheres

As discussed earlier in this chapter, interaction between governments in a multi-sphere regime may take a variety of forms, defined by Levy and Tapscott (2001) as: "independent policy-making, consultation, co-ordination, joint decision-making and conflict resolution".

- Independent policy-making occurs where, on matters affecting other governments, a government takes action without consulting other governments or considering their interests, and those other governments are forced to adjust independently.
- Consultation represents a process whereby governments recognise that their actions affect other governments and therefore exchange views and information before acting, but ultimately the action of each government remains independent.
- Co-ordination occurs where governments not only consult but also attempt to develop within their own jurisdiction.- Joint decision-making requires the individual governments to act together, committing themselves to particular courses of action and standards of conduct. Share-cost programmes and matching

legislation are examples of implementing joint decision-making.

- Conflict resolution is achieved either by intergovernmental negotiation culminating in agreement and resolving the issue, or by appeal to courts to adjudicate the dispute. In most multi-sphere regimes each of these types of intergovernmental interactions may be found, although the extent or predominance of each type will vary from country to country (Levy & Tapscott, 2001: 28-29).

Within national and provincial governments generally, internal co-ordination of intergovernmental relations has been placed either in the head of governments' offices (President or Premier) or in a distinct ministry of intergovernmental affairs. This is not surprising since, in most systems of intergovernmental relations, it is the head of national government that presides over the first minister's meetings (of which the equivalent in South Africa is the President's Co-ordinating Council (PCC)).

However, there are advantages and disadvantages to placing responsibility within a government head or premier. Given the usually enormous range of responsibilities of the head of national government, that person is unlikely to be able to devote the concentrated attention on intergovernmental relations that a separate minister could. On the other hand, a department of intergovernmental affairs responsible to its own minister may not have the same status, influence and co-coordinating authority in relation to other ministers and departments within that government as would a department responsible to the head of the government. Levy and Tapscott asserted that, "What is clear is that if there is a separate department and minister for intergovernmental affairs they will have to work very closely with the office of the head of government (Levy & Tapscott, 2001:30).

2.8.4 Different Institutions, Structures and Interaction

Mechanisms and institutions to promote intergovernmental relations and functioning (with regard to both vertical and horizontal governmental institutions) include the following: the Intergovernmental Forum; the meetings involving national ministers

and the MEC's of provinces (MINMECS); technical intergovernmental committees; the National Economic Development and Labour Council; the Budget Council; the Council of Ministers; and the Provincial Intergovernmental Forum (Wessels, 1999: 139; Tapscott, 1998:21; RSA/PRL 1998: 18; Brynard & Malan, 2002; Levy & Tapscott, 2001:19).

Criticism of MINMECS, as noted by Reddy (2001: 32) includes the following: the fact that no clear and inclusive strategy is followed, the dominance of the national ministers; MECs lack of a mandate from their respective provinces; and the fact that decisions are not binding (Reddy, 2001: 32). The intergovernmental Fiscal Relation Acts (Act 97 of 1999) made provision for a Budget Council and a Budget Forum to promote co-operation between the spheres of government relative to fiscal, budgetary and related financial matters (Reddy, 2001:34).

These institutions must be "harmonised in terms of legislation, consultation and negotiation" (RSA/PRC 1998:19). According to Brynard and Malan (2002), the technical intergovernmental committees play an especially important administrative and supporting role in this regard. They also provide guidelines and function as facilitators. "The technical intergovernmental committee has, however, been criticised for its failure to promote intergovernmental relations in the national sphere of governments and the reason may be the failure of legislature intergovernmental structures leading to the poor functioning of technical support committees" (Brynard & Malan, 2002: 106-107).

According to Uys (1995: 57-58), the role of intergovernmental committees is to ensure co-operation, co-ordination and liaison between the different spheres of government. "Intergovernmental committees effectuate co-ordination and have to resolve the tension, conflict and problems between the spheres of government. It is clear that interdepartmental committees should be created with a great deal of circumspection" (Uys, 1995:57).

According to Brynard and Malan (2002:106), shortcomings related to the committees

include: “the large number of meetings which result in poor attendance, the management of meetings, and the poor preparation of supporting documentation. There is also a lack of clarity over the decision-making authority of the committees and meetings are dominated by national government representatives who may lead to consensual decision-making”(Brynard & Malan, 2002:106).

2.9 PLAYERS IN INTERGOVERNMENTAL RELATIONS AND INTERGOVERNMENTAL FORUMS?

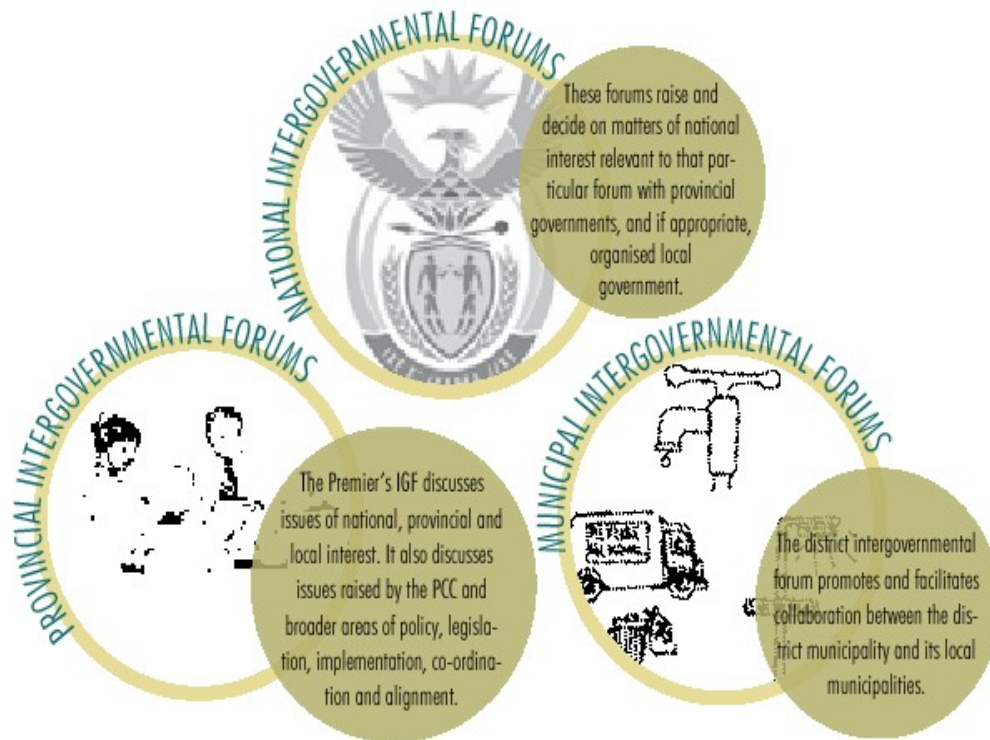
2.9.1 Intergovernmental Forums

According to the DPLG’s Understanding IGR, (2007), the challenge for all spheres of government is “to put the intention of the Intergovernmental Relations Forum (IGRF) Act into practice to ensure a co-ordinated and integrated approach to service delivery. Consultative forums are intended to facilitate intergovernmental dialogue, and issues discussed strategically at IGR Forum meetings usually include such matters as the implementation and impact of legislation and policies, or the co-ordination and alignment of provincial and local performance plans.

Understanding IGR said the forums are an opportunity for those at work in government to co-ordinate and stream their various programmes. “Clear and proactive channels of communication are vital for good IGR and the efficient implementation of government programmes. Meetings are also useful in ensuring the timely dissemination of information to relevant stakeholders and thereby assisting in service delivery.”

The three key groups of Intergovernmental Forums are graphically illustrated below.

FIGURE 2.5: Three key component of Intergovernmental Forums



Source: DPLG: Understanding Intergovernmental Relations (2007)

2.9.2 National Intergovernmental Relations Structures

2.9.2.1 The President's Co-ordinating Council (PCC)

The DPLG's Understanding IGR (2007), described the President's Co-ordinating Council as "a consultative forum for the President attended by senior representatives from all spheres of government. This forum allows for the President to raise matters of national interest with provincial governments and organised local government (SALGA) on the implementation of national policy and legislation, and the co-ordination and alignment of priorities, objectives and strategies across the three spheres of government".

One of the important items usually on the agenda at forum meetings is "delivery of services" and "broad reviews of the performance of provinces and municipalities in the effective delivery of their mandate". Corrective actions may be recommended by

this forum.

2.9.2.2 The MINMECS“ (National Ministers and Provincial MECs)

MINMECS are committees of Ministers and members of the Provincial Executive Councils and the South African Local Government Association (SALGA). They provide opportunities for interaction between the relevant executives and their goal is generally to improve the co-ordination of activities within their specific sectors, whether housing, education, health, agriculture or education. The following quote, taken from a speech delivered by the Honourable Ms. BP Sonjica, in 2005, then-Minister of Water Affairs and Forestry, illustrates the way in which MINMEC strives to co-ordinate sector activities:

“Our most pressing priority is the targets. However, before a municipality can begin implementing projects, it needs to make decisions about levels of service. Choosing the appropriate level of services, especially for sanitation is a difficult choice for any municipal council. If we don’t make the right choice, we run the risk of services that are not sustainable. Unfortunately there are too many examples of taps running dry and sewage spills in our streets and rivers.”

2.9.2.3 The Budget Council and the Local Government Budget Forum

Set up to advise MINMEC on matters of finance, both the Local Government Budget Forum and the Budget Council were set up according to terms of the Intergovernmental Fiscal Relations Act of 1997.

2.9.2.4 National Council of Provinces (NCOP)

The DPLG’s Understanding IGR (2007) noted that the NCOP serves to ensure “that the interests of the provinces are acknowledged within the national sphere of government. “It does this mainly by participating in the national legislative process and by providing a national forum for public consideration of issues affecting the provinces”.

The NCOP, as one example of its function illustrates, offers a schedule entitled “Taking Parliament to the People”. This schedule gathers political and executive

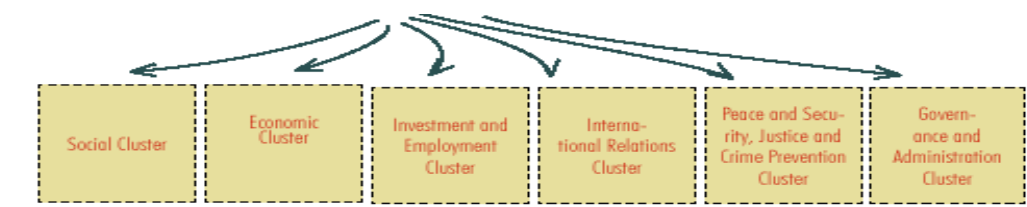
members of the government into a forum with representatives of the provincial residents, in order for them to discuss and debate key development issues together.

2.9.2.5 The Cabinet Cluster System

The IGRF Act, as explained by the DPLG's Understanding IGR (2007) focuses on "the core executive institutional structures within and across spheres of government. Although Clusters are not recognized by this legislation, they are nevertheless key co-ordination institutional arrangements sanctioned by Cabinet. The whole Cabinet system is cluster-based, in terms of ensuring integration, alignment and implementation of Cabinet decision by departments.

"Six Cabinet cluster committees were created with their own technical teams to provide informed support to government, especially to the National Programme of Action (PoA). The Cabinet clusters are chaired by the President, co-ordinated by the relevant Minister and supported by the DG, as illustrated in the diagram below:

FIGURE 2. 6: Six Cabinet Clusters



Source: Understanding Intergovernmental Relations (2007)

2.9.2.6 The Forum of South African Directors-General (FOSAD)

FOSAD brings together the national and provincial Directors-General (DGs), as

DPLG's Understanding IGR (2007) explained, thereby "ensuring valuable „hands-on" experience" for the discussion of intergovernmental issues. The forum assists in the co-ordinated making and implementing of policies across the spheres of government.

As has been established above, and confirmed in the DPLG's Understanding IGR (2007) "all spheres of government may set up technical support forums. These forums may be constituted according to the IGRF Act and function as technical, preparatory and consultative bodies to the political forums".

CASE STUDY: COEGA INDUSTRIAL DEVELOPMENT ZONE (IDZ) EASTERNSCAPE

The Coega IDZ, in Nelson Mandela Metropolitan Municipality, was cited as a case study in Intergovernmental relations by the DPLG's Understanding IGR (2007):

"The Coega IDZ was established as a viable destination for foreign direct investment, which can act as a springboard to international trade. The project is integrally linked to other programmes of government aimed at national economic development and, specifically, the development of the Eastern Cape.

"The project is driven by national government and it established the Coega Implementing Authority (CIA) to spearhead the process. The national provincial and local spheres of government are drawn together by the CIA the Coega Development Corporation (CDC) was established to implement the strategy for the development of the IDZ.

