Transformation perspectives on policy management: dynamics of intergovernmental relations with specific reference to the Eastern Cape

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"Der Mensch kann was er will: er kann aber nicht wollen was er will" (Schopenhauer 1981: 213).

1 INTRODUCTION

Since democratisation it has become evident that fundamental transformation of the South African socio-political order is not a once-off event but an ongoing process involving the comprehensive permeation of society with new values, policy and institutional requirements, as well as having to deal with the increased demands placed on the system by strongly desired and focused implementational outcomes. Owing to this, the management of transformation has become a continuous effort demanding among other things sound policy-management processes and capacities in government. Two critical areas where the challenges of transformation are most acutely felt are public service transformation, including the re-organisation of the administration and management of government, and the resultant emergence of structures and relationships in and between the various levels of government to accommodate the prescriptions of the South African Interim Constitution (Act 200 of 1993 as amended) as well as the new Constitution adopted by the Constitutional Assembly (CA) in May 1996.

This article has also not escaped the demands of the transformation process and the flow of rapidly changing events informing and shaping the South African political milieu. Of particular note in this regard is, first, the formative stage the development of intergovernmental relations finds itself in and, second, the fact that the new constitution was published at the time of submission, making it difficult to speculate fully about the effects of its promulgation on the subject under discussion.
Whilst, as is to be expected, the thrust of policy adaptation to the present has focused largely on the national domain, the tiered system, provided for in the Interim Constitution, required the development of new policies, policy-management capacities and structures in government as well as patterns of intergovernmental relations. These will become of even greater significance once the new Constitution is promulgated by the President.

Such relations encompass the full spectrum of interaction between central, provincial and local government structures. Following recent authoritative pronouncements, for example, by the then Minister of Constitutional Development, Roelf Meyer, policy initiatives, such as the White Paper on Intergovernmental Relations being drafted at present, and the formation of certain structures, notably at the formal level, the Commission on Provincial Affairs (CPG), the Public Service Commission (PSC) and the Financial and Fiscal Commission provided for in the Interim constitution (Sections 163–174, 198–206 and 209–211), and at the informal level an array of multi-lateral structures such as the Inter-governmental Forum (IGF), the Technical Intergovernmental Committee (TIC), the MINMEC structures and their technical committees and the Reconstruction and Development (FEPD) as well as bi-lateral structures and arrangements, such as the Protocol Agreement between the Free State and the Eastern Cape, which is in the process of being finalised, it is evident that this realm of the transformation process and its sensitivities and dynamics have of late gained particular prominence. Intergovernmental structures have as a matter of fact mushroomed to the extent that the Department of Constitutional Development recently found it necessary to formulate proposals for their rationalisation. More than twenty such structures could be identified.

The system of intergovernmental structures and the emerging network of relationships being established between these structures is rapidly becoming an essential tool for use by policy managers at the three levels of government. It is for this reason that the writers have decided to critically analyse, within a very practical context, policy management in the intergovernmental system with specific reference to the intra- and inter-provincial dimensions as well as the inter-relationship between these dimensions. De Coning (1995: 64) has noted that whereas international centres of excellence in the policy field have access to a significant range of case study exercises, “local practitioners have not even built up an ongoing record of South African policy-management experiences”. Similarly, Ramaite (1996: 1) has pointed out that the absence of a meaningful discourse on public service transformations should be highlighted, “not with
the aim of finding excuses, but perhaps to subtly underline the dire need for institutional processes where ideas on transformation can be contested and finessed”. The focus here on the Eastern Cape is therefore also aimed at making a contribution in this context.

Furthermore, intergovernmental relations is a dimension of the South African transformation process that has received very little serious scholarly attention. This article, therefore, aims to encourage the placement of this crucial field, from the perspective of policy practitioners and senior management in government, within the range of the current academic policy-management debate. For present purposes the scope of issues is limited in at least seven ways. First, it is confined to the level of central/provincial inter-relationships. This does not, however, negate the importance of either central/local or provincial/local intergovernmental relationships, inter-provincial relationships, as well intra-provincial or intra-local policy-management processes and their linkages as is, for instance, reflected in the recent debates in the Constitutional Assembly on the future nature of local government (see Mail and Guardian, 29 March – 3 April 1996). In a recent discussion document the Department of Constitutional Development points out that: “Clarity with regard to the participation of local government and non-governmental organisations in intergovernmental structures, is also becoming more urgent. Opinions are frequently being expressed that the participation of especially local government in these structures, is essential to ensure relevant and effective decision-making.”

Furthermore, Botha (to be published shortly) also remarks that “whereas the framework for the exercise of powers between the national and provincial governments is relatively clear, the same cannot be said about relationship between provincial and local government and according to the Draft Minutes (Section b2(vi): 9) of a recent TIC bosberaad: ‘... the role of provincial governments as facilitator, planner, adviser, law-maker and enabler of local government’ was highlighted as a crucial issue.” Second, the Province of the Eastern Cape is used as particular case study. This ensures a hands-on approach with regard to the nitty-gritty of a particular set of intra-provincial policy-management processes and the relations between these and the national network of governmental structures and processes which are emerging. Thus the article does not purport to provide a descriptive or comparative analysis of all the provinces. Third, the role of more broadly based structures such as the Eastern Cape Socio-Economic Consultative Council (ECSECC), which involves labour, business, government and civil society in a policy formulation relationship with government is not fully explored in this article owing to the fact that this...
structure, which will no doubt also influence intergovernmental relations, is only in the process of being established. Fourth, the establishment of regions and regional governmental offices within provinces brings about a further dimension within the sphere of intergovernmental relations, and as these crystallise they will also have to be taken into consideration. In the Eastern Cape, for instance, five such regions have been established. However, owing to the infancy of the establishment of regional offices and other infrastructure it is not possible as yet to bring this development fully into the equation. Fifth, a further field of intergovernmental relations which has emerged internationally is that of regional entities (that is, provinces, states, cantons, Länder) within national states pursuing common interests with equivalent entities in other countries or with other national states themselves. Although this is contrary to the traditional foreign relations approach wherein national governments act as a single, unified body on behalf of the state as a whole, including other tiers of government, De Villiers (1995a: 21-131) has aptly indicated the extent to which this dimension has recently developed in countries such as Germany, the United States, Switzerland and Australia. This even goes as far as entailing formal treaty making powers between such governmental entities (see De Villiers, 1995a: 7-19.) As alluded to below, when the institutionalisation of provincial interests in South Africa is discussed, such relations have already emerged also in the South African context, for instance where provinces share common borders with other national states and an array of issues such as ethno-historical ties, economic interrelationships, illegal immigration, curbing of diseases, shared water systems and the more have to be addressed. A further extension of this type of intergovernmental relations involves the supra-national level. In a recent study commissioned by the Development Bank of Southern Africa (DBSA), De Villiers (1995b) looks at such relations within the European Community (EC) with a view to providing guidelines for reassessing the role and functions of the Southern African Development Community (SADC). Of particular interest, especially since the Maastricht Treaty, is also what he (De Villiers, 1995b: 53) labels as a "partnership between regions - bypassing the national governments ... becoming a common modus operandi". There are no known examples as yet of such relations in Southern Africa but in his recommendations De Villiers (1995b: 78) inter alia suggests the "establishment of cross-border forums between the South African provinces and their neighbours to facilitate co-operation of mutual concern [thereby] emphasising that the co-operative framework in Southern Africa is based on functional rather than hierarchical considerations - meaning that in some
cases the most appropriate authority to deal with an issue could be a provincial, local or metropolitan government in consultation with the national government‖. This aspect of intergovernmental relations falls outside the scope of the present article, and it would be of interest to follow future developments in this regard. Sixth, this article does not purport to compare developments in South Africa with those in other countries.28 This, notwithstanding the importance of lessons to be learnt from the international experience, is because the article is focused specifically on current trends in this country with specific reference to the Eastern Cape. Seventh, an attempt is not made to analyse and evaluate the national policy-management process in depth, again not to detract from the clearly demarcated focus of the article.

2 DEFINING POLICY MANAGEMENT AND INTERGOVERNMENTAL RELATIONS

As stated, the approach followed here is to view the subject material from the perspective of development practitioners rather than from a purely theoretical point of departure. Apart from enhancing the uniqueness of this effort the approach followed also averts becoming involved in a lengthy definitional debate on the content and meaning of concepts. Similarly, Juma & Clark (1995: 123) note that the field of policy sciences “still has no commonly accepted definition” and they continue to suggest that “policy should be viewed in the context of metaphors that practitioner use”. However, in order to ensure academic clarity and preciseness, working definitions with regard to the two key concepts of policy management and intergovernmental relations are employed:

(a) Policy management

This concept is viewed from an inclusive perspective.29 It entails a developmental and comprehensive wide-ranging and cross-cutting process including policy initiation, design, analysis, formulation, political, executive and administrative decision-making, dialogue, implementation as well as monitoring and evaluation. This can take place formally in an innovative systemic institutional context at an intra-organisational (that is, within central, provincial and local governmental) as well as inter-organisational (that is, intergovernmental) level.30
(b) Intergovernmental relations

These are, for the purposes of this study, defined as a mechanism for multi- and bi-lateral, formal and informal, multi-sectoral and sectoral, legislative, executive and administrative interaction entailing joint decision-making, consultation, co-ordination, implementation and advice between tiers of government at vertical as well as horizontal levels and touching on every sphere of governmental activity. The nature of this interaction constantly varies in terms of its degree of cooperation or competition depending on the dynamics of the system and the role-players involved at any given time, and as in accommodating and managing interdependence, geographical and social diversity, as well as ongoing comprehensive transformation. For definitional purposes it is of note that the efficacy of intergovernmental relations is a function of the level participation by the key role-players in the system, and that the extent of participation, whether of a competitive or co-operative nature, finally determines the ontological state of the system of intergovernmental relations (see diagram 1 for a synoptic illustration of the nature and content of intergovernmental relations and diagram 2 for the continuum of dynamic participation in intergovernmental relations).

(c) The relationship between policy management and intergovernmental relations

This relationship can be expressed and described as that of the relationship between a set of interrelated, multidisciplinary and cross-cutting processes and a particular type of structure which has the capacity to maximise the potential of the processes and facilitate their interaction. Intergovernmental institutional arrangements can thus be seen as a set of physical tools available for use by policy managers, tools which are geared specifically for the purpose of facilitating and enhancing communications and interaction between various sets of role players at various levels within a system or between systems in order to create a stable environment with the objective of ensuring good governance.

3 PROVINCIAL GOVERNMENT IN CONTEXT

The distinctly federal nature of the Interim Constitution, particularly in terms of the 29 Schedule Six provincial competencies (see Section 126), created a completely new context for intergovernmental relations when compared to those which were operative under previous constitutional dispensations since 1910. Owing to the particular nature of the
Diagram 1  A synoptic illustration of the nature and content of intergovernmental relations

INTERGOVERNMENTAL RELATIONS

COMPRISE:

- COMPETITIVE
- PARTICIPATIVE INTERACTION

- DECISION-MAKING
- CONSULTATION
- COORDINATION
- IMPLEMENTATION
- ADVICE

BETWEEN AND WITHIN

NATIONAL

PROVINCIAL

LOCAL GOVERNMENTS

ACCOMMODATING AND MANAGING

INTERDEPENDENCE

GEOGRAPHICAL DIVERSITY

SOCIAL DIVERSITY

ONGOING

COMPREHENSIVE

TRANSFORMATION

OUTCOME

COOPERATIVE

STABILITY

GOOD GOVERNANCE

VERTICAL

HORIZONTAL

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Diagram 2  The continuum of dynamic participation in intergovernmental relations

- Dynamic Participation
- Non-Participation
- Static Participation

- Antagonism
- Competition
- Co-operation
- Coercion

governmental structures which have been established and the emerging inter-relationships between them this has of necessity required relations based on “reciprocity” rather than on central prescription inherent in past unitary systems (see Mail & Guardian, 29 March – 3 April 1996 and Rapoo 1995: 16–20).

