



**MINISTRY: FINANCE
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**CO-OPERATIVE GOVERNANCE &
INTERGOVERNMENTAL FISCAL RELATIONS**

ADDRESS TO THE NCOP SUMMIT

CAPE TOWN, 03 MAY 2007

TREVOR A MANUEL, MP, MINISTER OF FINANCE

Chairperson

Ministers here Present

Members of Parliament and Provincial Legislatures

Mayors and Councillors

Distinguished Guests

Ladies and Gentlemen

Historians will have to reflect on the amazing foresight that was demonstrated in drafting our Constitution. We were able to draw from the best experiences from all over the

world, but importantly, we had to take account of our own unique circumstances. Thus, in constructing a framework for our second House of Parliament, we could have opted for a Senate, a House of Traditional Leaders or even just an Upper House – we opted instead for the creation of a National Council of Provinces. We imbued the NCOP with a custodial role over our Provinces which were young, vulnerable and untested. The Constitution gives the NCOP a representative role “to ensure that provincial interests are taken into account in the national sphere of government.” This responsibility is quite unprecedented in constitution-making.

The Constitution also provides a framework for Co-operative Government, a task to which it devotes an entire chapter. It sets out the framework between spheres of government and organs of state as follows,

- h) co-operate with one another in mutual trust and in good faith by
 - i) fostering friendly relations;
 - ii) assisting and supporting one another;
 - iii) informing one another of and consulting one another in matters of common interest;
 - iv) co-ordinating their actions and legislation with one another;
 - v) adhering to agreed procedures; and
 - vi) avoiding legal proceedings against one another.

This is indeed a tall order – and the arena for the advancement of co-operative governance vests in the NCOP. All of these tasks are without precedent, the fact that we are here celebrating the tenth anniversary of the NCOP attests to that. Some of these tasks are being developed in practice, and we are developing convention to facilitate the learning. Other tasks have yet to be tested – and we can be sure that some of the

testing and some of the interpretation will demand the greatest resilience and powers of persuasion. This is the environment that will always define relations between strong-willed collectives who are invested with powers and functions and who are under pressure to perform.

The key challenge in the context of co-operative governance lies in the ability to truly advance provincial interests in an environment where, of necessity, the NCOP straddles the three spheres of government – “distinctive, interdependent and interrelated” as they are; yet at the same time must mediate horizontally within the provincial sphere.

Chairperson in the spirit of co-operative governance I would like to challenge the NCOP, to undertake an investigation into the affairs in Khutsong. Surely, the NCOP must be able to advise how, in the minds of some residents, one province is so far superior to the other that they would be prepared to sacrifice life and limb to be in the preferred province. The situation must be mediated and I can think of no better institution than the NCOP to do it.

We have, of course, passed a suite of important legislation which includes

- The Intergovernmental Fiscal Relations Act;
- The Borrowing Powers of Provincial Governments Act;
- The Public Finance Management Act, in terms of which we also publish for scrutiny Section 32 and Section 40 reports on revenues and expenditures by national and provincial departments
- The Taxation Powers of Provincial Governments Act.

These pieces of legislation all assist in creating a manageable and predictable set of relations. We need to remind ourselves that whilst each sphere of government has discrete responsibilities, the provinces are at the forefront of the delivery of services that seek to reduce vulnerability, poverty and inequality. In the context of our commitment to an activist and developmental role for the state, this set of responsibilities defines the bedrock of our commitment to our Bill of Rights.

We must recognise, that unlike most jurisdictions in the world, our provinces raise only about 3.5% of their own revenues. The ratio of 96.5% of fiscal transfers is completely unprecedented. Constructing a workable arrangement for this is the real test of the efficacy of our intergovernmental fiscal relations system. In contrast, local government raises about 85% of its own revenues through local taxes and user charges. During the current fiscal year, the split between the three spheres of government of nationally raised revenues is National 50.4%; Provinces 42.4% and Local Government secures 7.2%.

These issues are pertinent because our Intergovernmental Fiscal Relations System is premised on seven key principles, namely:

- Accountability and Autonomy – each sphere has specific constitutionally defined responsibilities, is accountable to its own legislature or council and is empowered to set its own responsibilities.
- Good Governance – accountability of political representatives to its electorate and transparent reporting arrangements within and between spheres is at the heart of our intergovernmental system.

