



**UNIVERSITY OF KWAZULU-NATAL**

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**Policy Coordination in Intergovernmental Relations in  
South Africa: A Case Study of Higher Education  
Institutions**

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By

**Gabi Sylvia Khanyile**

217063115

Submitted in partial fulfilment of the requirements for the degree of  
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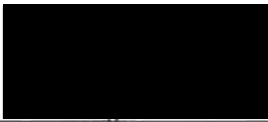
**Supervisor**

Mr Mark Rieker

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## DECLARATION

I, Gabi Sylvia Khanyile, thus declare that this dissertation is entirely my work. All sources, references, and borrowed ideas have been properly credited. It is being submitted in partial satisfaction of the requirements for the Master of Social Science (Policy and Development Studies) degree at the University of KwaZulu-Natal, Pietermaritzburg, South Africa, in the School of Social Sciences, College of Humanities. None of the current work has historically been submitted for any degree or examination at another university.



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**Student name**

02-08-2023

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**Date**

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## ABSTRACT

The study looks at the intergovernmental ties between South African Higher Education Institutions and the government before and after 1994, up to the year 2020. Before 1994, the Apartheid government neglected and isolated the theory and practice of interstate relations. The Republic of South Africa's Constitution was approved in 1996, and it provided for the development of the Intergovernmental Relations Framework. The transition to democracy has resulted in substantial changes in the restructuring of intergovernmental relations and the redistribution of responsibilities across the three levels of government. The Intergovernmental Relations Framework of 2005 provided for the development of national, provincial, and municipal intergovernmental relations structures that foster cooperation among the three spheres of government.

The Republic of South Africa's 1996 Constitution established government systems that encouraged collaboration and intergovernmental partnerships. But notably, these systems contain challenges that limit the achievement of objectives that must be met. After 1994, the South African government designed and implemented higher education policies that promote transformational aspects such as access, development, accountability, and quality.

However, the higher education sector is still changing, and its institutions' effectiveness is not at the level it should be. Some institutions have failed to completely eradicate and dismantle the debilitating apartheid structures which impact negatively higher education institutions. Notably, these institutions must be able to lead in addressing regional economic difficulties; hence it is recommended that adequate policies and programs must be actively adopted to address the problems of institutional change and to improve both access and success.

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## ABBREVIATIONS/ACRONYMS

ANC - African National Congress

DHET- Department of Higher Education

DPLG - Department of Provincial and Local Government

ERS- Educational Renewal Strategy

ETQA- Education and Training Quality Assurance

FOSAD - Forum of South African Directors-General

HE - Higher Education

HEI - Higher Education Institutions

HDI- Historically Disadvantaged Institution

HESA- Higher Education South Africa

IGR - Intergovernmental Relations

IGRF - Intergovernmental Fiscal Relations Act

IRFA - Intergovernmental Relations Framework Act

MEC - Member of Provincial Executive Council

MFMA - Municipal Finance Management Act

MinMec - Ministers and Members of Executive Council

NCHE- National Council of Higher Education

NCOP - National Council of Provinces

NDP- National Development Plan

NPHE- National Policy on Higher Education

NPM - New Public Management

NSB- National Standards Bodies

NSFAS- National Student Financial Aid Scheme

NQFA- National Qualifications Framework Act



PCC - President's Co-ordinating Council

PCF- Premier's Coordinating Forums

PFMA - Public Finance Management Act

RSA - Republic of South Africa

SALGA - South African Local Government Association

SAQA- South African Qualifications Authority Act

SGB- Standards Generation Bodies

WP-SET- White Paper for Post-School Education and Training

# Chapter 1

## Introduction and Background

### 1.1 Introduction

This study examines the intergovernmental relations between Higher Education Institutions (HEIs) and the government in South Africa. According to Edwards (2008:66), "Intergovernmental relations are intended to promote and facilitate cooperative governance and decision making by ensuring that policies and activities across all spheres encourage service delivery to meet the needs of citizens effectively." It is also noted that Intergovernmental relations involve complex and interdependent relations between the three spheres of government as well as the coordination of public policies through programme reporting, planning and budgetary processes (Malan, 2005 cited in Fox and Meyer, 1995).

The research project is introduced in this chapter. The chapter presents a historical overview of South Africa's rule before and after 1994, as well as assesses how citizens were able to access service delivery during the stated period. The first democratic elections in South Africa were held in 1994 as a result of changes brought about by the 1993 Constitutional Framework. The state's structure underwent a considerable transformation during the country's transition to democracy. The 1996 Constitution, which succeeded the Constitution of 1993, established a form of government that encouraged collaboration and intergovernmental partnerships. The research problem, the research objectives, and the methodology chosen for the study are all introduced and explored in this chapter.

### 1.2 Background

Before 1994, South Africa had fragmented governments in which public resources were spent and services were delivered along racial lines. Following the lifting of the ban on liberation groups in 1990, talks between the Apartheid administration and members of the various liberation movements including the African National Congress (ANC) began. After three centuries of racial dominance and discrimination, the liberation forces initially resisted a "federal" type of government and supported a unitary state (Malan, 2008:79).

In 1993 the Interim Constitution was approved and became effective in 1994 and this gave rise to the first democratic elections in South Africa. Government efforts were concentrated on fostering a shared understanding that the new democratic South Africa would need to be one that prioritised development and that policy needed to address historical inequalities through integrated, participatory, and partnership-oriented governance, planning, and management (Malan, 2008:77).

When the Constitution of the Republic of South Africa of 1996 was adopted and replaced the interim Constitution of 1993, the Government saw a need to pursue socio-economic and political goals utilising a decentralised government (DeVilliers, 1997:199). The Constitution created a system of government that promoted cooperation and intergovernmental relations (Malan, 2005:227). Chapter 3 of the Constitution of the Republic of South Africa of 1996 provides for the principles of intergovernmental relations and corporative governance and spheres of government. The Constitution gave more autonomous power to local authorities. The government was changed from the hierarchical model to the National, Provincial and Local spheres of government. The three spheres of government and their powers and functions were defined in terms of their relationships and interrelationships under the principles of intergovernmental relations and cooperative governance (Zulu, 2014:11).

De Villiers (1997) argues that for many years South African politicians, scientists and administrations have been disregarded and the theory of intergovernmental relations and its practical functioning was ignored and isolated. Mdliva (2012) suggests these challenges could be addressed through connected government in all spheres. According to Malan (2005:228) Intergovernmental relations “are fiscal and administrative processes where all spheres of government share revenues and other resources based on special conditions.” This study examines the realities of intergovernmental relations with reference to the Higher Education (HE) sector in South Africa.

## **1.3 Research Problem and Objectives**

### **1.3.1 Research Problem**

The National Development Plan (NDP) (2011:271) revealed that according to available studies “higher education faces major challenges: low participation, high attrition rates, a curriculum that does not speak to the societal needs, the absence of an enabling environment that allows every individual to express and reach full potential and poor knowledge production that does not translate into innovation.”

Furthermore, according to the NDP (2011) report the department of Higher Education and Training did state its intention to improve skills planning. This was done to help inform funding decisions as well as increase the supply of relevant skills in the labor market. The education and training system should be able to meet the identified skill needs. This necessitates increased capacity, utilising both public and private training providers. It should include a focus on developing relationships with workplaces as well as training curricula and skilled trainers. There was a creation of a national skill planning system to facilitate the conduct of labor market research and to generate different skill scenarios that can be used to inform training providers. This strategy is recognised as critical towards comprehending the country's long-term human resource requirements (NDP, 2011:286). The government sought to provide an overarching policy framework to coordinate the effective and efficient production of knowledge across universities, ensuring that knowledge production is aligned with national priorities (NDP, 2011:292). The government planned to set participation rates at five-year intervals to encourage increased university enrollment, considering the time required to build infrastructure, funding, and staff capacity (NDP, 2011: 290).

The Department of Higher Education and Training (DHET) is the government agency in the national domain directly in charge of intergovernmental relations in the higher education sector. It is also one of the key players in promoting these partnerships. The government has established a policy and legislative framework to support changes to higher education institutions (Reddy, 2006:2). The National Student Financial Aid Scheme (NSFAS) Act was passed in 1999 to offer funding to students who meet the requirements for admission to a higher education program. The government aimed to review university funding, and all students who qualify for the NSFAS should have access to full funding through loans and bursaries to cover the cost of tuition, books,

housing, and other living expenses. Notably, students who do not qualify must have access to bank loans backed by state sureties (NDP, 2011:290).

### 1.3.2 Research Objectives

The main objective of this study is to review the intergovernmental relations in South Africa with a specific focus on policy coordination between the higher education sector and the government. The higher education sector is a major driver of economic development. It is mandated to engineer knowledge production and thus contribute to national development (NDP, 2011:267). This study undertakes policy analyses of HEIs and identifies the limitations and possibilities of intergovernmental relations and cooperative governance in South Africa. The intention and objectives are to identify and analyse intergovernmental relations and cooperative governance with specific reference to policy coordination in the Higher Education sector.

### 1.4 Research Questions

- What was the rationale for the establishment of intergovernmental relations and cooperative governance in South Africa?
- What was the rationale behind the coordination of policies between government and Higher Education Institutions?
- What are the Intergovernmental Relations policy arrangements between National Government and the Higher Education Institution?
- How much has South African government been able to achieve through Policy coordination vis-à-vis higher education institutions in South Africa?
- What are the challenges facing Higher Education Institutions in South Africa regarding policy coordination?"

### 1.5 Research Methodology

Universities are the primary focus of this research as part of HEIs in South Africa. The study adopts a qualitative desktop method to explore the concept of intergovernmental relations and cooperative governance, as well as interrogate policy coordination in the universities. The study relies on secondary data gathered from books, journals, articles, government websites, government reports, government plans and theses. As such, the literature on governance and public sector reform is reviewed to provide context and a basis for the analysis of intergovernmental relations.

The research design is both exploratory and descriptive. Notably, an exploratory research aims to identify the concepts and provide new information; and descriptive research aims to describe a situation or problem and provide information about things (du Plooy- Cilliers, Davis and Buzeidenhout, 2014:80). This study aims to collect information on intergovernmental relations. It provides an analysis of the intergovernmental relations framework.

Furthermore, the study employs a case study approach, which allows for a deep exploration within a natural context, and hence provides a full and thorough understanding of particular and lived experience of a participant (du Plooy-Cilliers et al, 2014:197). A case study approach is relevant for this study because the study describes and explores the context and issues of the University sector and policy coordination. Thematic analysis is employed as the data analysis approach in this study. Thematic analysis is a process of identifying themes and patterns within qualifying data. Maguire and Delahunt (2017) state that thematic Analysis aims to identify themes and patterns in the data that are important or interesting and use this theme to address the research or say something about the issue.

## **1.6 Structure of Dissertation**

### **Chapter 1: Introduction and Background**

This chapter introduces the research while emphasising its significance. It also presents an overview of the research, as well as outlining the research objectives and methodology.

### **Chapter 2: Conceptual Framework**

The conceptual framework of intergovernmental relations, cooperative governance, public-sector reforms, new public management, and other related concepts is outlined in this Chapter. An overview of intergovernmental relations in federal and unitary forms of government is discussed.

### **Chapter 3: A Policy Framework of Intergovernmental Relations and Cooperative Governance in South Africa**

This chapter focuses on Intergovernmental Relations and Cooperative governance in South Africa, before and after 1994. It also examines the Framework that regulated Intergovernmental Relations and Corporative Governance, as well as its Forums and their functions. The issues confronting IGR and corporate governance are also discussed.

#### Chapter 4: Case Study: South African Higher Education Institutions

This chapter provides a detailed discussion of IGR and cooperative governance in South African Higher Education Institutions. It also examines the Framework that regulated Intergovernmental Relations and Corporative Governance, as well as its Forums and their functions. The issues confronting IGR and corporate governance are also discussed.

#### Chapter 5: Analysis and Conclusion

This chapter summarises the research's overall findings and analysis. It reflects on South African Higher Education Institutions and IGR processes, as well as the extent to which it meets its legislative mandate and governance expectations.

### **1.7 Conclusion**

This chapter has provided a brief overview of South Africa's intergovernmental relations as it concerns this study. It is noted from the background outline of -- the problem that higher education in South Africa faces significant challenges. Against this backdrop, the primary goal of this research is to examine the intergovernmental relations between the higher education sector and the government in South Africa.

## **Chapter 2**

### **Conceptual Framework**

#### **2.1 Introduction**

The following concepts which ground the analysis in this study are outlined in this chapter: intergovernmental relations, cooperative governance, public-sector reforms, new public management, and other related concepts. An overview of intergovernmental relations in federal and unitary forms of government is also discussed.

#### **2.2 Intergovernmental Relations**

Edwards (2008:68) states that “Intergovernmental relations are concerned with the political, financial and institutional arrangements regarding interactions between the different spheres of government and organs of state within each sphere.” Malan (2005:228) defines Intergovernmental Relations as “the fiscal and administrative processes through which spheres of government share revenues and other resources generally compared by special conditions that must be satisfied as prerequisites to receiving assistance.” According to Fatile and Adejuwon (2017:784), intergovernmental relations are the horizontal and vertical exchanges and relationships between government institutions.

Fatile and Adejuwon. (2017:784) state that intergovernmental relations include all of the intricate and interdependent relationships between the different levels of government, as well as the coordination of public policies among the national, provincial, and local governments through reporting requirements for programmes, grants-in-aid, the planning and budgeting process, and informal communication among officials. Similar to this, intergovernmental relations is a network of institutions that interacts at the national, provincial, and municipal levels. They were developed to help the different components of government work together in a way that is acceptable for its institutional arrangements

According to the Department of Provincial and Local Government (DPLG) (2005:3) report, intergovernmental relationships are meant to ease cooperative decision-making, encourage service delivery, and ensure that all policies and actions across all domains effectively fulfil the needs of citizens.



The aforementioned definitions make it clear that the nature of interaction between various government spheres constantly varies in terms of the level of cooperation, depending on the dynamics of the system and the role-players involved at any given time, as well as in accommodating and managing interdependence, geographical and other types of interdependence (Fatile and Adejuwon, 2017:784).

Reddy (2001:22) states that intergovernmental relations are widely acknowledged to be a crucial aspect of the larger area of public administration. This is attested to by the clear separation of legislative and executive functions within the governmental structure. In order to facilitate policy formation, implementation, and analysis within a specified framework and context of service delivery, the political and management component has a crucial role to play. Key factors for the effective and efficient administration of the process include, among other things, responsibility allocation, authority distribution, control, and coordination.

The fact that intergovernmental interactions go beyond the conventional relationships between the national, provincial, and local governments must be underlined. Relations with the business sector, labour, non-profit organisations, political parties, parastatals, and finally the effects of internationalisation and globalisation should be included. (Reddy, 2001:23)

### **2.3 Cooperative Governance**

Corporate Governance is conceived as a partnership amongst spheres of government requiring each sphere of government to fulfil a specific role (Malan, 2005:229). Edwards (2008:68) defines “cooperative governance as a partnership between the spheres of government, where each sphere is distinctive and has a specific role to fulfil.” Reddy (2001) argues that a basic cooperative governance framework stipulates that the three spheres of government collectively can overcome challenges more effectively than if they were working independently. The system of corporate governance incorporates the notion that regardless that the sphere of government is distinctive and has equal status, it is also interdependent and interrelated in the whole government structure. This interdependence of the government spheres indicates the level to which each sphere depends on one another to carry out its constitutional mandates (Reddy, 2001:26). The spheres of government

then have to coordinate their legislation and activities (Kahn, S; Madue, S.M and Kalema, R., 2011:66).

Principles of cooperative governance involve all spheres of government putting together their collective national interest above their interest and working together for the common good. It also proposes that all spheres of government consult one another before taking decisions and invite other spheres to consider and comment on the decision in good faith.

## **2.4 Forms of Government**

A form of government is a set of political systems and institutions that underpin the organisation of a particular government (Zulu, 2014:20). The Constitution of a state defines how the state should be governed. It is a framework for a political society which establishes law and permanent institutions with recognised functions and defined rights. Kahn et al. (2011) cited Wright, 1982:5 who asserts that “there are different types of forms of government which may include among others unitary states, federal states and military dictatorships.” These various forms of government give rise to different forms of intergovernmental relations. Kahn et al. (2011) argue that unitary states assign limited powers to the lower levels of government and the federal government does the opposite. Other forms such as military dictatorships concentrate powers at the centre, and even within one arm of government - the executive. The two most common types of government are unitary and federal. These two are briefly explored below.

