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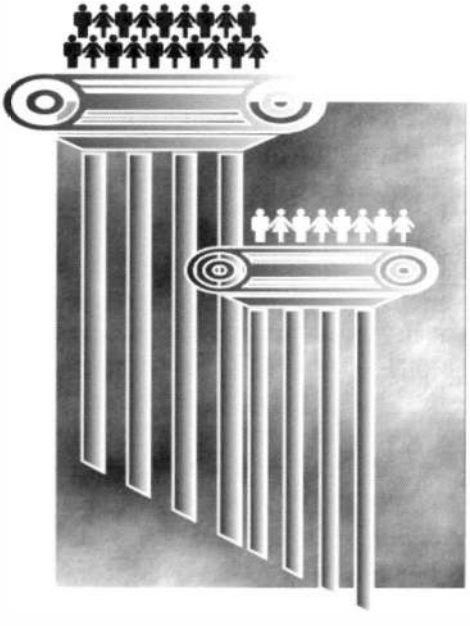
Governmental Relations

A South African Perspective

Jan J Hattingh



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"The problems of public programs are political, administrative, legal constitutional, practical, theological, social, economic, ideological, - all joined and scrambled in ways that make it difficult even to specify the shape and scope of the problems. These are problems of inter governmental relations."
Dwight Waldo

To my wife, children,
grandchildren
and great-grandchildren

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Erratum: Second page of foreword

A South African person would therefore benefit primarily by writings with a South African background. It is for this very reason that a publication on governmental relations in the South African context should be welcomed by educational instititions, the public service, and the public in general in this country.

Apart from the fact that this book satisfies the essential criteria in this regard, it also provides a fresh approach to the problematics of the general theory and practice pertaining to such a complex subject. Moreover, it is wtitten in plain, understandable everyday language.

I am honoured by the request to wtite the foreword to this publication. By virtue of his extensive experience in the public service, his acedemic quilifications in this particular field of knowlege, and his years as a university proffesor in Public and Municipal Administration, the author is eminently qualified to deal with this subject.

In my opinion the book deserves a wide readership, not only as a textbook for students, but also as a work of reference for persons involved in government activities, in particular in the sphere of governmental relations, and also for the general reader wishing to know more about this very interesting subject.

A VILJOEN
Executive Director, South African Institute of Public Administration, and Editor-in-chief of *SAIPA*, Journal of Public Administration

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Foreword

The 1996 Constitution of the Republic of South Africa places considerable emphasis on the necessity for governmental co-operation, and lists a number of so-called "principles of co-operative government and intergovernmental relations" .

Provision is also made for the introduction of an Act of Parliament to establish or provide for structures and institutions to promote and facilitate compliance with the principles enumerated and the intergovernmental relations which ensue.

Given the plethora of governmental bodies and institutions, and the almost countless numbers of persons manning them, it becomes obvious that the scope and problems of governmental relations are wide and of great complexity. Add to this the fact that government bodies are constantly involved in many relationships with outside bodies and persons, then it becomes clear that governmental relations is a subject that requires much thought and thorough investigation. From this it is also clear that the principles inherent in this particular aspect of public administration should become subject to a more intensive study than has been the case up to this stage.

It would therefore be of great value if the basics of the problems and the essence of governmental relations could be properly and systematically set out and recorded in some form or another, so as to provide guidance and background knowledge to those persons involved in the application and maintenance of relations in the Public Service generally.

Numerous textbooks on aspects of governmental relations are available in bookstores in South Africa, but they mostly relate to the situation in other countries.

In any study of governmental relations in a particular country, the legal requirements and provisions, the models and the systems pertaining to local circumstances are of paramount importance, and only literature satisfying those criteria would be of much value to the students or practitioner in that country.

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My daughter Maxie Cloete for typing (and retyping) of the manuscript over an extended period. Her patience was highly appreciated

My daughter Marie Theron for originating and drawing the cover design. The design symbolises the three levels of government together with the persons employed in the various governmental bodies, in their respective relations with each other.

1 Introduction

1.1 Man and Government

The fact that man is a social being has for many centuries had a decisive influence on his own development and that of his environment. During the course of many years, man's increasing need for protection, and for the joint utilisation of natural resources, or some other activity, resulted in the establishment and development of specific forms of associations (groups of people). As communities gradually became less isolated, they began to experience a need for an encompassing form of association to regulate the various minor groupings. These developments eventually led to the establishment of government, which is probably the most important form of association.

Although the annals of history do not always enable us to determine the precise sequence of events in past centuries, the community, in effect, must at some time or other in its existence have agreed to subject itself to a controlling authority. This implies that special powers were to be vested in the controlling authority to enable it to regulate and control relations between the various community members. According to Rousseau, Locke and other philosophers of the eighteenth century, the general expression of the community's will constitutes an unwritten agreement in terms of which the authorities are empowered to govern communities in accordance with the general will expressed by such community.

This unwritten agreement constitutes an important point of departure in the complex relations between the community and government in the present era. It implies that government was in fact established by virtue of the consensus of every individual within the community to forfeit personal "freedom" in the interests of ensuring order. This placed the newly established government under an obligation towards the individual, and hence towards the community as a whole, to promote the interests of the community by uniform action. In the days of Plato, the inhabitants of the ancient Greek city states assembled at a given place from time to time to decide on issues to be implemented by persons duly appointed in author-

ity. In contemporary democratic states, however, the numbers involved, and possibly also organisational problems, render the feasibility of a similar relationship and procedure of decision making virtually impossible and, indeed, also undesirable. Hence alternative methods had to be devised whereby the authorities could continue to exercise the function of government while ensuring that the community would retain its say in matters without gathering together for meetings from time to time. The alternative form of government which in due course emerged was a system of *representative government*, whereby the community elected representatives to govern on its behalf. However, the major requirement under this system was still to ensure that the governing authority could be called to account for the manner in which it exercised the function of government. This was accomplished by means of periodic elections, where the electorate could either endorse or reject the actions of the governing authority.

Constitutionalism

During the course of centuries, relations between government and governed extended and developed to the extent that it eventually became necessary for such relations to be placed on some or other permanent footing. This gave rise to Constitutionalism, a phenomenon developed mainly in modern democracies, whereby a community is governed according to a prescribed set of rules. This leaves the ultimate power in the hands of the community and ensures that it will be in a position to control its elected representatives. Hence a constitution is both an instrument for wielding and restricting power, since the powers and duties of the authorities are laid down in the constitution, and any act by the authorities in excess of these powers and duties may, in fact, be regarded as irregular, and also illegal.

A constitution need not necessarily be embodied in a single formal document, and numerous variations are possible. Probably the best example of a formal constitution is that of the United States of America. It is interesting to note that in many respects Great Britain should probably be regarded as the most "constitutional" state in modern Europe. England has no formal, written constitution, however, and its constitutional relations are based on traditional principles and documents such as the Magna Carta,

the Bill of Rights, the well-known legal concept of the Rule of Law, the Habeas Corpus Doctrine and the equally well-known Act of Settlement dating back to 1701.

In the modern era, relations between government and society are regulated by so-called national politics (i e not party politics or the views of any specific political party) by means of a constitution. This justifies the assertion that the aims of national government may be expressed in terms of the measure of security, prosperity and human dignity enjoyed by society. These three criteria encompass a wide-ranging moral significance which, in brief, implies that *the aim of government is the promotion of society's general welfare* - a fact which should be reflected in the constitution.