Furthermore, as new entities, the nine provincial governments established in terms of Section 124 of the Interim Constitution were confronted with all the strenuous demands of the formation and institutionalisation of new decision-making, managerial and administrative structures as well as the amalgamation and transformation of existing structures. Apart from the Free State and KwaZulu-Natal, whose borders correspond to those of previously existing provinces and who could utilise the capacities inherited from those administrations, most of the other provinces basically started ab initio – the task being made somewhat easier in the Western Cape, which largely took over the capacities of the previous Cape Provincial Administration, and Gauteng, which had access to the bulk of the capacities vested in the previous Transvaal Provincial Administration. A further complicating factor is the vertical reallocation of functions between the provinces and the 30 previously existing central government departments as well as the three previously existing own affairs administrations. According to Skweyiya and Vil-Nkomo (1995: 218–219) the Public Service Commission (PSC), which advises the Government on the proper location of functions, utilises two principles, namely subsidiarity and empowerment, as primary points of departure. Subsidiarity, according to these authors (1995: 219), postulates that a government programme of function must not be assigned to a higher
level of government if it can be dealt with satisfactorily at a lower one, whilst
the empowerment principle entails that where the power to decide or act on
a certain matter has been assigned to a government authority at a lower
level, any government authority at a higher level must, as far as possible, be
excluded from interfering with that power (see also Roelf Meyer in Hansard
1995: 1581–1582 and the Democratic Party view as expressed at their

The moulding together of apartheid regional structures such as the TBVC
states and self-governing territories as well as fragmented parts of old
provincial administrations substantially complicated the process of estab­
ishing the nine new provinces. Moreover, lack of legitimacy of the inherited
institutions further limited the opportunity of applying established
capacities. Most pronounced in this regard are the Eastern Cape, which
inherited Transkei, Ciskei and the Port Elizabeth-based regional structures
of the Cape Provincial Administration, and Northern Province, which had
to absorb Venda, Gazankulu, Lebowa as well as the Pietersburg-based
regional structures of the Transvaal Provincial Administration.37 Perhaps
the most notable example of the dilemmas these fragmented provinces have
to deal with is the large number of public servants that were transferred to
them and had to be accommodated. In the case of the two provinces
mentioned above this inter alia resulted in 90 per cent of their 1994 budgets
being allocated to salaries (Rapoo 1995: 10–11). According to the latest
Eastern Cape figures38 as set out in table 1 that Administration inherited 148
895 public servants whereas there are only 133 527 approved posts in the
new provincial organigrams, reflecting an excess of 15 389.39 In the
management echelon the organigram made provision for 153 posts which
meant an excess of 215 (see table 2).40 One of the most daunting challenges
some of the provinces, such as the Eastern Cape, have to cope with in this
regard is the time lag between the correct placement of personnel and the
re-allocation of functions resulting from the phasing out of the TBVC states.
This led to a large number of staff performing typical central government
functions and who in the interim had to be accommodated by the new
provincial administrations.42 This state of affairs was further exacerbated
because the Interim Constitution provided for all public servants firstly, to
continue in their employment (Section 236(2)) and secondly, that the terms
and conditions of their employment (Section 236(4)) remain unaltered (see
http://www.constitution.org.za/1993.html). Although the rationale of these
interim measures in terms of stability and continuity in the Public Service is
Table 1  Rationalisation indicators per department owing to inheritance of pre-1994 administrations (Eastern Cape)^41

<table>
<thead>
<tr>
<th>DEPARTMENT</th>
<th>INHERITED PERSONNEL</th>
<th>NEW ORGANIGRAM</th>
<th>EXCESS PERSONNEL</th>
<th>CASUALS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No</td>
<td>Salary</td>
<td>No</td>
<td>Salary</td>
</tr>
<tr>
<td>Office of the Premier</td>
<td>320</td>
<td>R48 898 000</td>
<td>262</td>
<td>R49 298 000</td>
</tr>
<tr>
<td>Public Service &amp; Administration</td>
<td>355</td>
<td>R135 203 000</td>
<td>519</td>
<td>R137 662 000</td>
</tr>
<tr>
<td>Economic Affairs Environment &amp; Tourism</td>
<td>182</td>
<td>R9 524 000</td>
<td>198</td>
<td>R52 949 000</td>
</tr>
<tr>
<td>Housing &amp; Local Government</td>
<td>1 668</td>
<td>R86 950 000</td>
<td>2 031</td>
<td>R119 043 000</td>
</tr>
<tr>
<td>Agriculture &amp; Land Affairs</td>
<td>16 498</td>
<td>R259 976 000</td>
<td>5 406</td>
<td>R159 378 000</td>
</tr>
<tr>
<td>Finance &amp; Provincial Expenditure</td>
<td>393</td>
<td>R248 623 000</td>
<td>241</td>
<td>R169 977 000</td>
</tr>
<tr>
<td>Transport</td>
<td>1 549</td>
<td>R10 928 000</td>
<td>3 160</td>
<td>R72 124 000</td>
</tr>
<tr>
<td>Education, Culture &amp; Sport</td>
<td>73 397</td>
<td>R3 369 527 000</td>
<td>73 760</td>
<td>R3 517 050 000</td>
</tr>
<tr>
<td>Health &amp; Welfare - Institutions (38 611) - Non institution (3 076)</td>
<td>41 687</td>
<td>R1 260 217 000</td>
<td>42 518</td>
<td>R1 494 463 000</td>
</tr>
<tr>
<td>Public Works &amp; Roads</td>
<td>12 847</td>
<td>R183 029 000</td>
<td>5 474</td>
<td>R254 675 000</td>
</tr>
<tr>
<td>Safety &amp; Security</td>
<td>0</td>
<td>0</td>
<td>48</td>
<td>R2 514 000</td>
</tr>
<tr>
<td>TOTAL</td>
<td>148 895</td>
<td>R5 512 975 000</td>
<td>133 527</td>
<td>-R6 059 133 000</td>
</tr>
</tbody>
</table>
Table 2  Rationalisation indicators per department owing to inheritance of pre-1994 administrations (Eastern Cape)\textsuperscript{43}

<table>
<thead>
<tr>
<th>DESIGNATION</th>
<th>INHERITED</th>
<th>NEW POSTS</th>
<th>SURPLUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Director-General</td>
<td>20</td>
<td>1</td>
<td>19</td>
</tr>
<tr>
<td>D/director-General</td>
<td>32</td>
<td>10</td>
<td>22</td>
</tr>
<tr>
<td>Chief Director</td>
<td>68</td>
<td>32</td>
<td>36</td>
</tr>
<tr>
<td>Director</td>
<td>248</td>
<td>110</td>
<td>138</td>
</tr>
<tr>
<td>TOTAL</td>
<td>368</td>
<td>153</td>
<td>215</td>
</tr>
</tbody>
</table>

accepted they undoubtedly serve as a serious impediment to rationalisation, redeployment and establishing representativity.

Apart from the above demands placed on provincial governments their future nature is only being established at present. It is well known that the interim system was a compromise agreed to at the constitutional negotiations preceding 1994 mainly to appease advocates of federalism such as the National Party, the Inkatha Freedom Party and the Democratic Party (see Elazar 1994: 35–36). Although a Constitutional Principle stating that: “provincial powers cannot be substantially reduced” in the new Constitution was included in the Interim Constitution (Schedule 4, XVIII(2)) the African National Congress (ANC), as majority party, has in the past advocated a more strongly centrally orientated system (see Olivier 1995: 66–67). Naturally this uncertainty has been less than conducive to the institutionalisation of present provincial governments as well as the establishment of appropriate structures and methodologies for intergovernmental relations.

A significant phenomenon that has been gaining prominence relates to the growing realisation of provincial interests. Although this has been most profound in the provinces of the Western Cape (controlled by the National Party) and KwaZulu-Natal (controlled by the Inkatha Freedom Party) certain statements and actions by Premiers of the seven ANC controlled provinces suggest that evolving own interests are fuelling a drive for greater autonomy, even in them. Examples in place listed by Rapoo (1995: 5–9) are Gauteng Premier Tokyo Sexwale requesting the Central Government to interpret the power to override provinces more sparingly in the case of concurrent powers as provided for in Section 126(3) of the Interim Constitution and Northwest Province which has often claimed control over...
mining rights and energy. A further example is Mpumalanga Premier Mathews Phosa’s continuous urging of the Central Government to speedily devolve more powers and responsibilities even beyond those offered in Schedule 6 of the Interim Constitution such as control over economic relations with foreign countries as well as overseas development agencies. Phosa has also claimed some foreign affairs functions to deal with cross-border issues relating to Mozambique. Mpumalanga was the first Province to conclude a formal agreement with a region in another country when a “Protocol” was signed with the German Land of North Rhine Westphalia in 1994 (De Villiers 1995a: 178). Similarly, in the Eastern Cape, twinning arrangements with the Province of British Columbia in Canada, the State of Massachusetts in the USA as well as Lower Saxony in Germany are already at an advanced state of finalisation. According to Dekker (1995: 100) a “provincial caucus of premiers” which is strongly lobbying provincial interests at the national level has emerged across political persuasions. Although, at least in the case of the seven ANC controlled provinces, these developments might not reflect a principled and conscious tendency towards federalism they are indicative of a growing degree of institutionalisation of the new provinces and the need for advocacy of the parochial regional interests ensuing therefrom. Reflecting on this development, the Financial Mail (3 May 1996) observes that the new Constitution recognise “what in terms of official party policy the ANC has been reluctant to concede before – a diversity of regional differences created by history”.

Following the adoption of the new Constitution, however, it seems that the ANC has accepted the dynamics inherent in regionality and that the federal nature of the Constitution will be beyond doubt (Business Day, 16 April 1996). The Constitution makes provision for a system whereby the present Senate will be replaced by a National Council of Provinces (NCOP) which will have decisive powers to champion provincial interests at a national level (Sunday Times, 21 April 1996). According to Section 60 the NCOP will have 54 permanent delegates, six nominated by each Provincial Legislature, and 36 seats for floating delegates, four from each province, including the provincial premiers, who will lead their respective floating delegations. These floating delegations will, depending on the matter or legislation discussed and voted in the NCOP, vary in terms of their compositions as mandated by each Provincial Legislature (Section 61). Concerning its powers the NCOP will be able to introduce a Bill on any matter relating to provincial powers as defined in Schedule Four (substantially the same as Schedule Six in the Interim Constitution). Although the NCOP will not be able to block Bills falling outside Schedule Four competencies, it can force
the National Assembly to reconsider legislation (Section 75), thus ensuring a provincial input on national issues (*Mail & Guardian*, 12–18 April 1996).

Regarding the powers of provincial legislatures, for national law to prevail with respect to provincial competencies (Sections 135 and 138), the Constitutional Court, when adjudicating conflicts between national and provincial law, will have to be satisfied that such law dealt with a matter that could not be regulated effectively by individual provinces, that a provincial law was prejudicial to the country as a whole, or in the case of norms and standards, frameworks or national policies, these were required in terms of the national interest (*Business Day*, 16 April 1996). With regard to executive powers the administration of provincial legislation will become an exclusive power (Section 125(5)), as long as this does not limit Section 95, which deals with national priorities. The Premiers and their Executive Committees (Section 125(2b)) will, furthermore, have control over all matters within their functional areas as well as national legislation, where administration thereof has been assigned to them by Parliament (*Sunday Independent*, 21 April 1996).