### **2.4.1 Federal System of Government**

According to Turner and Hulme (1997:151), a major obstacle to the effective performance of public bureaucracies is the excessive centralisation of decision-making and authority within a central government. Federalism can assist in resolving this issue by allowing significant powers to be exercised at the state or provincial level, thereby increasing citizens' opportunities to exercise democratic control and tailor policies to their own needs, and entrusting the central government with only those responsibilities that must be handled at the national level (Bulmer, 2017:06).

Bulmer (2017) states that Federalism is a constitutional system for splitting power among different levels of government, allowing federated entities to have significant,

legally guaranteed autonomy over certain policy areas, while sharing power in line with agreed-upon principles over others. Kahn et al. (2011) define a federal government as “a government in which authority is decentralised to subnational units.”

Kahn et al. (2011:26-27) cite Hattingh (1998) who posits that the federal system of government demonstrates the following principles:

- “The federation consists of an identifiable geographical area that comprises a number of independent governments with common boundaries;
- Each government is sovereign in its own right and is not subordinate to any other levels of government; the governments each appoint the necessary executive bodies to carry out the functions of government within their respective geographical areas; and
- The federal government is authorised to exercise limited authority over the joint constituent government.”

Federalism allows the national government to focus on strategic issues and goals by relieving it of the burden of managing a large portion of domestic administration and service delivery. It is a method of establishing a more equitable allocation of public resources through revenue sharing and other forms of fiscal arrangements that provide an agreed-upon share of resources for all sections of a country. In contrast to a unitary state, where everything—money, power, culture—gravitates to the capital, federalism may stimulate more regionally diverse economic and social development (Bulmer, 2017:10).

Bulmer (2017) argues that federalism can also enhance service delivery and democratic resilience, ensuring choices are taken at the most appropriate level, protecting against over-concentration of power and resources, and creating more chances for democratic involvement, particularly in big or varied countries.

#### 2.4.2 Unitary System of Government

Kahn et al. (2011:28) define a unitary state “as a government in which authority is centralised on the national level of government and the lower level have little or no autonomy”. The authors further describe the characteristics and or principles that form the basis of a unitary state as including:

- “The supreme power rests with the central government and such power is indivisible and unlimited.
- Within the boundaries of the state, the central legislative authority is sovereign and authorised to promulgate, repeal or amend laws in respect of any matters affecting the state and its citizens”.

Zulu (2014:21) cites Hague and Harrop (1987) who indicate that “in a unitary system of government (or unitary state), sub-national governments, whether regional or local, may make policy as well as administer it, but they do so within certain parameters determined by the national government.”

Furthermore, Kahn et al. (2011:28) cite Du Toit et al. (1998) who posit that “the Constitution of the Unitary State would usually not set any limits to the authority of the central legislative authority unless it voluntarily consents to such limitations.” Kahn et al. (2011) also argue that the legislative authority within the unitary state is authorised to establish financial sources for itself as it may deem necessary and create as many executive bodies and subordinate multi-purpose or single-purpose government bodies as it may require for the proper performance of its functions. The legislative authority is also authorised to assign powers and authority to the governmental bodies established, and allocate necessary funds to enable them to execute their duties and functions (Kahn et al., 2011:28).

For Williams, Sommadossi, and Mujais ., (2017:8) “unitary systems, on the other hand, are characterised by the concentration of governing power in the central government. The central government can opt to confer some of its governing authority to subnational units, but typically retains the authority to both dictate the scope of those powers and to have final authority on most State issues.” The powers and authorities that are delegated to the other spheres of government by the national government are typically not protected in a unitary State’s constitution. Zulu (2014:21) quotes Hattingh (1998) who states that “in a unitary state, sub-national units are created and abolished and their powers may be broadened and narrowed, by the central government.”

## **2.5 New Public Management (NPM)**

New Public Management emerged in the 1980s when most western nations turned their attention to increasing the competitiveness of the public sector and the

responsiveness of public administrators to citizens by providing value for money, the flexibility of choice, and transparency as a result of the forces driving change, particularly financial pressures. Academics later referred to this movement as New Public Management (Khalilullah, Alam and Nour 2012:6). Kalimullah, Alam and Nour.,(2012:2) further state that “New Public Management (NPM) is an administrative philosophy concerning organisational design in government. An administrative philosophy is part of a framework that is intended to explain the government agenda and authoritative decisions in a given place and time.” For Gumede and Dipholo (2014:46) “New Public Management is a management culture that emphasises the importance of the ‘customer’, as well as accountability for results.”

Notably, the New Public Management (NPM) initiative attempts to address the shortcomings and deficiencies of the public sector's performance throughout time, as well as the issues directly related to the character and workings of traditional public administration. It was created as a useful shortcut and a succinct explanation of how public sector organisations might be reorganised to align their management strategies with commercial practices. The New Public Management aimed to solve issues with the size of the government, centralised bureaucracies, and insufficient procedures for accountability, waste and inefficiency in resource usage, among others (Kalimullah, et al., 2012:1). The application of the NPM is aimed at creating greater transparency, efficiency, and quality, as well as cost savings (Gumede and Dipholo, 2014:46).

According to Economic Commission for Africa, the principle of New Public Management (NPM) is based on the sharing of authority and responsibility for more efficiency in the production and management of resources and services. The principle is linked to intergovernmental relations and Corporative governance. The Literature on Governance, Public Sector Reform and new Public Management inform the conceptual framework for the study of intergovernmental relations and corporative governance. The theoretical discussion is expanded upon and provides the conceptual framework for this study.

## **2.6 Good Governance**

Abdellatif (2003:4) defines good governance as being among other things “participatory, transparent, accountable, effective and equitable.” Good governance ensures that political and socio-economic priorities are grounded on agreements of

the society and that the voices of the poorest are heard in decision-making over the allocation of development resources (Abdellatif, 2003:4). Furthermore, Abdellatif (2003:3) quotes Kofi Annan who stated that “Good governance is perhaps the single most important factor in eradicating poverty and promoting development.” As such, good governance includes qualities such as representativeness and equal distribution of resources (Cloete and Auriacombe, 2007:195).

Coetzee (2010:89) quotes Rooyen and Naidoo (2006) who attest that good governance “includes initiatives to strengthen the institutions of government and civil society to make government more accountable, open and transparent, more democratic and participatory, and promoting the rule of law.” Notably, cooperative governance and intergovernmental relations can be meaningless if good governance and the principles of good governance are not stated. The fundamental components and tenets that support the intergovernmental relations framework in South Africa are good governance and openness. Transparent reporting procedures within and between the various spheres of government, as well as accountability of political representatives to the electorate, are essential elements for the promotion of good governance (van Niekerk, 2015:847). Good governance, based on the principles of cooperative government and intergovernmental relations, is required to effectively manage and administrate South Africa's citizens' developmental needs and priorities. The fundamental rules of effective, transparent, responsible, and coherent government, where the uniqueness of each area is honoured, should be adhered to (Malan, 2008:85).

Furthermore, Vyas-Doorgapersad and Ababio (2010:213-214) cite United Nations Development Programme (2008) report and Vyas-Doorgapersad, Subban and Pillay (2008) which outlines the principles of Good Governance as follows:

- “Participation: to encourage all citizens to exercise their right to express their opinion in the process of making decisions concerning the public interest, both directly and indirectly;
- Rule of Law: to realise law enforcement, which is fair and impartial for all, without exception, while honouring basic human rights and observing the values prevalent in the society;

- Transparency: to build mutual trust between the government and the public through the provision of information with guaranteed easy access to accurate and adequate information;
- Equality: to provide equal opportunities for all members of the society to improve their welfare;
- Responsiveness: to increase the sensitivity of government administrators to the aspirations of the public;
- Vision: to develop the region based on a clear vision and strategy, with the participation of the citizenry in all the processes of development so that they acquire a sense of ownership and responsibility for the progress of their region;
- Accountability: to increase the accountability of decision-makers with regard to decisions in all matters involving the public interest;
- Oversight: to increase the efforts of supervision in the operation of government and the implementation of development by involving the private sector and the general public;
- Efficiency and Effectiveness: to guarantee public service delivery by utilising all available resources optimally and responsibly; and
- Professionalism: to enhance the capacity and moral disposition of government administrators so that they are capable of providing easy, fast, accurate and affordable services.”

## **2.7 Policy Coordination**

Zulu (2014:35) cites Waldo (1953) who stated that “co-ordination is the arrangement of the group effort to provide unity of action in pursuit of a common purpose.” This definition implies that the activities and functions of all spheres of government should not overlap and that no duplication should occur. For Malan (2005:238) “coordination is a major criterion for an effective system of government consisting of decentralised units.” Coordination happens to be central to governance, which denotes that functions are shared among the spheres of government or when one sphere has results for the functions of another. Section 85(1) of the South African Constitution (1996) refers to the coordination of functions of state departments and other administrations, implying that the national government should coordinate its functions and legislation with the other spheres of government. It is also stated that the national executive authority

should coordinate the functions of state departments with provincial departments and administrations, while the same is true for provincial and local departments. Notably in these, the goals of coordinated action should be clearly outlined, and each institution should be clear about its role in achieving common goals.

The intergovernmental relations process is the interaction between the organs of state and institutions of government, specifically the executive and legislative government components. Intergovernmental processes are provided for by the Constitution of the Republic of South Africa and an example of processes of intergovernmental relations in South Africa are as follows: dispute settlement; consultation and information-sharing, coordination of actions, and intervention of one sphere of government in another (Malan, 2005:237).

#### 2.7.1 Consultation

Malan (2005:238) cites the Department of Constitutional Development (1999) report which stipulates that “consultation between spheres of government and organs of state should occur timeously to enable the parties involved to make appropriate input by following the correct procedure.” On this, information sharing between the spheres of government is usually concerned with laws, executive orders, legislation and procedures relating to the controlling and accessing of information.

#### 2.7.2 Information-Sharing

Malan (2005:237) defines information-sharing as the “exchange of information between governmental institutions by, for example, attending conferences, congresses, seminars or making use of any other medium of communication.” The three spheres of government should inform and consult with one another on matters of common interest. Malan (2005) further argues that Information-sharing and consultation could be either informal ± by telephone, e-mail and through informal meetings, or formal in a form of meetings of the various intergovernmental relations structures. A computer may be an important instrument for information-sharing and consultation and may assist formal structures for intergovernmental relations to function effectively. Moreover, Zulu (2014:36) states that “Information-sharing essentially involves communication, one agency or subunit letting another, or others know what it is doing. This can be done through distributing written reports, public



hearings, holding meetings of various sorts, or setting up information units. Information-sharing can also take place through the media or on the Internet.”

### 2.7.3 Resource Sharing

Zulu (2014:36) argues that “Resource-sharing means that resources controlled by one organisation or group are allocated to another purportedly. Resources can also be in form of public support for a policy, so here resource sharing involves actors creating legitimacy and lending status and credibility in the service of reform.”

### 2.7.4 Monitoring and Intervention

Section 100 (as amended) of the South African Constitution (1996) provides for national intervention and supervision of provincial administrations. National legislation provides for the establishment of norms and standards, frameworks or national policies that deal with matters requiring uniformity across the nation. Malan (2005:239) cites Van der Waldt and du Toit (1997) who state that

“National legislation is further important for the promotion of economic activities across provincial boundaries, the promotion of equal opportunity or equal access to government services, and the protection of the environment. The National legislation also overrides provincial legislation to prevent unreasonable action by a province, for example, the action of a province that is prejudicial to the economic, health or security interest of another province of the state or impedes the implementation of national economic policy.”

Also, Section 100 of the South African Constitution (1996) provides for the National Council of Provinces which plays a major role in respect of intervention, where national supervision of provincial administrations is described.

Provinces and municipalities are bound by the intervention and monitoring powers of national and provincial governments respectively, within restrictive limits. Malan (2005) cites Thornhill et al. (2003:329) who state that “Monitoring is the periodic oversight of a process or the implementation of an activity to determine to what extent the objectives within an organisation are achieved so that timely action can be taken to correct any deficiencies that are detected.” Section 139 of the South African Constitution (1996) outlines the monitoring role of the provincial government in terms

of municipalities. It is noted that Provinces monitor municipalities by defining whether a municipality meets its executive obligations in terms of legislation, and how well it performs its duties.

Malan (2005:239) cites Thornhill et al. (2003) opinion that “when the role of provinces in terms of monitoring is considered, the impression is created that a strong link exists between the provincial governments and municipalities, which may not always be the case. The new system of local government is young and during the past years, the national and provincial governments have been assisting the local sphere of government to grow and settle.” Section 139 of the Constitution (1996) states that municipalities should “maintain essential national standards or meet established minimum standards for the rendering of a service with the implication that an intervention by a province can only occur when a municipality fails to meet the minimum standard.

Furthermore, Malan (2005) states that the development of national-provincial as well as provincial-local intergovernmental relations are hampered by problems like the absence of a proper, clear, and recognisable process for monitoring and intervention, insufficient budgetary support for these processes, and inadequate process for stakeholder consultation. Malan (2005:240) furthers the view that “Interventions are implemented too late - early warning systems either do not exist or are not used.” The relationship between the spheres of government and the power to intervene is irregular and calls for attention.

#### 2.7.5 Dispute Settlement

Chapter three of the South African Constitution (1996) states that the national government should formulate dispute resolution mechanisms to deal with pointless litigation between the spheres of government; and the principle of cooperative government also promotes negotiated other than a conflict approach to be followed when resolving disputes (Malan, 2005:237).

Malan (2005:237) cites the Department of Constitutional Development (1999) that

“several dispute resolution mechanisms for intergovernmental relations are proposed by the Department of Provincial and Local Government and it is

suggested that provincial and local government implement their dispute resolution procedures which are in line with national procedures. Court action should be evaded in the dispute resolution and administrative courts are an option.”

Further on this, Chapter Four of the Intergovernmental Relations Framework Act (2005) outlines principles for intergovernmental relations dispute resolution, and the role players of local government in disputes.

## **2.8 Decentralisation**

Mathebula (2011:850) states that “Decentralisation is a process of devolving central governmental authority and power to sub-national units of government.” Chilenga-Butao (2020:2) states that decentralisation is “any act in which a central government formally cedes powers to actors and institutions at lower levels in a political-administrative and territorial hierarchy.” Decentralisation involves subnational governments such as provincial and local governments. Chilenga-Butao (2020:2) quotes Cheema and Rondinelli (2007) who indicate that “decentralisation is divided into administrative, fiscal and political...”

“Administrative decentralisation is delegating ‘central government authority and responsibility’ to subnational governments. Fiscal decentralisation describes the legislative and practical arrangements for funding subnational governments, including the ability of subnational governments to raise their revenue. And political decentralisation describes ‘increasing citizen participation in selecting political representatives and making public policy’ in subnational governments.”

The allocation of resources and delegation of decision-making powers to local governments for service delivery can generate financial, efficiency and quality gains. The national governments can move some of the financial responsibilities to other spheres of government and private providers which can produce at lower costs. Decentralisation increases accountability of the resource allocation decisions by other units of government. A better understanding of local government preferences allows them to take decisions on scarce resource allocation and this can increase the productivity of health, education, and other services (Robins, 2007:8).

## **2.9 Benefits of Intergovernmental Relations**

According to Isioma,U.I (2010), an intergovernmental relationship system consequently comprises facilitative systems and interactions that allow the units of government to successfully participate and carry out mandates to achieve governmental goals. This encompasses executive tools, coordinating mechanisms, cooperative agreements, judicial, and legislative mechanisms that all facilitate delivery through government machinery to provide its services. Thus, the "glue" that keeps this system together can be referred to as intergovernmental relations. It describes how public servants act, communicate and relate to one another.

Furthermore, Malan (2008:85) states that "South Africa's intergovernmental relations system necessitates the formation of strong, flexible goal-directed partnerships that may foster collaboration without undermining performance and accountability. This can only happen if political leaders and public-sector officials adjust their thinking to encourage collaboration." As such, the goal of intergovernmental relations is to facilitate governmental activities (primarily service delivery), retain democracy and strengthen service delivery capacity across all spheres of government for the public good. It aims to accomplish common goals by developing ties between and among vertical and horizontal governmental organisations as well as alignment and cohesiveness across all domains (Isioma, 2010:53).