Intergovernmental Relations

The Coega IDZ involves a large number of institutions at all spheres of government as well as parastatals, like the National Ports Authority, Spoornet, the National Roads Agency and Eskom. The conduct of, and relationship between, the various spheres of government as shareholders is regulated through a formal shareholders agreement. The lead national department is the Department of Trade and Industry (DTI). The Department of Economic Affairs of the Eastern Cape Province Government was primarily responsible for the implementation of the policy framework and for the bulk

of the funding for the project. The Nelson Mandela Metropolitan Municipality (NMMM) facilitated local community and business involvement, and championed, and provided strategic support to, the project. The NMMM worked closely with the CDC to ensure the IDZ aligns with the municipality's long-term framework plan (Understanding IGR, 2007).

Key Success Factors:

- Good stakeholder management - It was a strategic aim of the project to keep the three spheres informed of the progress, constraints and difficulties with the project.
- Leadership - Project leadership by the Coega Implementing Authority (CIA) successfully transferred government's strategic intent to create jobs and attract investment in the business environment in which they were operating.

The support of the three spheres of government - All spheres of government have shown clear ownership of the project. This served as a basis to obtain the support of all spheres of government to ensure a successful outcome (Study conducted by DPLG Research Unit in 2003, as cited in Understanding IGR, 2007).

2.10 IGR AND STAKEHOLDER RELATIONSHIPS

In the DPLG's Understanding IGR (2007), intergovernmental relations are described as promoting relationships with "a wide range of stakeholders, through multi-sphere dialogue".

"This includes liaison with local government, provinces, and sector-departments and other State and non- State actors to promote service delivery, economic growth and social upliftment. For example, the IDP focuses on development outcomes in a particular geographical space. These outcomes must be socio- economically and environmentally sustainable, and also be supported by appropriate institutional arrangements. Forceful partnerships and networks of organizations in a district or regional space economy will also support and maximize its development potential."

2.10.1 South African Local Government Association (SALGA)

The South African Local Government Association (SALGA) was established in terms of the Organised Local Government Act (Act No. 52 of 1997) “to assist in the wholesale transformation of local government”. Key services and products include “policy formulation, advocacy, negotiations, international representation and supporting and strengthening municipal capacity” (Understanding IGR, 2007).

2.10.2 Ward Committees

Participatory local democracy is encouraged by the Constitution of South Africa, 1996, and other key legislation, and municipal ward committees are one of the frameworks that have been set up to facilitate such participation. According to the DPLG’s Understanding IGR (2007), “their primary function is to act as a formal communication channel between the community and the municipal council. They support councillors by representing the community and building relationships with communities. They also assist in giving input to the IDPs and highlighting priorities for development.

CASE STUDY: CACADU DISTRICT MUNICIPALITY (CDM)

The Cacadu District Municipality (CDM) has undertaken the following initiatives to address HIV in CDM:

- HIV/AIDS has been located within the Office of the Mayor and Municipal Manager in recognition that HIV/AIDS is not a health issue alone;
- The Performance Contracts of all CDM Directors reflect how they have responded to HIV and AIDS;
- Establishment of District Aids Council;
- Formulation of HIV and AIDS Strategic Policy and Workplace Policy;
- Inclusion of HIV and AIDS in the IDP;
- Role of the CDM in respect of the Local Municipalities” Mainstreaming of HIV/AIDS;
- Establishment of Local AIDS Councils in all nine municipalities; and

- Eastern Cape Aids Council (ECAC) will support the appointment of the HIV/AIDS co-ordinator (www.cmtmp.org.za).

2.10.3 Public Participation

The DPLG's Understanding IGR (2007) noted that community participation was "an essential element of effective and accountable governance.

"It promotes local democracy and people's engagement with local development challenges. Citizens frequently take the lead in defining and shaping their priorities through Izimbizos, Ward Committees and public meetings between municipalities and the community. At this level, IGR provides the government interface for local needs and concerns. The public participation phase in the IDP process is legislated through the MSA and is scheduled between October and December each year."

2.10.4 Economic Partnerships

The Department of Provincial and Local Government has acknowledged the opportunities for growth and investment that may be facilitated by the creation of strong stakeholder partnerships with the private sector.

"Such partnerships are vested in mutual interests, so a common understanding of the space economy between stakeholders is essential. A credible IDP must reflect economic development choices that are based on joint and strategic analysis of the NSDP, the LED plan, the Spatial Development Framework, the Land Use Management Plan and the broader economic growth objectives of government as reflected in the ASGISA and MTSF policies." (DPLG's Understanding IGR, 2007).

2.11 CONCLUSION

According to Brynard and Malan(2000:101-122), 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.

This chapter sets out the parameters of the system of intergovernmental relations in South Africa. It points out the inherent tensions in the constitutionally defined form of state, which manifests elements of federalism within a unitary system. The configuration of the state has developed considerable authority to the provincial and municipal levels while retaining ultimate power at the national level. The notion of cooperative government, encapsulated in Chapter 3 of the 1996 Constitution, represents an ideal which the new government has struggled to realize. In part this has been due to confusion over the responsibility of the different spheres of government, particularly with regard to areas of concurrent and exclusive responsibility, as set out in Schedule 4 and 5 of the 1996 Constitution respectively.

Furthermore it also pointed out the fact that the instruments of intergovernmental relations introduced post – 1994 have frequently been an experimental nature and their effectiveness in promoting coordination between the different levels of government has been variable. Until the advent of the Intergovernmental Relations Framework Act 2005, many of the instruments established to promote IGR were of an informal nature. While the Act has brought more certainty to intergovernmental relations, it has not managed to resolve a major challenge facing IGR in contemporary South Africa, namely how to find the correct balance between the need for supervision and, where necessary, intervention and the need to respect the delegated authority of subordinate levels of government. The next chapter will assess the system of co-operative governance and intergovernmental relations as they have evolved and currently present in the province of the Eastern Cape.

CHAPTER THREE:

3. A CRITIQUE OF CO-OPERATIVE GOVERNANCE AND INTERGOVERNMENTAL RELATIONS IN THE EASTERN CAPE

3.1 INTRODUCTION

This chapter will deal with a critique of co-operative government and intergovernmental relations in the Eastern Cape, and will discuss the perspective on service delivery. Current co-operative governance challenges from the Eastern Cape government will be discussed in detail. Furthermore, current intergovernmental relations challenges facing the Eastern Cape will be explained and discussed. This chapter will also deal with potential programmes and projects in the Eastern Cape

While the capital city of the Eastern Cape is Bisho, it is the port city of Nelson Mandela Bay (Port Elizabeth) that is its major centre. The province's (mid-2010) population of 6 743 800 constitutes a national share of 13.5 per cent. The majority (83.4 per cent) speak isiXhosa as their first language, with 9.3 per cent Afrikaans and 3.6 per cent English speaking. (www.southafrica.info/eastern-cape).

Prior to 1994, the Eastern Cape was territorially divided into one area that made up the "national state" of Transkei, another area that made up the "national state" of Ciskei, while the rest of the province was under the provincial administration of the then-Cape Province. These territorial divisions are no longer valid, but significant in terms of examining data distribution (<http://www.mrs.ac.za/b=d/estimatesprovincial>).

Today, the Eastern Cape is divided into seven district municipalities. The Nelson Mandela Municipal district (greater Port Elizabeth) and East London are classified as Metropolitan areas. The remaining district municipalities are Cacadu, Chris Hani, UKhahlamba, Alfred Nzo, O.R Tambo and Amatole. These district municipalities were demarcated as directed by local government in the Local Government Act of 1998.

The PGDP Draft Report of 2003 noted that the Eastern Cape has for many years been "the cradle of visionary leadership that has guided the broader political development of the region and the country. This blessing translated into a curse

for successive oppressive governments, who implemented numerous schemes in an attempt to control and manage this situation. The result is a legacy of systemic underdevelopment and poverty that is well known. The impact is long term and continues to manifest in below-average human development indices (for example literacy; life expectancy; and health profiles), skewed demographics, sparse and dysfunctional infrastructure and a negligible economic base.” (PGDP Draft Report 2003:5).

The Report identified the following challenges in the Eastern Cape:

- Integrated planning;
- Fiscal relations;
- Information and communication;
- Values, attitudes and skills;
- Democratic governance; and
- Service delivery modes (PGDP Draft Report 2003:5).

3.2 CO-OPERATIVE GOVERNANCE AND IGR

As outlined in the previous chapter, the Constitution of 1996 states that “Government is constituted as national, provincial and local spheres of government which are distinctive, interdependent and interrelated” (Constitution, Section 40 (1)). The „distinctive” element refers to the autonomy enjoyed by the spheres; in other words, “the degree to which each sphere is the final decision-maker on a particular matter that falls within its area of competence” (DPLG, 2008:5). So, local government is a sphere of government in its own right, and is no longer a function of national or provincial government. It is an integral component of the democratic state.

The creation by the constitution of this decentralized governance system, which comprises the three distinct but interrelated spheres of government, also gave rise to the need for “a systematic system of intergovernmental relations (IGR) to give effect to the principles of the co-operative government” (DPLG,2008:5). To assist in realizing these principles, the Intergovernmental Relations Framework Act was

promulgated on 15 August 2005. This Act provides for an “institutional framework for the three spheres of government to facilitate coherent government, effective provision of service monitoring, implementation of policy and legislation, and realisation of developmental goals of government as a whole” (DPLG: 2008:5)

The White Paper on Local Government of 1998 (LOCATI, 1998) asserted that “all spheres of government are obliged to observe the principles of co-operative government put forward in the constitution”. The integrity of each sphere is assumed, but co-operative government also recognises that “no country today can effectively meet its challenges unless the components of government function as a cohesive whole”.

According to this White Paper, this involves:

- collectively harnessing all public resources behind common goals and within a framework of mutual support;
- developing a cohesive, multi-sectoral perspective on the interest of the country as a whole, and respecting the discipline of national goals, policies and operating principles;
- co-ordinating their activities to avoid wasteful competition and costly duplication;
- utilising human resources effectively;
- settling disputes constructively without resorting to costly and time-consuming litigation; and
- Rationally and clearly dividing between them the roles and responsibilities of government, so as to minimize confusion and maximize effectiveness(www.ggln.org.za/local-governance).

According to Muthwa (2007:79) the main reason for the existence of the chief directorate is to ensure that continental, international and provincial intergovernmental systems are geared to the creation of climate suitable for co-operative governance

and maximum service delivery. Strategic partnership with donor community through official development assistance and international counterparts must fully utilize as they are aimed at addressing shortfall that cannot be covered by their resource base. As a recognized member of the diplomatic global community, this province has to have a world class protocol component. Muthwa further states that the new IGR Act sets out the parameters within which this unit operates, with its aim being to establish and manage effective intergovernmental relations for the promotion of co-operative governance. The better the various spheres of government operate, the better the level and quality of service government will be able to render to their citizens. The Intergovernmental Relations Component is gearing itself for full compliance with the IGR Framework Act: The Provincial and Local Spheres of Government have fully complied with the IGR Framework Act. The directorate is playing a leading role in inter-sphere issues which are as the follows:

- In 2006/7 they have complied with Chapter 2: Intergovernmental Structure (part 3 & 4) of the IGR Framework Act. Part 3 is the establishment of Provincial Intergovernmental Forums and part 4 establishment of Municipal Intergovernmental Forums;
- Service Delivery Model – the chief directorate leading in the crafting of intergovernmental service delivery model, the Mbizana IDP Engagement Plan is the pilot project as well as the UNDP Service Optimisation Plan. The object of this project is to put together the three spheres of government together so that they can provide a coherent seamless, integrated service to the people of the Eastern Cape; and
- A resolution was taken by the Premier’s Coordinating Forum that a thematic approach be followed which has an inter-sphere resonance. The thematic approach is meant to enhance the strategic thrust which is about Governance & Administration, Economic Growth & Infrastructure and Social Needs Cluster together with the Five Year Local Government Strategic Agenda (2006-2011).

3.3 DISTRICT FORUMS

The 2006 Report on the State of Intergovernmental Relations in South Africa (DPLG, 2008:20-21) concurred that the District IGR Forum is intended to be exclusively a political structure, but there have been examples of a combination of elected and appointed officials, as in Limpopo and Mpumalanga. It also stated that other intergovernmental structures, such as North West Forum have invited municipal managers as technical support. "Membership of some forums may be seen as too broad without adequate distinction drawn between members and invitees, and blurred boundaries between the District IG Forum itself and support bodies" (DPLG, 2008:20-21), it concluded.

The Report asserted then that it was "too early to gauge the impact of the IGR Forums Act on district level service delivery", but district intergovernmental forums surveyed more recently have varying performance levels. One study found that "many did not focus on the integration of IDPs "(DPLG 2008:21). "The key issues were neglected in the most DIFs, for example, not many forums discussed the integration of IDPs, matters arising from the premier's intergovernmental forums or the integration of local municipalities" policies and projects in a district (Horizontal Alignment)."