With the adoption of these provisions in the new Constitution, the status and powers of the provincial administrations have been placed beyond doubt and, viewed from a provincial perspective, will undoubtedly at least at the legislative level, remove uncertainty, secure stability and lay a sound basis for institutional development. Of particular significance is the fact that the Constitution, moreover, for the first time formalises intergovernmental relations into the structure of government, first, with the NCOP becoming the supreme mediator in the case of competition and conflict between and within tiers of government and, second, the Mediation Committee (Section 78), which is a small forum in which party-political disputes over legislation relating to the provinces will be hammered out (see *Mail & Guardian*, 12–18 April 1996), catering for the informal dynamics of intergovernmental relations. It is clear that these developments will have a profound impact on the structures and practice of intergovernmental relations which have emerged since 1994, and will, once the new Constitution is promulgated, at least at the political level, necessitate a reassessment of their role, and as a matter of fact, even the rationale for their existence.

4 THE POLICY MANAGEMENT PROCESS IN THE EASTERN CAPE: A CASE STUDY

Little, if anything, is known about policy-management processes in the
provinces. This is largely due to the novel nature of the governmental structures created by the Interim Constitution and which are continued in the new Constitution but, given that two years have elapsed since the first democratic elections, this is also an academic shortcoming which urgently needs correction. Hence this part of the article attempts firstly to describe the actual policy-management process in the Eastern Cape, and then to place it in the context of the national policy-management process and the emerging intergovernmental structures (as discussed in the next section) used inter alia to link national and provincial processes. As indicated in the introduction to this article, the methodology followed is a hands-on approach describing the evolution of the establishment and functioning of the policy-management process in the Eastern Cape which could also form the basis for further theoretical analysis. Owing to this, extensive reliance will be placed on the use of minutes of meetings, where these could be obtained, as well as interviews with senior management in the Provincial Administration. As noted by Ramaite (1996: 1) “this is an area which has received little academic attention to date”, and this article endeavours to make a contribution to the lacuna identified in this regard.

The policy-management process in the Eastern Cape, and no doubt in some other provinces as well, did not emerge automatically and unscathed during the traumatic and gruelling process of establishing provincial government ab initio. Indeed, even at the present stage in the development of provincial structures to deal with this, as well as the other facets of management, there are still areas which require attention. In order to analyse and understand the relationship between the intra-provincial policy-management process, its relationship and effects on the dynamic intergovernmental policy relations currently emerging in South Africa and vice versa, it is necessary to review the establishment and present functioning of the policy-management process in the Province.

From the date of the implementation of the Interim Constitution until the end of 1995, the Eastern Cape was managed by Strategic Management Teams and the management agenda was dominated largely by the administrative and technical dictates of the rationalisation process which was imperative in the establishment of a single Provincial Government. This implied bringing together the three inherited governments and their administrations as well as the allocation of legislative and executive functions from the national to the provincial level of government and the establishment of capacity to administrative challenges. It is within the context of the often tumultuous, dynamic and demanding nature of the
rationalisation process that the establishment of a co-ordinated policy-management process should be seen.

It was only during the first half of 1995 that serious attempts to rectify some of the fundamental flaws in the policy-management process in the Province began to emerge. Most notably these flaws included an absence of policy and mechanisms to develop it, a lack of capacity to implement policy-management processes, and the fragmented, unco-ordinated and ad hoc nature of policy-management processes within and between departments where these were in place. Furthermore, there was a lack of a joint provincial vision and mission (as these had not at that stage been developed), and departmental objectives, programmes and budgets were not integrated and co-ordinated.

At an administrative level, the Director-General of the Province institutionalised a weekly meeting with senior management (which included himself and the ten heads of departments) shortly after his arrival in February 1995. This was followed by the institutionalisation of a top management meeting which included some MECs (when they were available), the heads of department, and their deputies; as well as an extended management meeting, which included officials up to the level of director and was convened on a monthly basis. It was in these meetings, and particularly in the top and senior management meetings, that a joint approach to policy management began to emerge. Furthermore, a strategic planning process was initiated in the Province which initially brought together for the first time officials from the three former administrations, thrashed out a provincial organisational structure, a provincial vision and mission statement, and continued to outline specific goals and objectives as well as linking the planning process to the budget. The most recent milestone in the strategic planning process is the development of an integrated growth and development policy for the Province.

At about the same time as senior management was starting to interact in a more structured manner, the Director-General instructed the Provincial RDP Unit to put into place a structure to co-ordinate its activities within and between the various components of the Provincial Government, and in order to facilitate this, it established the Inter-Department Technical Committee (IDTC) which was convened by the RDP Unit in the Province on 12 July 1995. Initially the IDTC met every week, but soon realised that twice monthly was adequate for its purposes. From the outset, the IDTC recognised that it would not be able to deal with all the issues it was being
confronted with, and established eight sub-committees⁵⁸ to deal with what it referred to as "specific issues that must be addressed to integrate programmes and to drive transformation programme" (sic).⁵⁹

One of the guidelines for the functioning of the IDTC was that all issues discussed would be referred to the Director-General and senior management (at this stage the senior management meeting became known as the Interdepartmental Committee (IDC)), and then to Cabinet "as policy resolutions".⁶⁰ The IDTC was dominated by the agenda of the Provincial RDP Unit in view of the fact that this Unit both chaired the committee and provided the secretariat.⁶¹ However, in view of the broad-ranging scope built into the mechanism by virtue of the eight sub-committees, it did provide an ideal vehicle for departmental officials to co-ordinate their activities. Nonetheless, practically since its inception, the IDTC was plagued by interdepartmental politics, poor and inconsistent attendance, a lack of focus regarding a commonly perceived purpose, and no or very little binding decision-making capacity. In fact, inconsistent and poor attendance continues to hamper the functioning of this committee at present, as is reflected in its minutes dated 27 March 1996.⁶² Regardless of this, it is on occasion still able to formulate and submit policy proposals to the Executive Council for consideration.⁶³ The structure and functioning of this committee is currently under review, with perhaps the most noteworthy change proposed being that of locating the structure in the Office of the Director-General. In fact, the Provincial RDP Unit is currently being disbanded (in line with developments at a national level) and the relevant personnel are being allocated to other directorates in the Office of the Premier.⁶⁴ This can be seen as part of an ongoing debate within the Provincial Administration about the location of policy-management capacity at provincial level. In this regard, questions have been asked about the role of the Director-General's Office, the Premier's Office, the Department of Finance, Local Government and Housing, the Directorate of Development Planning, and the RDP Office (see Ramaite 1996: 1–6.) Because of this uncertainty there was (and still remains) a degree of "tug of war" between departments (for various reasons) as to where this capacity should ultimately be located.⁶⁵ The most important effect that this has had is that the development of a co-ordinated and integrated development strategy has occurred despite this and has often been retarded and shown signs of fragmentation as a result. It has also led to departments often doing different things, sometimes with negative implications regarding the utilisation of financial and other resources.
At this point it is apt to locate the administrative policy formulation and support structure as described above within the context of the broader policy-management process as it is structured at the political level. The link between the administrative policy formulation structure as alluded to above and the political policy-management structure is to be found mainly in the relationship between the MECs and their respective Heads of Department. This is formalised in a "Manual of the Processes and Procedures of Policy Decision Making and Implementing" currently being developed in the Province. It provides that: "Department Heads are the chief policy advisers to their respective Members of the Executive Council" and that: "Members of the Executive Council are responsible for the policy direction for the departments within their portfolios". The manual also locates the ratification of policy with the Executive, stipulating that it has both executive and legislative functions and that it makes all major policy decisions. The Director-General, as Executive Secretary to Cabinet, is responsible for managing policy-making, and in this regard is allocated four tasks, namely:

- "Moves policy forward in spite of numerous urgent pressures from diverse sources;
- strives to maintain consistency and adherence to the overall policy agenda;
- manages the balance between central agencies and line function departments, that is, ensures the central agencies provide the 'broad' perspective while the line departments provide the 'practical, operational expertise'; and
- monitors the implementation of the major policy decisions."

Other important structures to take note of in the policy-management process in the Eastern Cape are the policy review committees which, in terms of the manual currently under development, are used to develop government policy, assess the congruence of proposals (presumably from departments, although this is not clearly spelt out) with overall government policy, assess the financial implications, and assess the strategic and communications implications. Three types of policy review committees have been implemented:

- Financial Committees, which review policy proposals for their financial feasibility and their contributions towards meeting established priorities;
- Planning and Priorities Committees, which manage the activities related
to the government's overall planning cycle, including annual planning meetings, developments and co-ordination of the major policy and financial speeches in the Provincial Legislature, and the development of policy that supersedes the responsibility of individual departments; and

- **Implementation Committees**, which "review implementation of the Executive Council's decisions to ensure consistency", and may review legislation, regulations, communication strategies, and the implementation of major government initiatives.\(^69\)

Finally it is necessary to review the structures which have been established to facilitate the interaction between the provincial and national levels of government. In this regard two parallel processes of interaction between the provincial and national levels of government can be identified, one at the political level, the other at the administrative.\(^70\) For example, in the Department of Education and Culture, at the political level, three intergovernmental structures (MINMECs) exist in which the provincial MEC for Education and Culture participates, namely the Council of Education Minister (CEM), the Council of Culture Ministers (CCM), and the Council of Sport Ministers (CSM). Each of these councils is chaired by the national Minister concerned. At the administrative level, an intergovernmental structure known as the Head of Education Committee (HEDCOM) has been established, and functions as an advisory body to the CEM, providing it with technical support. Being an administrative body, it is chaired by the national Director-General of the Department of Education and Culture of the nine provinces. It meets monthly prior to the CEM, in order to input effectively into this structure. This is a typical example of the functioning of a MINMEC intergovernmental structure and its administrative support committee, and is replicated in other functional areas. Thozamile Botha, Director-General of the Eastern Cape Provincial Administration (interview, 7 May 1996) is of the opinion that this arrangement has worked well especially in passing legislation. Provinces, due to their direct participation in these structures are able to give a practical hands-on flavour to the debates which shape relevant legislation and in turn are able to develop and pass legislation at a provincial level which is in tandem with the national legislative process. Insofar as Education and Culture is concerned, there is no relationship with any other intergovernmental structure, and as far as could be determined, no matters had been referred either to the TIC or its political counterpart, the IGF.\(^71\)

Other departments, such as Local Government and Housing, and Economic
Affairs mirror the arrangement described above, with the exception that the administrative technical committee to support the MINMEC for Economic Affairs is not yet established.72

5 INTERGOVERNMENTAL RELATIONS: THE INTRA-PROVINCIAL AND INTER-PROVINCIAL DIMENSIONS

In order to ensure effective and efficient government in South Africa one of the basic departure points to be taken into consideration is the interdependence of the three tiers of government. Another important departure point is the optimum allocation of scarce resources. Especially these factors necessitate the establishment of appropriate structures for joint decision-making, co-operation, consultation, co-ordination, implementation, advice and competition, in order to ensure effective governance. As a result it is clear that the emerging system of intergovernmental structures and relations is becoming an indispensable tool for formulating and implementing policy in a compatible and congruent way between the various levels of government, in this way making maximum use of limited resources and taking into account the demands of fundamental socio-political transformation presently under way in South Africa. For this reason it is important to determine, first, how, and how well, the policy-management process functions between the provincial and national levels of government as well as inter-provincially, and second, how, and how well the intra-governmental policy-management process supports and inputs into the broader system of intergovernmental relations. Hence the process of policy management in the Eastern Cape, outlined above, will be reviewed both in terms of its functioning in the Province as well as in terms of its linkages (and their effectiveness) within the framework of the emerging intergovernmental structures and relationships. The methodology employed, while not avoiding available literature on the subject, relies heavily on interviews with senior management and political office bearers in the Province. The establishment of appropriate and effectively functioning intergovernmental institutional arrangements is also important to facilitate and promote stability within government as a whole.