Developments during the course of centuries eventually gave rise to the need for the government to delegate some of its responsibilities to numerous subordinate authorities. Whereas relations were initially a matter between the central government and the community, pressures such as population increase, technological developments and possibly also the extension of territorial influence due to wars of annexation, as well as increasing duties and responsibilities, eventually obliged governments to subdivide and classify their own powers.

Prompted by the example of Montesquieu's well-known doctrine of *trias politica*, this initially led to the *horizontal* division of authority into legislative, executive and judicial functions. In comparison to the previous, simple single relation between government and governed, this represented an initial step in the transformation and extension of governmental relations.

Development and extensions in due course necessitated a further, *vertical* division of powers and duties between government and subject. Whereas the horizontal division had been effected on a functional basis, the vertical division was effected pre-eminently on a geographical basis. This led to the establishment of regional authorities exercising powers and performing duties on behalf of the central government and, subsequently, to governmental and semi-governmental institutions being established - and still being established - to perform specific tasks.

1.3 The Scope of Governmental Relations

As the responsibilities of government increased and the number of governmental bodies increased accordingly, regulations governing orderly relations between the various governmental bodies became increasingly complicated and comprehensive.

The study of relations between governmental bodies, which should include the study of relations between persons in authority (political office-bearers and public servants), as well as the comprehensive range of relations between such individuals and institutions, is a problem which extends far beyond mere pragmatic generalisations of constitutional and other legal-institutional requirements and frameworks. A knowledge of such requirements and frameworks is obviously essential for this field of study and it may indeed facilitate matters if this were the sole requirement for a study of this type. As matters stand, the study of governmental relations is rendered infinitely more complex and problematical by the growing number of governmental functions progressively involved in all levels of human activity, and necessitates an ever-increasing number of governmental bodies which of necessity become increasingly interdependent.

It should be borne in mind that, irrespective of the number and types of governmental bodies, each must contribute towards the government's objective of promoting the general welfare of society. At times, the resultant problems become evident only when it becomes essential, for example, to pinpoint the body responsible for decisions in regard to a specific matter among the numerous delegated and divided duties of government. When one also considers that few functions of any specific authority are exercised solely by that one body, it becomes abundantly clear that government has, in reality, become an organised complexity (Jones 1980:3) and that the study of governmental relations has become increasingly essential. In this context, Dwight Waldo may not have been far off the mark when he maintained (Hawley 1967 preface) that the problems of governmental relations are inherently political and administrative but also legal, constitutional, practical, theoretical, social, economic and ideological, and the combination and interrelation of these characteristics renders it extremely difficult to determine the exact scope of the problem or to identify acceptable and feasible solutions.

Another important reason for the complexity of this field of study is the fact that myriads of prescribed and other governmental regulations are applied by *people* in their respective positions of authority, which implies that the quality and success of any relational situation between specific governmental bodies depends also on the behavioural patterns of the persons involved. It should thus be taken into account that any relations between governmental bodies of necessity also involves human action and the influence of such actions and relations. Hence human behavioural patterns inevitably influence government actions, and although it is not necessarily essential to determine and control the behaviour and actions of such officials on a day-to-day basis (due, for example, to procedural provisions), it must be borne in mind that circumstances pertaining at any specific time may, without warning, result in deviations or a changing pattern of behaviour.

Although study of human behavioural patterns in situations of authority would obviously exceed the scope of this study, a government is nevertheless required to comply with ethical and moral rules in discharging its duties. This aspect will be dealt with in a later chapter.

1.4 Specific Problems

The study of governmental relations encompasses a number of critical issues which pervade virtually all aspects of governmental relations, and which demand a specific approach. The first of these problems is that although the study of governmental relations is essentially a study of government, it may also be regarded as a *facet* of government in that it is a phenomenon which comes into play whenever more that one governmental body is established within a certain governmental area. Hence the first problem necessitates careful demarcation of the field of study to avoid it escalating into a study of government in general.

A second problem is the interpretation of the term "relations". On the one hand, "governmental relations" refers to formal government structures and their mutual horizontal and vertical relations as laid down in the constitution, by legislation or by regulations. On the other hand, "governmental relations" refers to pragmatic relations between officials and governmental bodies - a field in which thorough investigation would demand

endless study. Hence the methodology followed in this book is to restrict investigation mainly to inter-organisational and structural-functional problems, and resort to critical-analytical investigation also when necessary.

A third problem is the concept of power in governmental relations - its possession, use and abuse, as well as the moral assumption that the possession of power will result in its correct application. The concept of power, its possession and its application are closely related and this will constantly crop up in these discussions.

The most sensitive problem in the study of governmental relations is to determine the scope and extent of the field of study. A comprehensive study of government and administration covers a vast field, and mention has already been made of the fact that governmental relations is but a *facet* of government. The problem, therefore, is to define the scope of this field of study. Since, however, governmental relations pervades the entire field of government and administration, there is a danger of extending its scope of study to all aspects of administration. However, as substantial studies have been published by highly capable researchers in the field of public administration, the inclusion of this field would serve no academic or educational purpose and be of little use as study material. The subject matter of this book nevertheless places it within the comprehensive framework of public administration (including the specific field of municipal government and administration). In regard to the subject matter, scope and emphasis, however, the author has been at pains to avoid it being classified as yet another book on general theory and practice of Public Administration as a discipline or public administration as a functional process. Hence the main accent in this book falls on governmental relations *in* the administrative process *in* government action.

Governmental relations as a specific phenomenon in the administrative process is a relatively new field of study. During the forties in the United States, Britain and elsewhere, the challenge of this field of study in many cases elicited, and essentially still elicits, a superficial and pragmatic approach. This applies especially to the United States, where governmental relations is naturally approached from the point of view of a federal government structure. However, this in itself would not constitute a problem, since the United States has indeed a federal government structure; the problem lies with the narrow "local" American interpretation, which complicates matters considerably and distorts the entire concept of govern-

ernmental relations. This restricted interpretation is closely followed by Reagan (1981:1) who roundly declares that the "old" federalism in the United States is dead and has been superseded by a "new" federalism known as "intergovernmental relations". Quite apart from the fact that South Africa is a unitary state and that its system of government differs considerably from that of the United States, this unfortunate misrepresentation and failure to recognise governmental relations as a worldwide phenomenon, irrespective of any particular form of government (in other words, also in Soviet Russia), distinctly limits the value of American publications for South African usage, and in some respects renders them valueless. The most notable deficiency in this field of study, however, is the generally limited and pragmatic approach and the need to place the study of governmental relations on a sound footing. With few exceptions, study in this field is generally characterised by a lack of academic research and profound thought. This is most unfortunate, since the complexity and scope of governmental relations increase as a never-ending stream of new governmental bodies, semi-governmental and quasi-governmental and other similar bodies are established to cope with the increasing task of government. Inadequate knowledge and understanding of the multi-faceted aspects of interrelations between governmental bodies cannot but result in fragmentation, duplication, overlapping and even to neglect or negation of the essential aspects of the objectives of government, these becoming the rule rather than the exception.

The general failure to study and apply the theoretical aspects of governmental relations, together with the increasing complexity of this field of study has resulted in a distinct need for clear, practical formulations in South Africa.