## **2.10 Conclusion**

This chapter has focused on defining the concepts of intergovernmental relations and corporative governance, as well as other intergovernmental relations-interrelated concepts. According to the Department Provincial of Local Government (2005), intergovernmental relations are concerned with interactions between various governments or between state organs from various governments regarding the management of their respective affairs. Notably on this, Malan (2005) states that corporative governance is collaboration between three branches of government, each of which is responsible for a specific function. Also, an overview of intergovernmental relations in federal and unitary forms of government was presented and discussed in this chapter.

Focusing on forms of government as also explained in this chapter, Kahn et al. (2011) argue that a unitary state is a form of government in which power is concentrated at

the national level and there is little to no self-governance at the lower levels. In this form of government, authorities are decentralised to subnational units under the federal government. The advantages of intergovernmental relations were also explored in this chapter. The integration of multi-sectoral, collaboration among different parts of government, and striking the right balance continue to build an integrated system and increase the government's capacity to provide services.

## Chapter 3

# A Policy Framework of Intergovernmental Relations and Cooperative Governance in South Africa

### 3.1 Introduction

This chapter explores the background of intergovernmental relations and cooperative governance in South Africa. It also examines the frameworks that govern intergovernmental relations and cooperative governance and discusses Intergovernmental Relations forums and their functions.

Tau (2015) cites the Department of Local Government report (2008:806) which defines intergovernmental relations as the “complex and interdependent relations among the three spheres of government as well as the coordination of public policies between the national, provincial and local government.” Similarly, Geldenhuys (2005:54) Intergovernmental relations as referring “to relations between the three tiers of government in South Africa at the national (central), provincial and local level”. For Mathebula (2011:840), the focus is to understand the concept of cooperative governance which links to intergovernmental relations, and is understood as “a governance philosophy based on a reciprocal obligation of spheres of government to trust, support and assist one another in coordinating service delivery to the community.” This chapter looks at and discusses the policy bases for intergovernmental relations in South Africa before Apartheid.

### 3.2 Intergovernmental Relations in South Africa

#### 3.2.1 Intergovernmental Relations Pre-Apartheid

Kahn et al. (2011:49) state that South Africa was subordinate to the British Commonwealth which meant that:

- “The Union could not formulate any legislation that may be in contradiction with British Legislature; as such the British Parliament had the power to authorise legislations to rule the Union;
- Union Acts and Bills submitted for approval were being rejected by the British Cabinet instructed by the Parliament;
- the British Cabinet provided instructions to the South African governor-general and in addition to that, the Parliament was issuing direct instructions

to the South African Governor pertaining to the exercise of his executive and legislative powers;

- British Executive provided cooperation and sanctions to the Union Executive and
- Governor General accounts to the British crown and the Union had restricted authority and compelled by the British legislation to the Union had limited powers to the Union.”

According to Edwards (2008), intergovernmental relations in South Africa were developed from the various federal government systems established in 1806. In 1909, the South African Act was formulated to govern the intergovernmental relations in South Africa and 1910; this Act then became the Constitution of the Union. It is noted that the British government's state of involvement and restrictions in the affairs of the Union affected the Intergovernmental Relations in South Africa (Kahn et al., 2011:49) Kahn et al. (2011) note that the South African Act of 1909 (the Constitution of the Union) provided for the development of a three-sphere government system comprising a national, a provincial government consisting of four provinces, and a local government. Section 70 of the South African Act made provisions for one council in each of the four provinces to serve as a provincial legislature and the act further states that municipal institutions, divisional councils and other local institutions were matters falling under the legislative competencies of the provincial council. Also, Section 85 of the Act states that any regulation passed by the provincial council is effective, provided it is not in conflict with the Act of Parliament. Intergovernmental relations were under the control of the central institutions of Parliament.

According to Kahn et al. (2011), the new structure of intergovernmental interactions vests the majority of powers, functions, and resources in the central/national sphere. The National sphere of government had the authority to develop and implement policies and other spheres of government were regarded as the national government's regional agent. De Villiers (1997) also argues that there was minimal integration, coordination, or consultation among regional governments, which were under the power of the national government. Several Ad hoc intergovernmental relations had occurred under the previous constitution, and no research topic for analysis and overall strategy, institutions or national policy existed on what basic principles should

direct intergovernmental relations. Pre 1994 there was a deconcentrating rather than the decentralisation of power. Kahn et al. (2011) state that intergovernmental relations were constructed in a manner in which provincial spheres of government were fully dependent on the central government. The provincial sphere of government had been denied the power to develop policies and relegated to the task of implementing nationally formulated policies.

The decision made by the provincial authority proved to be valid provided they are not in contradiction with the act of parliament. In the first three years of the Union, provinces were fully budgeted for by the National Government and later took 50 per cent of the provincial expenditure, and another 50 per cent was raised through vehicle license taxation by Provinces (Kahn et al., 2011:53).

Provincial governments were assigned limited delegated powers to local government and services were racially distributed at the local level. Municipalities were the agents of the central government in areas such as health. In urban areas, white people were able to raise their own revenue and able to receive their income through tariff charges for water and electricity provision. In rural areas, municipalities were limited to raising their revenues and subsidised by the provincial and central governments. The by-laws were approved, amended, or cancelled by the administrator before being implemented by the Municipalities (Kahn et al, 2011:54-55).

### 3.2.2 Intergovernmental Relations during Apartheid

In 1993, the multi-party negotiations lead to the interim constitution that constrained the provision to facilitate structure or encourage intergovernmental relations. On this, De Villiers (1997:198) states that the following reasons are important to note:

“Firstly, there is a general lack of information on how multi-tiered dispensations in other parts of the world function. South African politicians, scientists and administrators had been in isolation from the rest of the world for so many years, that the theory of intergovernmental relations and its practical functioning were either ignored or neglected. The liberation movement's attention was given to the 'struggle' and not to the form of state or detail such as the allocation of powers and functions and the interaction between various levels of government. Political science, constitutional law and public administration departments at universities



studied federalism and decentralisation in a very abstract manner.” “The second reason for the disregard of intergovernmental relations is that parties in the negotiation process were so tied up in a dogmatic federal-unitary debate that no attention was given to the practical management of a three-tiered system.”

The institutionalisation, structuring and management of intergovernmental relations are not provided for in the 1993 interim constitution. The implementation of the interim constitution in 1994 has replaced inflexibility with practicality in the field of intergovernmental relations. It is argued that the national and provincial governments realise the interdependence, cooperation, coordination, and mutual respect that must be employed in government activities (De Villiers, 1997:199).

Furthermore, De Villiers (1997) states that the cooperation and coordination of policies in the spheres of government do not determine the discontinuation of intergovernmental relations conflicts and competition. Intergovernmental relations disputes were dealt with by political agreements and few gave rise to cases before the Constitutional Court. The Constitution of 1993 acknowledge the importance of coordination and during this period most powers were distributed and entrusted to government sub-national units (Edwards, 2008:67).

The independence of the provinces had to be guided by national norms and standards for the achievement of national homogeneity and standardisation. These practices have led to intergovernmental relations being included in the agenda during the negotiations leading to the new Constitution of 1996 (De Villiers, 1997:200).

### 3.2.3 Intergovernmental Relations in South Africa from 1994 to 2020.

Edwards (2008) argues that the ending of Apartheid and the transition to democracy has brought fundamental changes in the structuring of intergovernmental relations and the redefining of responsibilities in all spheres of government. Edwards (2008:67) further cites Levy and Tapscott (2001) who state that after 1994, “South Africa adopted a democratic model of cooperative governance which is enshrined in a constitution that provides a platform for intergovernmental relations.” According to Edwards (2008:66), “Intergovernmental relations are intended to promote and facilitate cooperative governance and decision making by ensuring that policies and activities

across all spheres encourage service delivery to meet the needs of citizens effectively.”

Reddy (2001:23) views Intergovernmental relations in the South African context as an “interacting network of institutions at the national, provincial and local levels, created and defined to enable the constituent parts of government to function following defined institutional arrangements.” Edwards (2008) states that intergovernmental relations should establish partnerships with a wide range of stakeholders through communication and interaction by various spheres, sector departments, other states, and external state actors to advance service delivery, economic growth, and social upliftment. Geldenhuys (2005:57) cites Venter (2001) who posits that “Intergovernmental relations occur vertically and horizontally. The vertical relations are between the spheres of government and the horizontal relations across institutions within the same sphere, for instance between different municipalities.”

The 1996 Constitution promotes cooperation between the three spheres of government. The government recognised the difficulty of developing a governance structure that promotes cooperation and intergovernmental ties, as specified in Chapter Three of the Constitution of the Republic of South Africa, (1996) (Malan, 2005:227). The new system of Intergovernmental Relations was introduced in the three spheres of government. The purpose of the intergovernmental relation system in South Africa is to promote democracy and service delivery.

Edwards (2008) states that it is essential that the cooperative governance system continue to function in ways that improve coordination and integrated planning, budgeting, and service delivery within and across spheres of government, not just to support sustainable community development but also to improve living for all of our nation's residents. Furthermore, according to Edwards (2008), the National government intends to effectively coordinate its functions and legislation with provincial and local spheres of government, but the effectiveness of Integrated Development Plans (IDP) in the local sphere of government requires strong coordination between all role players.

Kahn, Madue and Kalema.,(2016) argue that after 1994, the IGR system assigns power to disseminate laws to the provinces. The Constitution provides for the

Provincial Legislatures to enact legislation within their spheres. Provinces have gained more power than during the Apartheid era, however, such powers are restricted in many ways, for example, there is an ambiguity of concurrent responsibilities, it is not clear whether provinces are the implementers of the national policies, or they have powers to shape their activities. Notably, the National Government can override a decision made by the provinces.

The Intergovernmental Research Relations Framework Act (2005) acknowledges the full involvement of local governments in intergovernmental relations as the local sphere is the most important in-service delivery and development. The 1996 Constitution provides for municipal executive authority for constitutionally assigned powers and functions and also provides for the national or provincial government to assign powers and functions to municipalities. Edwards (2008) argues that according to legislation involving intergovernmental relations, the mayor of a municipality is the main political office bearer accountable for intergovernmental relations. For example, the implementation of a national programme in 2005 called Project Consolidate was a significant attempt to strategically intervene and support 136 municipalities facing delivery challenges. Project Consolidate prescribed that the three levels of government must aid district and metropolitan municipalities to compile draft Integrated Development Plans (IDPs).

Edwards (2008) states that the planning, policy activities and budgets can not only be aligned to avoid the duplication and overlapping of functions between the three spheres of government but the provincial and local spheres of government are required to have the capacity to support the functioning of intergovernmental relation structures. National legislation provides for the formulation of structures and institutions to promote and facilitate intergovernmental relations (Reddy, 2001:21). This study identifies and unpacks the framework of Intergovernmental Relations in South Africa.

### **3.4 Legislative Framework of Intergovernmental Relations in South Africa**

South African democratic government has, over the past years, formulated a constitutional and legislative framework to support cooperation and collaboration among the three spheres of government. These are covered in this subsection.

### 3.4.1 The Constitution of the Republic of South Africa (1996)

The Constitution is the supreme law in South Africa and no other law may conflict with it. All other Legislations and policies are bound by the Constitution and give effect to its principles. This chapter highlights sections of the Constitution that make provisions for intergovernmental relations and cooperative governance.

Chapter 3 of the Constitution of the Republic of South Africa provides for a system that promotes the creation of intergovernmental relations and corporative governance among the three spheres of Government in South Africa. Layman (2003) argues that the Intergovernmental Relations Bill attempts to facilitate and encourage intergovernmental relations by anchoring the system within a comprehensive statutory framework, to give effect to the constitutional mandate of section 41(2) (Layman, 2003:28).

Furthermore, Section 41(1) of the Constitution provides for the principles of cooperative government and intergovernmental relations. The principles are outlined below:

- (1) "All spheres of government and all organs of state within each sphere must
  - (a) Preserve the peace, national unity and indivisibility of the Republic;
  - (b) Secure the well-being of the people of the Republic;
  - (c) Provide effective, transparent, accountable and coherent government for the Republic as a whole;
  - (d) Be loyal to the Constitution, the Republic and its people;
  - (e) Respect the constitutional status, institutions, powers and functions of government in the other spheres;
  - (f) Not assume any power or function except those conferred on them in terms of the Constitution
  - (g) Exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere; and
  - (h) Co-operate with one another in mutual trust and good faith by
    - (i) Fostering friendly relations;
    - (ii) Assisting and supporting one another.

(iii) Informing one another of, and consulting one another on, matters of common interest.

(iv) Coordinating their actions and legislation with one another.

(v) Adhering to agreed procedures; and

(vi) Avoiding legal proceedings against one another”.

(2) An Act of Parliament must—(a) establish or provide for structures and institutions to promote and facilitate inter-governmental relations and (b) Provide for appropriate mechanisms and procedures to facilitate the settlement of intergovernmental disputes.

(3) An organ of the state involved in an inter-governmental dispute must make every reasonable effort to settle the dispute by means of mechanisms and procedures provided for that purpose and must exhaust all other remedies before it approaches a court to resolve the dispute.

(4) If a court is not satisfied that the requirements of subsection (3) have been met, it may refer a dispute back to the organs of the state involved.

Furthermore, the 1996 Constitution states that the spheres of government must not assume any powers except those that are assigned to them, and also not exercise their powers in a manner that does not encroach on the geographical, functional, and institutional integrity of government in other spheres. Kahn et al. (2011) argue that despite these provisions of the Constitution, the relationship between the spheres of government is not always harmonious and does not lead to the promotion of democracy and improve service delivery as anticipated.

### 3.4.2 Intergovernmental Relations Framework (IRF) ACT, 2005

Chapter 2 of the Intergovernmental Relations Framework Act provides for the establishment of intergovernmental structures in the three levels of government. Intergovernmental Relations structures are forums that provide intergovernmental consultation and discussion between the spheres of government. These Forums include President's Co-ordinating Council; National intergovernmental forums; Provincial intergovernmental forums; Municipal intergovernmental forums; and other structures such as technical support structures.

Geldenhuys (2005:56) states that “It is a fact that the nature and extent of interaction between the different tiers of government vary continuously in terms of; the specific

degree of co-operation; it also depends on the dynamics of the system and the distinctive role players; and the accommodation and managing of interdependence and geographical and social diversity. From a local government perspective and in terms of the topic of this article, municipalities are dependent upon external institutions and role players in the other two spheres of government for appropriate resources as mentioned already."

Geldenhuys (2005:56-57) quotes Chapmen (1993) who posits that "these resources enable them to formulate applicable policy and to render required services through the actions of role players, influenced by their attitudes and behaviour." This is also relevant to the relationships between municipalities on a trans-frontier, district or general inter-municipality level."

Chapter 2 of the Intergovernmental Relations Framework Act provides for the establishment of district intergovernmental forums, municipal intergovernmental forums, the composition, role and meetings of these forums, and inter-municipality. These forums are created to promote and facilitate intergovernmental relations between the district municipality and the local municipality in the district. Chapter 3 of the Intergovernmental Relations Framework Act deals with the conduct of intergovernmental relations, including provincial policies and legislation affecting local government, and the responsibility for co-ordinating intergovernmental relations of district municipalities. Chapter 4 of the Intergovernmental Relations Framework Act makes provisions for the dispute resolution of intergovernmental relations and the Minister or MEC's role of assistance for local government in the local sphere (Geldenhuis, 2005:57).

Section 8 of the Intergovernmental Relations Framework Act established the National Intergovernmental Relations Forums. Section 8. (1) states that

"Any Cabinet member may establish a national intergovernmental forum to promote and facilitate intergovernmental relations in the functional area for which that Cabinet member is responsible. Section 8(2) Any Minmec which existed when this Act took effect must for this Act be regarded as having been established in terms of subsection (1), except if such Minmec was established by another Act of Parliament."

Section 9 of the Act makes provision for the composition of the National Intergovernmental Relations Forums. 9(1) A national intergovernmental forum established in terms of section 8(1) consists of (a) the Cabinet member responsible for the functional area for which the forum is established; (b) any Deputy Minister appointed for such functional area; (c) the members of the Executive Councils of provinces who are responsible for a similar functional area in their respective provinces; and (d) a municipal councillor designated by the national organisation representing organised local government, but only if the functional area for which the forum is established includes a matter assigned to local government in terms 20 of Part B of Schedule 4 or Part B of Schedule 5 to the Constitution or in terms of national legislation. (2) The relevant cabinet member is the chairperson of the forum. (3) The relevant cabinet member may invite any person not mentioned in subsection (1) to a meeting of the forum.