5.1 The intra-provincial dimension

At the outset it should be mentioned that this evaluation of the policy-management process in the Eastern Cape should be viewed from the perspective of a process of academic analysis, albeit in a very practical
context, with a view to highlighting areas requiring attention as well as areas which function well and could be considered for replication in similar circumstances. Furthermore, it is important to note that the processes already in place have been established under extremely demanding conditions, particularly those exerted by the rationalisation process (see tables 1 and 2). Also, it is true that the establishment of processes, and in particular processes of the type under discussion, are evolutionary in nature and develop over time. For example, within departments in the Eastern Cape Provincial Administration, strategic planning and policy-management processes were already well established prior to the institutionalisation of a joint planning process, as well as prior to the establishment of the IDC and IDTC. These structures (and specifically the workshops mentioned earlier) have provided the ideal vehicles for bringing together departmental policy-management processes in order to co-ordinate their activities and fashion a coherent provincial strategy.

Particularly from interviews conducted in the Province, it is clear that the relationship between the parallel intergovernmental policy-management structure as described above, and the intra-provincial joint policy-management process and structures at an administrative level is weak, and only inputs marginally into the weekly joint management meetings. The link is weak because the policy-management process is inadequate as it is relatively unstructured, generally ad hoc and constantly and severely subjected to the dictates of crisis management. Furthermore, there is a distinct absence of follow-up action inter alia in that monitoring and evaluation processes within the IDC appear to be lacking. Insofar as the IDTC is concerned, it is providing no or very little support to the provincial or national policy-management processes, and it is apparent that a common understanding of the role of this structure, the status of the structure, and its relationship vis-à-vis the IDC and the Executive Council is only beginning to emerge. It appears not to be taken seriously, particularly if, as was indicated above, the levels of absenteeism and inconsistent attendance are taken into account. All of this is further compounded by the often ambiguous and uncertain role of the Director-General in the process, the Head of Department often being torn between the political (MEC) and administrative (DG) office bearers.
What this means in essence is that the integrative and co-ordinative qualities of the provincial policy-management structures are to a large extent dissipated as a result of the constraints described above. This in turn means that some departments function largely independently, operating to some extent as an extension of the respective MINMEC and its administrative support structure, and formulate and implement policy largely under the direction of the MEC supported by the Head of Department.\footnote{79}

This is not to say that there is something fundamentally wrong with the structure of the intra-provincial policy-management process. In fact, the structure is consistent with modern strategic planning and policy-management theory (see de Coning 1995, Hogwood & Gunn 1984 and Mintzberg 1994). Rather it is in the way in which the structure and associated capacities are being utilised, which appears to be problematic. Without losing the inherent dynamism which makes the day-to-day administration of a province so challenging, a certain amount of formalisation in any policy-management process is a requirement. Indeed it is striking a balance...
between dynamics on the one hand, and formalisation on the other, that is the challenge. Of course the system must be able to respond to crises effectively and must be flexible and open to the often severe demands placed on it by such events. However, it must also effectively and efficiently deal with the various phases of policy management in a coherent and logical way. Thus, it is necessary to build into the current policy-management process especially the phases which are lacking, namely those of policy analysis, monitoring and evaluation. Also, it is necessary to ensure an element of consistency in the process.

Perhaps a critical review of progress made to date in the establishment of the policy-management process in the Province is required, in order to build on and make more effective and efficient that which already exists. The distinction between process and content is an important one. Content can be viewed as so important that sight is often lost of the necessity for good process design in order to achieve a desired outcome. It may be of benefit to spend some time workshopping the nature of the process itself, in order to improve and refine its design (see Burton 1988: 143–152, Kraybill 1991: 1–3, Fisher 1990: 3, Fisher & Ury 1988: 10 and Bradshaw 1990: 8). Besides institutionalising the phases of policy management more clearly it may be necessary to review the link and nature of interaction between the Province and the national intergovernmental relations system. A fundamental question to ask in this regard is: "Is one person dealing with intergovernmental relations in the Office of the Director-General sufficient?" It is proposed that this should be a fully fledged unit and it would be noteworthy to compare developments in this regard between the nine provinces. (See in this regard also section 5.2.5 below which deals with the rationalisation of intergovernmental relations structures.) Should legislation be adopted to regulate intergovernmental relations it may require the establishment of greater provincial capacity in order to deal effectively with the demands of legally enforced interaction between the various tiers of government. The linkages between the intergovernmental relations unit and the strategic planning/policy analysis unit will also have to be more closely examined. Furthermore, the link between the Director-General, who is a member of the TIC, and the Heads of Departments, who are members of MINMEC support structures, also needs to be more closely examined both at the level of the TIC/MINMEC relationship and the provincial level. Sufficient capacity at the provincial level to give effect in particular to the recommendations of the IGF/TIC or similar future intergovernmental relations structures will go a long way towards enhancing the objectives of
Another aspect that will have to be taken into consideration is the provision of adequate professional and administrative support for the policy-management process. This is lacking especially in two important respects. First, a suitable secretariat should be established to document the process, and to provide a consistent and dedicated administrative supportive capacity to the process akin to a cabinet secretariat. Such a secretariat could be housed in the Office of the Director-General of the Province. Second, a professional policy-management capacity, in the form of a strategic planning/policy-management unit should be established at an administrative level, preferably also in the Office of the Director-General, to institutionalise the phases of the process of policy management in the Province, particularly insofar as the Office requires co-ordination between provincial departments. The functions of such a unit would be of multi-disciplinary nature, and could include policy research and analysis, strategy formulation, implementation and monitoring, the management of transformation, as well as process facilitation and workshop support. At present, one of the most serious obstacles impending the establishment of such a unit is the existence of a plethora of divergent viewpoints regarding the meaning at a conceptual and practical level, of concepts such as “strategic planning” and “policy management”. This will have to be dealt with prior to the establishment of any such capacity. Therefore, sustainable yet affordable capacity building for both intra-provincial policy management as well as the smooth conduct of intergovernmental relations is of the essence in the Eastern Cape.

5.2 The national/provincial and inter-provincial dimension

The system of national/provincial and inter-provincial intergovernmental relations as it has emerged to date is described to some extent in the introduction to this article. It must be emphasised that this list is not complete. Even at the time of the finalisation of this article new structures were being identified. On the one hand this is illustrative of the dynamism inherent in the system but on the other it is somewhat perturbing that only the Department of Constitutional Development has managed to come up with an incomplete summary. It is well near impossible to rationalise a structure without knowing exactly what kind of animal it is and one would hope that this type of information would be comprehensively collated prior to any detailed structural changes being made by whichever structure ultimately has responsibility for driving the intergovernmental relations system. The list
referred to, however, contains the most important structures and is sufficient to contribute substantially towards the establishment of a sound basis for general analysis and assessment as well as option generation. A conceptual summaristic representation of this system is given in diagram 4.

At the outset it is necessary to clarify three types or sets of intergovernmental relations structures, as referred to in the working definition of intergovernmental relations in section 2 above, namely legislative, executive and administrative. By legislative intergovernmental relations is meant those structures, functions and terms of reference which are regulated by the Constitution or other legislation, and which develop a set of interrelationships between National Parliament, particularly the NCOP (once the new Constitution is promulgated), and provincial legislatures. Executive intergovernmental relations entail those structures which have functions and terms of reference which are designed to bring together the executive heads (Premiers, MECs and Ministers) in various fora either to deal with governmental line function issues (those outside Schedule 6 of the Interim Constitution and Schedule 4 of the new Constitution – MINMECs for example) or lateral issues (the IGF, for example). By administrative intergovernmental relations is meant those structures which consist of officials and which are either supportive of the executive structures, or exist for other administrative purposes. Although other distinctions between types of structures are pointed out in this article the system of intergovernmental institutional arrangements is discussed below, using these distinctions as a framework.

Another such distinction which can be made, following Botha (shortly to be published) is between formal and informal intergovernmental relations. By formal, he refers to: “those bodies which are established in terms of the Constitution or in accordance with parliamentary statutes.” By informal he refers to structures which have been established to cater for inadequacies of formal intergovernmental institutional arrangements insofar as they require support “to address policy issues and to ensure co-ordination between tiers of government”.

In the present system of institutional intergovernmental relations, the only formal structures are in the legislative sphere, and informal structures extend across the executive and administrative domains. Should the essence of the Framework for a White Paper on Intergovernmental Relations, cited above, be substantially reflected in the eventual White Paper, becoming Government policy and culminating in legislation, this would change the
system in such a way as to include executive and administrative structures in the formal arena.

A third set of distinctions which can be made centres around the core nature and raison d'être of intergovernmental arrangements and hence also their terms of reference. Viewed in this way it is possible to distinguish between decision-making, consultative, co-ordinative, implementational and advisory bodies, as well as various combinations of these functional types. They also vary in terms of their inherently competitive or co-operative nature depending on the dynamics of the system and the role-players involved at any given time. Furthermore, these types straddle the former two sets of intergovernmental relations identified by Botha, and can be either formal or informal. They can also be located in any or all of the legislative, executive or administrative spheres. The CPG and FFC are good examples of advisory, co-ordinative, informal executive structure. Finally, MINMECs are a good example of informal, co-ordinative, advisory and implementational executive structures. From this it is clear there is a set of intergovernmental structures which clearly performs only an analytic, almost academic function of researching a particular field in order to provide advice and make recommendations. There are also those structures which move beyond providing only advice to also performing some of the functions mentioned above, ie co-ordination and implementation. These are the structures where real intergovernmental interaction takes place and can be described as the “workhorses” of the system. Although intergovernmental relations structures are being dealt with under the three headings mentioned in the first paragraph of this section, it is felt that in order to do justice to a proper description and analysis of the intergovernmental system as a whole, a fourth category termed advisory should be added for this
purpose. These structures straddle the three categories in some instances, but the main reason for isolating them is due to their purely advisory nature which lends itself to this form of specific categorisation.

Finally it is necessary to point out that it is possible to distinguish between intergovernmental institutional arrangements dealing with a broad spectrum of issues (ie the IGF and TIC) and those that deal with either a line function activity or a specific issue (ie the MINMECs). The implication of this is referred to in more detail in section 5.2.5 below. Of importance to note here is the distinction between structures which have a single, clearly defined terrain to deal with, and others which deal with a variety of terrains cutting across horizontal as well as vertical levels.

5.2.1 Legislative intergovernmental institutional arrangements

Following the adoption of the new Constitution, and in particular the provisions contained in Chapters 3, 4 and 6, it is clear that the new dispensation will have a fundamental influence on the legislative intergovernmental relations system as it has developed thus far. Chapter 3 provides a broad framework regulating the relations between tiers of government structures, and specifically provides for National Legislation, which “may establish intergovernmental structures to secure executive cooperation and to co-ordinate the exercise of executive authority” (Section 41(2)).

Diagram 5 The current system of intergovernmental relations incorporating the provisions of the new Constitution

<table>
<thead>
<tr>
<th>Legislative (formal)</th>
<th>Executive (informal)</th>
<th>Administrative (informal)</th>
</tr>
</thead>
<tbody>
<tr>
<td>NCOP</td>
<td>IGF</td>
<td>TIC</td>
</tr>
<tr>
<td>MEDIATION COMMITTEE</td>
<td></td>
<td>IDC</td>
</tr>
<tr>
<td>PROVINCIAL LEGISLATURES</td>
<td>MINMECs</td>
<td>TSCs</td>
</tr>
<tr>
<td></td>
<td></td>
<td>DEPARTMENTS</td>
</tr>
</tbody>
</table>

Legend: Solid lines show formal relations and dotted lines informal relations.
For a discussion of the structures and functions of the NCOP and the Mediation Committee in the context of current political developments, see section 3 of this article. The discussion of the rationalisation of intergovernmental relations structures below (section 5.2.5) is also of importance here particularly in so far as the implications of legislating for the currently informal part of the system is concerned.

5.2.2 Executive intergovernmental institutional arrangements

In terms of the definition of intergovernmental relations proposed in this article the IGF, MINMECs and the Premiers’ Forum can be classified as informal executive intergovernmental structures.