In the District IGR Forum review commissioned by the Department of Provincial and Local Government in 2007, it was noted that "rules of internal procedures have now all been adopted and attendance is generally good. Attendance at the technical forums has been less consistent due to reasons such as time pressure of officials" (DPLG, 2008:21). The review noted that all the District IG Forums had dispute resolution procedures, though none had actually used them. One problem experienced was that the representatives of local municipalities were often not mandated to take decisions, "resulting in delays while they reverted to their executives" (DPLG, 2008:21).

In 2006, the status of provincial and local government relations, and district and local

municipality intergovernmental relations structures prior to the IGR Act was researched, described and evaluated (DPLG, 2008:21). Except for Limpopo (in 2006), all provinces had set up some form of intergovernmental structures.

Typically, they had “very broad, inclusive structures consisting of the premier, the provincial cabinet, organized local government, mayors and municipal managers of all municipalities within the province. This was supplemented by a smaller, more focused structure commonly referred to as The Premier’s Coordinating Forum which comprised the premier (without including the provincial cabinet) and the mayors of all municipalities” (DPLG, 2008:21).

The Report further argued that “the effectiveness of these provincial IG forums was then reported as extremely variable”. Some of them had never met beyond their inaugural meeting (for example, the Eastern Cape). In other cases where meetings were convened, attendance was reportedly low due to “lack of commitment by the officials involved in these processes (for example, the North West and Free State). Even where a number of bodies had been established, they were not operating well, such as in the Free State” (DPLG, 2008:21).

According to The DPLG, other research indicated that some provinces had “taken the lead in establishing district-municipal forums (for example, Western Cape and Kwazulu-Natal, where it was necessary to promote co-operation across IFP and ANC party lines”). Despite good practice examples such as Cacadu intergovernmental forum in the Eastern Cape, many district IG forums “existed in name only. Many districts without established forums have used informal communication and meetings between district and local officials to align their policy planning and implementation in some cases quite effectively” (DPLG, 2008):22). However, the research observed that “the establishment of intergovernmental forums is a necessary but not a sufficient condition, in some cases quite effectively.

3.3.1 Case Study

The DPLG's report of 2008:28 cited the case below in order to depict opportunities for IG Forums and Senior public servants to co-ordinate the required outcome:

MINI CASE STUDY: Matatiele Municipality and others v President of South Africa and Others.

The constitution's twelfth amendment Act of 2005 gave effect to a 2002 president's co-ordinating council decision that cross-border municipalities be abolished in the interest of improved service delivery. The constitutional validity of this legislation was challenged in the constitutional court in the case of Matatiele Municipality and others v President of the Republic of South Africa and others 2006(5) BCLR 622(CC).

Matatiele Municipality challenged its proposed transfer from KwaZulu-Natal to the Eastern Cape Province. On the 18 August 2006, the Constitutional Court ruled that the provisions transferring Matatiele were invalid. The KwaZulu-Natal Legislature had failed to facilitate public involvement when considering these parts of the bill, and gave them 18 months to correct this procedural defect. In 2007 the Cross-boundary Municipalities Laws Repeal and Related Matters Act re-affirmed arrangements for the elimination of cross-border municipalities.

Xolisa Maki, Manager: Intergovernmental Relations in the Office of MEC Department of Local Government and Traditional Leaders, had this to say about the status in the Eastern Cape, when interviewed him on 9 February 2012: "The department supported all District municipalities and the Metro's in the establishment of their IGR Forums. Out of the six District Municipalities, four have functional IGR forum, while District Municipalities and the Metro's are still in the process of either establishing or resuscitating their forums."

According to Maki, the status of the forums is as follows: -

FIGURE 3.1: District Municipal IGR Forums

MUNICIPALITY	STATUS
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1. Amathole District Municipality	Functional
2. Cacadu District Municipality	Functional
3. Joe Gqabi District Municipality	Functional
4. Chris Hani District Municipality	Functional
5. Alfred Nzo District Municipality	Still being established
6. OR. Tambo District Municipality	Functioning on an ad hoc basis
7. Nelson Mandela Bay Metro	Still being established
8. Buffalo City Metro	Still being established

All the above mentioned DIMAFOs/Metro IGR Forums regardless of their functional status have Terms of Reference, which serve as a guide for their functionality.

Maki (2012) was confident that Provincial MuniMECs (Technical and Political) “are fully functional and well attended by municipalities, national and provincial government departments as well as other relevant stakeholders”. He said that agenda issues that are discussed at these sessions are mostly informed by inputs from DIMAFOs and other strategic stakeholders, while resolutions are implemented and implementation progress reported to the next Provincial MuniMEC meeting. In a situation where there are policy/legislative imperatives that have a bearing on either provincial, district or local municipalities, such matters are packaged for discussion at national IGR Forum such as MinMEC (Minister and relevant MECs). Another case pointed out by Maki is the implementation of what is known as the King Sabatha Dalindyebo Local Municipality Presidential Intervention (KSD PI) wherein the “whole of government approach is adopted”.

3.4 Budgeting and Financial Management

The DPLG asserted that one of the main shortcomings of the early medium term expenditure framework (MTEF) incarnations was that “there was inadequate

integration between planned and actual service delivery outputs and the MTEF Budgets and actual expenditure outcomes. The introduction of the medium term expenditure framework (MTEF) is a start towards a better management system. However, the most noticeable shortcoming of the current system is that there is no link between expenditure and service delivery” (DPLG, 1995:5).

The view of Kahn, Madue and Kalema (2011:101) was that “the equitable share that is allocated to the provinces by means of the Division of Revenue Act (Dore) from nationally collected revenue is meant for use by provinces at their own discretion. The only condition is that provinces must adhere to national norms and standards. In this case, the provinces major concern is to ensure that funds are allocated according to their own priorities, and this pivotal responsibility falls squarely on the shoulders of the provincial treasuries, while the provincial legislatures have a supervisory role with regard to provincial budgets.”

Ajam (2001:134), in Kahn, Madue and Kalema (2011:101), observed that South Africa’s policy making had been “structured along sectoral lines” (such as Health, Education and Welfare) in national departments and intergovernmental structures. “Yet budgeting had been decentralised to provincial level, creating tension between national programming and provincial budgeting. The new budgeting dispensation means that unlike in the functional committee system funds cannot be redistributed within a particular sector allocations from provincial budgets are essentially provincial decisions”.

According to the DPLG, “one of the notable best practice elements of the provincial revenue sharing process is its reliance on formula-based allocations for the equitable share grants which are deemed to be more objective, less prone to political manipulation and more transparent. The equitable share formula depends heavily on demographic information and allocates to each provincial government their proportion of the pool of funds available” (DPLG, 2008:32).

Fiscal dumping

The 2008 Report suggested that one phenomenon of concern is fiscal dumping,

which refers to “the practice of government transferring unspent funds to lower spheres of government, external service delivery contractors or public entities without due consideration for their capacity to spend these funds effectively” (DPLG, 2008:34).

- Indeed, there have been complaints in the health and transport sector about the transfer of funds to municipalities in the last month of the financial year. An example was the transfer of funds from the Eastern Cape Department of Economic Development Agency (ECDC) to the accounts of the Eastern Cape Development Agency (ECDA) as well as the Centre for Investment and Marketing in the Eastern Cape (CIMEC). These funds should have been returned to the provincial treasury . The National Treasury first detected fiscal dumping by Provincial Departments in the 2004/5 fiscal year. As a result, new requirements were introduced by the Division of Revenue Act, which requires that all proposed transfers are first made public. An additional safeguard in the Accounting Officer Guide (National Treasury, 2002:46) prohibits Accounting Officers from transferring funds to a Province, Municipality or NGO in order to conceal under-spending in their own departments. According to the DPLG, “fiscal dumping has been identified as a form of financial misconduct” and “tendencies towards fiscal dumping continue to be closely monitored and investigated by the National Treasury and its provincial counterparts” (DPLG.2008:34).

MINI CASE STUDY: Eastern Cape Department of Housing conditional grants in 2007.

From The Herald Online: **R500m grant reclaim over lack of staff**

The drastic decision by National Government to reclaim R500m in conditional grants – money ring- fenced for the building of homes for the poor in the Eastern Cape – comes after over a decade of failure by the Provincial Department to hire the necessary engineers, managers, town planners and building inspectors to build houses for the masses.

So says Public Service Accountability Monitor (PSAM) housing researcher Chantelie de Nobrega after the unit's latest research showed the department has almost no engineers, town planners and skilled staff to build the 800 000 homes needed in one of the poorest provinces.

In 13 years of democratic rule, the PSAM says just over 260 000 government homes have been built in the Eastern Cape at a wildly varying rate of between 10 000 and 60 000 a year. The figure, which is declining, includes homes stalled in mid-construction after 2000. This means the province is barely a quarter of the way to finishing the job. But, no-one is quite sure exactly how many houses are needed.

De Nobrega believes the department's inability to fill a massive 80 per cent shortfall of critical staff, and 65% (2 429) shortage of general staff, has led to a skepticism from both National and Provincial Treasuries and a reluctance to release money.

While the researcher pointed out a string of provincial housing errors of judgement, financial mismanagement, maintaining a silence amid chaos or stagnation, and housing subsidy fraud, she says the expenditure of the budget for the existing personnel has improved tremendously from under spending of up to 50% prior to 2003, to 14%, 4%, and 1% and 13% in the years since. De Nobrega said by March 31 this year, the department had only nine chief and deputy chief engineers and needed another 46, and needed 106 town planners to join two currently in the department. It had only 19 control technicians (building inspectors) but needed 60 more. There was also a shortage of executive, general and senior managers, as well as industrial technicians. This was according to the 2006/7 annual report released in October.

"How do you service a budget of over R1-billion if you don't have the staff?" she said.

She said the Chief Directorate of Housing Development, headed by General Manager Ngwadi Mzamo, is proposing to appoint senior managers to the Province's District Municipalities. "These district-based managers will start hiring people with technical expertise, who will be based at district-level, but will work in the municipalities under them." She wondered if the department's so-called "turn-around strategy" would be

put on hold if the department lost a third of its budget.

The department has already set up its first-ever Project Management and Quality Assurance Directorate, which will comprise mainly technical staff, engineers, project managers, town planners and inspectors. The department also received a qualified audit last year, compared to the previous four years when the Auditor General issued audit disclaimers stating that financial records were so poor that no opinion could be rendered as to whether the money was spent as intended. He particularly noted that the department was not monitoring payments to municipalities and developers and therefore he had no way of establishing the extent of “fruitless and wasteful expenditure” on sub-standard housing.

De Nobrega said National Housing Minister Lindiwe Sisulu could not only blame the municipalities and Provincial Housing Departments for poor performance. “The Housing Act makes it a National responsibility for the Housing Department to intervene if a province is unable to fulfill its mandate or task and the Eastern Cape is clearly struggling.(Review Report 2008:35-36)

Corrective action

The DPLG Report noted that “stopping of funds may serve a punitive function but it seldom addresses the underlying issues of non-performance in spending, which requires capacity building and support.

“A complex decentralised fiscal system with multiple decision-makers across several spheres of government within a particular sector and fragmented budgets requires systems for co-ordination, reporting and monitoring in order to be effective” (DPLG, 2008:36).

In the early days of the provincial government, no such systems existed. As a result incipient provincial overspending episodes in 1996/97 were not detected early enough by national government. By 1997, the then Department of State Expenditure had set in place its Early Warning System to monitor the financial status of provincial

governments. It was, however, aimed mainly at financial control and fiscal discipline rather than effective financing of service delivery. The Intergovernmental Relations Audit of 1999 observed that: “the Department of State Expenditure does not have an early warning system for monitoring the financial situation of the provinces. There is, however, no system in place to monitor the effectiveness or efficiency of public expenditure service delivery. The quality of management information remains a problem. In general, until the publication of the Intergovernmental Fiscal Review there was no information on the actual spending of provincial government from inception in 1994 until 1998/99 fiscal year. There is also no official source of data that compares sectoral actual expenditure across provinces. For example, there is no information that allows for the comparison of actual education per capita across the province” (DPLG et al, 1999:109).

3.5 CHALLENGES FACING THE EASTERN CAPE

The majority of the Eastern Cape population resides outside of the large urban areas. In fact, the Province’s 2003 Provincial Growth and Development Plan (PGDP) strategy document estimated that two-thirds of the Eastern Cape population is non-urban and that the highest concentrations of people reside in the eastern half of the province, where the rural landscape is densely settled and poverty is greatest. The PGDP document claimed that “the high levels of poverty and illiteracy which are most severe in these rural areas, when combined with poor transport and communication infrastructure due to the development backlogs, result in a rural populous effectively removed from the State and marginalised to the extent that they do not have ease of access to public services.

It went on to report that the eastern half of the province “has been underdeveloped under the former homeland system, and artificially isolated in the large geographical areas of the former Transkei especially, to the extent that people residing there are disempowered from engaging with the State. This poses a particular challenge to the provincial government to open up this area by

improving infrastructure and ensuring economic growth that improves the lives of the people living in this part of the province particularly” (PGDP, 2003: 28).