Section 10 of the Intergovernmental Relations Framework Act provides for the role of the National Intergovernmental Relations Forum established in terms of section 15. Section 16 of the Intergovernmental Relations Framework act provides for the composition of the Premier's intergovernmental forums to promote and facilitate intergovernmental relations between the province and local government in the province.

According to Edwards (2008) following Section 5 of this Act, the three branches of government shall take all reasonable measures to ensure that they have the institutional capability and operational efficiency necessary to consult, collaborate, and exchange information with other organs of state, to swiftly react to requests for consultation, cooperation, and information sharing from other organs of state, and to take part in intergovernmental institutions of which they are members. Edwards (2008:70) further notes that "the objective of intergovernmental implementation protocols is to set out clear outcomes of joint work, clarify responsibilities, determine resource requirements, set performance indicators and put mechanisms in place to ensure that outcomes are achieved."

### 3.4.3 Intergovernmental Fiscal Relations Act, 97(IGRF) of 1997

The provincial government depends more on financial transfers from the national government, and the local government is less dependent on these allocations and

transfers. The Intergovernmental Fiscal Relations Act of 1997 was established to coordinate the division and sharing of nationally raised revenues between the national, provincial, and local spheres of government.

Section 8 of the Intergovernmental Fiscal Relations Act provides for the process of sharing of revenue raised nationally among the national, provincial and local spheres of government in terms of section 214(1) (a); the division of the provincial share among the provinces in terms of section 214(1) (b); and any allocation of money to the provincial governments, local government and municipalities in terms of section 214(1) (c) of the Constitution, must be effected following this Part.

Tau (2015:805) states that “the purpose of the IFR Act is to promote cooperation between the national, provincial and local spheres of government on fiscal, budgetary and financial matters; to prescribe a process for the determination of an equitable sharing and allocation of revenue raised nationally; and to provide for matters in connection therewith.” The Intergovernmental Fiscal Relations of 1997 provides for the establishment of the Budget Council and Local Government Budget Forum. The Budget Council and Local Government Budget Forum are the advisory bodies on matters of national finance for MINMEC members.

The Budget Council involves the Minister of Finance and MECs for Finance of each province and it is a body whereby the national government and the provincial governments consult on:

- any fiscal, budgetary or financial matter affecting the provincial sphere of government.
- any proposed legislation or policy that has a financial implication for the provinces, or for any specific province or provinces.
- any matter concerning the financial management, or the monitoring of the finances, of the provinces, or any specific province or provinces.
- any other matter which the Minister has referred to the Council.

Budget Forum is formed by the Minister of Finance, the MEC for Finance of all provinces, five representatives nominated by the national organisation recognised in terms of the Organised Local Government Act, 1997 and one representative nominated by each provincial organisation recognised in terms of that Act.



The local Government Budget Forum is a body in which the national government, the provincial governments and organised local government consult on:

- “Any fiscal, budgetary or financial matter affecting the local sphere of government.
- any proposed legislation or policy that has a financial implication for local government.
- any matter concerning the financial management, or the monitoring of the finances, of local government and
- any other matter that the Minister has referred to the Forum.”

Intergovernmental Fiscal Relations Act (1997) provides for the intergovernmental budget process and was effected on 1 January 1998. The budget processes recognised the introduction of the three-year medium-term expenditure framework (MTEF) and were regarded as part of the intergovernmental budget process. Tau (2015) states that the introduction of the MTEF process has improved intergovernmental coordination and led to several new initiatives in the budget process. National departments, provinces and local governments came together to play a much more crucial role in the development of sectoral policy, particularly in the areas of education, health, welfare and personnel expenditure.

#### 3.4.4 The Public Finance Management (PFMA) Act of 1999

The Public Finance Management Act (Act No.1 of 1999) as amended by Act No. 29 of 1999 was endorsed to promote sections (213, 215, 216, 217, 218 and 219) of the Constitution. The sections provide for the national legislation to:

- “Establish a national treasury,
- to introduce generally recognised accounting practices,
- introduce uniform treasury norms and standards,
- to prescribe measures to ensure transparency and expenditure control in all spheres of government, and
- to set the operational procedures for borrowing, guarantees, procurement and oversight over the various national and provincial revenue funds.”

The Act and the Constitution confer certain powers on the national government, in particular the national treasury, to determine the financial management framework over all organs of state in all spheres of government.

#### 3.4.5 White Paper on Local Government in South Africa 1998

Tau (2015) argues that local government is a separate branch of government from the federal or provincial governments and has its own authority. Section C of the White Paper position state that local government must be within the system of cooperative government and this provision is bound by the new Constitution. Section C provides a preliminary outline of the roles and responsibilities of national and provincial governments pertaining to local government. Tau (2015:808) states that Section C also

“Provides a summary of national departmental programmes that impact local government, and notes that local government is increasingly being seen as a point of integration and coordination for the delivery of national programmes. This section concludes with a discussion on the role of organised local government, and horizontal relations between municipalities.”

#### 3.4.6 Municipal Systems Act, 2000 (Act 32 OF 2000)

Section 105 of the Municipal System Act (2000) makes provision for the Provincial monitoring of municipalities and states that the MEC for local government in a province must establish mechanisms, processes and procedures in terms of section 155 (6) of the Constitution the

- (a) “monitor municipalities in the province in managing their affairs. exercising their powers and performing their functions;
- (b) monitor the development of local government capacity in the province; and
- (c) assess the support needed by municipalities to strengthen their capacity to manage their affairs, exercise their powers and. perform their functions”.

(2) The MEC for local government in a province may by notice in the Provincial Gazette require municipalities of any category or type specified in the notice or of any other kind described in the notice, to submit to a specified provincial organ

of state such information as may be required in the notice, either at regular intervals or within a period as may be specified.

(3) When exercising their powers in terms of subsection (1) MECS for local government:

(a) “must rely as far as is possible on annual reports in terms of section 46 and reformation submitted by municipalities in terms of subsection

(2); and (b) may make reasonable requests to municipalities for additional information after taking into account

(i) the administrative burden on municipalities to furnish the information;

(ii) the cost involved; and

(iii) existing performance monitoring mechanisms, systems and processes in the municipality.”

#### 3.4.7 Municipal Structures Act, 117 of 1998)

Chapter 2(1) of the act makes provision for the MEC for local government in a province, by notice in the Provincial Gazette, to establish a municipality in each municipal area which the Demarcation Board defines in the province in terms of the Demarcation Act. On this, Geldenhuys (2005:53) argues that “the process of democratising local government in South Africa requires the establishment of new and legitimate democratic structures with a developmental vision.”

#### 3.4.8 Municipal Finance Management Act (MFMA), 56 of 2003

The Municipal Finance Management Act (MFMA), 56 of 2003 provides for the promotion of cooperative government by the National and Provincial institutions. Section 35 of the Act provides for the national and provincial departments and Public Entities to:

(a) “In their fiscal and financial relations -with the local sphere of government. promote cooperative government in accordance with Chapter 3 of the Constitution.

(b) promptly meet their financial commitments towards municipalities:

- (c) provide timely information and assistance to municipalities to enable municipalities-
- (i) to plan properly, including in developing and revising their integrated development plans; and
- (ii) to prepare their budgets in accordance with the processes set out in Chapter 4 of this Act; and
- (d) comply with the Public Finance Management Act, the annual Division of Revenue Act and the Intergovernmental Fiscal Relations Act, 1997 (Act No. 97 of 1997), to the extent that those Acts regulate intergovernmental relations 15 with the local sphere of government.”

Intergovernmental relations and cooperative governance are impacted in one way or another by a wide range of policies. Some of these policies are listed in Table 1 below, along with a summary of their importance for intergovernmental relations and cooperative governance.

Table:1

| <b>Policy</b>  | <b>Intergovernmental relations Implications</b>   |
|--|---|
| The White Paper on Reconstruction and Development, 1994  | Stipulated the importance of a participatory local government system to encourage provincial-local intergovernmental relations.   |
| The Development Facilitation Act 67 of 1995  | Provides a basis for a coherent framework for land development according to a set of binding principles - promotion of intergovernmental relations among all spheres of government and stakeholders in the process of land development. |
| The Auditor-General Act 12 of 1995; The South African Qualifications Framework; Housing Act 107 of 1997; The National Water Services Act 108 of 1997; The Rural Development Strategy, The White Paper on Transforming Public Service | All encompass the principles of cooperation, integration and the promotion of governmental relations pertaining to development, planning and service delivery issues.   |

|  |   |
|--|---|
| Delivery,1997; The National Environmental Management Act 107 of 1998; The Skills Development Act 97 of 1998; White Paper on Municipal Service Partnerships, 2000, among others |   |
| Constitution of the Republic of South Africa 108 of 1996   | Chapter three of the principles of cooperation and intergovernmental relations.   |
| Organised Local Government Act 52 of 1997  | Relationship between provinces and Municipalities was formalised, establishing monitoring, supervision and intervention mechanisms.   |
| Financial Fiscal Commission Act 99 of1997 and Intergovernmental Fiscal Relations Act 97 of199  | Make provision for the establishment and determination of fiscal intergovernmental relations among the three spheres of government.   |
| White Paper on Local Government,1998   | Encourages provincial governments to support the promotion and maintenance of intergovernmental relations.  |
| Municipal Demarcation Act 27 of 1998; Local Government Municipal Structures Act 117 of 1998 and Municipal Systems Act 32 of 2000   | Formalisation of the various roles of provincial governments in terms of provincial-local intergovernmental relations.  |
| Municipal Finance Management Act 56 of 2003 and Public Finance Management Act 1 of 1999  | Modernise the financial management system and ensure accountability. Define the relationship between spheres of government in terms of local government financial management as well as the supervisory and monitoring roles of provincial governments. |

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

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

The framework for intergovernmental relations outlines how structures or forums should be established and how they should operate. This chapter identifies and discusses the structures of intergovernmental relations.

### **3.5 Structures of Intergovernmental Relations**

The Intergovernmental Relations Framework Act no 13 of 2005 provides for the national intergovernmental relation structures to promote interaction between the three spheres of government (Edwards, 2008:70). According to Layman (2003) intergovernmental relations forums were established at the national and provincial level, and most of them are non-statutory.

The formulation of IGR structures ensures the coordination and consolidative implementation of national policies and programmes in the provincial sphere. The creation of IGR structures also ensures that public policies respond to departmental mandates and community needs. The establishment of institutional arrangements for intergovernmental relations and the successful operation of these structures ensure that all spheres of government continually strive to cooperate and improve service delivery (Malan, 2005:226).

According to National Policy Development Framework (2020), the government established clusters to promote an integrated approach to its work and so improve the quality of planning, decision making and service delivery. The IGR structures are created for effective coordination and integrative implementation of national policies and programmes at the provincial level. The exercise of effective coordination among the three spheres of government and intergovernmental structures guarantees the non-existence of duplication of functions (Edwards, 2008:82).

Edwards(2008) argues that the facilitation of cooperative governance and intergovernmental relations in the spheres of government is promoted by intergovernmental structures. A structure of consultative bodies is considered to facilitate intergovernmental interaction on matters of mutual interest. Tau (2015:804) notes that the functions of the structures are that they serve as consultative forums and structures “to discuss performance in the provision of services to detect failures and to initiate preventive or corrective action when necessary; to consider reports from other intergovernmental forums on matters affecting the national interest and other reports dealing with the performance of provinces and municipalities on service delivery.” The promotion and implementation of effective cooperative intergovernmental relations in South Africa require all relevant role players to be capacitated. This requires utilising and strengthening intergovernmental relations structures and focusing on the continuous improvement of capacity building in provincial and local spheres of government (Edwards, 2008:83).

The establishment of the needed structures to foster greater integration and cooperation within and across the three spheres of government is being observed in the Presidency’s Fifteen Year Review as an achievement since 1994. These incorporate the Presidential Coordinating Council (PCC), Forums for Ministers and members of the Executive Council (MinmeCs), The National Council of Provinces (NCOP), The Forum of South African Directors-General (FOSAD), Premier’s Coordinating Forums (PCF’s), Cabinet Committees, District Intergovernmental Forums and The Budget Council and Local Government Budget Forum (20-year Review, 30: 2004-2014). These IGR structures and their functions are discussed below:

### 3.5.1 Presidential Coordinating Council (PCC)

Kahn et al. (2011) state that the Presidential Coordinating Council is the senior consultative body that was formulated in 1999. It is attended by senior representatives from all spheres of government, shares information and deals with cross-sectoral issues. The Council involves the President, the Deputy President, the Minister in the Presidency, the Premiers of nine Provinces, the Chairperson of the South African Local Government Association (SALGA) and the National Ministers responsible for cross-cutting functions. The Intergovernmental Relations Framework Act (2005) states that the President is the chairperson of the Council and determines the agenda for a meeting.in

The President's Coordinating Council was created to coordinate the promotion of Intergovernmental relations. It aims to assist in improving relations and coordination between the spheres of government and to support the expansion of connections between intergovernmental institutions and structures (Malan, 2005:232). Layman (2003:13) states “that the PCC presents an opportunity for provinces to impact on national policy and to ensure the coordinated and integrated implementation of national policies and programmes at the provincial level.”

Edwards (2008) argues that the PCC consent with the President to bring up matters of national interest with representatives of provincial and local government also concerning the implementation of national legislation and policies, including the coordination of strategies. Edwards (2008) cites the Department of Local Government DPLG (2005) report which maintains that the main item on the agenda of the PCC is to prioritise effective service delivery, and the PCC also recommends corrective action in the delivery of effective services. Malan (2005) argues that the President's Coordinating Council agenda is to address substantive issues that are related to the provincial government with the support of the national provincial and local governments and act as a President consultative forum.

The Constitution (1996) makes provision for the Premier to develop provincial policies, prepare and initiate legislation for the provinces and implement National Legislation; and the PCC is to implement this constitutional provision.



### 3.5.2 Forums for Ministers and members of the Executive Council (MINMECs)

Mubangizi(2005) states that MINMECs were established and endorsed before the formulation of the Intergovernmental Relations Act, 2005 and have been recognised and retained in Section 9(2) of the legislation. MINMECs is a national intergovernmental relations forum that is created to promote executive intergovernmental relations in South Africa and to discuss matters of national interest within a specific functional area with provinces and with appropriate organised local government. MINMECs forum is formed by ministers at the national level and members of the executive councils at the provincial level and meetings are conducted regularly. The forum aims to better the coordination of activities between the spheres of government and is also responsible for the alignment and coordination within specific sectors. MINMECs are responsible for a specific field, for example, education, health, welfare, agriculture or the development of local government (Edwards, 2008:70-71).

Layman (2006:13-14) argues that “the functions of the MINIMECS are that they have been used for information sharing and consultation; they have been used by supervising spheres to consult with supervised spheres on supervision issues; as a forum for cooperative government, they have been utilised to align policies and coordinate actions.” Reddy (2001:32) cites Mulder (2007) stating that the “MINMECS are responsible for inter alia, harmonisation of legislation and programmes on a national level; transfer of information; undertaking of joint programmes/ projects and formulation and implementation of strategies.”

Furthermore, Malan (2005:233) states that the MINIMEC structures

“Currently assist in the drafting and provision of assistance in the draft intergovernmental line-function policies and strategies that give direction to the spheres of government in developing their policies; allocation and utilisation of financial resources; execution of policies and strategies; harmonisation of legislation and programmes, and consultation and negotiation pertaining to national minimum norms and standards in the administering of joint projects.”

### 3.5.3 The National Council of Provinces (NCOP)

The Constitution (1996) provides for the formulation of the National Council of Provinces. Edwards (2008) states that the National Council of Provinces (NCOPs) is a chamber of Parliament and a key intergovernmental relations forum. Malan (2005) contends that the National Council of Provinces is an imperative legislative cooperative government structure. Each province is represented in the house to ensure the protection of the provincial interests when the national sphere of government makes decisions through involvement in the national legislative process and by providing a national forum for consideration on matters public in provinces (Malan, 2005:232).

The Constitution(1996) provides for the functions of the NCOP as a structure that participates in the national law-making process. The members of the forum are responsible for participation in the national legislative process, and by presenting issues affecting provinces to the national for coordination purposes also participate in constitutional amendments. This Forum focuses on coordination and overseeing that provincial interest is considered by the national government (Edwards, 2008:71). A support of six out of nine provinces is required when a province has amendments. The premier of the province is the head of the delegation and six permanent representatives' members nominated by the legislature and three special delegates. The impact of the legislation in question regarding provincial matters determines the powers of the NCOPs (Edwards, 2008:71).