The Department of Constitutional Development\(^\text{86}\) regards the IGF as the most important intergovernmental forum, acting as a multi-lateral, intergovernmental policy planning body and attending specifically to the following:

- the establishment of an integrated intergovernmental policy and strategic framework;
- multi-sectoral policy issues;
- financial, fiscal and other governmental resource matters;
- important and sensitive political matters;
- Schedule 6 (now Schedule 4) line-function matters which, because of their importance and conflict potential, should be dealt with by the IGF;
- non-Schedule 6 (now Schedule 4) line-function matters;
- the efficient and effective functioning of the system of government; and
- constitutional issues.

With regard to the respective MINMECs, they deal with the following:\(^\text{87}\)

- the harmonisation of policies and strategies and the drafting of intergovernmental line-function policies and strategies which should serve as guidelines to the respective governments in their own policy and strategy formulation process;
- the transfer of information;
- the division and employment of financial resources;
- the implementation of policies and strategies;
- the harmonisation of legislation;
- the harmonisation of programmes on a national basis;
- consultation and negotiation with regard to national norms and
standards applicable to a specific function, as well as national minimum norms and standards; and the undertaking of joint programmes and projects.

In its recommendations to the CA the CPG proposed the formation of a Council for Intergovernmental Executive Relations (CIER). It was of the opinion that while the NCOP would deal adequately with relations among legislatures, executive intergovernmental relations require own appropriate structures. The CPG, moreover, strongly advocated formalising these relations in the new Constitution, arguing (Section 2.8: 21) that: “If they are simply allowed to develop informally, or are governed by national legislation alone without any direction given by the Constitution, there is a strong likelihood that intergovernmental relations would be dominated by government at the national level. By and large, initiatives would have to come from that level, and would also be co-ordinated by administrative structures at national level. This might not be conducive to optimal cooperation among all levels of government.” In terms of its composition it proposed that the CIER consists of the nine provincial Premiers and not more than nine Ministers appointed by the President. The object of the Commission would be to “facilitate effective co-operation, co-ordination and consultation in executive matters among levels of government and between governments on the same level” (Section 2.8.1: 22). Lastly, the CPG recommended the further investigation into the establishment of an “independent, expert advisory body to investigate and make recommendations on a continuing basis on the functioning of the country’s system of intergovernmental relations” (Section 2.8.2). It is clear from the new Constitution that the CA did not heed the CPG’s recommendations in this realm.

5.2.3 Administrative intergovernmental institutional arrangements

The TIC, TSCs and the DGs Forum are informal administrative intergovernmental structures. These structures were put in place to provide technical, administrative and advisory support to the executive intergovernmental structures as well as to enhance co-ordination and implementation. In this regard, the TIC is supportive of the IGF, and the TSCs are supportive of the MINMECs. The DGs Forum is a recent development, and was created for Directors General to share experiences with a view to learning from each other about methodologies used in dealing with provincial administration on a day to day basis. The nine provincial
Directors General attend the TIC, as do the Directors General of national government departments. The TIC is meant to deliberate and co-ordinate transversally on all functions which are presently known as non-Schedule 6 functions, i.e., those falling outside the competence of the provinces (becoming non-Schedule 4 functions in the new Constitution). The TSCs are attended by the provincial heads of departments as well as the respective national Director General (that is in the case of education, the TSC would be chaired by the national Director General for Education and would be attended by the heads of provincial departments of education). These structures underpin the MINMECs functioning at an executive level.

5.2.4 Advisory intergovernmental institutional arrangements

Advisory intergovernmental structures are created with the specific purpose to advise and make recommendations to governmental institutions with regard to specified issues. In the South African case the Public Service Commission (PSC), the Financial and Fiscal Commission (FFC) and the Commission on Provincial Government (CPG) are the most pertinent for the purposes of the present discussion. It is of interest that all three these Commissions are provided for constitutionally, the reason in all probability being to equip them with adequate authoritative status so that their advice will be taken seriously. Of further note is the recently appointed Presidential Review Commission which can be expected to significantly impact on this domain.

The powers and functions of the PSC are defined by the Interim Constitution (Section 210) as “to make recommendations, give direction and conduct inquiries” with regard to the full spectrum of managerial, organisational and administrative functioning of the Public Service such as service conditions of public servants, personnel practices, the promotion of efficiency and effectivity and a code of conduct applicable to members of the Public Service. Furthermore, when so requested, the PSC is competent to advise the President, a Minister or provincial MEC “in regard to any matter relating to the Public Service or the employment, remuneration or other conditions of service of functionaries employed by any institution or body which receives funds wholly or partly appropriated by Parliament of a provincial legislature”. The Constitution (Section 213) also enables provincial legislatures to provide by law for provincial service commissions to advise them on managerial, organisational and administrative matters regarding provincial service matters as well as to, on request, advise the
Premiers or a MEC at a provincial level on the same matters that the PSC does nationally.

According to Botha (to be published shortly) the relationship between the PSC, provincial executives and the provincial service commissions is not always clear. Dilemmas arise because while provincial service commissions could be perceived as provincial employers they in fact do so as an extension of the PSC. In practice it sometimes occurs that the position of the PSC is not supported either by both a provincial service commission and the relevant provincial executive council and according to Botha (to be published shortly) the real question is “what platform does a provincial service commission have or what recourse does it have should it disagree with or find the policies which are centrally determined not implementable or pressing problems at the point of implementation?” Owing to these problems an informal structure named the Forum of Service Commissions has emerged to assist and iron out whatever differences might arise between the PSC and the nine provincial service commissions. In order to address these uncertainties the new Constitution (Section 196(1)) provides for “a single Public Service Commission for the Republic”. Once it becomes operative each province may nominate a commissioner (Section 196(3)) and they will perform the functions of the Commission in their respective provinces (Section 196(4).) Following from recent proposals on the future role of the PSC made to and accepted by the Cabinet,91 it is clear that its advisory, monitoring, research and evaluatory role will be even further enhanced, and the executive functions that it might have accrued over the years will be assigned to the Minister of the Public Service and Administration as well as, where appropriate, to other ministers and their respective departments. In terms of these imminent changes it has also been proposed that the PSC’s name be changed to the Commission for Effective Governance and Efficiency (CEGE).

The FFC,92 established in terms of Sections 198–206 of the Interim Constitution, apprises itself of all financial information relevant to national, provincial and local government, administration and development, and on the basis of such information renders advice and makes recommendations to relevant legislative authorities regarding the financial and fiscal requirements of national, provincial and local governments. It is of note that the Commission, in performing its function, is obliged (Section 199(2)) to take account of Section 155 of the Constitution which inter alia provides that “A province shall be entitled to an equitable share of revenue collected nationally to enable it to provide services and to exercise and perform its
powers and functions". The nature and functions of the FFC remain substantially unaltered in the new Constitution (Section 220).

The CPG's functions in terms of Section 163 of the Interim Constitution (and still operative at the time of writing) are:

- to advise the Constitutional Assembly on the development of a constitutional dispensation with regard to provincial systems of government;
- to advise the national government or a provincial government on the establishment and consolidation of administrative institutions and structures in a province or any other matter arising out of the application of Section 124 of the Interim Constitution which deals with the establishment and areas of provinces; and
- to make recommendations to the national government or a provincial government on the rationalisation of statutory enactment or public sector resources directed at the introduction and maintenance of an effective system of provincial government.

In its own interpretations the CPG delineated its functions as: "... being manifestly an authority to facilitate, advise, support and ultimately report to the CA, and to the national and provincial legislatures and executive authorities" on:

- the development of a constitutional dispensation with regard to provincial and local systems of government (the constitutional sphere); and
- the consolidations of administrative institutions and structures, the rationalisation of statutory enactments and public resources directed at the introduction and maintenance of an effective system of provincial government (the transitional sphere.)

Although the Interim Constitution thus clearly intended the CPG to play a central role in the establishment and functioning of interrelationships between the Central Government and the provinces, voluntary institutions not established by the Constitution, such as the IGF and TIC, have seemingly become more important vehicles in this regard (Rapoo 1995: 7). According to Botha (to be published shortly) the CPG came to overlap with the Department of Constitutional Development and the Public Service Commission in both main categories of its functions, namely involvement in the constitution-making process (presenting provincial interests) as well as change management at the provincial level. In the constitutional sphere the
work of the CPG also substantially overlapped with the theme committees of the CA. Furthermore, at the political level Botha (to be published shortly) concludes that the “major political parties at national level began to see the CPG as creating an opportunity for division between party positions at national level and party structures at provincial level”. This happened despite the fact that the CPG accepted as one of its principle guidelines “not to encroach upon their (other organisations and role-players) statutory or even conventional domains but to complement the different areas of competence and operation”. From its own latest report it appears that the provinces interacted hesitantly with the CPG which is for instance illustrated in the fact that a meeting of the Premiers’ Forum in East London on 6 February 1995 decided that they did not wish the CPG to interact with the Forum directly in regard to constitutional matters, but that any recommendations should be forwarded to the provincial constitution committees. Furthermore, the CPG was able to arrange discussions on constitutional matters with only five provinces, and only three provinces “responded to a request and follow-up reminders for a presentation on transitional matters”.

In much the same way as the Senate did not meet expectations in terms of serving provincial interests at a national level, as alluded to above, the CPG was overtaken by the inherent dynamics of the intergovernmental relations system and will also disappear once the new Constitution becomes operative. In this regard it must be added that the CPG at the outset decided that as a transitional institution it had a limited life span and it has recently advised the Minister of Constitutional Development that its target date for the completion of its tasks is 31 August 1996. Of further note is the recent appointment of the Commission of Inquiry regarding the Transformations and Reform of the Public Service (see Government Gazette 369: 17020), popularly referred to as the Presidential Review Commission (PRC). As this Commission only held its constituting meeting on 2 May 1996 it is too early as yet to anticipate its impact on the subject at hand. However, in terms of its brief, it can be expected that intergovernmental relations will of necessity motive significantly in its endeavour. Of particular relevance for this discourse is that in its first press release the Commission pertinently, when identifying underlying themes of its task, mentions: “Creating an appropriate institutional framework to cope with the creation of nine Provinces and the absorbing of the Homelands”, and, pursuing its terms of reference, *inter alia* identifies, as an expected output of its work, to “conduct an internal audit and review of ministries, departments and provincial administrations concerning objectives, structure, staffing and financing”.100
When contemplating the role of the Commission, Ramaite (1996: 5) suggests: “The work of the Commission will have an impact on the provinces and it only seems logical that provinces must play an important role in informing the work and output of the Commission. These could be achieved by channelling inputs through structures like the DGs Forum, the IGF and any other avenues that may be available.”

5.2.5 Rationalisation of intergovernmental institutional arrangements

Thus far the article has described the intergovernmental relations system and explained both its functioning in terms of relationships and the policy-management process it embodies and supports. At this point it is apt to evaluate the system in the context of this description, and both review possible future developments and provide some pointers for such development.