Sequence of Chapters

The subject matter of this book is both introductory and progressive.

The study of governmental relations may be approached in various ways, and chapter 2 reviews a number of these approaches, including the constitutional/legal, the democratic, the financial, and the normative/operational approach - the latter being the approach followed in this book.

This chapter also deals with the nature and scope of governmental relations in general.

Governmental relations as a phenomenon is widespread. In an attempt to facilitate the study of this phenomenon, the subject matter has been broadly divided into intergovernmental relations (relations *between* governmental bodies) intragovernmental relations (relations *within* governmental bodies) and extragovernmental relations (relations between governmental bodies and individuals outside the public sector). While the theory of *governmental distance* is of particular significance in *inter*-governmental relations, the theory of *intensity of relations* is a general phenomenon common to all governmental relations.

Chapter 3 deals with a few basic principles of Public Administration as an academic discipline, as well as details of the administrative process. As in other administrative manifestations, governmental relations manifests itself in this process by its influence and action on the six generic administrative functions, viz policy-making, structuring and organisation, finance, personnel matters, procedures and control.

Within the general context of governmental relations, various types of relations may also be brought about by *mandate*, by *agency* and by *partnership*. These different types of relations are discussed in chapter 4, which also deals with the *concept of power* in governmental relations.

Through the years, moreover, a number of ethical and moral norms have been established in public administration. These norms are particularly important for the promotion of meaningful relations. In the first instance, laws and other regulatory provisions do not create governmental relations *per se* but are primarily responsible for the framework within which specific relations are formed and maintained. In the second instance, the envisaged relations are ultimately formed by *people*. Such relations cannot be properly ordered in the absence of moral and ethic norms. Chapter 4 also deals with some of the most important norms applicable to relations. Chapter 5 deals with the influence of different forms of government on governmental relations. Besides the more or less loose federation of a confederation, attention is also paid to the federal form of government pertaining the United States of America. Developmental changes in the United States have resulted in substantial attitudinal changes in the federal form of government, and chapter 5 also deals with the causes and nature of

these changes. The unitary state and aspects of this form of government in Britain especially are also discussed in this chapter.

South Africa became a unitary state in 1909 and this tradition was upheld by the Constitutions of 1961, 1983, and also the present Constitution of 1996. Chapter 6 deals with the South African governmental structures as provided for in the 1996 Constitution, and the relations created between the various governmental bodies by this Constitution.

Bargaining and negotiation form very important chains in the links between governmental bodies and governmental persons in their relations with each other. The fundamentals and basic requirements of bargaining and negotiation are dealt with in chapter 7.

Although the basic essentials of governmental relations in general apply throughout the civilised world, there are nonetheless wide-ranging differences in the methodology applied in various states. A cross-national comparison of relations as applied in Britain, France, and the Republic of South Africa is made in chapter 8.

In view of the vast field covered by the study of governmental relations, this book is intended as an introductory study to the subject. Every authority, every government and executive body and, indeed, every individual fulfilling a function in the public sector contributes to and assists in creating governmental relations. The ultimate aim of this study is to provide a broad framework for analysing the complexities of governmental relations and to serve as a basis for practical application in the various government sectors.

It should therefore be regarded as being a book of direction indicators and to provoke thought rather than an irrefutable statement of fact (except, of course, when constitutional and legal facts are being discussed).

It is also to be noted that this book does not deal with labour relations in terms of industrial legislation *per se*. Those relationships are conducted on an entirely different level, although it is feasible that some of the principles contained in this book will have a relevancy in that field, such as those principles contained in the chapter on bargaining and negotiation (chapter 7), for instance.

2 The Nature and Content of Governmental Relations

2.1 Scope and Field of Study

Throughout the world - including South Africa - the study of governmental relations is largely confined to case studies on aspects of legal, financial and other conceptual relations between specific governmental bodies. Although such studies are undoubtedly useful for studying particular aspects of governmental relations, they contribute little or nothing towards resolving the actual problematics of governmental relations and even less to an in-depth study of this subject. In an endeavour to simplify understanding and to facilitate analysis, this chapter presents the phenomenon of governmental relations in a series of frames of reference. It is hoped that this approach will prove useful in presenting an overall view of the problematics inherent to this field of study and permit a broader perspective of its field of application. An illustrated model setting out the place of governmental relations in public administration is reproduced at the end of this chapter. This will also clarify the approach used in this book.

2.2 Approaches to the Study of Governmental Relations

In any wide field of study one generally tends to pay more attention to some aspects than others by concentrating on some outstanding aspect and approaching the field of study from that particular angle. Although the merits of this method are acceptable, the inherent danger of this method is that certain aspects may be over-emphasised while others may not receive the attention they deserve.

The extensive field covered by a study of governmental relations in public administration heightens the inclination to follow a selective approach.

The following examples are mentioned in the interests of clarity.

2.2.1

The Constitutional/Legal Approach

The constitution and other legislative provisions may be used as a point of departure for the study of governmental relations. This approach was adopted many years ago and is still employed in structural and hierarchic analyses of the provisions laid down by legislation. It accepts the factual information contained in legislation as a constant (until amended by subsequent legislation) and also accepts that relations between governmental bodies exist exclusively within the framework of clauses permitting such relations.

The constitutional/legal approach is obviously very comprehensive and a detailed discussion of this approach would demand a thorough study and analysis of all legislative provisions and regulations by the central, provincial and local governments which may have any bearing whatsoever on directives in respect of relations between governmental bodies.

While a study of this nature would of necessity be pragmatic (and tedious), the end result would presumably be an interminable list of government bodies and structures accompanied by a detailed account of the duties and powers of every political office-bearer within each body. However useful this approach may be, it fails to explain the dynamics of relations between various bodies and persons so as to permit analysis, discussion and, if necessary, improvements to be effected. Rather than following these logical steps, protagonists of this approach adopt an exclusive view which does not take cognisance of the *de facto* integrating interaction between governmental bodies - an aspect which specifically merits close consideration.

2.2.2

The Democratic Approach

This approach tends to emphasise regional and local government's "right to self-determination" to the extent of regarding such governmental bodies as autonomous institutions. As a consequence, protagonists of this

approach are opposed to the centralisation of authority and strongly favour greater devolution to subordinate authorities.

The term "autonomy" creates visions of independence, notably in regard to the actions of subordinate governmental bodies. Followed through to its logical conclusion in South Africa, however, independence would mean that relations between governmental bodies exist by virtue of the power vested in each of these bodies, since each would have the power to act independently of any higher authority. In practice such a state of affairs in a democratic state would result in utter chaos. The true meaning of 'autonomy' differs considerably from that attached to it by protagonists of the democratic approach. In the pragmatic world of authority, "autonomy" simply refers to the measure of autonomy granted to the subordinate governmental bodies by the central authority.

However, the views of the persons strongly opposed to centralisation also deserve a measure of sympathy. Trends in the history of local government reveal a continual struggle - still raging today - between local authorities to retain the authority assigned to them and those who are protagonists of centralisation (Hattingh 1984:47).

While excessive centralisation merely for the sake of promoting so-called "administrative efficiency" is undesirable, the excessive emphasis placed on autonomy by protagonists of the democratic approach of governmental bodies is in any case too limited to cover the entire spectrum of governmental relations.