### 3.5.4 The Forum of South African Directors-General (FOSAD)

Since 1994, it has been argued that there is a need for the formation of forums for coordinating government businesses, with Director-Generals being important role players. In 1998 the Cabinet establish the Forum for South African Directors-Generals to coordinate policy and facilitate Intergovernmental cooperation in both horizontal and vertical levels of government (Kahn et al., 2011:80). (2005:638) states that "FOSAD is a non-statutory organ, essentially an administrative body that provides the space for directors-general to raise critical issues without political interference." The Director-General of national and the provincial form the membership of the Forum and it is chaired by the Director General of the President's office. The Forum involves Technical Clusters that support the Ministerial Clusters. The FOSAD was formulated

to improve the coordination in the implementation of the Government's agenda and strategic priorities and to promote programme integration at the national and provincial levels (National Policy Development Framework, 2020:23).

Kahn et al. (2011) state that the Forum is chaired by the National Director General of the Presidency and meetings are held quarterly or more regularly when there are important issues. The main function of the Forum is to take responsibility for operational matters and implementation of its resolutions. Director-Generals share their experiences on policy formulation and implementation. The Forum provide expertise and advisory services to the Cabinet and the Executive committees (Kahn et al., 2011:81). Edwards (2008) cites the Department of Local Government (2005) report which states that the provincial directors involved in the Forum bring experience to intergovernmental matters and improves the policy coordination, policy-making and implementation between the three spheres of government. Notably, the Forum of South African Directors-General has a Sub-Forum that reports to it and to the Cabinet Clusters to deal with specific problem areas such as social welfare, governance and administration, the economy, security, and justice (Edwards, 2008:71). The Establishment of Presidential Coordinating Council and other IGR structures have weakened the role and effectiveness of FOSAD (Kahn et al., 2011:81).

### 3.5.5 Premier's Coordinating Forums (PCFs)

Section 16 of the Intergovernmental Relations Act 13 of 2005 provides for the establishment of Premier's Coordinating Forums (PCFs). Kahl et al. (2016) define the "Premier's Coordinating Forum as a consultative forum for the Premier of the province and local government in the province." A Premier's Intergovernmental Forum involves the Premier of the Provinces, the Provincial Executive council member responsible for local government in the province, any other members of the Executive Council elected by the Premier, the district mayor and metropolitan municipalities in the province; the administrator of any of those municipalities subjected to an intervention of section 39 of the Constitution and Municipal councillor nominated by organised local government in the province. The Forum is chaired by the Premier of the Province and determines the agenda for a meeting of the forum (Kahn, et al., 2016:116).

According to the Intergovernmental Relations Framework Act (2005), the Premier's intergovernmental forum promotes and facilitates intergovernmental relations between the province and local governments in the province. The Intergovernmental Relations Bill of 2005 provides for the functions of the Premier's Coordinating Forums:

“(a) to discuss and consult on matters of mutual interest, including— (i) the implementation in the province of national policy and legislation affecting local government interests; (ii) matters arising in the President's Co-ordinating Council and other national intergovernmental forums affecting local government interests in the province; (iii) draft national policy and legislation relating to matters affecting local government interests in the province; (iv) the implementation of national policy and legislation with respect to such matters; (v) the development of provincial policy and legislation relating to such matters; (vi) the implementation of provincial policy and legislation with respect to such matters; (vii) the co-ordination of provincial and municipal development planning to facilitate coherent planning in the province as a whole; (viii) the co-ordination and alignment of the strategic and performance plans and priorities, objectives and strategies of the provincial government and local governments in the province; and (ix) any other matters of strategic importance that affect the interests of local governments in the province.”

The Bill also states other functions of Premier's Coordinating Forums to include: “(b) to consider reports from— (i) other provincial intergovernmental forums on matters of mutual interest to the province and local governments in the province; and (ii) district intergovernmental forums in the province.” The Intergovernmental Relations Act (2005) states that the Premier Intergovernmental Relations report annually to the Presidential Coordinating Council (PCC) on progress with the implementation of national policy and legislation within the province and may report on matters of national interest that have arisen in the forum.

### 3.5.6 Cabinet Committees

Mathebula (2004:177) cited Cabinet Working Document on Cabinet Structures, Functions and Systems (2000) that "three years into the government of President Mandela, he appointed a Presidential Review Commission (PRC) with the mandate to evaluate government's performance. The Commission identified the need to

strengthen the Cabinet and recommended the establishment of a Cabinet Office comprising a Cabinet Secretariat and Cabinet Operations. This went into effect in 1999.”

Kahn et al. (2011) cite the Presidential Review Commission (1999) report which states that after 1994 the system of government experienced broad structural and functional gaps. Notably, there was an overlap of support structures in the Presidency and an integrated cabinet system was introduced. The Commission identified the need to strengthen the Cabinet and recommended the establishment of a Cabinet Office comprising a Cabinet Secretariat and Cabinet Operations; this was formulated in 1999. Cabinet Committees were formed to deal with executive functions. These committees are Economic Sector, Investment, Employment and Infrastructure Development, Social Protection, Community and Human Development, Justice, Crime Prevention and Security, International Cooperation and Trade and Security. Mathebula (2004:177) cites Cloete (1988) who posits that “the function of these committees is to support the Cabinet decision-making process by facilitating the integration of sectoral policy decisions towards a nationally coordinated policy.”

Moreover, Mathebula (2004:177) cited the PRC Report (1998) which states that “the overall recommendation of the PRC was for the Cabinet Office to cluster service delivery areas into manageable entities capable of having their performance appraised and managed.” The Cabinet clustering system comparable to the British super ministerial cabinet committee system was adopted by President Thabo Mbeki and developed six Cabinet committees to facilitate creative, cross-sectoral thinking on policy issues.

Furthermore, Mathebula (2004:178) cites the Cabinet Working Document (2000) which outlines, the functions of the Cabinet Office as follows:

“to support Cabinet in providing basic services of a Secretariat, ensuring consistency between Cabinet decisions and its strategic framework and priorities; ensuring coordination among departments in the introduction and implementation of policies to discourage the pursuit of sectoral interests to the detriment of national objectives; the screening and quality control of integrated

memoranda before they are put before Cabinet; and to provide a follow-up service on outstanding Cabinet matters.”

The core function of the Cabinet Clusters is to achieve broad government outcome that depends on individual ministries' inputs and other executive state centres. Provincial and local government inputs are submitted in the clusters through DGs and Ministers who interact with the different MINMECS (Mathebula, 2004:179).

### 3.5.7 District Intergovernmental Forums

Section 23 of the Intergovernmental Relations Act of 2005 provides for the formation of the district intergovernmental relations forum to promote and facilitate intergovernmental relations between the district municipality and the local municipality in the district. Van Niekerk (2015) states that the South African Local Government Association (SALGA) represents District and Local municipalities on national intergovernmental structures. The district and local municipalities at the provincial level are represented through the provincial local government associations.

Notably, according to Section 25 of the Intergovernmental Relations Act (2005), the District Intergovernmental Relations are formulated by the mayor of the district municipality; the mayors of the local municipalities in the district or, if a local municipality does not have a mayor, a councillor designated by the municipality; and the administrator of any of those municipalities if the municipality is subject to an intervention in terms of section 139 of the Constitution. The Act Intergovernmental Relations Act of (2005) states that a Forum is convened by the chairperson of the district intergovernmental forum and determines the agenda for a meeting of the forum. The forum convenes a meeting at least once per year with service providers and other role players concerned with development in the district to coordinate the effective provision of services and planning in the district,

Section 26 of the Intergovernmental Relations Act makes the provision of the functions of a district intergovernmental forum as follows:

“to serve as a consultative forum for the district municipality and the local municipalities in the district to discuss and consult each other on matters of mutual interest, including(a) the draft national and provincial policy and legislation relating to matters affecting local government interests in the district;

(b) the implementation of national and provincial policy and legislation with respect to such matters in the district; (c) matters arising in the Premier's intergovernmental forum affecting the district; (d) mutual support in terms of section 88 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); (e) the provision of services in the district; (f) coherent planning and development in the district; (g) the co-ordination and alignment of the strategic and performance plans and priorities, objectives and strategies of the municipalities in the district; and (h) any other matters of strategic importance which affect the interests of the municipalities in the district”.

According to section 20 of the Intergovernmental Relations Act (2005), matters arising from the District Intergovernmental Relations forum may be referred to the Premier's intergovernmental relations forum or any other provincial intergovernmental forum. It is the responsibility of the District Mayors to ensure that there is a district-wide development vision informed by IDPs of local municipalities (National Policy Development Framework, 23:2020). In local government, IGR is coordinated through district-mayoral forums. Also, Sections 28 and 29 of the Intergovernmental Relations Act provide that all municipalities establish inter-municipality forums to accelerate intergovernmental relations between municipalities. Section 30 of the Act makes provision for municipalities to establish technical support intergovernmental relations forums that include officials representing the participating bodies in the forum, to provide technical advice and support to the District IGRF. The inter-municipal forum serves as a consultative body for the municipalities involved in a forum to discuss and consult each other on matters of common interest.

#### 3.5.8 The Budget Council and Local Government Budget Forum.

The Intergovernmental Fiscal Relations Act of 1997 made provision for the establishment of the Budget Council and Local Government Budget Forum to promote cooperation between the tiers of government relative to fiscal budgetary and related financial matters. The council comprises the National Minister of Finance and the nine members of the executive councils (MECs) for finance in the provinces. According to Reddy (2001), membership of the Budget Forum involves the Budget Council, five SALGA representatives and one member from the provincial associations.

Tau (2015:805) argues that the Budget Council is the consultative body where National and Provincial spheres of government consult on

“any fiscal, budgetary or financial matter affecting the provincial sphere of government, any proposed legislation or policy that has a financial implication for the provinces, or for any specific province or provinces, any matter concerning the financial management, or the monitoring of the finances, of the provinces, or of any specific province or provinces, any other matter which the Minister has referred to the Council.”

Moreover, according to Tau (2015:805)

“The Budget Forum is a body in which the national government, the provincial governments and organised local government consult on any fiscal, budgetary or financial matter affecting the local sphere of government, any proposed legislation or policy that has a financial implication for local government, any matter concerning the financial management, or the monitoring of the finances, of local government and any other matter that the Minister has referred to the Forum.”

For Edwards (2008) the Budget Council and Local Government Budget Forum are mandated to provide advisory services on national finance affairs for MINMECs members. The national and provincial governments in the Budget Council refer to fiscal, budgetary or financial matters concerning the provincial sphere of government. The Budget Council provides recommendations to Cabinet on the division of revenue and the National Government utilises the council as a platform to consult provinces on the division of revenue (Edwards 2008:71). Edwards (2008) further cites Carstens and Mathebula (2007: 65) and DPLG 2005: 67–68) stating that “In the Local Government Budget Forum, organised local government meets with the national and provincial government to consult on financial matters.” On this, Reddy (2001) notes that the Budget Forum focuses more on financial and fiscal matters for local government. The South African Intergovernmental Relations Forum is mandated by the Constitutional framework, Legislative framework and Policy Framework that are discussed next.

### **3.6 Conclusion**

This chapter has focused on the background of Intergovernmental relations and cooperative governance in South Africa before and after 1994 until 2020. It explored



the settings of the Intergovernmental relation in South Africa. From the above discussion of the IGR system before 1994 it can be inferred that the British interference in the affairs of South Africa has negatively impacted the Intergovernmental relations system. Government systems under Apartheid rule failed dismally to meet the needs of the majority of South Africans and only white communities benefited from the government services. There was a need for the country to strive for democracy that would bring fundamental changes in the restructuring of intergovernmental relations and redefining responsibilities in all government spheres which meet citizens' needs.

This chapter also discussed the legislative and policy frameworks that govern intergovernmental relations and cooperative governance in South Africa. Notably, the legislative framework of Intergovernmental relations in South Africa provides for each sphere of government to be independent but interrelated with the other spheres and must operate in accord with them in the delivery of public services. The Intergovernmental relation Act of 2005 provided for the formulation, membership and functions of the IGR Forums to promote interaction between the three spheres of government. Each sphere of government has its forum with members representing other spheres of government. Consultative forums and structures discussed performance in the provision of services to detect failures and initiate preventive or corrective action when necessary. The formulation of the needed structures of IGR has made a great impact in the integration and cooperation within and across the three spheres of government and has been observed in the Presidency's Fifteen Year Review as an achievement.

## Chapter 4

### Case Study: South African Higher Education Institutions

#### 4.1 Introduction

This chapter presents a detailed discussion on intergovernmental relations and cooperative governance in South African Higher Education Institutions. The chapter unpacks the legislative framework which guides South African Higher Education Institutions and their stakeholders. Stakeholders of higher education are also identified and discussed. According to Higher Education Act (1997), higher education institution means any institution that provides higher education on a full-time, part-time or distance basis and which is:

- a) “Established or deemed to be established as a public higher education institution under this Act.
- b) declared as a public higher education institution under this Act; or
- c) registered or conditionally registered as a private higher education institution under this Act.”

This chapter provides an overview of higher education institutions before 1994.

#### 4.2 The Higher Education Institutions (HEIs) Pre-1994

Since the passing of the Union Act in 1910, the federal government was in charge of higher education. The relationship between the government and institutions of higher learning has historically been skewed in favour of the government as the principal, and often sole, financier. The law also mandated that universities get government approval for their annual budgets. The adoption of all new university statutes was the joint responsibility of the Parliament and the Minister of Education. To realise this mandate, the minister of education appoints six to eight members to each university council (Netswera, F.G. and Mathabe, N. 2006:29)

Mzangwa (2019) states that the provision of education was affected by the Apartheid system. According to 25 Year Review of 2019 higher education system was classified according to race, class, gender, and specific academic policies, with various governance systems for universities and Technikons. This racially organised differentiation was followed by a set of conditions that hampered a variety of teaching

and research activities that historically black institutions were expected to carry out. These standards are related to academic programs, knowledge production, staff credentials, student access, opportunities, quality, infrastructure, funding, and geographic location (Higher Education South Africa, 2014:9).

Netswera and Mathabe (2006) argue that HEIs were operating under discriminative principles, where Universities and Technikons were separated. In this, white universities were fully equipped and black institutions were intentionally limited, and kept distantly from wealth and far from well-supported centres. According to 25 Year Review (2019:62-63) pre-1994,

“The democratic government inherited an education system polarised along racial and ethnic lines. Segregation manifested itself in the existence of 19 departments of education, which were characterised by the uneven provision of resources, with whites taking a lion’s share, followed by Indians and coloureds while the African majority received the least. Under Apartheid rule, the government spent nine times more on each white learner than it did for a black learner.”

Higher Education Institutions lacked adequate infrastructure, governance, and organisational systems. The difficulties experienced by historically underprivileged institutions, such as the funding strategies, prevented the creation of successful intellectual businesses due to remote geographic locations, poor infrastructure, and other factors (Twenty-Five Year Review, 2019:62).

According to Mzangwa (2019) pre-1994, several higher education institutions HEIs in South Africa did not appear to promote social inclusion of different groups in higher education, especially for those from underprivileged backgrounds. Mzangwa (2019:10) quotes Deacon, Osman, and Buchler (2010) who posit that “based on this history, South Africa is a country with a legacy of divided social orders based on race, class, gender and location which are major challenges and a contributing factor to social inequalities.” Notably, since access and participation involve students from underprivileged and underrepresented social backgrounds, they are frequently viewed as problematic and difficult to maintain. The standpoint of social justice, the perception of access limits, presumes imbalances based on apartheid-era segregation legislation (Mzangwa, 2019:1).

Davies (1994) states that the higher education system was built on racial and linguistic distinctions. Ten white institutions with considerable funding were divided into Afrikaans- and English-language programs. The latter openly opposed both Afrikaner political hegemony and white dominance while the former supported both. The English-speaking institutions marketed themselves as "liberal universities" and saw the global academic community as their target audience. The African institutions, on the other hand, were located in poor tribal homelands and were strictly governed by academics and administrators who supported the government. Additionally, there were several universities for coloured people and Indians (Davies, 1994:255).