Mawethu Pinyana, Manager IGR, Office of The Premier in Eastern Cape when interviewed on 28 August 2012, cited as challenge that Eastern Cape is a vast province and constituted by two spheres of government namely the Provincial Government and Local Government. When you talk province you refer to the Provincial part of the government inclusive of the national departments and state owned enterprises operating in the province. When you look at the local Government sphere you are talking of all the local municipalities, district municipalities and Metros in the province. This then provides you a picture of how vast the province is and how stretched Intergovernmental coordination can be in the Eastern Cape. Challenges facing IGR include the understanding of the concept by both political and administrative leaders in these spheres of government. Further to that IGR requires an understanding that is not about the number of meetings you hold but about the implementation of decisions taken in these sessions. Also he concluded by stating that a gap in intergovernmental planning and implementation is one factor affecting IGR hence a need for synergizing planning between these spheres of government.

3.5.1 Fiscal Relations

According to the Eastern Cape’s 2003 PGDP document, the absence of a provincial economic base means “that government operates as the market, driving both supply and demand”. It also said that the poverty levels “define government’s approach as welfare-ist or as developmental-ist”.

“Thus presently, all sectors of the community are seeking resources from government: either to provide direct employment as civil servants or indirectly, by outsourcing contracts to the business sector, on the one hand and, on other, to provide welfare safety net. This requires financial systems that can accommodate a wide transactional range. System synergy across the spheres of government also

becomes crucial. It further requires intense negotiations to ensure that national revenue division formulas address legacy backlogs” (PGDP, 2003:6).

As Eastern Cape Premier, Noxolo Kiviet said in her Freedom Day Celebration speech in 2010: “All quintile three schools in the province have been registered as no fee schools; we have built new schools, clinics and hospitals while we have also renovated a number of these institutions”.

3.5.2 Integrated Planning

The Eastern Cape public service, according to the 2003 PGDP document, “is an amalgamation of at least three administrative dispensations characterised by weak systems, inadequate policies, preferential service delivery, and the absence of systematic and longer-term planning. In contrast, the post-1994 Constitutional dispensation is based on co-operative governance and systems that ensure accountability. This require creative and inclusive approaches that facilitate integrated planning across the three spheres of government that are active in the province. Institutional arrangements that enable continuous-flow cycles within a longer-term time span need to be devised” (PGDP, 2003:7).

“The essence of development along your own lines is that you must have the right to develop and the right to determine how to develop.” (Chief Albert Luthuli, Nobel Peace Prize Winner).

Layman, in his 2003 Ten Year Review, noted that effective intergovernmental relations have the power to assist in the success of government’s national development objectives. At the time, these national objectives included:

- Accelerated shared growth beyond 6% per annum by 2010;
- Halving poverty and unemployment by 2014;
- Improving the macro-social environment; and
- Increasing capacity to implement services and programmes.

“We have seen how the IGRF Act directs that we establish the institutional machinery through which all spheres of government must co-ordinate and integrate plans, budgets and service provision. There should be clear plans at the local level, in which the strategies and programmes of all the spheres of government and public entities find co-ordinated expression,” Layman argued.

“If government works according to co-ordinated intergovernmental principles, jointly and in an integrated way, wasteful risks can be avoided: for example, schools being built without water provision and sanitation, or without access roads, or without electricity, clinics being built without a supply of medicines or health workers. It is clear that implementing the programmes that give effect to national objectives (the Programme of Action, the Five Year Local Government Strategic Agenda, the Urban Renewal Programme, the Integrated Sustainable Rural Development Programme, Siyenza Manje, MIG, Project Consolidate, the NSDP and the intergovernmental planning policies and tools) requires a responsive government, informed by local conditions and committed to improving the lives of the people of South Africa. This is the challenge for each and every one of us – working together for development”(National Treasury, 2008b).

3.5.3 Service Delivery

Public service delivery is frequently regarded as the main task of government. Although the provision of what can be regarded as “public” service is an important outcome that governments worldwide have to aspire to achieve, it is by no means the main reason for the existence of government in society. The prevailing international perspective on the role of government in society sees appropriate public service as only one of the desired outcomes of what is called “good governance”(www.kas.de/wf/doc/kas).

Layman (2003, 37-40) asserted that government “has long made a commitment to ensuring the delivery of at least a basic level of municipal services to all households.

At the heart of this commitment is a belief in the right of all South Africans to receive at least a common minimum standard of service, and it is the Constitutional duty of all spheres of government to ensure that this occurs.”

Indeed, then-Eastern Cape Premier Mbulelo Sogoni confirmed when he took office in 2008 that “We will be engaging with the communities on matters that confront them on daily basis, thus giving meaning to the galvanizing liberation call that “The people shall govern“. In line with this theme, I understand that the identified focus areas for this year include agriculture, health, education, housing, public works (including roads), water, sanitation and electricity, local government, and social development” (Sogoni, 2008).

According to Layman (2003, 37-40), free basic services refers to “the minimum amounts or service levels that are required in terms of health and environmental considerations”. He noted these as:

- A minimum level of free water to promote healthy living;
- The provision of a basic level of sanitation services;
- The basic level of electricity/energy to be supplied free of charge to support all households; and
- Free refuse removal service.

“The policy of free basic services includes providing basic levels of services for free to those who already have access to services and extending service delivery to those who do not have access. The delivery of free basic services therefore involves both operating and infrastructure expenditure” (Layman, 2003, 37-40).

Layman went on to define a basic service as “based on delivery to households. This is because households are the smallest consumer unit to which services are rendered. In addition, households are the basis for assistance in all cases involving capital subsidies, such as the CMIP and the housing subsidies, as well as certain recurrent transfers such as the equitable share. International and local experiences support locally responsive approaches to defining basic levels for services. By

encouraging municipalities to determine the most appropriate subsidy mechanisms, they are given adequate scope of authority to internalise the costs of delivery subsidies and thus, risks of moral hazard are minimized. National government should only set minimum national standards as guidelines to municipalities”.

A report compiled by Statistics South Africa, entitled “South Africa in transition”, examined changes in the access of households to infrastructure and services, based on findings from the October Household Survey of 1999 and changes that have occurred between 1995 and 1999. In this report, the matters of access to main sources of water and toilet facilities, energy for cooking, heating and lighting, methods of refuse removal, and access to health care were examined. Their findings were as follows:

Water

“In the five years from 1995 to 1999, there was a gradual increase in the proportion of households that had access to clean water (piped water inside the dwelling or on site, communal tap or public tanker). In 1995, 78, 5 percent of households had access to clean water rising to 83, 4 percent in 1999. At the same time, there was a decrease in the proportion of households using water from boreholes and rain water tanks, from 10, 0 percent in 1995 to 4, and 7 percent in 1999. The proportion of those households obtaining water from rivers, streams and dams, remained approximately constant over time (11, 4 percent in 1995, and 11, 8 percent in 1999); possibly indicating that improved access to clean water had not significantly affected previously disadvantaged households in deep rural areas”(Statistics SA, 1999).

Electricity

“Over the five-year period under consideration there has been a gradual increase in the use of electricity for lighting, from 63,5 percent in 1995 to 69,8 percent in 1999, and a gradual decrease in the use of paraffin and candles. While more than half of the households in South Africa (55, 4 percent in 1995 and 53, 0 percent in 1999) relied mainly on electricity for cooking from 1995 to 1999, this proportion remained

more or less constant between 1995 and 1999. This may be due in part to costs of electricity and appliances. Proportionally fewer households were using wood to cook in 1999 than in 1995. On the other hand, the proportion of households using mainly paraffin for cooking actually increased during the period.

“As with cooking, electricity was the most common energy source used for heating purposes by South African households. However, an overall decrease occurred in the proportion of households using electricity for heating purposes, from 53, 8 percent in 1995 to 48, 9 percent in 1999, probably partly due to costs. The use of paraffin and other sources such as coal and dung increased over time” (Statistics SA, 1999).

Refuse Removal

“Throughout the five years from 1995 to 1999, there has not been a marked change in the proportions of households (approximately 55 percent) who have access to formal refuse removal services ” (Statistics SA, 1999).

Sanitation

“Between October 1995 and October 1999, there has been a possible slight decrease in the proportion of households with access to flush or chemical toilets, from 56, 9 percent in October 1995 to 55, 8 percent in October 1999. At the same time there has been a possible slight increase in the proportion of households with informal facilities such as a river, stream or bush, from 8, 3 percent in 1995 to 10, and 6 percent in 1999.” (Statistics SA, 1999. As Layman pointed out, the commitment to provide free basic services implies certain fundamental objectives. Firstly, reducing South Africa’s high level of poverty is government’s primary economic objective. There is also, he asserted, “the issue of equity implied in the free basic services policy which brings about the role played by government in attaining allocation efficiency. Although the policy commitment has been expressed as “free basic services to all”, low income households that are currently unable to obtain access to basic services on an ongoing basis should be prioritized” (Layman, 2003:37-40).

3.5.4 DEMOCRATIC GOVERNANCE

The Eastern Cape's Provincial Growth and Development Plan (PGDP) of 2003 argued that the province carries "dualistic governance as a result of the existence of traditional leaders, who lead by virtue of birthright rather than popular choice.

"Establishing the appropriate roles and functions of democratic government and of traditional leadership is delicate. In the interest of stability and unity, this rather time-consuming process must be nurtured whilst moving towards a broadly acceptable operational framework. The Provincial government has only moved tentatively in trying to resolve this problem" (PGDP 2003:7).

The end of apartheid signaled the beginning of a society shaped by equality where the rights of all races, cultures and ethnic groups were to be realised under the single framework of governance. Post – apartheid governance in South Africa, based on a Western model of liberal democracy, promotes representative government via elections.

Given the nature of South Africa's racially and culturally segregated past, there are a number of critical issues which emerge and to some extent remain unresolved by this shift to a liberal–democracy system. One of the more prominent issues is the question of traditional leadership (www.ggln.org.za/local-governance).

According to the Good Governance Learning Network, "many existing traditional councils are founded on an undemocratic, hierarchical system of government, where positions of leadership are generally hereditary, a system that was institutionalised and consolidated by the Bantu Authorities Act of 1951, becoming an integral part of the apartheid system. "Traditional authority is based on the principles which seem to contradict those of liberal democracy. One of the fundamental concerns with regard to incorporating traditional leadership into the South African system of government is that a system of democracy cannot accommodate traditional councils that are not subject to any form of popular ballot"(www.ggln.org.za/local-governance).

The Network goes on to say that “the Traditional Leadership and Governance Framework Act (41 of 2003) therefore set out to remodel the institutions of traditional leadership and make them compatible with democratic government whilst ensuring social development within the country. Furthermore, the Act acknowledges a position for traditional leadership, not only within local government, but provincial and national level” (www.ggln.org.za/loca-governance).

3.5.5 INFORMATION AND COMMUNICATION

“Democracy,” claimed the PGDP document of 2003 “is vibrant if people have access to information about government policies and programs and how to access and engage with these. High levels of illiteracy and lack for and access to mass media communication channels (television; internet; telephones; radio) require an innovative response from government in terms of communicating with citizens” (PGDP,2003:6).

Kahn, Madue and Kalema (2011) concurred that “communication is where government establishes relations of low intensity with the community by advising it of the decisions and intentions of government that affect the community’s interest. It may even advise the community of their rights and options as voters. This is normally done through newsletters or media releases” (Kahn, Madue and Kalema, 2011:21).

The Good Governance Learning Network, too, supported this in saying that “izimbizo’s, or large scale community meetings, have also been used as a vehicle for government to communicate directly with communities on the ground, and for community members to voice their aspirations and grievances. Izimbizo’s are generally convened to discuss the IDP and budget at both district and local municipality level. There are also premiers” and presidential izimbizo which are organized at provincial and national levels” (www.ggln.org.za/local-governance).

“In general, it would appear that izimbizo’s generate a relatively superficial level of engagement between government and communities, rather that genuine participation. There is a perception that izimbizo’s are stage-managed public relations exercises,

with the choice of location being motivated by strategic political objectives, and access to the events by the broader community at times being controlled”(www.ggln.org.za/local-governance).

However, research by the Centre for Public Participation has shown that, while the provision of food , t- shirts and entertainment might attract larger numbers of people to izimbizo (hence increasing popular access to local government), this does not translate into meaningful input or outcomes.

“Izimbizo are still seen as rare opportunities for communities to engage directly with high-ranking political leaders such as the president” (www.ggln.org.za/local-governance).

3.5.6 VALUES, ATTITUDES AND SKILLS

The PGDP Draft Review 2003 concur that the civil service cadre is the face of government policy to ordinary people and is the guardians of the resources for service delivery. Their multi-faceted duties require professionalism, diligence, ethics and responsibility. This ethos needs to be developed and inculcated among employees, failing which service delivery goals stand to be compromised.