2.2.3 The Financial Approach

This approach to governmental relations is typical of the approach popular in South Africa. Since Unification in 1910, the government has appointed numerous commissions and committees to investigate financial relations between the three tiers of government, and in government circles names such as Borckenhagen, Schumann, Franzen, Browne and Croeser have virtually become household words. The State President's Committee on National Priorities Act 1984 (Act 119 of 1984) represented an attempt at regulating financial relations. In terms of section 3 of this

Act, one of the duties of this committee was to advise the State President on the distribution of the Republic's financial resources between the state (which in this context refers to central, provincial and local government) and the private sector.

Financial relations come into play between two or more tiers of government when money is transferred from one to the other by means of payment, donation or subsidy or when a higher authority authorises a lower authority to levy or expend funds for some or other purpose.

Although all relations between governmental bodies may readily be claimed to have financial implications, the conclusion that governmental relations are essentially financial relations does not tally with the facts and represents an exclusively contextual approach.

Nevertheless, the importance of financial relations between governmental bodies should not be underestimated. Finances are an important cornerstone of government, and a variety of relations pertaining between different tiers of government are due to the possession of different sums of money, different skills in using those funds and different needs to be fulfilled with available funds (Jones 1980:4).

These differences lead to organisational problems in governmental relations, particularly in cases where funds allocated to subordinate authorities are earmarked by the central government for specific objectives which the subordinate authorities attempt to circumvent, adapt or redefine with a view to achieving their own objectives. Under some circumstances, this practice may lead to financial relations between higher and lower authorities being replaced by coercive measures.

The fact that finances are a restricted facility may also bring specific types of relations into play between governmental bodies. In Britain, for example, where local government is heavily dependent on a variety of grants from the central government and local authorities are penalised for exceeding their proposed budgets, it has for many years been feared that the British government may eventually go so far as to prescribe the purposes for which funds may be used by local authorities (Byrne 1983: 283). This would reduce local government in Britain to a mere extension of the central government and commensurably change their mutual relations.

From what has already been stated, it is clear that political supremacy in a unitary state is vested in the central government, which may utilise fiscal or financial measures to bring about any degree of *intensity of relations* between itself and other government bodies. Although this admittedly testifies to the power of finances, it is not deemed sufficient justification for approaching governmental relations solely from a financial point of view.

2.2.4

The Normative/operational Approach

The normative/operational approach utilises all available and pertinent norms to analyse and evaluate the total operational reality of governmental relations without over-emphasising one aspect of governmental relations at the cost of another. This means that should it prove necessary, all the *generic functions and normative factors* (these will be dealt with in subsequent chapters) in the administrative process may be employed to establish or analyse a specific relationship. By the same token, any single function or norm may be employed to achieve a specific objective. Since the normative/operational approach entails an investigation of what is or should be desirable, it naturally also once again involves the question of values.

Although the former points of departure should not be ignored and undoubtedly also provide valid criteria for analysing a phenomenon as wide-ranging and complex as governmental relations, they fail to provide the same depth of investigation and analysis which can be achieved with the normative/operational approach. Hence this book follows the latter approach in discussing al aspects of governmental relations meriting analysis and investigation.

2.3

Framework for the Investigation of Governmental Relations

In the introductory paragraphs to this chapter mention was made of the modern tendency in the study of governmental relations to concentrate

rather on a framework of analysis than on the usual conceptual case studies.

This new point of departure in the study of governmental relations has encouraged investigation into the processes of interaction between governmental bodies and, on the strength of the findings, to a study of specific aspects of governmental relations evidenced by interaction between facilities (resources) and objectives.

2.3.1 The Interdependence of Governmental Bodies

Rhodes (1981:86) states that during the normal course of events, any governmental body is dependent upon other governmental bodies for facilities required to cope with its own functions. In this context, 'facilities' include the following:

- *Constitutional and legal facilities:* In other words, essential and discretionary powers assigned by a higher to a lower authority by means of formal legal procedures or informal arrangement. By virtue of such assignment, the lower authority is enabled to devise its own hierarchic structure of authority for achieving objectives entrusted to it.

- *Financial facilities:* These include all moneys received, irrespective of their source.

- *Political facilities:* These presuppose the right and ability of elected decision-makers at the various tiers of government to communicate with each other concerning the promotion of objectives and to enter into negotiations with the electorate with the view to gaining its support. In South Africa, this right would be exemplified by political relations between the central and provincial authorities, in terms of which the latter would endeavour to gain the support of the electorate on the strength of policy guidelines laid down by the central government.

- *Information facilities:* These facilities are generated, for example, by direct vertical and horizontal contacts between the corps of professional officers in various governmental bodies. Direct contact may be brought about in numerous ways, for example at official level and by attending

congresses and seminars where matters of mutual interest are discussed.

It should be borne in mind that although these facilities are utilised to a greater or lesser degree in the normal course of any interaction between governmental bodies in this regard with due consideration of the fact that the availability of facilities may be subject to fluctuation, such facilities are generally not applied in isolation.

2.3.2

Objectives Determine the Need for Facilities

The objectives determined for a specific governmental body determine the facilities it will require to achieve each of the objectives entrusted to it. Housing schemes, for instance, require capital. Final objectives selected for implementation may be regarded as the product of a process of bargaining and negotiation between interest groups. For example, values regarded as inputs by a community may be transformed by value choices and value judgements into community values and hence become the recognised objectives of the governmental body concerned.

However, a higher authority may also disapprove of objectives identified by a lower authority and hence withhold the necessary facilities. In such cases, the lower authority negotiates and bargains with a view to achieving these objectives until the two governmental bodies eventually reach consensus on the final objectives and the nature and scope of facilities to be made available for this purpose.

This type of bargaining and negotiation is subject to various conditions, two of which are particularly important.

First, the process of negotiation will be influenced by the outcome of the previous negotiations on the same or similar matters. Moreover, the discretion of the higher authority in regard to new negotiations will be restricted by the extent to which it has previously recognised or even tacitly approved of similar objectives in the past (Rhodes 1981:103).

Second, the principle of deference to political supremacy remains valid. Hence in any negotiations on objectives or facilities, the higher body will be in a superior position of authority.

The activities of all governmental bodies are restricted in regard to the use of facilities for achieving objectives. A governmental body can achieve only as many objectives or aspects of objectives as available facilities will permit, while its discretion in regard to the choice of objectives is limited by previous decisions.

An implication inherent in the interaction of objectives and the use of facilities is reflected in the election process of countries such as South Africa, where elections are held every five years. Electoral candidates announce their value choices in manifestos in an attempt to gain votes. However, even if the number of successful candidates should form a majority in a new council, they are still bound by the objectives determined by the outgoing council, particularly by objectives with contractual implications. Hence a new council may find itself in the unenviable position of being unable to honour its election promises and, as a consequence, suffer damage to its relations with executive bodies and their officials, as well as to its relations with the electorate.

2.3.3

Discretion and Freedom are not Synonymous

Discretion and the possession and exercise of discretionary powers has been mentioned earlier. A broad interpretation of discretion may create the impression that it implies unlimited freedom and that, since discretion is a major determinant in establishing and extending governmental relations, persons with discretionary powers will dominate any negotiations on objectives and facilities. Rhodes (1981:105), however, recognises different degrees of discretion and maintains that the degree of discretion possessed by higher and lower authorities is determined by the nature of the objectives and the ultimate decisions of each of the relevant governmental bodies in relation to their respective authority, expressed in terms of the facilities they command. The difference in the degree of discretion, however, is no more that a potential difference if the available facilities are not applied.