Furthermore, Davies (1994) argues that the English-language curriculum was also far more positioned for racist infiltration than is commonly assumed. After finishing their studies, the vast majority of students were politically uneducated and accepted black subordination as a given. Even when white universities were allowed to admit black students in the early 1980s, the situation did not improve significantly. Black students complained bitterly about an alien and authoritarian curriculum that, when combined with their needy school environment, posed a significant impediment to academic progress. Davies (1994:256) cites Gwala (1988) who is of the view that "the curriculum amounted to a watered-down version of that operating at the Afrikaans-language universities and hence was self-contradictory towards African culture. It glorified Afrikaner and white skill and derided or ignored black achievements."

Poor governance and management were regarded as "agential variables", which have worsened the structural constraints faced. During apartheid, blacks were not only excluded from education but literacy was also given attention between workers (25 Year Review, 2019:62). According to Davies (1994:258) "during the mid-1980s, the government gave serious consideration to the introduction of reforms which would make universities more selective, productive and cost-effective." However, as the political crisis worsened and the administration shifted more and more toward repression, these measures were never consistently carried out (Davies, 1994:258).

According to Netswera and Methabe (2006:32), the main cause of the struggle was a mission for "widespread participation in education by the black communities; unrestricted choice in courses of study; equity in research of education for all races;

non-restrictions of choice in locations to study; teaching and learning methodologies that would develop critical thinking in students; and the selection of educational content to address real educational needs." Protesters were forbidden by the authorities, and this was a moment of social discontent, declining economic conditions, and essentially a revolution. The university system remained divisive and discriminatory at the start of 1990. Despite admission reform, whites retained a monopoly on administrative and academic positions, as well as preferential student access to historically white universities (Davies, 1994:257).

Davies (1994) states that the Ministry of National Education unveiled its Education Renewal Strategy (ERS) for South African education in May 1990, to find short and medium-term managerial solutions to some of the country's most pressing educational issues. The Education Renewal Strategy (ERS) outlined the government's future policy orientation regarding all aspects of education. The ERS's main components were the decision to do away with race as the guiding concept of South African education and the dedication to one ministry of education that would have authority over all educational levels. The ERS also stated that the existing racially biased education departments—of which there are numerous in the university district—would not be eliminated until a new constitution was in place (Davies, 1994:259). South African HEIs had to be liberated from the Apartheid past, hence, a comprehensive restructure or transformation of higher education was implemented in 1994 to address these issues of resulted from the Apartheid.

### **4.3 Higher Education Institutions (HEIs) Post-1994**

After 1994, the South African government was faced with challenges to develop policies that remove the imbalances of the past, formulate Higher Education policies to facilitate better conditions/transformation such as access, development, accountability and quality, transform the higher education system to serve a new social order, to meet pressing national needs and to respond to new realities and opportunities. According to Mzangwa (2019:9), "transformation in the South African context refers to the need to ensure that the barriers to access are completely removed so that the higher education system becomes more inclusive, achieving widening access, improved throughput rates and participatory outcomes." The transformation of HEI in South Africa aimed to remove the access blocks to enable the higher

education system to become more comprehensive, achieve full access and improve output rates and outcomes (Mzangwa,2019:9).

According to Higher Education South Africa (2014), all South African HEIs had to be released from their Apartheid history following the establishment of constitutional democracy in 1994 for them to support new social goals. Planning is needed to recognize, resolve, and take into account institutional, social, and historical distortions. It also needed to look to the future of higher education institutions. It was necessary to acknowledge the inherited public HEIs as South African ones, to accept them as such, to modify them as necessary, and to use them to serve all South Africans (Higher Education South Africa, 2014:9-10). The nation's rebuilding and development initiative has placed a focus on educational reform since 1994. First, the government had to overcome the effects of Apartheid's destructive policies and set up an educational system that promotes democracy, human dignity, equality, and social justice. Second, for South Africans to be prepared to consider how to respond to the enormous economic and social issues of the 21st century, a system of lifelong learning must be built (Department of Education, 2001:04).

Mzangwa (2019) states that in response to the issues of the past related to the Higher Education 'system, Minister of Education, Professor Kadar Amal assigned the Council on Higher Education (CHE) to evaluate and reform the Higher Education system to a more truthful representation of South African majority. Grobbelaar (2004, 37-38) cited National Commission on Higher Education (1996) that the first comprehensive investigation into the sector listed the following problem areas:

- "It perpetuates an inequitable distribution of access and opportunity for students and staff along axes of race, gender, class and geographic discrimination.
- There is a chronic mismatch between higher education's output and the needs of a modernising economy.
- There is a strong inclination towards closed-system disciplinary approaches and programmes that have led to inadequately contextualised teaching and research.
- There is a lack of regulatory frameworks.

- There has been a tendency for higher education institutions to replicate the ethnic, racial and gender divisions of the wider society.”

Mzangwa (2015:4) cites Gibbon and Kabuki (2004) stating that "this finding by the CHE led to the programmer for the transformation of higher education and policy which aimed to bring about developments and changes to the HEIs in South Africa, meeting socio-economic needs, access and equity." Since 1994, the government has enacted significant policy changes to address historical educational inequities. These changes have transformed the educational system and improved all South Africans' talents and chances in life. Nineteen different education departments were merged into one education system, and race was eliminated (20 Year Review, 2019:47). Following the Education White Paper 3, a programme for transformation was formulated and implemented in 1997 as South Africa transitions from Apartheid and minority rule to democracy. The existing customs, institutions, and values were reexamined to determine their applicability in the modern age.

Higher education is critical to modern societies' social, cultural, and economic development. South Africa's current challenge is to overcome past injustices and change higher education to serve a new social order, meet pressing national requirements, and respond to new realities and opportunities. It must lay the groundwork for the development of a learning society capable of stimulating, directing, and mobilising all people's creative and intellectual energies toward meeting the challenge of reconstruction and development (White Paper 3, 1997:03). A single coordinated higher education system, cooperative governance, and goal-oriented funding were the main tenets of the structure it promoted. These were based on the principles of equity, democratisation, development, quality, academic freedom, and institutional autonomy, as well as effectiveness and efficiency (Grobbelaar, 2004:38).

Mzangwa (2019:9) cites Chetty (2010) that “the merging of HEIs which have taken place since 2002 and the establishment of Universities and Universities of Technology was an attempt by the South African democratic government to bridge the gap between racial and territory-based HEIs and to make these institutions accessible, inclusive and reach certain standards of equity.” Furthermore, Mzangwa (2019:9) cites Badsha and Cloete (2011) who state that “when the new government took over in South Africa in 1994 a decade prior to the incorporation and merging of other HEIs in

2004, the impression made in terms of administration of higher institutions was that a changed (transformed) HE environment would effectively displace social disorders in the South African socio-economic and educational system.” Moreover, Mzangwa (2019:9) cites Cloete and Bunting (2002) that “however, this was not the case as later evidenced by the fact that even after introducing policy aimed at transforming HEIs, not a lot has changed for the better.” In addition, Mzangwa (2019) cites Lundall (1998) and Muller( 2005) that “a lot more pragmatic action still needs to take place to overcome imbalances in terms of access, wider participation and language margins created in the past.”

In my view, this appears to have been a mistake because the policy on transforming Higher Education Institutions in South Africa, which guided the decision to reduce the number of Higher Education Institutions, failed to adequately address the issues of access, participation, and equity in their entirety and instead spoke to a political desire to address racial imbalances while ignoring other crucial issues like the issue of language. According to Mzangwa (2019) the introduction of the transformation agenda in the South African Commission on Higher Education seems to have had the majority of the changes made to higher education by the Apartheid administration in mind. In the process, the Apartheid-era values were not only discouraged but also eliminated without considering how they might have helped society under the new system. The closure of teacher training institutions that had previously provided the requisite instruction for teaching at the secondary education level would be an obvious example.

In this sense, certain derailers took the place of introducing, implementing, and monitoring policy to reform Higher Education Institutions lead, particularly in the political sphere, which hindered addressing pressing challenges like extending access, implementing equity, and expanding participation. The strategy for Higher Education Institutions' transformation is still a sound, initiative, but monitoring and implementation did not result in the desired developments. Even after two decades of democracy, there is still animosity and disagreement over how Higher Education institutions are run and administered (Mzangwa, 2019:11).

Mzangwa (2019:11) cites the Department of Higher Education and Training (2012) that



“Despite the restructuring of the Higher Education Institutions brought about by the policy on transformation, issues of race, class and access still weigh down the discourse on Higher Education Institutions to date. The debate is ongoing, and the task of the government is to determine how the system should be restructured to accommodate previously disadvantaged students, a task that has not as yet been realised as is evident from the failure of policies such as the Draft Green Paper from the Department of Higher Education and Training.”

This resulted in rich people benefiting to gain access to higher education and most black people not benefiting, the reason being the poor implementation of policies and lack of monitoring of compliance with existing policies (Mzangwa, 2019:1). Netswera and Mathabe (2006:33) state that “few black middle-class citizens who can access the well-resourced white institutions when others remain barred due to distances and other costs.” Netswera and Mathabe (2006) argue that the transformation in Higher Education Institutions' enrolment at historically white institutions, and racist and ethnic structures of apartheid seem to have remained unchanged.

The topic of transformation issues such as language, culture and meritocracy in the higher education sector in South Africa continues to be emphasised. However, the debate around the status quo of South African HEIs needs more attention towards realising higher education policy on transformation (Mzangwa, 2019:2). The Ministry of Education needed to pursue the reconfiguration of the framework of South African higher education to achieve uniformity in the quality of education, access and equity between universities and Technikons (Netswera and Mathabe, 2006:34). The relationship between the government and higher education has since been transformed by numerous acts and policies. The legal structure that directs South African higher education institutions is explained in the chapter.

#### **4.4 Legislative Framework for Higher Education Institutions**

In South Africa after 1994, the democratic government has made significant legal and policy advancements to change higher education institutions and make them more socially aware and actively involved in extending and deepening democracy. Impressive improvements coexist with the replication of old patterns in the higher education sector as well as in the connections between this sector and society; the

implementation of these policies has been delayed, challenging, and confusing (Reddy, 2006:2).

#### 4.4.1 The Constitution of the Republic of South Africa, 1996

The South African Constitution of 1996, as well as the Department of Education (2001), laid the foundation for a unitary educational system that is governed by nine provincial agencies as well as the federal Department of Education. The exception is higher education, which is entirely the national department's responsibility.

Section 29 (1) of the Constitution states that everyone has the right—(a) to basic education, including adult basic education; and (b) to further education, which the state, through reasonable measures, must make progressively available and accessible.

Section 29 (2) of the Constitution states that everyone has the right to receive education in the official language or languages of their choice in public educational institutions where that education is reasonably practicable. To ensure the effective access to, and implementation of, this right, the state must consider all reasonable educational alternatives, including single medium institutions, taking into account— (a) equity; (b) practicability; and (c) the need to redress the results of past racially discriminatory laws and practices.

Section 29 (3) of the Constitution provides for everyone a right to establish and maintain, at their own expense, independent educational institutions that— (a) do not discriminate based on race; (b) are registered with the state; and (c) maintain standards that are not inferior to standards at comparable public educational institutions.

#### 4.4.2 The White Paper 3 on Higher Education of 1997

The White Paper 3 on Higher Education and Training is a programme for transformation in Higher Education. It outlines a comprehensive set of proposals for the transformation of higher education through the creation of a single coordinated system with new planning, governing, and finance structures.

#### The White Paper 3 on Higher Education of 1997

“Outlines the framework for change, that is, the higher education system must be planned, governed and funded as a single national coordinated system. This

enables us to overcome the fragmentation, inequality and inefficiency which are the legacy of the past and create a learning society which releases the creative and intellectual energies of all our people towards meeting the goals of reconstruction and development.”

Chapter 1.3 of the White Paper 3 on Higher Education outlines several related purposes for Higher Education.

- “To meet the learning needs and aspirations of individuals through the development of their intellectual abilities and aptitudes throughout their lives. Higher education equips individuals to make the best use of their talents and the opportunities offered by society for self-fulfilment. It is thus a key allocator of life chances and an important vehicle for achieving equity in the distribution of opportunity and achievement among South African citizens.”
- “To address the development needs of society and provide the labour market, in a knowledge-driven and knowledge-dependent society, with the ever-changing high-level competencies and expertise necessary for the growth and prosperity of a modern economy. Higher education teaches and trains people to fulfil specialised social functions, enter the learned professions, or pursue vocations in administration, trade, industry, science and technology and the arts.”
- “To contribute to the socialisation of enlightened, responsible and constructively critical citizens. Higher education encourages the development of a reflective capacity and a willingness to review and renew prevailing ideas, policies and practices based on a commitment to the common good.”
- “To contribute to the creation, sharing and evaluation of knowledge. Higher education engages in the pursuit of academic scholarship and intellectual inquiry in all fields of human understanding, through research, learning and teaching.”

Chapter 1.27 of White Paper 3 on Higher Education provides for the following goals at the national or system level:

- (1) “To conceptualise, plan, govern and fund higher education in South Africa as a single, coordinated system”;
- (2) “To provide a full spectrum of advanced educational opportunities for an expanding range of the population irrespective of race, gender, age, creed or class or other forms of discrimination”;
- (3) “To diversify the system in terms of the mix of institutional missions and programmes that will be required to meet national and regional needs in social, cultural and economic development”;
- (4) “To facilitate horizontal and vertical mobility by developing a framework for higher education qualifications which incorporates adequate routes of articulation, as well as flexible entry and exit points”;
- (5) “To improve the quality of teaching and learning throughout the system and, in particular, to ensure that curricula are responsive to the national and regional context; (6) To promote the development of a flexible learning system, including distance education and resource-based learning based on open learning principles”;
- (6) “To secure and advance high-level research capacity which can ensure both the continuation of self-initiated, open-ended intellectual inquiry and the sustained application of research activities to technological improvement and social development”;
- (7) “To promote and develop social responsibility and awareness amongst students of the role of higher education in social and economic development through community service programmes”;
- (8) “To produce graduates with the skills and competencies that build the foundations for lifelong learning, including, critical, analytical, problem-solving and communication skills, as well as the ability to deal with change and diversity, in particular, the tolerance of different views and ideas”;
- (9) “To develop capacity-building measures to facilitate a more representative staff component which is sensitive to local, national and regional needs, and is committed to standards and ideals of creative and rigorous academic work”;
- (10) “To ensure transparent and cost-effective management aimed at optimal use of available resources and”

- (11) “To develop and implement funding mechanisms in line with the principles outlined above and based on need, affordability, sustainability and shared costs, and in support of the goals of the national higher education plan.”

Chapter 1.28 of White Paper 3 on Higher Education outlines the following goals at the institutional level:

- (1) “To transform and democratise the governance structures of higher education. New structures should provide for co-operative decision-making between separate but functionally interdependent stakeholders who recognise their different identities, interests and freedoms while pursuing the common goal of a co-ordinated and participative polity and civil society”;
- (2) “To encourage interaction through co-operation and partnerships among institutions of higher education and between such institutions and all sectors of the wider society”;
- (3) “To promote human resource development through programmes that are responsive to the social, political, economic and cultural needs of the country and which meet the best standards of academic scholarship and professional training”;
- (4) “To establish an academic climate characterised by free and open debate, critical questioning of prevailing orthodoxies and experimentation with new ideas”;
- (5) “To demonstrate social responsibility of institutions and their commitment to the common good by making available expertise and infrastructure for community service programmes and (6) To encourage and build an institutional environment and culture based on tolerance and respect.”

#### 4.4.3 Higher Education Act No. 101 of 1997

According to Mzangwa (2019) South Africa's HEIs are governed and monitored by legislative principles and procedures outlined in the Higher Education Act of 1997. The Higher Education Act of 1997 Act states that “it is desirable for the higher education institutions to enjoy freedom and autonomy in their relationship with the state within the context of public accountability and the national need for advanced skills and scientific knowledge.”

Higher Education Act No. 101 of 1997 regulates higher education *functions*

- “To provide for the establishment, composition and functions of a Council on Higher Education”;
- “To provide for the establishment, governance and funding of public higher education institutions”;
- “To provide for the appointment and functions of an independent assessor”;
- “To provide for the registration of private higher education institutions; to provide for quality assurance and quality promotion in higher education”;
- “To provide for transitional arrangements and the repeal of certain laws; ‘and”
- “To provide for matters connected, therewith.”

Section 37 (1) of the Higher Education Act of 1997 states that subject to this Act, the council of public higher education institutions, after consulting the senate of the public higher education institution, determines the admission policy of the public higher education institution.