Implementation Protocols

IGR Framework Act No.13, 2005, Section 35 states that:

(1) Where the implementation of a policy, the exercise of a statutory power, the performance of a statutory function or the provision of a service depends on the participation of organs of state in different governments, those organs of state must co-ordinate their actions in such a manner as may be appropriate or required in the circumstances, and may do so by entering into an implementation protocol;

(2) An implementation protocol must be considered when:-

a) The implementation of the policy, the exercise of the statutory power, the performance of the statutory function or the provision of the service has been identified as a national priority.

b) An implementation protocol will materially assist the national government or a provincial government in complying with its constitutional obligations to support the

local sphere of government or to build capacity in that sphere;

c) An implementation protocol will materially assist the organs of state participating in the provision of a service in a specific area to co-ordinate their actions in that area; or

d) An organ of state to which primary responsibility for the implementation of the policy, the exercise of the statutory power, the performance of the statutory function or the provision of the service has been assigned lacks the necessary capacity.

(3) An implementation protocol must:-

a) Identify any challenges facing the implementation of the policy, the exercise of the statutory power, the performance of the statutory function or the provision of the service and state how these challenges are to be addressed;

b) Describe the roles and responsibilities of each organ of state in implementing policy, exercising the statutory power, performing the statutory function or providing the service;

c) Give an outline of the priorities, aims and desired outcomes;

d) Determine indicators to measure the effective implementation of the protocol;

e) Provide for oversight mechanisms and procedures for monitoring the effective implementation of the protocol;

f) Determine the required and available resources to implement the protocol and the resources to be contributed by each organ of state with respect to the roles and responsibilities allocated to it;

g) Provide for dispute-settlement procedures and mechanisms should disputes arise in the implementation of the protocol;

h) Determine the duration of the protocol; and

i) Include any other matters on which the parties may agree.

(4) An implementation protocol must be:-

a) Consistent with any provisions of the Constitution or national legislation applicable to the relevant policy, power, function or service; and

b) In writing and signed by the parties.

(5) Any organ of state may initiate the process for the conclusion of an implementation protocol after consultation with the other affected organs of state.

(6) The implementation of the protocol may be co-ordinated by an appropriate intergovernmental forum.

Furthermore as Kahn, Madue and Kalema (2011:214) assert, “the Intergovernmental Relations Framework Act of 2005 has prescribed the establishment of a range of new intergovernmental forums at both provincial and municipal levels as a means to promote more effective communication”.

3.6 CONCLUSION

This chapter presented a perspective on co-operative government and intergovernmental relations in the Eastern Cape, along with the challenges facing this province and the programmes that are in place to assist in these challenges.

The Eastern Cape government has had more than a decade to devise systems and process to the inherited as well as newly emerging service delivery challenges. Various institutional arrangements, systems and mechanisms have been implemented at executive, administrative and legislative level. Constitutionally, the provincial Executive Council (EXCO), or Cabinet) holds responsibility for policy-making, co-ordination, implementation and administration. At the centre of this responsibility is the need for an integrated approach. This is facilitated through a system of cabinet committees. These committees provide strategic leadership to government departments, who have been similarly clustered. The Cabinet is resourced with Secretariat support, which ensures continuity. Integrated service

delivery across the spheres of government is facilitated by means of regular meetings between national Ministers and provincial Members of the Executive Council (MECs), termed MINMECs. The Eastern Cape has gained a reputation for active participation and strong negotiation within these forums (PGDP, 2003:7).

In pursuit of accountability and participatory governance, the EXCO has embarked on community –based communications strategy, termed EXCO outreach, during which Cabinet visits different parts of the province to meet citizens by hosting imbizos or people’s forums. These are a platform for direct two-way communication between those responsible for driving service delivery, and the beneficiaries of those services. Communication is furthered by live broadcasting of milestone speeches delivered at the Legislature, such as the Premier’s Opening Address and the MEC for Finance’s Budget Speech. The Cabinet also hosts regular press briefings, to update the electorate on government policy and programmes. This requires that MEC’s be appropriately briefed by key senior civil servants in advance of these events, to ensure that accurate information is imparted. Communication strategy and skilled use of briefing is still an area that members of the Executive Council have to pay attention to (PGDP, 2003:7).

In the next chapter, the purpose of the study, the research design, methodology and data collection as well as findings will be presented.

CHAPTER 4

4. RESEARCH DESIGN, METHODOLOGY AND FINDINGS

4.1 INTRODUCTION

This chapter will discuss the research methods used in conducting this study. It will deal with the rationale for the chosen methodology, data collection and processing, limitations of the study, and its assessment.

Although the choice of the research philosophy is dependent on the strategic aims and hypotheses of the study, it would be misleading to prefer a single approach to the others. Various research designs, methods and techniques are available to researchers and based on assumptions that the researcher holds concerning the subject matter - in this case people and their behavior – he/she to decide which of these methods and techniques would be appropriate for the study. In order to address the research problem question to this study, it is vital that a correct methodology is followed. It is deemed important to clarify what is meant by research design.

Each of these stages must be planned in such a way so as to maximize the validity of the research findings. For example, it must be ensured that personal prejudices and bias must be reduced as far as possible when data is collected to ensure the collection of reliable data. Objectivity is thus a precondition for validity in social science research. Obstacles to objective research include vague research questions, the use of biased measurement techniques, biased sampling and samples that are too small or conclusions that are not supported by evidence. Research findings could also be invalidated when interviewers are poorly trained and leading questions are asked in structured interviews and questionnaires (Mouton, 1996:108-111).

Further to the above debate, a research method according to Bailey (1987, 32) simply means a technique or tools, used to gather data. In the case of this study the dominant method used was an extensive study of literature, the Eastern Cape Government's publications such as Provincial Growth and Development Strategy, the Integrated Development Plan as well as the national legislation such as the

Constitution of the Republic of South Africa, 1996 and other legislation pertaining to local government. This study is also based on the experience and some of the direct observations of the researcher in the field of Intergovernmental Relations in South Africa over the past years.

In order to bring clarity and understanding why the case study was chosen as a research tool on Co-operative governance and Intergovernmental Relations in South Africa: A case study of the Eastern Cape, the author deemed it important to give a background on various approaches to research, hence the discussion that follows.

4.2 Ethnographic studies

The purpose of ethnographic studies is to describe different cultures and further understanding of human species. The researcher not only observes behaviour, customs, objects and emotions of a foreign cultural grouping, but seeks to inquire about the meaning of these phenomena to its society. As the ethnographer assumes that different cultural grouping attach different meanings to different things, such as marriage, love and worship, he/she attempts to understand another way of life from the native's point of view. Instead of collecting data about people, the ethnographer seeks to learn from these people, even to be taught by these people (Spradley, 1979:4-5).

Spradley (1979) further argues that the ethnographic researcher collects data by becoming part of a particular community .The researcher collects data from what people say, the way people act and the artifacts people use. From these sources the researcher is assured that the subject the community shares that particular system of cultural meaning (Spradley, 1979:8-9).

The role of ethnographical study is to inform culture-bound theories which are often biased by Western influences, discover grounded theories thus not test existing

theories, assist one to understand complex societies and furthermore an understanding of human behaviour (Spradley, 1979:10-12).

Wolcott as cited in Babbie and Mouton 2006:279) on the other hand argues that it is the cultural perspective not the specific research techniques that distinguishes ethnography from other work.

Spradley (1979:31) further defines ethnography in a similar vein, "Ethnography is the work of describing culture. The essential core of this activity aims to understand another way of life from the native point of view. Fieldwork, then, involves the disciplined study of what the world is like to people who have learned to see, hear, speak, think and act in ways that are different. Rather than studying people, ethnography means learning from people".

Babbie and Mouton (2006:279) are of the opinion that it is also true to say that the term "ethnography" has been taken up by many social scientists to undertaken studies in clinics, schools, cult groups, and the term has subsequently lost its special (original) link to cultural anthropology.

Thornhill (2006:598-599) sums it up by stating that the ethnographic approach comes largely from the field of Anthropology. The researcher studies an intact cultural group setting during a prolonged period of time by collecting, primarily, observational data. The emphasis in ethnography is on studying an entire culture.

Thornhill further states that, originally, the idea of a culture was tied to the notion of ethnicity and geographic location (e.g., the culture of the Zulu or Xhosa), but it has been broadened to include virtually any group or organisation. That is, one can now study the cultures of organizations (e.g., the South African Department of Correctional Services or the South National Defence Force) or defined groups (e.g., the Boy Scouts or Girl Guides).

The most common ethnographic method is participant observation. The researcher

becomes immersed in culture as an active participant and records extensive field notes. There are no limits on what will be observed and no real ending point in an ethnographic study (Thornhill, 2006:599).

4.3 Grounded Theory

According to Strauss and Corbin, (1990:23) a grounded theory is one that is inductively derived from the study of the phenomenon it represents. That is, it is discovered, developed, and provisionally verified through systematic data collection and analysis of data pertaining to that phenomenon. Therefore, data collection, analysis and theory stand in reciprocal relationship with each other. One does not begin with a theory, and then prove it. Rather, one begins with an area of study and what is relevant to that is allowed to emerge.

Strauss and Corbin (1990:23) as cited in Thornhill (2006) concur that the aim of grounded theory is to build theory that is faithful to and illuminates the area under the study. Grounded theory should accurately represent the everyday reality of a particular substantive area, be understood by those who were subjected to the study and those who practised it, be abstract enough to be applicable to a variety of different contexts related to that phenomena, and provide individuals a measure of guidance .

The grounded theory researcher starts with the raising of generative questions which help to guide the research, but are not intended to be either static or confining. As the researcher begins to collect data, core theoretical concepts are identified. Tentative linkages are developed between theoretical core concepts and data. Eventually, one approaches conceptually dense theory as new observation leads to new linkages which lead to revisions in the theory and more data collection. The core concept or category is identified and fleshed out in detail. This process continues and does not end. Grounded theory does not have a clearly defined demarcated ending point. The research project ends when the researcher decides to end it (Thornhill, 2006:599).

4.4 Phenomenology

The school of thought emphasises a focus on people's subjective experiences and interpretations of the world. In phenomenology, human experiences are examples through the detailed descriptions of the people studied. The researcher wants to understand how the world appears to others. This involves studying a small number of subjects through extensive and prolonged engagement to develop patterns and relationships of meaning (Thornhill, 2006:600).

4.5 Case Study

According to Zainal (2007), as cited in Jurnal Kemamusiaan (2007:1) case study research, through reports of past studies, "allows the exploration and understanding of complex issues. It can be considered a robust research method particularly when holistic in-depth investigation is required".

Walsham (1993:15) argued that the validity of the case study approach derived from an interpretive epistemological stance is based on the "plausibility and cogency of the logical reasoning applied in describing and presenting the result from the cases and in drawing conclusions from them". Similarly, Yin (1994:13) argued that case studies are used for "analytical generalizations, where the researcher's aim is to generalize a particular set of results to some broader theoretical propositions". Yin further proposed that "the case study allows an investigation to retain the holistic and meaningful characteristic of real-life events such as individual life cycles, organizational and managerial processes neighborhood change, international relations and the maturation of industries".

The case study approach as described by Yin, and which will be used in this study, is especially useful where "contextual conditions of events being studied are critical and where the study has no control of the events as they unfold". A case study, Yin argued, would "encompass specific techniques for collecting and analyzing data, directed by clearly stated theoretical assumptions. Furthermore, data will be collected from different sources and its integrity would be ensured" (Yin, 1994:13).

4.6 Hypothesis

A hypothesis proceeds from a statement of the research problem and as a directive for a planned research, and serves as a point of departure (De Wet et al., 1981 in Brynard & Hanekom, 1997:19). Johnson (2002:12) further states that a hypothesis serves as the basis for experimentation to test theories, as a conjecture put forth to explain relationships, or as a statement that specifies the relationship between variables.

In this study the suggested answer to the research problem and question is: “Co-operative government and intergovernmental relations consist of facilitative systems and relationships that enable the units of government to participate effectively and carry out mandates so that governmental goals are achieved with specific reference to the Eastern Cape Provincial Government.”

With regard to the type of hypothesis, a hypothesis can either be deductive or inductive. A deductive hypothesis, according to Brynard and Hanekom, is “derived from existing theories by means of deductive reasoning and indicates an expected relationship between two variables whereas inductive hypothesis is based on what the researcher observes as the problem” (Brynard & Hanekom, 1997:19-20). A variable can be defined as “an empirical factor or property which is capable of employing two or more values” (Brynard & Hanekom, 1997:20).

Johnson (2002:14) also defined a variable as “a measurable and observable characteristic”. In addition, variables may be either dependent or independent. In this regard, Johnson (2002:16) described the independent variable as the casual or exploratory variable and the dependent variable as the variable being explained. Brynard and Hanekom (1997:20) concurred with Johnson by describing an independent variable as “the factor which is deliberately varied, manipulated or selected by the researcher in order to determine its relationship to an observed phenomenon, whereas a dependant variable is described as a factor which is observed and measured, and which varies with the introduction or manipulation.”