While it may be accepted that the greater and dominant discretionary powers will always be vested in the higher authority - by virtue of its greater share of facilities - it is also true that the latter's discretionary powers are subject to limitations. In the Republic, for example, the central authority

is in many cases obliged to consult local government prior to taking decisions on local government affairs.

The points discussed in the section dealing with the interdependence of governmental bodies (see also Wright 1982:5) merit the conclusion that discretionary powers, irrespective of what body has such discretionary powers, do not infer unlimited freedom of decision and action, since the interdependence of governmental bodies restricts such discretion (Rhodes 1981:108). All discretionary powers are not necessarily prescribed by law and it is evident that even in the event of discretionary powers prescribed by law, the amount of discretion which can be exercised will depend on the availability and provision of facilities. Moreover, the exercise of discretion of necessity implies a relatively greater or lesser degree of freedom of action, depending on the number of community values (objectives) involved. Whatever the case may be, it is clear that the exercise of discretion may influence governmental relations.

2.4 Classification of Governmental Relations

Governmental relations have so far been regarded as a phenomenon associated with government and governmental bodies in general, while little attempt has been made to distinguish between relations between governmental bodies, those between government and the community, and those within individual governmental bodies. In view of their obvious complexity, these relations have been categorised in an attempt to facilitate understanding.

2.4.1 Method of Classification

It would be a monumental and virtually impossible task to go about the study of governmental relations by first analysing all types of governmental bodies in an attempt to ascertain and describe their relations with other governmental bodies.

To simplify matters, governmental relations occurring within the geographical boundaries of a state are classified into *three major categories, viz relations between governmental bodies (intergovernmental relations), within governmental bodies (intragovernmental relations) and between governmental bodies and the community (extragovernmental relations)* (cf Adlem & Du Pisani 1982:42).

Intergovernmental relations may be subdivided into vertical relations (by virtue of the various tiers of government) and horizontal relations (due to the existence of authorities of equal standing). This also applies to intragovernmental relations, where both vertical and horizontal relations occur.

There is also a fourth category, that of relations between states which, although it may also be defined as intergovernmental relations, differs from the other three in that it is characterised by the absence of coercion in any relational situation. In addition, an analysis and study of inter-state relations involves additional dimensions which are of particular significance in the case of South Africa and will be discussed further on.

2.4.2 The Human Factor in Governmental Relations

The context in which relations between governmental bodies has been referred to in previous chapters seems to suggest that such bodies are capable of thought and hence of creating mutual relations. Strictly speaking, however, relations cannot be established between governmental bodies, which are inanimate and incapable of establishing relations (Wright 1982:11).

Governmental bodies are basically nothing but frameworks established by legislature and within and between which relations can exist, while for all practical purposes such relations are established and maintained in terms of provisions laid down in the relevant legislation. Hence relations are substantially influenced by *human actions and behaviour* which at times probably constitute the essence of governmental relations.

As stressed in the introductory chapter of this book, it should be borne in

mind that the study of governmental relations is not a study of human behaviour *per se*. Man as a person in authority merely acts as a catalyst to establish communication between governmental bodies according to specific guidelines laid down by legislature. Hence a study of governmental relations, for all practical purposes, may be defined as a study of relations between governmental bodies.

However, due to the decisive influence which political office-bearers and officials may bring to bear on such relations and since human actions may very conceivably contribute to the complexity of the subject, a brief discussion of the human factor in governmental relations is relevant.

2.4.2.1 Who are These People?

Cabinet ministers (political office-bearers) and public officials, particularly officials who by virtue of their position are capable of playing a leading role, are pre-eminently the persons capable of effectually or ineffectually influencing governmental relations. According to Heclo and Wildavsky (1981:2) political life in the upper echelons of British government has become such a highly integrated political-administrative concept that the composite term of "political administrators" is used in referring to cabinet ministers and officials, particularly in regard to certain specific aspects of intergovernmental relations.

While this may be the case in Britain, cabinet ministers in South Africa are political office-bearers, while departmental heads are executive officials. However, a certain degree of overlapping is nevertheless possible in that a cabinet minister may become involved in administrative matters, and public officials may become involved in political matters. Indeed, executive officials are required to keep abreast of political developments since community values may readily be identified by studying situations of political conflict.

In the ensuing paragraphs the role played by persons in official positions in governmental relations will be briefly discussed.

2.4.2.2 Persons in Authority and Governmental Relations

The Constitution and other legislation lay down a comprehensive governmental structure for pursuing the object of government, which is to promote the general welfare of society. Provision is also made for other facilities (policy decisions, funds, manpower, procedural measures) which enable governmental bodies to function within the legislative framework. The Constitution and legislature may thus be said to provide the machinery (the structure) and fuel (facilities) for persons in authority to commence their task. Having been provided with the necessary structure and facilities as well as the necessary authority, the task of persons in authority is to set the machine in motion and keep it running to achieve the objectives of the governmental body to which they have been appointed.

Although persons in authority thus have virtually unlimited opportunities for creating and maintaining relations, their influence is restricted to the *quality* of such relations, since the organisational structures themselves are established by law and cannot be amended by cabinet ministers or officials acting as individuals.

Besides their ability to promote efficiency, persons in authority also influence the quality of relations by negotiating and bargaining for the maximum share of available facilities considered essential for the functioning of the governmental bodies they serve.

Within this overall framework, the task of the cabinet minister and official could be divided into the following four sub-categories:

■ First, his or her other task entails an extremely important co-ordinating function. The Cabinet, comprising all ministers in the government, empowers each individual minister to coordinate the activities of his or her own department with those of other departments and governmental bodies and hence to promote the efficiency and the quality of intergovernmental relations. This co-ordinating action also obviates the danger that statements containing conflicting aims are issued by two cabinet ministers, each pursuing the objectives of his or her own departments. Since it is part of a cabinet minister's duty to co-ordinate the internal functioning of his or her department, healthy relations between the minister, the departmental head and other officials in his or her department are particularly important. However, the most important relations are those between

minister and head of the department. Hence careful co-ordination of their statements and actions is at all times absolutely essential.

■ The cabinet minister and the head of his or her department are responsible for securing a legitimate share of the available facilities for their department by means of negotiation, and in this respect diplomacy and the ability of persuasive convictions is a particularly valuable asset (Rhodes1981:82) since other cabinet ministers and departmental heads simultaneously negotiate for the same or similar facilities in respect of their departments. The facilities eventually allocated to each department will obviously determine the extent to which that department will be in a position to promote all or only a few of its objectives, and will consequently also influence relations between the cabinet minister and the community.

■ The minister and the executive official of his or her department must each carefully identify and implement the priorities of the community within the framework of their respective political and administrative tasks. Since it stands to reason that it would be impossible to implement all community values (due, for instance, to a lack of facilities) and since this may give rise to dissatisfaction and even conflict, it is also the task of the minister and executive official to identify potential conflict situations and to do all in their power to forestall them. Conflict situations which arise and are allowed to develop could cause serious repercussions in any or all three categories of governmental relations, depending on the circumstances of each specific case.