Section 39. (1) states that the Minister must, after consulting the Council for Higher Education and with the concurrence of the Minister of Finance, determine the policy on the funding of public higher education, which must include appropriate measures for the redress of past inequalities, and publish 15 such policy by notice in the Gazette.

#### 4.4.4 National Student Financial Aid Scheme Act, Act No. 56 of 1999 (NSFAS Act)

The National Student Financial Aid Scheme Act of 1999 established the National Student Financial Aid Scheme (NSFAS). Section (2) states the “aim of the NSFAS is to provide financial aid to eligible students who meet the 25 criteria for admission to a higher education programme.”

Section 21(1) Subject to this section, a loan must be repaid as provided in the loan agreement. (2) A borrower may repay a loan wholly or in part before the due date. (3) If a borrower fails to make repayments as provided in this Act, his or her name may be placed by the board on any list of defaulting debtors published by any person or body whose business it is to compile and publish such lists. (4) The name of a borrower may not be placed on a list contemplated in subsection (by the board unless he or she— (a) has been notified by the board by registered letter addressed to his or her chosen *domicilijum citalldi et execut* and; of the failure to make repayments and of the

intention of the board to act in terms of subsection (3): and (b) has been afforded a reasonable opportunity to pay the arrear amount and has failed to do so.

Section 23 provides for the obligations of the employer. Section 23 (1) states that the board may by written notice sent by registered mail inform the employer of a borrower—(a) that the borrower is indebted to the NSFAS in consequence of a loan granted by the NSFAS to the borrower; and (b) of the deductions that the employer has to make from the remuneration of the borrower. (2) Any employer who is given notice in terms of subsection (1) must make deductions from the remuneration payable by him or her to the borrower according to the scales prescribed by regulation. (3) Any amount deducted by an employer in terms of subsection (2) must be paid over to the NSFAS and any amount so paid over must be regarded as a proportionate discharge of the loan by the borrower concerned.

(4) Any amount deducted in terms of this section must for the purposes of the Income Tax Act, 1962 (Act No. 58 of 1962), or any other applicable law, be regarded as forming part of the remuneration of the borrower. (5) Any employer who fails to make a deduction and payment in accordance with this section is guilty of an offence and on conviction may, in addition to a fine, be ordered to make such deduction and payment and (6) The administration costs for the deductions must be borne by the NSFAS.

Section 24 of the NSFAS Act of 1999 makes provision for the obligations of the South African Revenue Service. Despite section 4 of the Income Tax Act 1962 (Act No. 58 of 1962), the South African Revenue Service must at the request of the board furnish it with the name and address of the employer of a borrower if such information is known to the South African Revenue Service.

#### 4.4.5 The South African Qualifications Authority Act 58 of 1995 (SAQA)

The South African Qualifications Authority Act of 1995 provides for the National Qualifications Framework:

- “to provide for the responsibilities of the Minister of Higher Education and Training”;
- “to provide for the South African Qualifications Authority and its functions”;
- “to provide for Quality Councils and their functions”;

- “to provide for the referral of qualifications or part-qualifications to the SAQA for verification and evaluation”;
- “to provide for offences and penalties; to provide for transitional arrangements”;
- “to repeal the South African Qualifications Authority Act, 1995; and
- to provide for matters connected therewith”.
- “The formulation of criteria for evaluating foreign qualifications; to provide for the establishment and maintenance of separate registers of misrepresented or fraudulent qualifications or part-qualifications”.

Section 2 of the Act states that every qualification or part-qualification contemplated in subsection (1) (a) must be registered on the National Qualifications Framework following this Act.

#### 4.4.6 National Qualifications Framework Amendment Act, as amended, Act No. 12 of 2019 (NQF)

The Act aims to amend the National Qualifications Framework Act, 2008, to amend and insert certain definitions;

- “to provide for the verification of all qualifications or part-qualifications by the SAQ;
- to provide for the formulation of criteria for evaluating foreign qualifications;
- to provide for the establishment and maintenance of separate registers of misrepresented or fraudulent qualifications or part-qualifications;
- “to provide for a separate register for professional designations;
- “to provide for the referral of qualifications or part-qualifications to the SAQA for verification and evaluation;
- “to provide for offences and penalties which have a bearing on fraudulent qualifications; and
- “to provide for matters connected therewith.”

#### 4.4.7 White Paper for Post-School Education and Training 2014 (WP-PSET)

According to 25 Year Review (2019:73) in 2013, the *White Paper for PSET* was published outlining a new policy direction. The policy intends to build a fair, equitable, non-racial, nonsexist and democratic South Africa; a single, coordinated Post-School



Education and Training system, and to expand access, improve quality and increase the diversity of provision.” The White Paper for Post-School Education and Training (2014) provides policy direction and objectives to achieve: a transformed, non-discriminatory, youth-focused and adult-user-friendly Post-School Education and Training system; an expanded, diverse, purposefully differentiated, fit-for-purpose Post-School Education and Training system; an articulated Post-School Education and Training system; an accessible and successful Post-School Education and Training system and a Post-School Education and Training system that is strongly linked to the world of work.

#### 4.4.8 The National Plan for Higher Education, 2001

Mekoa (2018) states that according to the Department of Education's 1997 report, the institutional planning process, which started in 1998, contributed to the development of the National Plan for Higher Education. The vision for the reform of the higher education system presented in Education White Paper 3 – a Programme for the Transformation of Higher Education is put into practice through this National Plan for Higher Education. It outlines the strategic interventions and levels necessary for the reform of the higher education system and creates a framework for implementation. The establishment of higher education as a major force behind and contributor to the growth of South African society constitutes both an opportunity and a challenge (Mekoa, 2018:230).

The National Plan for Higher Education (2001) outlines the preliminary aims for the size and design of the higher education system, such as general growth and participation rates, institutional and program mix, and equality and efficiency targets. The plan also stipulates the procedures and methods for the formulation of institutional three-year "rolling" plans as well as a framework for the transformation of the higher education system's institutional landscape. To address the crucial issues of access, equity, and redress as stipulated in the Higher Education Act, the national plan resulted in the amalgamation of several universities (Mekoa, 2018:230).

#### **4.5 Stakeholders in Higher Education Intergovernmental Relations**

According to Malan and Mammadalizade (2012), the principal players in Higher Education Intergovernmental Relations are the Department of Higher Education and Training (DHET), Higher Education Institutions, and other institutions promoting

intergovernmental relations in the higher education sector such as the National Council on Higher Education (NCHE) and Higher Education South Africa (HESA).

The establishment of intergovernmental relations in the higher education sector is decisive and resulted from the collaboration of the following role players: priority setting and direction from the South African government; determination and implementation of higher education policy by the Department of Higher Education and Training with the input of other stakeholders such as HESA, CHE and higher education institutions; and the appropriation of funding from the National Treasury (Malan and Mammadalizade, 2012:100). These parties involved ought to encourage strong intergovernmental ties to advance the development goals (Malan and Mammadalizade, 2012:98).

#### 4.5.1 Department of Higher Education and Training (DHET)

In 2009, after South Africa's third democratic elections, a new Department of Higher Education and Training with a special focus on higher education training was created. The Department of Higher Education and Training (DHET) is the government department in the national sphere that is directly responsible for higher education intergovernmental relations (Malan and Mammadalizade, 2012:100). Malan and Mammadalizade (2012:100) cite the Department of Higher Education and Training (2010) that "Department of Higher Education aims to deliver, at an increased rate, the knowledge and skills needed by the South African economy." The departments intend to provide a higher education system that serves South African youth and the adult population and promotes a system that provides quality learning.

The interaction of the Department of Higher Education and Training (DHET) in the national sphere of government and other role players in the higher education sector promotes effective and efficient higher education service delivery in South Africa. The implementation of higher education priorities is effective through the collaboration of these institutions (Malan and Mammadalizade, 2012:99). The function of the state is to make higher education decisions on funding, access, and quality and to develop higher education policy.

#### 4.5.2 Higher Education Institutions-Universities

The Higher Education Act of 1997 provides for the formulation of the Higher Education Institution. According to the National Development Plan vision (2011:317), Higher Education” is the major driver of information and knowledge systems that contribute to economic development. However, higher education is also important for good citizenship and for enriching and diversifying people’s lives.”

Malan and Mammadalizade (2012:102) cite Castells (2009) who state that “universities are essential for scientific and technological development, as well as in training human capital according to constantly changing economy and technological environment.” Furthermore, Nubong (2019) notes that Higher education in South Africa aims to fulfil students' desires for self-improvement, provide them with marketable skills, produce knowledge that benefits society and the economy, and foster civic responsibility.

Higher education institutions are self-governing institutions that define their means of achieving the set policy goals (Malan and Mammadalizade, 2012:100).

Chapter 9 of the National Development Plan (2011:318) states that universities are critical to a country's development. They serve three major tasks in society.

- “First, they educate and train people with high-level skills for jobs in the public and commercial sectors”.
- Second, universities are the leading producers of new knowledge, critiquing information and discovering new local and global uses for existing knowledge. South Africa needs information that will prepare its citizens for a changing society and economy and
- Third, considering the country's history of apartheid, opportunities for advancement are provided by higher education social advancement it can improve equity and social justice”.

Section 23 (1) subject to subsection (2) of the Higher Education Act of 1997 states that the Minister may, after consulting the National Council for Higher Education and by notice in the Gazette, merge two or more public higher education institutions into a single public higher education institution.

Malan and Mammadalizade (2012:100) quote the National Commission on Higher Education (NCHE) in its 1996 report that the “higher education institutions should be

autonomous but accountable to the state, while the state plays a steering, and coordinating role as well as a decision-making role.”

#### 4.5.3 National Council on Higher Education (NCHE)

Chapter 2 of the Higher Education Act of 1997 provides for the formulation of the National Council of Higher Education. The Council on Higher Education is a major statutory body established to provide independent, strategic advice to the Minister of Education on matters relating to the transformation and development of higher education in South Africa, and to manage quality assurance and quality promotion in the higher education sector. The NCHE is supported by its professional secretariat, headed by the Executive Officer, and will control its operating budget (White Paper on Education, 1997: 28).

Chapter 3 of the White Paper on Education of 1997 states that the NCHE consists of the chairperson; ordinary members; co-opted members; and non-voting members. The chairperson and most members of the NCHE are appointed by the Minister after a process of public nomination. The membership, taken as a whole, must be as representative as possible of the main stakeholder interests in the higher education system and must be capable of providing advice of high quality to the Minister based on thorough research and consultation.

Grobbelaar) (2004) argues that the National Commission on Higher Education (NCHE) constituted a number of task groups, technical committees and working groups to assist with their in-depth investigations.

Malan and Mammadalizade (2012:101) state that the CHE consists of the following four Standing Committees:

- *“Advice and Monitoring Standing Committee-* “It guides and provides inputs into the CHE’s advice on and monitoring of higher education experts, excluding those that specifically talk about funding and infrastructure.”
- *“Higher Education Funding and Infrastructure Standing Committee –* “provide advice to CHE on and monitoring funding and financing of higher education, such as “policies, principles, criteria and mechanisms that govern the distribution of public funds among higher education providers, public and private financing and forms of student financial assistance”

- “*Finance and Investment Standing Committee* – advises and makes recommendations to the Council and/or its Executive Committee on financial matters and.
- “*Audit Standing Committee* – “operates as a subcommittee of the Council to assist with the review of the financial reporting process, the system of internal control and the management of financial risks, the audit process and the CHE’s process for monitoring compliance with laws and regulations.”

According to Malan and Mammadalizade (2012:101), the CHE has a permanent committee which is known as the Higher Education Quality Committee (HEQC). It has a responsibility to promote and ensure quality higher education and accredits higher education programmes. Malan and Mammadalizade (2012:101) cited the National Council of Higher Education (NCHE) (2012) that (HEQC) has three directorates such as:

- “Institutional Audits Directorate – audits systems of public and private institutions to ensure quality in teaching and learning, research and community engagement”.
- “National Reviews Directorate – re-accredits existing programmes in specific disciplines and/or qualification areas”
- “Programme Accreditation Directorate – accredits the learning programmes of public and private higher education institutions”.

Section 5(1) of the Higher Education Act of 1997 outlined functions that the NCHE may advise the Minister on any aspect of higher education on its initiative and must:

- a) “advise the Minister on any aspect of higher education at the request of the Minister;
- b) “arrange and co-ordinate conferences; (c) subject to section 7(2), through its permanent committee, the Higher 25 Education Quality Committee—
  - i. promote quality assurance in higher education;
  - ii. audit the quality assurance mechanisms of higher education institutions;
  - iii. accredit programs of higher education;
- (c) “Publish information regarding developments in higher education, including an annual report on the state of higher education, regularly;

- (d) “promote the access of students to higher education institutions; and perform any other function—
- i. conferred on or assigned to it in terms of this Act;
  - ii. delegated or assigned to it by the Minister by notice in the Gazette”.

Chapter 2 of the Higher Education Act of 1997 states that meetings of the NCHE and its committees must be held at such times and places as may be determined by the chairperson concerned, but the chairperson must convene a meeting at least twice a year or if asked to do so in writing by at least one-third of the members of the CHE or the committee, as the case may be.

The White Paper on Education 3 of 1997 further states that the Minister must receive an annual report from CHE on the state of the higher education sector as a whole. The Minister will provide this report to Parliament and make it available to the public during an annual consultative conference of higher education stakeholders that will be organised by the Minister and the CHE to talk about the state of the system or a specific area of higher education.

#### 4.5.4 Higher Education South Africa (HESA)

Malan and Mammadalizade (2012) cite HESA (2011:101) that HESA was founded in 2005 and represents 23 South African public higher education institutions. It is mandated to “facilitate the development of informed public policy on higher education and to encourage cooperation among universities and government, industry and other sectors of society in South Africa.” The primary role of HESA is a policy analysis and strategic research; advocacy and stakeholder influence; and sector support. HESA serves as a liaison between higher education institutions and the government of South Africa. HESA lacks the formal power to develop higher education intergovernmental connections (Malan and Mammadalizade, 2012:102).

Furthermore, Malan and Mammadalizade (2012:102) cite HESA (2012) which states that “HESA has few governance and advisory committees; the role of committees is to study and advise HESA on governance and/or major policy issues in higher education as well as strategy and working groups, or groups dealing with funding; strategy; research and innovation; transformation; teaching and learning.” The Board of Directors of HESA established a strategy group to advise the Board of Directors on

overall strategic directions relating to a specific portfolio; to advise the Board of Directors on positions to be taken on specific issues of relevance to Higher Education; and to undertake any other tasks requested by the Board of Directors. The committees, working groups, and task teams of HESA only serve in an advisory capacity (Malan and Mammadalizade, 2012:102).

#### 4.5.5 National Student Financial Aid Scheme (NSFAS)

National Student Financial Aid Scheme was established in terms of Chapter 2 of the National Student Financial Aid Scheme Act No 56 of 1999. NSFAS is a government entity within the Department of Higher Education and Training that was founded to provide financial assistance to disadvantaged students who seek to continue their studies at public universities or TVET colleges.

According to Section 4 of the National Student Financial Aid Scheme Act, No 56 of 1999 the functions of the Scheme are:

- “(a) to allocate funds for loans and bursaries to eligible students;
- (b) to develop criteria and conditions for the granting of loans and bursaries to eligible students in consultation with the Minister:
- (c) to raise funds as contemplated in section 14(1).
- d) to recover loans.
- (e) to maintain and analyse a database and undertake research for the better utilisation of financial resources.
- (f) to advise the Minister on matters relating to student financial aid, and
- (g) to perform other functions assigned to it by this Act or by the Minister”

According to Section 20(1) of the National Student Financial Aid Scheme Act, the Board may agree with a HEI if it agrees to become a designated HEI to administer loans and bursaries to students at that institution on behalf of the NSFAS. According to National Student Financial Aid Scheme Act No 56 of 1999 a designated HEI is required to report to the board on a borrower's or bursar's progress regarding the course of study they are pursuing at durations that are agreed upon by the institution and the board and to inform the board shortly if a borrower or bursar discontinue attending courses.

#### 4.5.6 The South African Qualifications Authority (SAQA)

The South African Qualifications Authority (SAQA) was established in terms of the South African Qualifications Authority Act, 1995 to oversee the development and implementation of the National Qualifications Framework (NQF).