In this study, the type of hypothesis concerned is a deductive hypothesis, as it indicates an expected relationship between variables, namely intergovernmental relations and the effective participation and delivery of mandates designed to achieve governmental goals. In terms of the suggested answer to the research problem, intergovernmental relations may be seen as an independent variable in the sense that they cause the units of government to participate effectively and carry out mandates so that governmental goals can be achieved.

The effective participation to carry out mandates of governmental goals may be seen as a dependent variable, in the sense that it is the variable being explained. The relationship between these variables, therefore, is that „effective participation and delivery“ is dependent on intergovernmental relations and co-operative government. Hence the title of this thesis, which is as follows: “Co-operative government and intergovernmental relationships in South Africa: A case study of the Eastern Cape”.

4.7 Research Limitations

Having formulated the hypothesis (suggested answer to the research problem and question) and the title of the research as lucidly and as concisely as possible, the focus will turn to the limitations of the research study. While research is limited to the role of co-operative government and intergovernmental relationships in South Africa with specific reference to the Eastern Cape Provincial Government, general references will also be made to other spheres of government where it is necessary to substantiate arguments. Other developments taking place outside the jurisdiction of the Eastern Cape Government will, where applicable, be brought into the study. In the case of this study the only limitation was poor response to a questionnaire as only two officials responded. Some officials were not prepared to respond; some seemed not to have a clue about what was going on.

Although the choice of the research philosophy is dependent on the strategic aims and hypotheses of the study, it would be misleading to prefer a single approach to the others.

4.8 Data Collection

Data and supporting information for this study was obtained from books, literature, observations and official reports. Key officials associated with Eastern Cape Legislature was consulted and interviewed.

The methodology used in the study will be a qualitative method of research and include materials gathered from the case study in order to obtain practical perspectives on the subject. For the benefit of this study, data will be classified into two categories, namely primary and secondary data, as discussed below.

4.9 Primary Data

Interviews were conducted amongst selected senior officials associated with the Eastern Cape Legislature and other local municipalities in the Eastern Cape Province.

4.10 Secondary Data

Relevant literature reviews was conducted in order to develop and obtain a broad understanding of the subject under consideration. Eastern Cape government records, municipal records, policies, manuals, reports agendas, and legislations was studied in order to gain a better understanding of, and insight into, dynamic environment intergovernmental relations and co-operative governance with particular reference to the Eastern Cape.

The research design represents a combination of descriptive and exploratory strategies suitable for this type of research.

4.11 ANALYSIS OF DATA AND INTERPRETATION OF FINDINGS

Collected data may be either quantitative or qualitative. The research undertaken in this study is mostly interpretive in nature, and therefore unlikely to gather quantitative data that will require detailed statistical analysis. Any quantitative analysis will be secondary and exploratory, with data summarised in, for example, charts or tables. Any data obtained through a survey would be reported categorically and represented

across scales.

The nature and scope of IGR in contemporary South Africa is a product of historical forces of the negotiations that led to the ending of apartheid in the early 1990s. As Levy and Tapscott (2001:1) observe, the ending of apartheid and the transition to democracy led to fundamental changes in the form and function of the state. These are reflected in both the restructuring of intergovernmental relations and the redefinition of the responsibilities at the different levels of government.

The study argues that although the current IGR system in South Africa represents a departure from the apartheid setup and aims at promoting democracy and service delivery, it has weaknesses, which limit attainment of the objectives that it pursues.

Intergovernmental relations have become particularly significant in South Africa in the past eighteen years as a result of the ushering in of democracy and the advent of a new government. The then Interim and later Republic of South Africa Constitution Act, 108 of 1996 was indeed a watershed in the political history of the country. The theory and practice of intergovernmental relations has become an integral part of the South African political and constitutional scenario. It has also become part of a much wider process of cooperation and coordination that have evolved following the ushering in new constitutional dispensation.

The Eastern Cape has for many years been the cradle of visionary leadership that has guided the broader political development of the region and the country. This blessing translated into a curse for successive oppressive governments, who implemented numerous schemes in an attempt to control and manage this situation. The result is a legacy of systematic underdevelopment and poverty that is well known. The impact is long and continues to manifest in below-average human development indices (for example literacy; life expectancy; and health profiles) skewed demographics; sparse and dysfunctional infrastructure and a negligible economic base (PGDP Draft 2003:5).

Thus the challenges facing the Eastern Cape government are multi-faceted, ranging from urgent service delivery imperatives to address the immediate poverty of people's

lives to engaging a boisterous and vocal society(PGDP Draft Report 2003:5).

With regard to the challenge in the Eastern Cape, the following has been identified:

- Integrated planning;
- Fiscal relations;
- Information and communication;
- Values, Attitudes, and Skills;
- Democratic governance; and
- Service delivery (PGDP Draft Report 2003:5).

South Africa has a diverse range of agencies in place to strengthen the arm of government in service delivery. These include statutory bodies, such as the Financial and Fiscal Commissions, the Auditor General, the State Tender Board, the Public Protector, the President's Co-ordinating Council, Interdepartmental Forums, the South African Local Government Association, the National Council of Provinces, Ministerial Forums and members of Executive Council and other agencies that can contribute to better service delivery(www.afesis.org.za).

The overall objectives of an outcome based approach to improve service delivery through two key interventions. First, the aim is to introduce a more strategic approach through outcomes which reflect the focus of government, which can be regularly reported on to Cabinet. Second, the approach seeks to introduce a more systematic planning, monitoring and evaluation focus, starting with outcomes and then working backwards to identify the required outputs activities to achieve and identify measurable indicators at activity, output and outcome level. Hence the Zuma administration has created a new National Planning Ministry and Performance Monitoring and Evaluation Section, under Trevor Manuel and Collins Chabane respectively.

Gildenhuys (1991:166) concurs that "the question of political ideology of a particular government, especially central government institutions in a unitary state, influences access to public decision-making structures at the lower levels. The most important

manifestation of political ideology is seen in the policy-making process at the lower levels of government, the basis of which is linked to the political ideology and is seen as a precursor to executive and finally operational policy, which respectively stands in a vertical relationship with each other”.

Although the intergovernmental relations system in South Africa is still a work in progress, evolving and strengthening through best practices, its ideal is to promote values such as certainty, stability, predictability, transparency and accountability.

Before 1994, South Africa’s administrations were fragmented, with its citizens divided geographically by population groups, with only a small minority of residents benefit from development. Now, South Africa has a unitary, yet decentralized, state with nine provinces and 283 municipalities. Their structures and responsibilities were outlined in chapter two.

With regard to fiscal relations, constitutional support is a basis for the system of intergovernmental fiscal relations. Central government is obliged to support provincial and local government by means of the transfer of grants to able these spheres to perform adequately. This does not mean, however, that the provincial or national government can be held liable for the debts of municipalities.

Furthermore the focus of the constitutional duty to support is shifting from fiscal support in the form of capacity building, in order to assist provincial and local government to discharge their responsibilities. Government has launched a number of support programmes to assist local government to discharge its constitutional mandate as is illustrated in chapter two.

With regard to Project Consolidate emerged out of a double initiative to undertake a countrywide survey on capacity at municipal level. The Department of Provincial and Local Government (DPLG) identified a number of municipalities that were experiencing a short-term need for intense, hands-on support. This project extends not only to poorly performing municipalities, but also those areas of high unemployment and poverty, and with considerable backlogs in service. The problem areas are addressed by means of provincial project management units and support

structures, and affected municipalities work in partnership with SOEs, business, labour, civil society and development agencies. Where necessary, specialist teams of administrators are deployed to municipalities to tackle weaknesses.

The focus is on basic service delivery, infrastructure development and stronger Local Economic Development (LED). Where necessary, municipalities are developed. A key task is achieving financial viability for municipalities, as is improving governance and public participation, and eliminating corruption. One of the conditions of the Municipal Infrastructure Grant (MIG) is that projects it funds must be as labour-intensive as possible. The Urban Renewal (URP) and Integrated Sustainable Rural Development (ISRDP) programmes are presidential initiatives aimed at providing targeted support to 21 rural and urban areas. These 13 rural districts and 8 urban townships represent the largest concentrations of poverty in South Africa.

All agencies of government have been encouraged to pay special attention to poverty alleviation in these 21 areas and Cabinet plays an oversight role in monitoring progress in these areas. The URP and ISRDP rely, for success, on cross-departmental and inter-sphere co-operation. Numerous sectoral departments are involved. The programmes are supported by technical teams and allocation of political champions.

Service delivery by all spheres of government comes together in a focal point of co-ordination and alignment at local government level. The White Paper on Local Government (1998) states that “local government is increasingly being seen as a point of integration and co-ordination for programmes of other spheres of government and one important method for achieving greater co-ordination in integrated development planning”. District Municipalities play a leading role in intergovernmental planning. They adopt a district IDP as well as a district framework. This framework guides all IDP processes in the district. The district acts as a channel through which many of the national and provincial plans and priorities reach municipalities. It also acts as a binding force, outlining principles and procedures according to which the district will ensure a working plan.

The President and the Cabinet are key players in the intergovernmental relations arena. Another important instrument for intergovernmental co-ordination is Cabinet's system that "clusters" the work of departments in six related functional areas as per (Municipal Demarcation Board, 2011). The implication of the cluster system has been that it has led to an approach that seeks integrated government with all those in a particular sector of activity, from all areas of government (for example, governance and administration) represented within the cluster meetings. These committees are supported by the national minister concerned as well as his or her provincial counterparts- the nine MEC's. This cluster system also provides for provincial participation by including provincial directors-general as members of clusters. Some provinces have also implemented their own cluster system.

With regards to the Medium-Term Budget Policy Statement which is published by the National Treasury in October/November. Some provincial treasuries also publish their own MTBPS. The MTBPS is a broad statement of fiscal policy which covers the medium term of three years. It deals with macro-economic projections, frameworks for taxation, and spending, borrowing and policy priorities for the MTEF. Setting out the main policy choices that government confronts as it finalises the budget, the document summaries governmental strategy and anticipated service delivery outcomes and challenges.

According to Watts (2001:22), the reason intergovernmental is so significant in a multi-sphere political system is because "it is impossible to distribute administrative or legislative jurisdictions among governments within a single policy into watertight compartments or to avoid overlaps of functions. Interdependence and interpenetrating between spheres of government within sphere regime are unavoidable.

Hattingh (1998:132-137) as cited in Kahn, Madue and Kalema (2011:82-83) is of opinion that there has been poor co-ordination of activities between national departments. To date very little has been done to put a mechanism in place to co-ordinate administrative activities at this level. Almost all the committees, technical

teams and working groups that have been established to promote intergovernmental relations tend to focus on relations between national and provincial departments, rather than strengthening co-operation and co-ordination between national departments. He further concurs that it is clear that this is in part due to the historical legacy of previous political dispensation that allowed national departments to run with a considerable degree of independence, as intergovernmental relations were not a high priority.

Levy and Tapscott (2001:4) noted that the relationship between provincial and local tiers of government, however, was of an entirely different nature and was the source of frequent conflict. In the first instance, municipalities derived their power from provincial under an ultra vires doctrine; local authorities had no original powers and were prohibited from carrying out any activity that was not specially defined by central or provincial authority. Since local government therefore had little power, it was seen as a service provider rather than a level of government. Local government therefore did not really share equal status with other spheres of government (national and provincial). The restoration of the rightful status of local government has also been considered one of the most important problems and challenges for co-operative government.

Criticism of MINMECS, as noted by Reddy (2001:32) includes the following: the fact that no clear and inclusive strategy is followed, the dominance of the national ministers; MECs lack of a mandate from their respective provinces; and the fact that decisions are not binding. The Intergovernmental Fiscal Relations Act (Act 97 of 1999) made provision for a Budget Council and a Budget Forum to promote co-operation between the spheres of government relative to fiscal, budgetary and related financial matter (Reddy, 2001:34).

With regards to shortcoming related to the committees include: “the large number of meetings which result in poor attendance, the management of meetings, and the poor preparation of supporting documentation. There is also a lack of clarity over the decision-making authority of the committees and meetings are dominated by national

government representatives who may lead to consensual decision-making “(Brynard & Malan, 2002:106).

According to the DPLG’s Understanding IGR, (2007), the challenge for all spheres of government is “to put the intention of the Intergovernmental Relations Forum (IGRF) Act into practice to ensure a co-ordinated and integrated approach to service delivery. Consultative forums are intended to facilitate intergovernmental dialogue, and issues discussed strategically at IGR Forum meetings usually include such matters as the implementation and impact of legislation and policies, or the co-ordination and alignment of provincial and local performance plans.

The DPLG’s Understanding IGR (2007) noted that the NCOP serves to ensure “that the interests of the provinces are acknowledged within the national sphere of government. It does this mainly by participating in the national legislative process and by providing a national forum for public consideration of issues affecting the provinces”.