■ Finally, it is the task and, indeed, the duty of each political office-bearer and public official to perform their functions within the framework of the norms of supreme political power, public accountability, efficiency, administrative law, and deference to identified community values. This requirement is particularly important due to the fundamental influence these norms constantly exert on the quality of relations. An appreciation of the fundamental role of political office-bearers and public officials in governmental relations, particularly in a qualitative sense, is a prerequisite to the study of the three categories of relations identified as intergovernmental, intragovernmental and extragovernmental relations.

2.4.3 Intergovernmental Relations

As the term indicates, intergovernmental relations refer to *mutual relations between governmental bodies.* The legislative framework for such relations is embodied in the Constitution or other legislation in terms of which governmental bodies are established for specific purposes. Such legislation also indicates the hierarchic order of governmental bodies.

Intergovernmental relations between the various governmental bodies occur at the *horizontal* and *vertical* levels, both of which will be briefly discussed.

2.4.3.1 Vertical Intergovernmental Relations

These relations come into play between governmental bodies in different tiers of government, and in South Africa currently represent relations between the central, provincial and local authorities. The decisive significance of the possession of power is a salient feature of these relations: since the central authority wields more power than local authorities, subordinate bodies are to a large extent dependent on higher authorities (Regan 1982:52), particularly in respect of the facilities they require in order to attain their objectives.

This dependence also restricts the measure of discretion enjoyed by subordinate bodies in deciding which community values should be implemented. However, it should be borne in mind that although lower governmental bodies are to a certain extent dependent on higher bodies, there is also a measure of interdependence between these bodies. Moreover, this interdependence ensures each individual subordinate body limited powers to bargain and negotiate.

Relations between the tiers of government in unitary and federal states differ considerably, due to the different structural frameworks of these forms of government, which will be discussed more fully at a later stage.

2.4.3.2 Horizontal Intergovernmental Relations

These relations come into play between governmental bodies in the same tier of government. Examples in South Africa include relations between the nine provincial authorities, despite minor legal differences, and also the numerous relations at local government level comprising probably over 600 local authorities.

Relations between authorities on the same (horizontal) lever differ considerably from vertical relations. In the first instance, horizontal relations are not characterised by the formal concept of power. The term "formal" serves to denote that power will inevitably come into play in relations between larger and smaller local authorities, even if such power is founded only on intimidation of the smaller by the larger authority.

Second, there should be no relative disparity in the respective negotiating and bargaining powers of governmental bodies on the same tier of government. In this context, however, the quality of the negotiation and bargaining should not be overlooked.

Third, besides interdependence in vertical relations, interdependence between governmental bodies also occurs in horizontal relations, although the nature of interdependence differs according to the facilities mutually required. In the case of vertical relations, facilities such as policy decisions and finances will be relevant, while information and physical assistance will presumably be the main issues discussed at the horizontal level. For example, local authorities would probably be able to exchange information at municipal seminars and congresses, and in the course of their daily contact with each other they will also be in a position to agree on the provision of mutual assistance, such as sewer, fire brigade and traffic services.

2.4.3.3 "Governmental Distance" in Intergovernmental Relations

In a particularly perceptive approach to an aspect of intergovernmental relations, David Regan suggests that the "size" of a governmental body may influence both its vertical and horizontal relations (Regan 1982:58).

This hypothesis is founded on the following assumptions:

The "size" of a governmental body may be assessed by the relative extent of its geographical area, its total population and the financial facilities it commands in relation to other governmental bodies. For the purposes of analysis, it is preferable to assess *relative* size, since this perceptually represents the "size" referred to in comparing governmental bodies with each other.

Regan suggests that the concept of governmental distance should be employed to denote the relative difference in size.

Various interesting manifestations are revealed by the inclusion of governmental distance in an analysis of governmental relations. For instance, when two governmental bodies which maintain *vertical* relations compete with each other in negotiating for favours or advantages, Regan maintains that co-operation will respectively be enhanced or reduced by a greater or lesser governmental distance.

Conversely, in the case of governmental bodies which maintain *horizontal* relations, greater governmental distance will inhibit and lesser governmental distance will promote co-operation.

Regan (1982:58) explains these manifestations: A great governmental distance between bodies maintaining horizontal relations will induce political office-bearers and officials of small governmental bodies to deal carefully when negotiating with their opposite numbers in more powerful governmental bodies, since the small body may fear domination by the more powerful body. Should the small body feel threatened, it will be all the more unwilling to co-operate. However, where a small governmental distance pertains between two governmental bodies which maintain horizontal relations, neither body would manifest this inhibitory effect.

In regard to governmental bodies which maintain *vertical* relations, Regan maintains that a small governmental distance is inclined to cause political office-bearers and officials to resent the dominant position of the more powerful body to the extent that the subordinate body may even prefer to be left to its own devices rather that co-operate with a more powerful body.

On the other hand, if there is a great governmental distance among bodies which maintain vertical relations, the subordinate body will harbour no illusions concerning the importance of the higher body and consequently

experience no difficulty in co-operating.

An interesting aspect of Regan's theory of governmental distance is that it introduces a new framework which probably for the first time provides for both horizontal and vertical liaison between governmental structures created by legislation on the one hand and political office bearers and leading officials in the various governmental bodies on the other. An enduring problem in the study of governmental relations has always been that formal governmental structures have been placed in relation to each other by means of legislative directives. The various approaches to the study of governmental relations discussed in this chapter are to an extent legal-institutional, which leaves virtually no room for human beings and human behaviour. Regan (1982: 52) states that the focal point of his concept is, in fact, to couple formal governmental structuring to the factor of human behaviour.

The theoretical foundations of governmental distance should find a wide field of application in South Africa, where the "size" of governmental bodies differs very considerably. At local government level, for instance, this disparity ranges from the size of a body such as the metropolitan area of Johannesburg with over 2 million inhabitants and an annual budget exceeding that of higher level provincial authorities down to the smallest rural town with a hundred inhabitants and a pitifully small annual budget. Hence governmental distances in South Africa vary from extensive to almost infinitesimal.

The question is whether Regan's theory could be substantiated in practice if the results of negotiation and bargaining by governmental bodies at both the horizontal and vertical level in South Africa could be subjected to research. Indications are that such research would reveal a high level of correlation, with one important proviso.

At the 1981 Congress of the former Institute of Town Clerks(now the Institute of Local Government Management), in Bloemfontein (Institute 1981:253-275), a panel discussion on the problems facing smaller local authorities raised an aspect not directly discussed by Regan, that is that larger governmental bodies were generally characterised by a higher degree of *professionalism* among political office-bearers and public officials than governmental bodies of a more moderate size. The reason for this disparity is that the larger governmental bodies offer the advantages of

specialisation and more attractive remuneration. This fact considerably compounds the problems of governmental distance. Regan's theory identifies three factors for determining governmental "size", namely population, geographical extent and finances. With due consideration of the problems identified at the Congress of the former Institute of Town Clerks (now the Institute of Local Government Management), a fourth factor could be added to Regan's - professionalism. It should further extend the concept of governmental distance and its influence in intergovernmental relations.

Reducing the negative consequences of considerable governmental distance is no easy task, since the "distance" is determined by facts (population, finances, etc). However, a smaller governmental body may be protected against a larger one by means of legislation and regulations.