According to the South African Qualification Authority Annual Report (1998), SAQA identified the following strategic objectives for better achievement in the implementation of functions:

- “Building the infrastructure of SAQA. This includes ensuring the establishment of NSBs, SGBs, and ETQAs;
- Ensuring SAQA’s financial viability and
- Positioning SAQA strategically and advising stakeholder organisations – and providing guidance and advice where applicable and possible – on the NQF’s effect on areas not directly within its mandate. This covers topics like developing curricula, creating jobs, charting professional trajectories, and so forth”.

South African Qualification Authority Annual Report (1998) describes the functions of SAQA as follows:

1. “Oversee the development of the National Qualifications Framework (NQF);
2. Formulate and publish policies and criteria for:
  - i. the registration of bodies responsible for establishing standards and qualifications – National Standards Bodies (NSBs) and Standards Generation Bodies (SGBs);
  - ii. the accreditation of bodies responsible for monitoring and auditing the quality of provisions for the achievement of registered standards and qualifications – Education and Training Quality Assurance bodies (ETQAs).
3. Oversee the implementation of the NQF. This includes i. registering SGBs, NSBs and standards and qualifications, and ii. accrediting ETQAs”.

The South African Qualification Authority Annual Report (1998-99) states the function of the South African Qualification Authority “is to make final decisions on policy. It is also responsible for monitoring the development and implementation of the NQF at the macro level; facilitating and promoting constructive engagements and relationships with stakeholders and society; communicating the development of the



NQF, and advising on its further development and implementation. SAQA staff members are responsible for implementing the policies of the Authority and ensuring that all stakeholders participate in the development and implementation of the NQF.”

Chapter 8 of the National Qualification Authority Act provides for the meetings of the Authority:

- (1) “The meetings of the Authority or a committee shall be held at such times and places as the chairperson of the Authority or the committee, as the case may be, may determine.
- (2) The proceedings of the Authority or a committee shall not be invalid because of a vacancy on the Authority or the committee, as the case may be.
- (3) If the chairperson of the Authority or a committee is absent from any meeting of the Authority or a committee, as the case may be, the members present shall elect from among themselves a person to preside at that meeting.
- (4) The Authority may prescribe rules relating to the procedures at its meetings or the meetings of a committee, including the quorum for such meetings”.

Chapter 13(2) of the National Qualification Authority Act makes provision for the reporting of the Authority. The Authority shall not later than six months after the end of each financial year submit to the Minister a report in such form as the Minister may determine on its functions during that financial year, including an audited balance sheet and a statement of income and expenditure.

#### **4.6 Conclusion**

In-depth evidence on intergovernmental relations and cooperative governance in South African higher education institutions was presented in this chapter. The democratic government of South Africa has developed a legal and constitutional framework over the past few years to encourage cooperation and collaboration between the three branches of government. This chapter also explained the legal structure that governs stakeholders in South African higher education. Intergovernmental stakeholders in higher education were identified, and their roles and obligations were examined

## **Chapter 5**

### **Analysis and Conclusion**

#### **5.1 Introduction**

This chapter presents the overall findings and analysis of the research. It outlines some of the key benefits and challenges of the intergovernmental relations processes in South African Higher Education Institutions, as well as how they adhere to their statutory obligations and governance standards. The higher education system was split into race, class, gender, and academic policies during the apartheid era, with different governance systems for universities and Technikons. After 1994, the challenge for South Africa was to confront historical injustices and transform the higher education sector to support a new social order, meet pressing national demands, and adapt to new opportunities and realities.

#### **5.2 Rationale for the establishment of intergovernmental relations and corporative governance in South Africa.**

Kahn et al. (2011:49) cites Tapscott (1998) that "the current Intergovernmental Relations (IGR) system can be traced back to the South African Act of 1909 which constituted the Union of South Africa which came into being on 31 May 1910." Kahn et al. (2011) further argue that the Dutch and British colonial control in South Africa. provided the foundation for IGR, however, the South African Act of 1909 is considered the IGR's official beginning point. Both centralisation and fragmentation characterised the IGR system that operated under colonialism and Apartheid. Coordination of government activities across the nation was practically impossible as a result of this fragmentation.

The present administration received this IGR system from the previous administration. Since 1994, efforts have been made to enhance the nation's IGR system and reunite the many institutions of government founded by the minority white administration over the past century (Kahn et al, 2011:61)

Section 40(1) of the Constitution of 1996 recognises the country's government as comprising the national, provincial and local spheres of government. This general structure was set within the framework of cooperative governance, highlighting the

necessity of communication between these spheres of government while also taking into account their "distinctive, interdependent, and interrelated" nature. The 1996 Constitution addressed the roles or obligations that should be carried out by the various realms in some substantial depth. It also focused on the concurrent or overlapping duties of the respective spheres (Morgenrood, 2011:17).

The goal of South Africa's formal and non-formal intergovernmental interactions and cooperative government system was to foster increased engagement across the three domains of government to establish a stable and responsive governance system that strengthens the values and principles of public administration (Malan and Mammadalizade, 2012:123).

### **5.3 Rationale behind the coordination of policies between government and Higher Education Institutions**

The history of racialised oppression and the numerous attempts to end it is contrasted with a roadmap of current policies, discussions, and practices in South African higher education (HE). The determined efforts to reorganise HE in South Africa are best understood in light of the style of apartheid's end, the macroeconomic plan outlined by the ANC administration, and the character of ties between the state and civil society (Reddy, 2004:34)

Reddy (2004) argues that the unstable higher education market, which is a highly visible public area where old and new elites mix, was a serious subject that the new government was not going to ignore. In addition, this market represents significant political and symbolic influence in the entire social order. Intense and emotionally charged debate has surrounded HE in South Africa. Due to the value that poor communities who historically had limited access to higher education, place on university education, and the part that black students played in the anti-Apartheid struggle, both experts and regular citizens have strong opinions about the changes that must be made to HEIs. The majority of South Africans are worried about standards, student access, cheap education, the types of knowledge created, curriculum design, and the type of graduates exiting universities (Reddy, 2004:34).

Mzangwa (2019) argues that most of the changes the Apartheid government made to higher education seem to have been the South African Commission on Higher

Education's main priority when introducing the transformation agenda. National Plan of Higher Education (2011) states that the coordination of policies between government and higher education Institutions is intended to address historical disparities and change the higher education system to serve a new social order, satisfy pressing national demands, and respond to new realities and possibilities.

The 25-Year Review (2019) reveals that the democratic government implemented several policies and programs to rebuild and mould adequate Post-school Education and Training in the South African system (PSET) that reflected the democratic vision and ideals. The purpose of these policies, programmes and initiatives introduced was to accomplish the vision, by taking out blockages to access, addressing inequalities, improving the administration of the system, responding to the needs of the labour market and providing the skills required in the economy and society.

#### **5.4 Achievements through Policy coordination by Government and Higher Education Institutions.**

New training and skills development systems were implemented to increase the number of trained workers to fulfil the needs of the expanding economy. The system expanded access to possibilities for skill development by improving the selection of accessible courses for learners to acquire skills and university enrollment has nearly halved (25 Year Review, 2019:73).

According to HESA (2014), significant successes since 1994 include nearly doubling student enrolments, more fair access to higher education, and a more representative student body. Several mechanisms have been implemented to promote greater equity and redress in higher education enrolments, including the prohibition of racial and gender discrimination; affirmative action; alternative admissions tests to supplement the national final secondary school examination; recognition of prior learning to facilitate access for mature students; extended curriculum programs for students who demonstrate potential; and a state-funded national student financial aid scheme.

Louw and Verwey (1999:79) cite Smith (2000) stating that “the forces that drive transformation and that are changing the landscape of higher education irrevocably can be summarised as follows:

- The digital revolution makes it possible to deliver flexible learning to any learner at any time anywhere in the world.
- Mass education is increasingly pressurising higher education institutions.
- State funding of higher education institutions is being curtailed and there is an increase in the privatisation of these institutions and
- Universities have lost their monopoly regarding research and training. Many other organisations have taken on these roles in society.”

Mekoa (2018:232) argues that the post-Apartheid administration implemented new policies to address historical inequities in higher education and the new higher education policies;

- “changed the size and shape of higher education;
- changed the character of students’ distribution through access;
- changed the curriculum;
- gave new meaning to autonomy and accountability and
- made democracy and social justice central to all policies.”

5.5 Intergovernmental Relations policy arrangements between National Government and the Higher Education Institution.

When South Africa achieved democracy in 1994, it inherited a racially segregated higher education system. To reorganise the system and prepare it to meet the difficulties of a democratic, equitable, and non-racial society, new education policies were developed and put into place.

Section 29 of the new Constitution of 1996 states that "everyone has the right to a basic education, including adult basic education, and to further education, which the state through reasonable measures must make progressively available and accessible," and informs the democratic state's educational aspirations.

The Higher Education Act 101 of 1997 provides the legal foundation and framework for South African higher education. In 1997 the government issued White Paper 3: A Programme for the Transformation of Higher Education, which outlines a set of goals regarding the size, structure, governance, funding, and other aspects of post-apartheid higher education in South Africa. White Paper 3: A Programme for the Transformation

of Higher Education states that higher education plays a central role in the social, cultural and economic development of modern societies.

The White paper provided for the National Plan for Higher Education to provide the framework and mechanisms for the restructuring of higher education. The National Plan for Higher Education also establishes indicative targets for the size and shape of the higher education system, including overall growth and participation rates, institutional and programme mixes and equity and efficiency goals. The plan provides a framework and outlines the processes and mechanisms for the restructuring of the institutional landscape of the higher educational system, as well as for the development of institutional three-year “rolling” plans. The national plan led to the merger of various universities to address the key questions of access, equity and redress as outlined in the Higher Education Act.

Finally, as part of significant factor redress and equity, the White paper on higher education endorsed the provision of financial support for students coming from a disadvantaged background and historically disadvantaged institutions. It called for “flexible, responsive and sustainable National Student Financial Aid (NSFAS)” that would allow poor students to aspire to higher education.

### **5.6 Challenges that are facing Higher Education Institutions with regard to policy coordination.**

The procedure resulted in the concepts used during the Apartheid era being not only prohibited but also eliminated, without considering those that would have benefited society under the new system. The collapse of teacher training colleges, which historically provided the requisite preparation for secondary education teachers, is a striking example. In this regard, certain derailers primarily in the political sphere took the lead instead of drafting, implementing, and monitoring legislation to alter Higher Education Institutions, which worked against addressing real challenges like opening access (Mzangwa, 2019:11).

Louw and Verwey (1999:81) argue that “the complexity and scope of transformation at higher educational level seems to have been underestimated, and there is no clarity about how legal requirements are to be met.” Netswera and Mathabe (2006) state that the relationship between Higher Education Institutions and the government even

though controlled by the state, is more focused on addressing factors that re-describe access, equity, success rates and the quality of higher education outputs and the focus is more on socioeconomic needs of South Africa and as required by the National Policy on Higher Education (NPHE). It is argued that despite these changes, it appears that the relationship has remained one-way, with the government dictating and higher education responding passively. Higher education's passivity can be observed in the manner that it responds to government policies, bids, and other strategic initiatives, and it suffers from a shortage of resources (Netswera and Mathabe, 2006:39).

Tjonneland (2017) states that universities in South Africa have recently experienced exceptional student protests. Students were calling for the removal of apartheid symbols and revolting against the high cost of tuition. The demonstration immediately gained momentum and expanded to include demands for open access and the decolonisation of higher education. The riots, which also resulted in violent battles between students, police, and private security guards, hundreds of millions of rand in property damage, and the imprisonment of countless students, led universities to halt academic operations (Tjonneland, 2017:01). Notably, Tjonneland (2017:2) defines "student protests as a major manifestation of shortcomings and failures of the transformation of South Africa's higher education. They have also emerged as an illustration of an expanding frustration with the state of South Africa, its extreme inequalities, its widespread poverty and its huge youth unemployment."

The government officials appear to have overlooked the risk of limiting options for students who would have preferred to study at former technical colleges and technikons. The likelihood is that, had a variety of HEIs such as technical colleges and technikons existed in the South African system before 2002, students would have chosen skills careers at their competency level and better access to higher education would have been achieved overall, as opposed to the current situation, which relies solely on university-structured education (Mzangwa, 2019:9).

Furthermore, Mzangwa (2019:9) cite Badsha and Cloete (2011) that "when the new government took over in South Africa in 1994 a decade prior to the incorporation and merging of other HEIs in 2004, the impression made in terms of administration of higher institutions was that a changed (transformed) HE environment would effectively displace social disorders in the South African socio-economic and educational

system.” Mzangwa (2019:9) cite Subotzky, 2005) that “an assumption was made by a number of people and communities that the triple challenges of inequality, poverty and unemployment could be reduced by investing on a better and equal standard higher education system.”

Mzangwa (2019:9-10) cites Cloete and Bunting (2002) that "however, this was not the case as later evidenced by the fact that even after introducing policy aimed at transforming HEIs, not a lot has changed for the better.” The groups that were previously marginalised in South Africa are the victims since the high school stage, which serve as feeders for Higher Education Institutions, are to blame for their underperformance and consequent lack of readiness to study at the university level. This is contrary to the goals of White Paper 3 on Transformation (White Paper on Higher Education, 1997), which served as the Council of Higher Education s founding document to direct and carry out the practice of new higher education policy (Mzangwa, 2019:10)

New legislation has to operate within the framework of already-existing institutions rather than creating new ones. Racism is still present in many higher education institutions. On this, it is noted that the ministerial declarations and the mission statements of several colleges make mention of institutional culture. The dominant whiteness or white supremacy of higher education in South Africa has been referred to as institutional culture (Mekoa, 2018:245).

The policy for Higher Education Institutions' transformation remains a sound initiative, but execution and monitoring did not produce the desired results. Indeed, even after two decades of democracy, there is still enmity and dispute over how HEIs operate and how these institutions are controlled. Historically white college’s enrolment and/or access systems do not effectively accommodate students from low socioeconomic backgrounds (Mzanwga, 2019:11). Mzangwa (2019:11) cites Bunting, (2004) who states that "concomitantly, the access system and participation in the historically black universities has not improved to meet that of the historically white universities.”

Clark and Costandius (2020) argue that transcultural interaction seems to have failed to address racial prejudice and structural inequalities on South African Higher Education Institutions' campuses, despite the sharing of geographical space and an academic community that is becoming more and more varied. Clark and Costandius



(2020:27) cite Costandius and Rosochacki (2012) and Hendricks (2018) stating that “despite being part of a multicultural liberal democracy, historically white institutions of learning continue to normalise the dominance of certain social identities while denying others.” It is apparent that the sector has not fully transformed, and the effectiveness of its institutions is insufficient. Few businesses have been able to successfully dodge the effects of apartheid. Not every HDI has completed the necessary upgrading to compete with their formerly preferred competitors (25 Year Review 2019:85)

Nubong (2019) argues that the reality of the 4<sup>th</sup> Industrial Revolution in South Africa is the push to create a knowledge economy, and for this to happen, and for South Africa to stay on track and remain competitive with the rest of the world, it must pay special attention to the output of the higher education sector; a sector with its own set of issues. The output of higher education in each nation in this matrix contributes in two ways: first, by directly enhancing the labour force through the growth of human capital, and second, by raising worker productivity (Nubong, 2019:17). On this, the Twenty-five-year Review (2019) states that skills development systems have not yet been able to meet all the increased demand for skilled workers and professionals resulting from the growing economy, leading to skills shortages in some areas.

It is recommended that additional research be performed to explore policy coordination and intergovernmental relations in South African HE, to assess the difficulties highlighted and identify potential solutions. Considering the improvements in policy coordination of intergovernmental relations in higher education institutions, it is also advisable that a study be carried out to determine and assess whether the requirement on intergovernmental relations and higher education institutions included in the Constitution of the Republic of South Africa has not become obsolete.

It is also recommended that the feasibility of a Legal framework revision that enables policy coordination on intergovernmental relations in higher education systems be studied. This amendment may also deal with issues including difficulties, new initiatives, policy implementation, monitoring, and evaluation, all of which call for improved intergovernmental interactions in the higher education system.

## **5.7 Conclusion**

The new laws that were passed and implemented in 1994 to revamp higher education had conflicting results. Despite new policy attempts, there has been minimal progress

in the transformation of higher education. The study revealed numerous difficulties for the government, higher education institutions, and South Africans. The higher education intergovernmental relations system must be evaluated to resolve the stated difficulties and to ensure that the country's higher education system contributes to rapid growth and economic development.

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