Intergovernmental relations in South Africa is a dynamic and vibrant phenomenon, and it can be expected that this characteristic will remain true in the foreseeable future. As government as a whole, and the civil service in particular, adapts to the dictates of the transformation processes already well under way in the country, there are bound to be changes in intergovernmental institutional arrangements. Obviously some developments will be more profound than others, and it appears that at present the system stands at the brink of a major development in its functioning. Insofar as the legislative intergovernmental institutional arrangements are concerned, this has already occurred with the adoption of the new Constitution, entrenching the NCOP and the Mediation Committee. Current developments in the executive and administrative arenas indicate that a similarly profound change may be brought to bear in these areas. Developments within the TIC and IGF, within the Department of Constitutional Development, as well as in terms of the recommendations of the CPG as discussed above, indicate a need both to rationalise and institutionalise, in the form of legislation (currently at the stage of a draft White Paper), the system of intergovernmental relations. Legislating for the executive and administrative spheres of intergovernmental institutional arrangements will undoubtedly markedly influence the system, and at the very least will create a full fledged formal system. As noted earlier in this article, only the present legislative system could be described as formal in terms of the definition of intergovernmental relations employed. Should legislation governing the functioning of, for example, the IGF, TIC and the MINMECs and their TSCs be passed, it would create a formal system of intergovernmental
relations cutting across the three types at least at the national level. Such legislation should also concern itself with the national/provincial interface, and should make provision for a legislated linkage in this regard. Provincial legislation should be passed in tandem with the proposed national legislation and the establishment of appropriate provincial structures should be considered in order to facilitate and further enhance the functioning of this linkage. In this regard Meyer (1995: 1584) envisages that: “The establishment of structures at the provincial level could serve a useful purpose to promote bottom-up communication between the provincial governments and the National Government, and to deal specifically with the programme management process.”

Legislation should also concern itself with the terms of reference of intergovernmental structures, and in particular those which are tasked with the co-ordination and/or implementation of a broad range of functions cutting both laterally and vertically across the tiers and functional terrains of government. In this regard consideration may be given to creating substructures which have narrower terms of reference and are more sharply focused, and requiring them to report to a broader management type of structure rather than having one large structure responsible for dealing with all aspects of intergovernmental relations. While this may increase the number of structures in the intergovernmental system, it may contribute substantially towards enhancing the efficacy of the system as a whole.

**Diagram 6**  The system of intergovernmental relations should it be legislated for: a possible scenario

<table>
<thead>
<tr>
<th>Legislative (formal)</th>
<th>Legislative (formal)</th>
<th>Legislative (formal)</th>
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</thead>
<tbody>
<tr>
<td>NCOP</td>
<td>IGF</td>
<td>IDC</td>
</tr>
<tr>
<td>MEDIATION COMMITTEE</td>
<td>MINMECs</td>
<td>TIC</td>
</tr>
<tr>
<td>PROVINCIAL LEGISLATURES</td>
<td>PREMIERS’ FORUM (informal)</td>
<td>DGs FORUM (informal)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>PROVINCIAL DEPARTMENTS</td>
</tr>
</tbody>
</table>

Legend: Solid lines show formal relations and dotted lines informal relations.
At an administrative level, rationalisation of the intergovernmental relations system will not only have to include consideration of the terms of reference of the body which will have to deal with this aspect, but also its status. The TIC has been hampered by absenteeism, and it is also dealing with a broad spectrum of issues – almost any issue can be placed on its agenda. Its terms of reference should be carefully prescribed, attendance at a sufficiently senior level prescribed, and it should be accorded appropriate status to serve effectively as the administrative nerve centre of intergovernmental relations at the national level.

In view of this, the future role of the Department of Constitutional Development must also be assessed. From the Framework for a White Paper on Intergovernmental Relations (1996: 1) as well as the Minister’s last Appropriation Bill Speech in the National Assembly (Hansard, 23 May 1995: 1578) it is clear that the Department sees for itself a definitive future role in terms of the facilitation and co-ordination of relations between governments. As part of its agenda in this realm it conceives increased formalisation of the system of intergovernmental relations under its auspices. Meyer (1995: 1583), when reviewing three different options in this regard namely continuation of the present informal arrangement of agreement between governments, providing constitutionally for them, or legislating for them, clearly indicates his preference for the last. He, however, recognises the need that such arrangements should be adaptable and suitable to cater for changing circumstances and adds that the intergovernmental process should not be seen as “a substitute for the governmental process itself, but as supportive in that it promotes joint decision-making to the extent that those decisions cannot be made individually or in isolation by any one government or level of government”. (See diagram 6 for a possible future scenario.)

The nature of the support structures required by the intergovernmental relations system will naturally depend on the degree of its formalisation. The dualistic system advocated in this article implies two categories of such structures. On the formal side, for instance, appropriate and sufficient capacity will have to be added to the Parliamentary Administration in order to cater for the special requirements of the NCOP with regard to its intergovernmental function. This requisite should be addressed in a specialised way and will be pivotal in the process of the successful implementation of the new Constitution. However, even informal intergovernmental relations organisations need a managerial and administrative infrastructure for optimal functioning. Examples in place are up to date,
reliable and comprehensive information systems and administrative support such as arranging and minuting meetings as well as following-up and reportback actions. It would be of value, in this regard, to analyse the responsibilities and tasks of equivalent structures elsewhere, such as the United States Advisory Commission on Intergovernmental Relations (ACIR). As was alluded to above when the intra-provincial policy-management process in the Eastern Cape was discussed, sustainable yet affordable capacity building for the effective and efficient functioning of the intergovernmental relations system is also pivotal at the national/provincial and inter-provincial levels. It is suggested that the Presidential Review Commission should pay particular attentions to this terrain.

The question, however, on the location of such an infrastructure remains. From the above official pronouncements it can be deduced that the Department of Constitutional Development is positioning itself for this role. A complicating factor in this context is that state departments are by nature line function institutions and as a rule meticulously guard their own operational domains. This reality places a serious question mark on the suitability of a horizontally equivalent institution managing lateral interaction such as intergovernmental relations. As where legislative and formal intergovernmental relations (the NCOP) are now being positioned at the highest level (Parliament), the equivalent on the executive and administrative side would be to situation custodianship of this sphere in the Office of the President (alternatively the Deputy President). Such an arrangement would not only accrue proper status to the intergovernmental relations system but place it above the reality of interdepartmental bickering.

In closing the discussion on legislating for intergovernmental relations, it must be emphasised that legislators will have to take into account the nature of the political milieu as a whole, and its increasing tendency to lean towards competitive interaction, especially between political role-players, but also at other levels. In this regard two inherent and unavoidable conflicting consequences of tiered participatory government should be taken into account – on the one hand the existence of fundamental tensions owing to shared or concurrent governance (in South Africa’s case, this is prescribed inter alia by Schedule 5 of the new Constitution), which implies conflicts over goals or means of reaching goals as well as ownership and control over the allocation of resources, and on the other the necessity of at least a modicum of commitment to shared policy goals without which disintegration of the state would be a distinct reality. In a dominantly competitive
situation, efforts at regulatory prescription and coercion would be the order of the day whilst, in a co-operative mode, merits and awards would be the central foci. See diagram 2 in which the dynamism of this continuum is depicted. The opinion is held that in prescribing the structure and functioning of the system of intergovernmental relations, its design should be such that it facilitates and promotes to the maximum extent possible dynamic participation in the centre of the continuum, i.e. vacillation between co-operation and competition. Structures which tend to promote either non-participation or coercive co-option will discredit and ultimately destroy the intergovernmental relations system and its ability to promote stability and good governance. Against this background the Central Government will be compelled to throughout strike a fine balance between resorting to regulation/coercion and merits/awards, as described above. The provinces alike (especially the non-ANC controlled ones) will have to heed their options carefully particularly in terms of the possible outcomes of approaches followed. An example in place is the Inkatha Freedom Party’s decision in May 1995 to use “institutional conflict” to force the central Government to accede to its demands, and thereby inter alia declared a boycott of all intergovernmental structures. Since it has apparently realised that nobody was protecting its interests in these structures, it has returned to them, as is indicated in a recent report (Mail & Guardian, 31 May–6 June 1996) which attests that the KwaZulu-Natal MECs “have now quietly returned to the forums”.

It is now necessary to move towards a discussion of what Botha (to be published shortly) describes as the informal system of intergovernmental institutional arrangements. However, it is clear that if legislation is introduced along the lined proposed by the Department of Constitutional Development, the examples cited by Botha (to be published shortly) as informal will no longer fit this description. Nonetheless, an informal sector will remain, with perhaps the most important examples of such structures being the Premiers’ Forum and the recently established Forum of Directors General. As indicated earlier in this article, Botha is a strong proponent of retaining informality in intergovernmental relations especially to enhance and facilitate dialogue in an open and non-binding fashion between role players. This informal arena will be the engine-room of intergovernmental relations, and will form the fabric of a safety net built into the system. In this regard, it will be of importance to monitor the relationships between these informal structures and the newly established Mediation Committee because of the conflict-resolving potential inherent in the nature of the informal structures. As Botha pointed out during the mentioned interview, the
Forum of Directors General has been established to share experiences, discuss common problems and learn from the ways in which other provinces deal with the challenges of daily administration. From this it is evident that there is a great conflict reduction potential, and hence a strong element of "co-operative government" built into these informal intergovernmental institutional arrangements. Debates can take place openly and informally and joint positions based on consensus can be adopted prior to entry into the formal system of intergovernmental relations.

The opinion is thus held that, should legislation be adopted to "formalise" the presently informal nature of the IGF, MINMECs, TIC and TSCs, the focus of informal activity will simply be shifted to other institutional arrangements, some of which already exist and some of which will develop depending on the exigencies of effective government. The current vacuum experienced in the intergovernmental relations system does not lie at the informal level but can be located within the absence of formal arrangements in the spheres of executive and administrative reactions. Legislation may go some way towards resolving this problem but the informal sector will remain vibrant and dynamic, shifting to other structures. In fact, it can be argued that legislation is now a necessity if the critical balance between formal and informal intergovernmental relations, so essential for the effective functioning of the system, is to be found.

In the context of current developments at the political level, and most notably taking into account the withdrawal of the National Party from the Government of National Unity as well as the seven ANC-controlled provincial governments on 30 June 1996, this aspect of the intergovernmental relations system can be expected to assume an almost disproportionate importance. Ultimately any system of intergovernmental relations has as one of its main objectives the maintenance and enhancement of stability in order to ensure effective governance. Given the intense rivalry and competition characteristic of party politics worldwide, it can be expected that the new role the National Party sees for itself is as a strong and vociferous opposition, which will engender the necessity for the development of a strong informal intergovernmental relations system which will be able to withstand the hard horse trading induced by competing political parties, provinces and other role-players which constitute the intergovernmental relations system. While it is envisaged that the formal system will not be conflict-free, it can be expected that the informal sphere will be the arena in which most deals between political parties, provinces and other role-players will be brokered. This should serve as an additional
incentive for the legislation of the presently informal part of the intergovernmental relations system as it would enable the two sectors to focus more clearly on their specific roles. Thus it would place the currently informal sector in the position it ought to be in to deal in a more structured and focused way with the demands of intergovernmental relations.

In this light it is important to note that current political developments (notably the disintegration of the Government of National Unity) as well as the notion of the escalating institutionalisation of provincial interests, discussed above, place a question mark over the wording of the heading of Chapter 3 of the new Constitution ("Co-operative Government"). It may be over-optimistic to expect a predominantly co-operative system of intergovernmental relations; on the contrary, the development of a more competitive system would seem likely. Moreover, it can be expected that this competitive mode will permeate all dimensions of the intergovernmental relations system for instance also affecting the interaction between national and local as well as provincial and local government levels. Whereas some political role players, particular the Democratic Party, have for some time been arguing strongly for a competitive relationship both vertically and horizontally,\textsuperscript{105} it is known that the ANC has been advocating "a model which engenders an atmosphere of support, respect, acknowledgement and co-operation" (\textit{Mail & Guardian}, 29 March – 3 April 1996 and Rapoo 1995: 16–20). Political events, however, seem to have overtaken the feasibility of such a largely co-operative probability in intergovernmental relations. Therefore, in providing and establishing structural and human relations capacity, including both formal and informal dispute management and deadlock breaking devices, for intergovernmental structures this macro-political context will have to be taken into consideration.

6 CONCLUSION

It is difficult, if at all possible, to make definitive conclusions on a field presently as vibrant and dynamic as the one under consideration in this article. Hence this conclusion can probably be more aptly described as a summary, and contains the more pertinent observations on the nature and dynamics of intergovernmental relations contained in the substance of the article. These are the following:

1 The breadth and depth of the topic of intergovernmental relations emerged clearly in this study. Apart from the focus of the article at least seven other dimensions of the field, which were excluded, have been
identified. These exclusions as well as the areas touched on in the present discourse provide an outline for further comprehensive research.