2.4.4 Intragovernmental Relations

The prefix "intra" serves to identify the topic under discussion as official relations *within* governmental bodies. Structures within governmental bodies are, within limits, allowed a considerable degree of discretion to establish additional internal bodies which they may deem necessary or desirable.

Since the Constitution merely provides general guidelines for the creation of internal structures, the President (at central level) and city councils (at local level) are at liberty to create as many state or municipal departments as may be deemed necessary and desirable under particular circumstances.

As in the case of intergovernmental relations, vertical and horizontal lines of authority are also evident in intragovernmental relations. Since individuals and institutions within any governmental body cannot function independently and without due regard to the functions and activities of others, all governmental bodies are characterised by an extensive internal network of interdependent vertical and horizontal relations.

While vertical and horizontal relations are dealt with as separate phenomena it should be borne in mind that in practice an absolute separation is precluded by the nature and complexity of relations within governmen-

tal bodies. It would clearly be impossible to discuss all intragovernmental relations in each of the many governmental bodies in South Africa and the ensuing discussion deals only with general factors which may influence intragovernmental relations.

2.4.4.1 Vertical Intragovernmental Relations

Governmental bodies and individuals within governmental bodies are grouped according to a vertical structure of authority. At central government level, the hierarchic structure is that of Parliament - legislature - cabinet ministers - departments - while an example of the structure pertaining to local authorities is city council - committees - town clerk - departments.

A vertical structure of authority is essential for establishing lines of authority and determining accountability and responsibility (who is accountable or responsible for what). Vertical authority is also essential in view of the extensive delegation of powers which occurs in most governmental bodies.

A vertical structure of authority also facilitates control to ensure the policy and decisions of higher authority will be implemented and that the allocated facilities (funds, manpower) will be efficiently utilised to achieve the identified objective.

In addition, there are specific relations between individuals at the various hierarchic levels which should be borne in mind. A good example is afforded by the particularly intimate relation of authority between a cabinet minister and the head of his or her department. An implication of this system is that the head of a department may attempt to please his or her minister's every whim in the interests of self-preservation, which may conceivably also result in forced relations between himself and the minister.

In the hierarchy of local authorities, the town clerk, who is the city or town council's chief administrative officer, stands in a *simultaneous horizontal and vertical* line of authority. While his or her authority is *subordinate* to that of the Management Committee, co-ordination and adminis-

tration of the Council's activities his or her authority is *superior* to that of the heads of departments, whose lines of authority flow via him or her to the Management Committee. His or her position as executive liaison officer is obviously a very responsible one, since he or she is charged with the responsibility of maintaining vertical relations in both directions (upwards and downwards), as well as co-ordinating the various municipal departments at a horizontal level.

2.4.4.2 Horizontal Intragovernmental Relations

Horizontal relations occur in governmental bodies between institutions at the same hierarchic level. In central and local authorities the term "institutions" refer to the various executive departments which contribute to the achievement of the objectives of the governmental body; such institutions may thus be referred to as executive institutions.

In central government, the seat of horizontal relations is not readily identifiable. For all practical purposes the departmental head is not actually the "head" of his department, since this designation in fact refers to the relevant cabinet minister. Hence the view expressed by Heclo and Wildavsky (par 2.4.2.1) that due to the considerable integration of political-administrative functions in the British government, it may be more apt to refer to cabinet ministers and heads of departments conjointly as political administrators.

In terms of the South African Constitution, ministers are appointed to administer state departments. It is accepted that these ministers head their relevant departments but will lean heavily on the chief executive officials to advise the relevant ministers on the broad framework of the administrative process (comprising policy matters, personnel, organisation, finances, procedures and control).

Hence for all practical purposes, the formal seat of horizontal relations between departments in the public service is the Cabinet and the cabinet ministers (De Crespigny, 1972:34). This, however, does not exclude horizontal relations between departments, since regular discussions are held between departments on matters of mutual interest, for example as on committees of investigation.

Horizontal relations in the public service differ from those in local authorities, where co-ordination between departments is primarily the task

of the town clerk from whom matters move in an ascending line to the Management Committee. The Management Committee is responsible for the final co-ordinating function before matters are submitted to the council.

Similar to the situation in the public service, horizontal relations also occur between departments by way of discussions, and notably also within the framework of each department's task to negotiate with a view to procuring the maximum share of available facilities. However, the various departments consistently recognise the right of existence of other departments, even during the process of bargaining and negotiation, as well as the fact that the contribution of each department is indispensable for achieving the objectives set by the state or local authority.

2.4.5 Extragovernmental Relations

Since all governmental bodies are involved in promoting the general welfare of the community and since respect for community values is recognised as a normative factor, it may be accepted that relations of various kinds exist between governmental bodies and members of the public or non-governmental bodies. This implies that external participants may also influence the activities of governmental bodies and governmental relations in general. These activities are extensive, and range from governmental involvement in community medical services to complicated fiscal relations between central government and the private sector, as represented by organised trade and industry. In addition, these activities may include welfare and health services, housing, agriculture, education, nature conservation, transport, sports, religion and every conceivable matter involving both the private and the public sector, all of which engender extragovernmental relations. Contact between governmental and extragovernmental bodies may conveniently be divided into four categories comprising relations relating the social, political, economic and institutional matters.

2.4.5.1 Social Extragovernmental Relations

These relations come into play when governmental bodies are involved in welfare matters affecting the community in general, notably in respect of

problems engendered by urbanisation. These problems involve governmental bodies in issues such as unemployment, juvenile delinquency, housing shortages, slum clearance and other social phenomena. Besides relations with various associations (such as welfare organisations), relations may also be established in terms of legislation (for example labour legislation in terms of strikes) as well as with individuals (Thompson 1963:422).

An increasing tendency is to encourage community co-operation in matters such as housing and town planning (cf Great Britain 1970:51), where the private sector and general public are constantly being encouraged to share the governmental burden of responsibilities. In such instances, public co-operation is encouraged, for example by granting tax concessions in respect of specific projects or investigations, by granting subsidies or even by offering to share the costs of certain projects. Supplying electric power to the inhabitants of Soweto some years ago (Mandy 1984:211) is a pertinent example of social relations between the central government, the private sector and the community of Soweto.

Social relations are also reflected in the numerous relations of governmental bodies responsible for a wide range of interests such as sport associations, religious denominations, school and cultural organisations.

2.4.5.2 Political Extragovernmental Relations

It is the duty of political office-bearers (members of parliament and town councillors) to respect identified community values. When values are being identified and value choices are being determined and implemented, relations with a political flavour come into play and generate a diversity of political affiliations.

First, there are relations with the voting public generally. Election time is a time for influencing people, and political candidates proclaim their value choices and aversions in an attempt to recruit votes. Considerable influence is also exerted by ratepayers associations, both before and after elections. Prior to elections, candidates attempt to gain the support of the ratepayers association in their wards, and following the elections, the political relations which are established between the successful candidate and the relevant association are frequently maintained until the following election.