- Redistribution – the three spheres all have important roles to play in redistribution, but because inequalities exist across the country, the redistribution of resources is primarily a national function.
- Vertical Division – determining allocations to each sphere inevitably involves trade-offs through a comprehensive budget process, driven by political priorities, and which covers all aspects of governance and service delivery.
- Revenue Sharing – the fiscal system takes into account the fiscal capacity and functions assigned to each sphere.
- Broadened access to services – the Constitution and current government policy prioritises service delivery to all South Africans.
- Responsibility over Budgets – each sphere of governments has the right to determine its own budget, and the responsibility to comply with it.

Chairperson, I would like to invite this Summit to evaluate the working of our Intergovernmental Fiscal Relations against the framework of the combination of our Constitution, the legislation I referred to earlier and the Principles enunciated. I am very sure that you will agree that the system works remarkably well under the circumstances.

But all of that refers to the easy parts. Let me draw attention to three of the matters that continue to test the arrangements for co-operative governance.

1. Policy making and budgeting for concurrent functions

In any system of cooperative governance there are inter-linkages between policy making and resource allocation where cooperation gets tested to its limits. Our constitution makes certain functions concurrent – education, health, welfare, housing etc - to name a

few. My colleagues in these national departments are primarily responsible for policy formulation while provinces are supposed to allocate budgets and effect implementation.

It is public knowledge that concurrence is one area where the system has encountered some challenges. Accusations of unfunded mandates or misalignment between policy and budgets abound. The design of our system has an inherent tendency to lead to this tension. Typically, a minister responsible for a concurrent function would ask for resources for a policy priority, for example “no fee schools”. If such resources are granted through the division of revenue process that does not guarantee that such a policy would be funded to the extent she/he would prefer it to be. Subsequent (and indeed legitimate) decision making processes might see less or no resources allocated to that priority. To all intents and purposes a provincial executive can request its legislature to appropriate its share of the equitable share differently. Hence many national departments prefer earmarked allocations for their priority policy programmes. This, in effect, takes away “autonomy” and discretion from the province and thus reduces their sense of ownership of the programme and accountability.

This is one area that we need to think about in the future. The system does need some innovation if are to circumvent both a set of failed policy initiatives, or a Division of Revenue Act that will each year be dominated by a myriad of conditional grants. I invite Summit to consider this matter

2. The assignment of powers and functions

Secondly, and not unrelated to the first point, is the issue of the assignment of powers and functions between spheres. Again, my appeal is that we draw on the experience of the last decade to determine whether the current configuration of powers and functions

naturally lends itself to more efficient and effective delivery of services to our people. The appeal is for an objective look at the reality that some of the functions may not be assigned to the spheres that are best suited to perform them (housing is one good example). It should be within the capacity and mandate of the NCOP to raise matters and then debate them. If the final outcome of such debates requires amendments to the schedules of our constitution, then we have to respond to such challenges maturely.

And, whilst on the subject of debate, I cannot think of any reason why I should not echo the views of my colleagues Ministers Lekota and Mufamadi about the number of provinces. I believe that the country does not have an adequate skills endowment to staff the multitude of institutions we have created. It is in this context that we must look at the number of provinces as well as the assignment of powers and functions.

3. Oversight and accountability

The third area where our system needs review is in relation to oversight and accountability. In this regard I would like to invite the summit to think about two issues:

- Firstly, we have to explore how to enforce accountability for performance more vigorously in the context of our intergovernmental system. Again, this becomes more difficult in relation to concurrent functions. For instance would it be entirely unreasonable for an MEC to argue that his/her department failed to implement a particular policy because the policy was bad in the first place? And what is our collective responsibility in such a situation?
- Secondly, as evidenced in the work of the Select Committee on Finance, the question of which institution is most appropriate for certain organs of the state to account to. I should not hide the fact that certain provinces have questioned whether it was appropriate to call members of the Provincial Executive before the

NCOP to account for their spending and performance. We cannot ignore such developments since they are likely to reoccur and create frustrations both in the NCOP and in the affected provinces. Again, I want to invite this Summit to take a long view on the risk of contradictions that may arise.

Chairperson, we have learnt many valuable lessons in the first ten years of the existence of the NCOP. And the story of the practice of co-operative governance must be told. Yet, we have to remain humble about the unfinished business. As I indicated earlier, some aspects of our commitment to co-operative governance will be tested in a crucible that will be far less congenial than the relations we enjoy now. In raising the three challenges that test our resolve, I express the hope that we can circumvent difficulties by our ability to anticipate and remedy them long before they present as crises.

I wish you well in these glorious celebrations.

Thank you.