The White Paper on Local Government of 1998 asserted that “all spheres of government are obliged to observe the principles of co-operative government put forward in the constitution”. The integrity of each sphere is assumed, but co-operative government also recognizes that “no country today can effectively meet its challenges unless the components of the government function as a cohesive whole”.

The 2006 Report on the State of Intergovernmental Relations in South Africa (DPLG, 2008) concurred that the District Forum is intended to be exclusively a political structure, but there have been examples of a combination of elected and appointed officials, as in Limpopo and Mpumalanga. It also stated that other intergovernmental structures, such as North West have invited municipal managers as technical support. “Membership of some forums may be seen as too broad without adequate distinction drawn between members and invitees, and blurred boundaries between the District

IG Forum and support bodies (DPLG, 2008:20-21).

The Report further argued that “the effectiveness of these provincial IG Forums was then reported as extremely variable’. Some of them had never met beyond their inaugural meeting (for example, the Eastern Cape). In other cases where meetings were convened, attendance was reportedly low due to “lack of commitment by the officials involved in these processes (for example, the North West and Free State). Even where a number of bodies had been established, they were not operating well, such as in the Free State” (DPLG, 2008:21).

According to DPLG, other research indicated that some provinces had “taken the lead in establishing district-municipal forums (for example, Western Cape and Kwazulu-Natal, where it was necessary to promote co-operation across IFP and ANC party lines”. Despite good practice examples such as Cacadu Intergovernmental Forum in the Eastern Cape, many district IG Forums “existed in name only. Many districts without established forums have used informal communication and meetings between district and local officials to align their policy planning and implementation in some cases quite effectively” (DPLG,2008:22).

“The Department of State Expenditure does not have an early warning system for monitoring the financial situation of the provinces. There is, however, no system in place to monitor the effectiveness or efficiency of public expenditure service delivery. The quality of management information remains a problem. In general, until the publication of the Intergovernmental Fiscal Review there was no information on the actual spending of provincial government from inception in 1994 until 1998/99 fiscal year. There is also no official source of data that compares sectoral actual expenditure across provinces. For example, there is no information that allows for the comparison of actual Education per capita across the provinces” (DPLG et al, 1999:109).

The majority of the Eastern Cape population resides outside the large urban areas. In fact, the Province's 2003 Provincial Growth and Development Plan (PGDP) strategy document estimated that two-third of the Eastern Cape population is non-urban and that the highest concentrations of people reside in the eastern half of the province, where the rural landscape is densely settled and poverty is greatest. The PGDP document claimed that "the high levels of poverty and illiteracy which are most severe in these rural areas, when combined with poor transport and communication infrastructure due to the development backlogs, result in a rural populous effectively removed from the State and marginalised to the extent that they do not have ease of access to public services.

Both respondents are in agreement that there is a lack of understanding of IGR by both political and administrative leaders in the spheres of government. Maki (2012) further cited as limitations the limited participation of Sector Department in the strategic planning process of municipalities while Pinyana (2012) concurs that a gap in intergovernmental planning and implementation is one factor affecting IGR hence a need for synergising planning between these spheres of government.

4.12 CONCLUSION

Research has as its purpose to explore a new area of interest, describe a particular phenomenon or to provide an explanation of the causal relationship between a numbers of variables. The purpose of a particular research project will be presented in a research design, which most often takes the form of a written report. Research design consist of a number of stages including identifying and contextualizing the research problem, conceptualising and operationalising the research project, collecting, interpreting and evaluating the data in terms of the original research problem. Although social science research seldom follows a rigid approach, the research design serves as a guide to the researcher in the execution of his/her tasks (Thornhill, 2006:600-6001).

An important part of research design would be the choice of research approach and methods that would be used during the implementation of the research project. Social science researchers can follow either a quantitative, qualitative or a combination of both, research approach. The quantitative research approach has its historical origins in positivism. It mainly entails using experimental and quasi experimental research methods where the researcher would have to identify dependent and independent variables, experimental and control groups and simulate conditions which are often confined to the natural sciences. The qualitative research approach is based on a number of different assumptions. It is assumed that people and their behavior are different from the subject matter of the natural sciences – animals, metals and earth resources. Contrary to the natural sciences, the research subject – people and their behavior – is studied from within their societies and communities and from their perspectives. Theory building, it is argued can take place concurrently to data collection and interpretation. Ethnography, case studies and grounded theory are examples of such research methods. It should be noted that it is not a question of one, or the other, both can be used in the social sciences. However, the methodological paradigm selected by the researcher would reflect his/her assumptions of the subject matter. To arrive at valid research results, it is important

for the researcher to select that approach which would fit the research problem (Thornhill, 2006:601).

The next chapter will deliver the author's conclusions and recommendations.

CHAPTER 5

5 CONCLUSIONS AND RECOMMENDATIONS

5.1 INTRODUCTION

In an effort to answer the research questions, a literature review was conducted. The literature included a broad analysis of sources such as books, dissertations, acts of parliament, official publications, reports, speeches, journals, newspapers, internet and a questionnaire to few officials though only two responded. This was the limitation that this study encounters as no officials were prepared to respond as some officials although seemed not to have a clue on what is going on.

This study seeks to seek to answer the following research questions:

- What are the challenges facing co-operative government with specific reference to Eastern Cape.
- Do co-operative government and intergovernmental relations consists of facilitate systems and relationships that enable the units of government to participate effectively and carry mandates so that governmental goals are achieved; and
- What are the practical problems within intergovernmental relations?

The study elaborated on the research study as well as the research problem. In so doing so it further looked at the historical overview of the transition to a democratic South Africa which brought a significant change in the configuration of the state. Under the principle of cooperative government, the powers and functions of the three levels of government, national, provincial and local were redefined as was the interrelationship between them.

Intergovernmental relations was discussed as well as the way in which the spheres of government are distinct, interdependent and interrelated, and how they must conduct their activities within the parameters of Chapter 3 of the Constitution. The historical development of intergovernmental relations in South Africa was illustrated, and challenges that existed between spheres of government were discussed.

With regards to the Eastern Cape, the geographical situation of the region and the profile was also discussed.

The study further deals with a critique of cooperative governance and intergovernmental relations in the Eastern Cape and discussed the perspective on service delivery. Current cooperative governance challenges from the Eastern Cape were discussed in detail. Furthermore, current intergovernmental relations challenges facing the Eastern Cape were explained and discussed. A conceptual framework was unpacked.

With regards to methodology, the methodologies of social science were discussed and compared. The different approaches to research were also discussed with specific reference to differences between the quantitative paradigms. With regards to the qualitative paradigm, four strategies of enquiry that could be used to design qualitative research were discussed, namely: ethnography, grounded theory, phenomenology and case study. It was concluded that the quantitative research method was not appropriate as a tool in the study of intergovernmental relations and cooperative governance. The qualitative research method was chosen namely: the case study on the role of intergovernmental relations and cooperative governance that consist of facilitative systems and relationship that enable the sphere of government to participate effectively and carry out mandates so that governmental goals are achieved.

5.2 Proving the Hypothesis

Several range of research methods such as literature review, journals, reports; publications and policy documents were utilized to collect data on the subject matter. Data which is relevant was analysed and compared with legislative guidelines on the subject. The findings and conclusions of the study have contributed to proving of the stated hypothesis of this study as correct. The hypothesis for this study being that:

“Cooperative governance and intergovernmental relations consists of facilitative systems and relationships that enable the units of government to participate

effectively and carry out mandates so that governmental goals are achieved – with specific reference to the Eastern Cape.”

The variables involved are firstly, cooperative governance and intergovernmental relations and secondly, facilitative systems and relationship that enable the three spheres of government. The relationship between the two is that: “Facilitative systems and relationships of the three sphere of government are dependent on cooperative government and intergovernmental relations.” Hence the title of the dissertation which illustrates that:

“Cooperative governance and intergovernmental relations in South Africa: A case study of the Eastern Cape.”

In view of the above, the challenge therefore was to find ways that will strengthen a culture of intergovernmental relations and cooperative governance that enables the units of government to participate effectively and carry out mandates so that governmental goals are achieved with specific reference to the Eastern Cape.

The recommendations that will be discussed cover the following: further research and studies that need to be done and the recommendation based on the results of this study.

5.3 Further Research and Studies

Firstly, it is recommended that further studies be conducted to examine intergovernmental relations and co-operative governance with particular reference to the Eastern Cape and highlight the challenges of IGR and Co-operative government facing the Eastern Cape and propose solutions to address the issues highlighted.

Secondly, it is recommended that a study be conducted to evaluate if the constitutional requirement on intergovernmental relations and co-operative governance as stated in the Constitution of the Republic of South Africa has not become redundant in the view of the progress that has been made in promoting intergovernmental relations and co-operative governance prior to passing of the

Intergovernmental Relations Framework Act, 2005 with specific reference to the Eastern Cape.

Thirdly, it is recommended that the results from the above further studies be incorporated into the author's findings.

5.4 Recommendations Based on the Results of the Study

In order to critically evaluate the notion of co-operative governance and intergovernmental relations in South Africa with special reference to Eastern Cape, it is recommended that the intergovernmental planning and budgeting, management of change, support and capacity building, communication and stakeholder engagement and institutional arrangement interventions be embarked upon. These interventions are discussed below:

5.5. Intergovernmental Planning

It is envisaged that the nascent IGR system seeks to democratise the planning of development programmes in the community. Ordinary people at grassroots level have a great deal of initiative, skills and life-instilling expertise for survival under the worst social conditions (Walton, 1998:3). It would be in the interests of South Africans at large to use the "on ground" experience and knowledge of people to cater meaningfully for varied service needs of different neighbourhoods (Harrison, et al.1997:2). A sensitive attitude to community interests would ultimately give rise to a caring and sharing ethos among residents, a concrete expression of grassroots-oriented, participatory, bottom-up planning (ANC, 1994).

The roles and responsibilities for managing the sectoral interface with local government at national and provincial level needs to be clarified e.g. coordinating departments at national level (Presidency, DPLG, National Treasury) and at provincial level (Premiers Office, Provincial Departments of Local Government and Provincial Treasuries). All spheres should continue to improve the quality of in-sphere planning to build a platform for effective intergovernmental planning: PGDS, district and local

IDPs, and their alignment with each other and to national frameworks. Furthermore, there needs to be a move away from sector by sector regulation of local government, to an approach which assesses the cumulative impact of individual sector engagement on local government as a sphere and on individual municipalities (Review Report, 2008:63).

5.5.1 Intergovernmental Budgeting

It is recommended that the Public Finance Management Act of 1999 be continuously reviewed to ensure that they facilitate inter-spheres and inter-sectoral joint work. With regards to the distribution of powers and functions across the three spheres, if there is no change, then other forms of fiscal restrictions could be considered by national government to force greater alignment of provincial resource allocation with national priorities. These could include greater use of conditional grants, binding input norms and service delivery output norms and possibly more sophisticated forms of grants mechanisms (such as matching grants) to create incentives for co-funding.

Layman (2003:48-49) also proposed that “predictable and stable funding is needed to ensure long-term planning. The MTEF is beginning to work, as more funds are becoming available.

However, there is a need for more innovative ways for funding major investment, infrastructure, economic and development projects. The problem is that there are no funds available for major projects of this nature. LED and social security need serious attention. Social security measures are urgently needed to cushion the impact of poverty and unemployment. In trying to find innovative ways of funding, government need to consider special funds that could be cross-cutting. Major long-term investment is needed.

“There needs to be a focus on how co-operative government works in practice. Thus, joint work becomes critical. On the planning side, the role of provinces is undefined. The outcomes of national planning are not clear. Ideally, premiers should put sectors and a framework together to inform local IDPs. In turn, municipalities should

participate in provincial planning and the process should then become binding” (Layman, 2003:47-48).

5.5.2 Management of Change

Organisation development (OD) is a generic term embracing a wide range of intervention strategies in the processes of an organisation. These intervention strategies are aimed at the development of individuals, groups and the organization as a total system. Because OD is generic term there are many possible ways in which it can be defined. An example of a comprehensive definition of OD in the behavioural science sense of term is given by French and Bell (1999:25-26):

“Organisation development is a long-term effort, led and supported by top management, to improve an organisation’s visioning, empowerment. Learning, and problem-solving processes, through an ongoing, collaborative management of organization culture with special emphasis on the culture of intact work teams and other team configurations utilising the consultant-facilitator role and the theory and technology of applied behavioural science, including action research”. Mumford, (1986:329) concur that in a very general sense, OD is concerned with attempts to improve the overall performance and effectiveness of an organization.

Essentially, it is an applied behavioural science approach to planned change and development of an organization. As Harvey and Brown (1998:16) assert that OD programmes are aimed not only at improving organisation’s effectiveness and efficiency but also at motivational climate consisting of the set of employee attitude and morale which influence the level of performance.