2 The dependence of the establishment and management of stable and good governance on an effective and efficiently functioning system of intergovernmental relations was ascertained beyond doubt. Producing sound political outcomes, ie stability, as well as executive and administrative outcomes, ie provision of infrastructure and services, is an impossibility without smoothly functioning intergovernmental relations in any tiered system of government. In South Africa, especially, the distinct movement away from a unitary system of government towards a federally oriented one, and particularly the emergent institutionalisation of parochial provincial interests, necessitated not only the formation of an array of new structures, but also the clear demarcation of their functions as well as the provision of sufficient capacity for their proper functioning. In fact, the transformation process itself, mainly because of its participative and transparent nature, is largely conducted within the realm of intergovernmental relations, and this has to be undertaken within the context of past inheritances.

3 It is significant that the new Constitution formalises intergovernmental relations into the structures of government illustrating the recognition of the centrality of such a system to good governance as a whole.

4 The above obligates intensified attention to the subject of intergovernmental relations by scholars and practitioners alike. Particularly in the South African case and following from the formative stage in which the system finds itself, the subject begs description, in-depth analysis, principled reasoning and innovative option creation.

5 The case study approach followed here, proved to be of particular value in ensuring a hands-on, practical and user-friendly product going at least some way towards addressing the South African need at this juncture of the transformation process. It is hoped that this will contribute to the unleashing of further scholarly energy and adequate resources for comprehensive and ongoing research. Policy studies in South Africa in general stand to benefit from case study exercises.

6 The centrality of intergovernmental relations in the broader process of policy management emerged clearly. It is a vital tool embracing all the different dimensions of policy management as defined in the article and is aimed at facilitating and enhancing interaction between various sets of role-players at various levels within a system or between systems in order to create a stable environment with the objective of ensuring good governance. This interaction transpires in joint decision-making,
consultation, co-ordination, implementation and advice and is aimed at accommodating and managing interdependence, geographical, and social diversity as well as ongoing comprehensive transformation.

7 A dimension that transpired in the article, and which is vital for policy managers to note, is that the mode in which this interaction takes place will constantly vary between intense competitiveness and close cooperation. These varying modal zones require own and unique management strategies which compel policy planners to constantly maintain a sensitivity to such mode switches and adapt policy-management processes according to their dictates. Recent developments in South Africa, markedly the breaking up of the Government of National Unity, strongly suggest movement towards greater competitiveness in inter-governmental relations and this will have to be managed effectively in order to ensure continued system stability and good governance. Not only will this have to be managed effectively, but the structural design of the system will have to be taken into account.

8 Provincial policy-management processes, because of their formative and receptive nature, stand to benefit immensely from sound critical and incisive analysis, as the appropriate and remedial developmental steps now will make the crucial difference between effective and ineffective processes in the future.

9 The nature of the interface between the national and provincial levels of government, as well as between the provinces will have to take into account the context of macro-political system as a whole as alluded to in 7 above.

10 Following from this, the rationalisation of the intergovernmental relations systems as a whole will be hard pressed not to take into account the need for a balance between legislated and informal structure, as well as the bottom-line requirement that the ultimate design of the system ensures and promotes maximum participation. Thus in designing a system of intergovernmental relations, it will be necessary to strike a fine balance between regulation/coercion and merits/awards. Participants in the system will also have to heed their options carefully in terms of possible outcomes of approaches followed. Such a design should also reflect flexibility for redesign or adjustment whenever necessary.

11 The establishment and development of appropriate and sufficient capacity at all levels of government in order to properly manage and administer intergovernmental relations emerged as a crucial dimension. The location of such structure is equally of importance. It was indicated that, although the Department of Constitutional Development is
presently positioning itself for this role, the suitability of an institution located at the same level as other government departments to perform this role is questionable. It is therefore proposed that, in order to accrue proper status to the intergovernmental relations system and place it above the reality of interdepartmental bickering, custodianship thereof should be situated in the Office of the President, or alternatively the Deputy President.

12 The terms of reference of the central structure co-ordinating and managing the system (NCOP/IGF/TIC), as well as its sub-components, will have to be more carefully described to include only transverse functions. In this regard, it may be pertinent to analyse Section 4 functions in order to determine those requiring multi-lateral and co-ordinated attention, and establish sub-committees, or re-structure MINMECs, to deal effectively with cross-cutting functions and their implementation.

13 Rationalisation of the intergovernmental relations system should commence with a critical assessment of the currently existing structures rather than working from the premise that it is necessary to create a plethora of new structures. While it may be necessary to create some new structures, duplication should be avoided at all costs, as this will detract from the smooth and effective functioning of the system as a whole.

Eddington has asserted, and modern physics thus far has supported his assertion, that it is an impossibility to synchronise distant clocks. This, to put it simply, is because light travels at finite speed (299 330 km in a second). If it travelled at infinite speed (that is if it were instantaneously propagated), it would be a simple matter to synchronise these remote clocks. To quote Jeans (1942: 73): "... the theory of relativity has made it clear that the synchronisation of distant clocks, if it could be achieved at all, would call for a far more elaborate technique than looking through telescopes at distant clocks."

Thus it is with the complexities of intergovernmental relations, especially at the developmental stage we find ourselves in at present. While it is not necessary to assume that we cannot synchronise the constituent parts of the intergovernmental relations system (because unlike the example quoted from the physical sciences above, no such proof exists yet), the designers of the system are faced with the challenge of achieving this in the context of the birth of a set of facts upon which to base their decisions. Such synchronisation is currently being attempted, and it can be expected that rationalisation of the present system will move the process further along, but
it needs to be informed by healthy and vibrant debate between all role-
players. Furthermore, it needs to be underpinned by sound institutional
support for research and development, especially within government but
also in academia and from other sources. The relationship between
intergovernmental relations, stability and delivery is clear – it is time for
those involved in intergovernmental relations, scholars and practitioners
alike, to prove that, contrary to the physical impossibility of synchronising
distant clocks, it is possible to achieve such a state of affairs in the
intergovernmental relations system.

NOTES

1 The views expressed in this article are those of the authors and don’t necessarily reflect those
of any organisation with which they are associated.
3 Thereby inter alia averting the occurrence of serious system demand input overloads (see
Easton, 1967:128–140), this having been a root cause of post-independence political
instability in much of Africa and emanating from a wide disparity between societal
expectations and governmental capacities to produce tangible grassroots development
results.
4 The White Paper on the Transformation of the Public Service (22 December 1995), deals
exclusively and comprehensively with this, putting into place the framework and general
policy guidelines within which restructuring and transformation is to take place, as well as
the structures to be used for this purpose (see Internet site http://www.sacs.org.za/level4/
staatsum.htm, 4 June 1994).
6 In accordance with the provisions of the Interim Constitution the Constitutional Court must
now certify that the newly adopted Constitution complies with the Constitutional Principles
contained in Schedule 4 of the Interim Constitution (Section 71). Thereafter it shall be
assented to by the President and shall upon its promulgation be the Constitution of the
Republic of South Africa (Section 73(13)).
7 In this regard the Mail & Guardian (12–18 April 1996) points out that: “The new
Constitution will introduce the concept of Intergovernmental Relations into the structure of
Government by creating the National Council of Provinces.”
8 See Meyer’s Appropriation Bill speech in the National Assembly on 23 May 1995 (Hansard,
1578–1589) wherein he inter alia states: “Intergovernmental relations between the respective
governments and levels of government are, therefore, essential to promote co-operative
governance and to ensure that the demands and needs of our people are heeded” (Column
1582).
9 Department of Constitutional Development. 1996.
10 The Institute for Democratic Alternatives in South Africa (IDASA) for instance views the
shift in focus regarding budgeting from the national to the provincial level as so profound
that it is establishing a Provincial Fiscal Analysis Project in order to “conduct research into
intergovernmental fiscal relations and provincial budgetary practice” (advert in Mail &
MINMEC is an acronym for regular meetings between Central Government Ministers and Members of the Provincial Executive Councils.


Department of Constitutional Development. 1995(a).

The provincial heads of departments of Economic Affairs are in the process of establishing a technical committee to support the relevant MINMEC structure.

For a list of these structures as well as a synopsis of their terms of reference see Department of Constitutional Development. Undated. During the research undertaken for this article more intergovernmental relations structures were, however, discovered and this list is therefore not complete.

An exception in this regard according to De Coning (1995: 64) is the work done by Mark Swilling at the School of Public and Development Management at the University of the Witwatersrand. Two other significant South African contributions are Schütte, L D, Schwella, E and Fitzgerald, P (1995) as well as Brynard, P and Erasmus K (1995).

This TIC bosberaad was held at Jakkalsbessie in the Kruger National Park on 15–17 January 1996.

See Heymans (1995) for a discussion on the involvement of these types of forums in the governmental process.

ECSECC is the Eastern Cape equivalent of the Provincial Economic, Development, and Labour Advisory Councils (PEDLACs) being established in other provinces.

In an interview with the Chief Executive Officer of ECSECC, Mcebisi Jonas, on 15 April 1996, it was clear that he saw a strong role for this autonomous body both with regard to establishing sound relations with similar structures in other provinces as well as with the Provincial Government, particularly in the spheres of policy formulation and in providing assistance for policy implementation.

A preliminary strategic planning meeting to discuss the vision, mission and objectives of ECSECC was held on 11 April 1996.

See Eastern Cape Provincial Government. 1995(a).

Examples in place are the common borders shared by the Eastern Cape and Lesotho, Mpumalanga and Mozambique and Swaziland, KwaZulu-Natal and Mozambique, Swaziland and Lesotho, Northern Province and Zimbabwe and Botswana, Northwest Province and Botswana as well as the Northern Cape and Botswana and Namibia. This aspect of intergovernmental relations could also have implications for regional offices and local governments located close to provincial borders.

Although it can be used by other scholars for such purposes. Of particular note in this regard is the recent emergence of policy-related research in a developmental context and focused on Africa (see for example Juma & Clarke 1995).


Owing to the inconclusive wide-ranging and penetrating debate concerning the definition, nature and applicability of an interdisciplinary approach to policy studies, this aspect is not included in this definition. In this regard Keyfitz (1995: 21) notes: "Why is it that throughout this century the most authoritative voices in science, and especially in the policy
sciences, have called for interdisciplinary research, and yet relatively little takes place? One can only conclude that it is harder than appeared, that some hidden obstacle stands in its way.”

31 Indicative of the all-embracing character of intergovernmental relations, encompassing even crime prevention and security, is a recent report of the Western Cape MEC for Police, P C McKenzie, which notes: “It is submitted that a police force structured on the basis of a proper geographic and functional division ... can only work effectively if there are good intergovernmental relations” (Internet site http://cgi-bin/vdkw-cgi/xcbf6e4d30/search279470/4#hco, 4 June 1996.)

32 Although some scholars might theoretically argue the extent of federalist attributes of the Constitution, Olivier (1995: 69) enumerates four crucial factors in the Constitution usually viewed as the characteristic features of a federation whilst Watts (1995: 88) concludes: “The interim Constitution has many of the characteristics typical of a federation even though, as in the more centralised federations elsewhere, the national government retains strong powers, including the ability within certain limits to encroach upon areas of provincial competence.” Leonardy (1995: 156) again is more reserved when he states that “South Africa is only just developing (or rather re-developing) into a federal or at least quasi-federal structure ...”.

33 This remains problematic. For example, the Eastern Cape, the seashore legislation, inherited from the former Cape Provincial Administration and the former Transkei, is administered by two different new provincial departments, and must still be rationalised. A further example is highlighted in a recent report by the International Mission on Environmental Policy (1995: 22–27) which identifies the fragmentation of state functions with regard to environmental policy and practice as a serious impediment to the proper management of environmental issues in South Africa.