Change is a pervasive influence. We are all subject to continual change of one form of another. Change is an inescapable part of both social and organizational life. The effect of change can be studied over different time scales, from weeks to hundreds of years, and they can be studied at different levels. Change can be studied in terms of its effects at the individual, group, organization, and society, national or international

level. However, because of its pervasive nature, change at any one level is interrelated with changes at other levels, and it is difficult to study one area of change in isolation. Organisational change can be initiated deliberately by managers, it can evolve slowly within a department, it can be imposed by specific changes in policy or procedures, or it can arise through external pressures. Change can affect all aspects of the operation and functioning of the organisation (Senior, 2002) as cited by Mullins, 2005:909).

An organizational development intervention aimed at promoting a culture that is conducive to intergovernmental relations and cooperative governance can certainly benefit from taking cognizance of the abovementioned recommendation. In the case of the Eastern Cape, such an intervention may begin with incremental changes at an operational level in one of the Metropole municipalities.

In view of the above, it is recommended that organisational development be used in the Eastern Cape as change management in order to create a culture that is conducive to effective and efficient intergovernmental relations and cooperative governance that will critically improve service delivery in the Eastern Cape.

5.5.3 Support System

Furthermore, the author asserts that mechanisms need to be developed to forestall interventions that could, with effective monitoring, be avoided. The provinces, it has already been noted, lack monitoring and support mechanisms for the supervision of local government and do not regularly budget for such contingencies. The exact extent of a municipality's law-making power is not clear.

An integrated development planning strategy should be introduced as a matter of urgency. In addition, co-ordination of the intergovernmental structures and the system generally can be improved. A further concerted effort should be made to ensure that there is no duplication of meetings or, for that matter, reports on common issues. Provincial local government associations have to be accommodated within the

legislative processes of the province, and organised local government in the provinces has to be strengthened to utilise the opportunities to inform provincial mandates to the national council of provinces.

Other major challenges noted by Layman in his report of (2003:47-48) include; “municipal staff (were) fairly new (at that time), and the quality of IDP”s varies. The weakness could be ascribed to a lack of involvement by national and provincial government, and thus a lack of sufficient integration.

It is accepted that provincial governments do not have water services or electricity service functions. This is despite the fact that they have the authority to oversee municipal performance on these issues. Even though constitutionally they are permitted to be involved, the functional evolution in these sectors has been that provincial governments are not involved in these functions.

“There needs to be a focus on how co-operative government works in practice. Thus, joint work becomes critical. On the planning side, the role of provinces is undefined. The outcomes of national planning are not clear. Ideally, premiers should put sectors and a framework together to inform local IDPs. In turn, municipalities should participate in provincial planning and the process should then become binding” (Layman, 2003:47-48).

5.5.4 Capacity Building

It is the recommendation of this author that the extent to which these uncertainties will affect the capacity of service rendering must receive particular attention. It is advisable that no spheres should pursue their own interest at the expense of the nation and that the cluster of actions set out in Section 41(1)(h) of the Constitution, which aim to foster peace, adhere to agreed procedures and avoid adversarial action against one another.

Consequently, capacity development should be regarded as a priority and should be

high on the agenda of the national and provincial government to ensure that the new governmental system is sustained.

In order to measure the effectiveness of service delivery, according to the IGFR Act, a formalised programme and capacity is required. Improved training is also required for municipal officials, in relevant legislation, pertaining to access to information. This should also re-emphasise the principles of Batho Pele and the need to be responsive to the needs of the citizens they serve.

“In terms of Local Economic Development (LED), there is serious lack of capacity. Municipalities need a new orientation and do not understand the operation and thinking of the business sector. Initiatives are viewed on a project basis, rather than a coherent development strategy.

5.5.5 Communication

From the foregoing it will be evident that good leadership depends on constant communication between leaders and subordinates. Good communication is conducive to good relations not only between management and employees and within groups, but also ultimately between the organization and its environment. It results in greater work satisfaction and higher productivity. A considerable amount of a leader's time is devoted to communication, and without this the management process could not be carried out (Cronje, Hugo, Neuland and Van Reenen, 1995:125).

Jones and George (2003:513-514) concur that managers can increase efficiency by updating the production process to take advantage of new and more efficient technologies and by training workers to operate the new technologies and expand their skills. Good communication is necessary for managers to learn about new technologies, implement them in their organization, and train workers on how to use them. Similarly, improving quality hinges on effective communication.

Municipalities themselves do not always have a comprehensive communication strategy(including the use of information technology) to effectively communicate what

the municipality is doing to provide free basic services, promote economic development, and take forward the IDP. They also do not always have the capacity, skills and resources to implement effective communication strategy. Municipal communication strategies will achieve little however unless there is a minimum level of public trust and interest in the substance of such communication. In a rural setting, under-resourced civil society structures generally lack capacity to effectively engage with and hold local government to account.

5.5.6 Stakeholder Engagement

Managers need to communicate to all members of an organization the meaning and importance of high quality and the routes to attaining it. Subordinates need to communicate quality problems and suggestions for increasing quality to their superiors, and members of self-managed work teams need to share their ideas for improving quality with each other. Furthermore, they assert that effective communication is necessary for managers and all members of an organization to increase efficiency, quality, responsiveness to customers, and innovation and thus gain a competitive advantage for the organization. Managers therefore must have a good understanding of the communication process if they are to perform effectively, they concluded.

According to the Review Report (2008:59) the Integrated Development Review process highlighted the lack of baseline data. Where data was not available, they often were not in the form of user-friendly information. Reporting to national and provincial government was often duplicated, and too much of effort was spent on reporting rather than analysis. The study recommends that a concerted effort should be made to ensure that there is no duplication between spheres of government or for that matter reports on common issues. The resultant effect would be a saving on valuable resources.

The study recommends that community newspapers and radio stations can play a critical role in ensuring greater transparency and accountability. The study further

recommend that improved training for municipal officials in the relevant legislation pertaining to access to information.

This should further re-emphasise the important principles of Batho Pele and the need to be responsive to the needs of the citizens they serve. Furthermore, improved systems in municipalities to ensure that information that is requested, and can be legally distributed, is provided within an acceptable time frame.

5.5.7 Institutional Arrangements

A clear distinction is required between political and technical support forums at provincial as well as district levels. MinMEC and individual MEC's have to engage in greater follow-up of their decisions that have been approved by the extended cabinet and for which funds have been allocated. Cadre deployment to positions in which they have no formal experience and qualification also contributes to maladministration and service collapse.

It was Layman's assertion that co-operative governance had not sufficiently filtered through government, which is "still working in silos" (Layman, 2003:50-55). "The three spheres are not properly conceptualised, but are rather seen as crude layers. Much work needs to be done to improve the synergy so that the different government sectors complement one another. The late transfer of funds to municipalities may affect service delivery negatively. Funds could possibly be delayed due to non-cooperation and a lack of capacity."

"Transfer of land is either taking too slowly, or has not yet taken place at all. It is important to try and establish the infrastructure before housing.

"The tiresome procurement policies delay implementation, and thus delays service delivery. The procurement process also undercuts efforts to promote black economic empowerment. The price makes up between 80% to 90% of the tender value. Thus, the playing field is not level and blacks cannot compete equally" (Layman, 2003:50-55).

Further to Layman's proposals, the author contends that municipal monitoring needs to extend beyond the monitoring of output, to also encompass benchmarking of local government processes, service delivery outputs, and household and economic development impacts. The insufficient emphasis put on the link between output from various departments and spheres, and joint programme and project outcomes.

In order to measure the effectiveness of service delivery, according to the IGFR Act, a formalised programme and capacity is required. Improved training is also required for municipal officials, in relevant legislation, pertaining to access to information. This should also re-emphasise the principles of Batho Pele and the need to be responsive to the needs of the citizens they serve.

It is accepted that provincial governments do not have water services or electricity service functions. This is despite the fact that they have the authority to oversee municipal performance on these issues. Even though constitutionally they are permitted to be involved, the functional evolution in these sectors has been that provincial governments are not involved in these functions.

It was Layman's assertion that co-operative governance had not sufficiently filtered through government, which is "still working in silos" (Layman, 2003:50-55). "The three spheres are not properly conceptualised, but are rather seen as crude layers. Much work needs to be done to improve the synergy so that the different government sectors complement one another. The late transfer of funds to municipalities may affect service delivery very badly. Funds could possibly be delayed due to non-cooperation and a lack of capacity."

Consideration should be given to the establishment of a body to represent the Interest of major cities and rural areas, as the issues are different.

5.5.8 CONCLUSION

The ending of apartheid and the transition to democracy in South Africa brought fundamental changes to the form and function of the State. In particular they brought a restricting of intergovernmental relations and redefinition of the responsibilities of the different tiers (now spheres) of government. After more than a decade of democracy with a new constitutional dispensation, the question asked was whether the new dispensation, which brought new structures and procedures to the fore, is truly functioning as it should.

Watts (2001) defined intergovernmental relations as “interactions between governmental units of all types and levels within a political system”, and said that the reason intergovernmental relations are so significant in a multi-sphere political system is “because it is impossible to distribute administrative or legislative jurisdictions among governments within a single polity into watertight compartments or to avoid overlaps of functions” (Watts, 2001:22).

Reddy (2001:23) cited the pre-requisites for effective intergovernmental relations as, firstly, “a culture of co-operation, mutual respect and trust” and, secondly “capacity development”. A lack of capacity has been seen to be a major constraint to effective delivery at the level of local government. At times this reality has been divorced from discussion of IGR, and yet it is a responsibility of higher levels of government. As Section 155(7) of the Constitution asserts: “The national and provincial government have the legislative and executive authority to see to the effective performance by municipalities of their functions”. Initiatives such as Project Consolidate represent positive steps towards building, but these initiatives will need to be sustained. There has been various problems identified related to co-operative government, such as a perceived lack of performance and influence by the National Council of Provinces (NCOP) in the national legislatures, a body which, in practice, has turned out to be over-optimistic. At least some of the members of the NCOP are finding it difficult to fulfill their roles, as links between the provincial legislature and government, their parties and the national assembly, effectively. The NCOP has not yet been the source of “added value” to national legislation as may be expected of a second house.

There is no generally accepted policy framework to guide and govern the conduct of intergovernmental relations. As a result, there is an element of “adhococracy” and individualism in the conduct of intergovernmental relations with some departments and individuals paying more attention to the spirit of Chapter 3 of the Constitution than others. There is a perception amongst some national departments that their provincial counterparts are not well prepared for intergovernmental meetings. The geographical isolation of some provinces makes speedy and effective interaction with national department’s problematic (De Villiers, 1999:6-10).

The Constitutional Court provides for a particular form and degree of provincial autonomy and, in its enforcement of the Constitution, the Court inevitably contributes to the establishment and development of the case study constitutional position and status of provinces. The national government has intervened in provinces under Section 100 of the constitution. All these cases deal with budget deficit.

Perhaps as a consequence of the domination of the ruling ANC party at all levels of government hierarchy, unlike in most other countries, IGR in South Africa is considered largely in technocratic rather than political terms. In other words, the answer to improved IGR and improved service delivery is seen in terms of better communication and co-ordination, rather than approved administrative and political accountability. In that respect, it may be argued, if provincial and municipal politicians and senior administrators were held directly accountable for any shortcoming in their areas of jurisdiction, this would lead to more seriousness of purpose in their undertakings.

In terms of the division of power, provinces have only those competencies specifically listed in the constitution of the Republic of South Africa (Steytler, 2001:1). Interaction between governments in a multi-sphere regime may take a variety of forms: independent policy-making, consultation, co-ordination, joint decision making and conflict resolution. Criticism of MinMEc includes the following: the fact that no clear

and inclusive strategy is followed, the dominance of the national ministers, MEC's lack of a mandate from their respective provinces, and the fact decisions are not binding (Reddy, 2001:32). There are no formal structures to facilitate intergovernmental relations and consequently, if there is a conflict, the matter is settled through the courts.

In conclusion, the system of intergovernmental relations in South Africa is a complex one that was set in place to address the country's equally complex history, and political and social environment. The system as a whole has a number of flaws and is constantly undergoing redesign.

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24 October 2012

Mr Mzwandile Eric Mdliva 202524298
Graduate School of Business & Leadership
Westville Campus

Dear Mr Mdliva

Protocol reference number: HSS/0925/012M

Project title: "Co-operative Government and Intergovernmental Relations in South Africa: A case study of the Eastern Cape"

Expedited Approval

I wish to inform you that your application has been granted Full Approval through an expedited review process.

Any alteration/s to the approved research protocol i.e. Questionnaire/Interview Schedule, Informed Consent Form, Title of the Project, Location of the Study, Research Approach and Methods must be reviewed and approved through the amendment/modification prior to its implementation. In case you have further queries, please quote the above reference number. Please note: Research data should be securely stored in the school/department for a period of 5 years.

I take this opportunity of wishing you everything of the best with your study.

Yours faithfully

.....
Professor Steven Collings (Chair)

/px

cc Supervisor Professor PS Reddy
cc Academic leader
cc School Admin. Ms J Wyngaard/Ms W Clarke

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