34 Dr Zola Skweyiya is Minister for Public Service and Administration in the South African Government.


36 This inter alia entails that: “A thorough revision must be made of all statutes, ordinances and regulations to consolidate and integrate legislation dealing with resource use. This would go hand-in-hand with acceptance of the principles of subsidiarity in terms of which all matters relating to resource use would be dealt with by the lowest practical level of government” (http://052.iafrica.com/dp/envir.htm, 4 June 1996.)

37 The Mail & Guardian (24–30 May 1996) for instance reflects on the emergence of ethnic tensions in Northern Province, where Venda and Shangaan-speaking people feel marginalised. This is a good example of the need of accommodating and managing geographical and social diversity as expressed in the definition of intergovernmental relations above.

38 It must be noted that the accuracy of these figures is questionable. In order to eliminate this inaccuracy, the Provincial Administration has commissioned a consortium of consultants to inter alia do a physical head-count of all personnel employed in the Province in order to establish an accurate data base.

39 The way in which this excess (or right-sizing as it is popularly referred to) is dealt with merits study on its own. In brief, a rationalisation task team under the chairpersonship of the MEC for Public Service and Administration has been established, and it in turn has created a Subcommittee representative of business, unions and civil society to ensure broad involvement in the resolution of this problem (interview with Thozamile Botha, Director General, Eastern Cape Provincial Administration on 7 May 1996.)

40 These were the first public servants to receive letters of retrenchment, in many cases leading to discontent.
41 Information obtained from the Personnel Directorate, Office of the Director General: Eastern Cape (figures as at April 1996).
42 Interview with Dawie Bezuidenhout, Permanent Secretary of Administration, Eastern Cape Provincial Administration, 4 June 1996.
43 Information obtained from the Personnel Directorate, Office of the Director General: Eastern Cape (figures as at April 1996).
44 Eastern Cape Premier Raymond Mhlaba who recently (May 1996) visited British Columbia has, according to reports (see Daily News and Actuality Report, 2 May 1996), formally signed a twinning agreement with his Canadian counterpart. Also, capacity building and empowerment exchange visits occur on a regular basis between the Province and Lower Saxony in Germany.
45 See also Botha (to be published shortly).
46 The Constitution as well as representations to the Constitutional Assembly and other related matters are accessible on the Internet at http://www.const.org.za.
47 For a breakdown of the composition of the Senate, see Internet sites gopher://.anc.org.za/oo/govdocs/misc/senator.txt and http://www.polity.org.za/lists/senate.html.
48 It is envisaged that this Committee will consist of the “nine best consensus-seeking politicians from the National Assembly and nine provincial representatives from the NCOP, one per province” (Mail & Guardian, 12–18 April 1996).
49 Policy management is defined in the first part of the article.
50 The Annual Report of the Province for the 1995/6 financial year refers to “the elimination of the uncertainty which has been a characteristic of this transitional period, and should help to restore a sense of stability, morale and work ethic to the administration” (as yet unpublished).
51 In a document entitled: “Report on the present state of the Province: Provincial Administration: Eastern Cape” prepared by the Director-General: Eastern Cape for presentation to the commission on Provincial Government, it is stated that: “The greatest challenge since the democratic elections held in April last year has been, and still is, the amalgamation of the three administrations inherited from the past.”
52 The process of policy management and strategic planning was discussed in an interview with Botha, on 7 May 1996.
53 The first strategic planning workshop was held during May 1995.
54 This was done at a workshop held at the Bisho campus of Fort Hare University during June 1995.
55 This was done at a provincial workshop held at the Kennaway Hotel, East London on 13 November 1995.
56 This was done at a workshop held in Katberg during March 1996.
57 See Eastern Cape Provincial Government. 1995(b), an internal document which inter alia states that the purpose of the IDTC was to “ensure that all departments move in the same wavelength and have the same understanding on the role they are supposed to play to achieve the Provincial Vision and Mission”, 22 August 1995. This also transpired in an interview with Botha on 7 May 1996.
58 These sub-committees, which included officials from all departments, were: (1) Human Resources Development; (2) Information and Data Base National Information Project; (3) Infrastructural Development and Service Delivery; (4) Integrated Development Planning; (5) Budget and Finance; (6) Programme Management; (7) Project Preparation Facility; and (8) Parastatals (Ibid 22 August 1996: 2–3).
59 Ibid 22 August 1995: 2. Botha (interview 7 May 1996) also emphasised that it was meant to reduce competition between departments, as well as to harmonise policy between them.
This is particularly evident from an analysis of the minutes of the IDTC over time as they initially reflect a strong RDP bias which shifts gradually towards a far stronger departmental focus as successive meetings are held.

This was minuted on more than one occasion. The minutes of 21 February 1996 reflect the following: “All sub-committee co-ordinators were absent” and the minutes of 27 March 1996 record that: “the co-ordinators of various sub-committees did not attend the previous meeting, probably because they were expected to prepare reports and had not done so”.

For example see the minutes of the IDTC, 27 March 1996: 2. Botha (interview 7 May 1996) emphasised that all policy related documents from the various departments must be referred to the IDTC and then to the IDC before going to Cabinet.

Interview with Elroy Jacobs, Deputy Director, Strategic Planning, Eastern Cape Provincial Administration, 8 May 1996.

The rationalisation of the Premier’s Office (which included the Office of the Director-General) is currently receiving attention and this matter will be resolved shortly.

This was articulated by a number of the senior management staff interviewed. See also: Eastern Cape Provincial Government. As yet unpublished: 19.

This requirement places the responsibility for sound and effective intergovernmental relations squarely within the ambit of the Director-General. In the Eastern Cape, provision has been made in the Office of the Director-General for a Deputy Director: Intergovernmental Relations with the Strategic Planning Unit. The post is currently not filled (see section 5.2.5 of this article for a discussion of the implications of this).


This appears to be the pattern throughout the system of intergovernmental structures established thus far.

Information obtained in an interview with Dr Ronnie van Wyk, Permanent Secretary of the Department of Education, Culture and Sport, Eastern Cape, on 17 April 1996.

Information obtained in an interview with Monde Tom, Permanent Secretary of the Department of Economic Affairs, Eastern Cape on 18 April 1996.

In the only horizontally representative intergovernmental structure at an administrative level, the Technical Intergovernmental Committee, the Provincial Director General is the only person attending from a province. Furthermore, it has been noted that often important role-players such as the Provincial Directors General are not present, possibly due to pressure of work (see Department of Constitutional Development: 1995b).

This is clear from interviews conducted with officials in the Provincial Administration, as well as from an analysis of the minutes of the meeting of senior management, which reflect a wide variety of issues covering a broad spectrum, a high degree of crisis management, and very little follow-up, monitoring or evaluation.

As reflected in the attendance lists of the minutes of the IDTC listed above.

This emerged during interviews conducted with officials in the Provincial Administration. It is also clear from the structure of the Provincial Government and Administration (as prescribed by the Interim Constitution), which makes provision for a political head (Member of the Executive Council), as well as an administrative head (Director General). Theoretically, in all matters pertaining to the Administration, the Director General will be accountable, while for matters of a policy nature, the Member of the Executive Council will be accountable. In practice, however, this distinction is not so easily made.
79 This transpired *inter alia* during an interview with Ronnie van Wyk, Permanent Secretary of Education, Culture and Sport, Eastern Cape Provincial Administration on 17 April 1996.

80 Such capacity is for example being established in the Support Services Directorate, Office of the Premier, Gauteng. A policy research unit and resource centre is in the process of being set up to analyse policy, consider the implications of policy and to co-ordinate various views on policy resulting from its implementation (interview with Glenda White, Head: Research, Office of the Premier, Gauteng Provincial Administration, 3 July 1996).

81 The Strategic Planning Unit in the Office of the Director General comprises one person responsible for intergovernmental relations and one person responsible for inter-departmental co-ordination. Information obtained during an interview with Mbuiseli Deliwe, Director Strategic Planning, Eastern Cape Provincial Administration on 7 May 1996.

82 It is also pivotal that centres of excellence such as research institutes and centres devoted to policy development be involved (see De Coning & Fick 1995: 11–16).

83 This transpired during various interviews with senior management in the Eastern Cape Provincial Administration.

84 Examples of formal structures cited by Botha (to be published shortly) are the Department of Constitutional Development, the Commission on Provincial Government, the Public Service Commission, the Financial and Fiscal Commission and the Constitutional Court. He also refers to the Senate, which should provide a link between the provincial legislatures and the National Assembly, but points out that “in reality this linkage is missing”.

85 Examples of informal intergovernmental structures cited by Botha (to be published shortly) include the IGF, MINMECs and TSCs.

86 Department of Constitutional Development. Undated: 5.

87 Ibid pp 5–6.


89 Interview with Ronnie van Wyk, Permanent Secretary, Department of Education, Culture and Sport, Eastern Cape Provincial Administration, 17 April 1996.

90 Other such commissions include the Commission on Remuneration of Representatives (Interim Constitution, Sections 207–298) but which will disappear once the new Constitution becomes operative and, in the judicial sphere, the Judicial Service Commission (Interim Constitution, Section 105 and the new Constitution, Section 178.) For the purposes of this article, it is adequate to use the three examples in the text above to describe advisory intergovernmental institutional arrangements.

91 See Public Service Commission. 1996.

92 For the terms of reference of the FFC, see Internet site http://www.sacs.org.za/gov/ffchome.htm.


94 Botha was the first Chairperson of the CPG.


96 Ibid p 6.

97 *Loc cit.*

98 Friedman (in *Double Talk*. 1995: 19(1)) expresses this well in an article titled: “Without real power the senate is a waste of money.”

99 *Op cit.* pp 5, 10.

100 See Presidential Review Commission. 1996.

101 This also transpired during an interview with Gustav von Bratt, Acting Chief Director:
Intergovernmental Relations, Department of Constitutional Development on 15 March 1996.

102 According to de Villiers (1995(c): 44) the ACIR, which was set up in 1959, is a permanent national bipartisan body representing the executive and legislative branches of federal, state and local governments as well as the public in general. The Commission consists of 26 members, with nine representing the federal government, 14 representing the state and local governments, and three representing the general public. The members serve two-year terms but may be reappointed.

103 See in this regard May's (1995: 89–113) analysis of these dynamics in the case of New South Wales and New Zealand.

104 NP leader F W de Klerk, in his first address after the party’s decision was announced, said that South Africa needed a “dynamic multi-party political system where the majority party is challenged effectively” (Citizen, 11 May 1996), and emphasised that: “We need sharp contrast between options and effective watchdog politics by a motivated and strong opposition” (Sunday Independent, 12 May 1996). Similarly the NP Eastern Cape MEC stated: “From the opposition seats we will throw you the ball and you will have to run with it. The party will play the role of prophetic opposition” (Internet site http://www.ru.ac.za/departments/journ/ecnarchive/nat.html).

105 Following from a question in this regard put to the DP at its site on Internet World Wide Web, they replied via E-mail: “As you may be aware the Democratic Party supported the Constitution but reserved its right to take a number of issues to the Constitutional Court and we are now in the process of doing so...

“With regard to Chapter 3, we supported the co-operative government clauses in the belief that these would contribute to the efficient functioning of government. We believe it is important that the various arms of government and the Provinces operate in a manner that is complementary and which benefits the entire nation.

“What we are clearly against is any effort to use co-operative governance as an excuse to centralise power and to dilute the powers of the provinces. Indeed one of the actions we are bringing in the Constitutional Court relates specifically to the exclusive powers of the provinces as guaranteed by the Constitutional Principles appended to the Interim Constitution.

“So while we support in broad outline the co-operative governance chapter in the Constitution we will ensure that every effort is made to allow for maximum devolution of power to provincial governments and indeed to local government.”

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