Ratepayers associations make a valuable contribution towards determining value choices, sometimes in respect of the values of a specific ward and at other times in respect of values which affect the entire community. It is the duty of the elected councillor to assess the values supported by the ratepayers association and to attempt, with the support of like-minded councillors, to get these values accepted as policy. During the course of the councillor's periodic reports to the ratepayers association on the policy and envisaged programme of the council, opinions are bound to differ on the councillor's relation with his constituency (either municipal or parliamentary). While some voters may feel that they can do no more than advise the councillor, others feel that he or she is obliged to act on their "instructions". The most famous statement in this regard was probably that of the famous British parliamentarian Edmund Burke. In addressing the public of Bristol following his election as their member of parliament in November 1774, he stated that it was of the utmost importance that public representatives should give serious consideration to the wishes of the electorate, respect their opinions and pay attention to their interests. However, while it was his duty to sacrifice his convenience in their interests, he should guard against sacrificing his objectivity and sound judgement, since these attributes were a gift of Providence and should never be abused (Burke 1900:446). Burke's statement aptly describes the relations between a council, councillor and the electorate, in that a councillor should take note of the interests of his constituency while according priority to the interests of the community.

Second, there is the role played by political parties in governmental relations. Party politics add various dimensions to relations between an authority and the community both at central and local level.

Various political parties are represented in parliament. In South Africa, political parties represent a diversity of opinions and values and it should at all times be assumed that parliament represents the community and will thus behave as a community would behave (Calvert 1982:68). However, in a democracy, it must be accepted that preference will usually be accorded to the value choices of the majority party.

The values of the various political parties are debated in parliament. While it is unlikely that problems will arise in the relations between parliament and the ruling political party, this cannot be said of relations between the government of the day and minority parties, where totally different relations come into play. However, since these minority parties also represent certain community values, such values should not be summarily rejected or ignored.

Geoffrey Vickers (1965:38) sees the solution to this problem in what he refers to as "optimising-balancing". According to this theory, consideration should be given to the values of all political parties which could contribute toward achieving the objective of the state. By subjecting these values to a process of optimisation, relations of a special type are established between the government and the *entire* community, since the community values represented by all the political parties are taken into consideration. Whether a system of this type would prove feasible in South Africa's current political climate is another matter; the fact is that in all democratic countries the will of the majority is considered to be the will of the community.

Relations of a special type also exist between the government and the media. The latter usually represent specific political philosophies and act as the mouthpiece of the various political parties. The media also profess to be the mouthpiece of the general public and hence the interpreters of community values. In view of the media's assessment of its role, it stands to reason that relations between the media and the government would be of a special nature and in the case of an irresolute government, relations between the government and the press may even be dominated by the media. On the other hand, it is also true that not even the strongest government would dare to summarily disregard the press.

2.4.5.3 Economic Extragovernmental Relations

In addition to its numerous other responsibilities (defence, health) the central authority is also responsible for ensuring the economic stability of the community and the country as a whole. Financial and fiscal measures must therefore be instituted to serve as a framework within which the community and organised trade and industry should operate. Through these measures the government also attempts to establish relations with the private sector which are in the interests of the country's economy. It should be noted that such relations are established not solely with a view to economising but also with a view to exercising fiscal control.

In a country such as South Africa which, according to ministerial statements, has a free market economy, it stands to reason that the private sector will be intimately involved in economic policy matters. The implications of a free market economy include the obligation to provide guidelines for the roles played by the public and private sectors, in other words,

the fiscal and financial relations between the government and private sector (Watson 1983:23). In addressing the leaders of the public sector during the Carlton Deliberations in November 1979, the then prime minister pertinently stated that it was government policy to reduce the role of the public sector and increase the role played by the private sector in the economic field and to restrict fiscal control to the absolute minimum required for the welfare and security of the community (Watson 1983:23).

Governments generally have long felt that the private sector should actively (but voluntarily) assist in improving the quality of the environment by alleviating the financial burden of the government in regard to certain matters. Matters which annually demand considerable government expenditure and where the private sector could successfully contribute include housing and other services such as poor relief and educational aid (Baumol 1984:175).

Government interference in the economy creates specific relations between the government and private sector. However, it is not always clear what type of relations are envisaged. Does the government, for instance, want the private sector to alleviate the financial burden in respect of the community or does the government want to gain control of the private sector? Or is such interference motivated by the government's desire to protect the community? And what are the true reasons for establishing numerous control boards which, in reality, amount to a negation of a free market system? Meaningful discussions on the type and quality of economic extragovernmental relations can be held only once these issues have been thoroughly investigated.

The measure of economic control exercised by a government is another factor which may influence extragovernmental relations in the economic field. Whereas excessive governmental control may lead to a slackening of initiative, a lack of control may encourage unsatisfactory economic practices such as price-binding and profiteering.

2.4.3.4 Institutional Extragovernmental Relations

Governmental bodies maintain a substantial number of relations with related institutional bodies. Examples of such relations are those between the state and the former United Municipal Executive (in respect of local

government affairs), as well as with a variety of professional institutes such as the former Institute of Town Clerks of Southern Africa, the Institute of Municipal Treasurers and Accountants, and the Institute of Municipal Engineers. Relations between governmental bodies and institutional groupings are of particular importance. Since these groups are government-oriented, representing governmental bodies on the same governmental level, their combined strength considerably enhances their powers of negotiation. Municipal associations in the various provinces represent the local authorities in their respective provinces. Municipal associations are also united under the banner of a central executive, with the result that relations are established between the central government and all local authorities by any negotiations between the central executive and the central government.

Institutes and associations are forms of association created to serve the interests of their members. Their activities may normally be divided into the following three categories: negotiations and deliberations with governmental bodies, the provision of information to their members, and co-operation with other institutes and associations (Rhodes 1981:45).

Professional institutes and other associations are naturally also capable of exerting pressure on the government in regard to matters affecting their members. Their influence as pressure groups may be considerable, since their members themselves represent governmental bodies established in terms of the Constitution. In South Africa, local authorities are established in terms of the Constitution and are hierarchically subordinate to the central government. A united municipal executive could represent all local authorities in the Republic and establish relations with the central government in this capacity, but at the same time it could act as a pressure group.

Generally speaking, the basis of power of these associations is their expertise in the field of the governmental body they represent. The former Institute of Town Clerks, now called the Institute of Local Government Management in Southern Africa, for instance, is an expert in the field of all local government affairs and hence pre-eminently qualified to negotiate and bargain with the government on local government affairs. Indeed, the government may be at a disadvantage in negotiations with this type of institute for the very reason that it is a case of experts negotiating with laymen. In this context, however, Regan's theory of governmental distance should be borne in mind.

2.4.5.5 The Elite in Extragovernmental Relations

In every community one finds individuals capable of exerting considerable influence on one or more of these four facets of extragovernmental relations. These influential persons are judged according to their participation and involvement in matters which intimately affect the community and as a consequence, they are highly regarded by the community (Adlem Feb 1982:67). Messrs Raymond Ackerman and Harry Oppenheimer are good examples in this case.

The elite may become directly involved in matters of interest to governmental bodies or indirectly involved by means of the press, radio or other public announcements. The fact that they are well known and respected generally ensures that their assistance in achieving community objectives is highly valued. However, it should be borne in mind that the elite may also utilise their exalted positions in the community to exert pressure on governmental bodies with a view to achieving objectives in which they may have a personal interest. In such cases they may exert a negative influence on governmental bodies and, as a consequence, may cause relations to become strained.

2.5 Intensity of Relations as a Concept in Governmental Relations

Dictionaries generally place the term "relations" in a neutral context by defining it as a mutual association between persons. In the majority of publications on governmental relations, the use of this term suggests that relations are devoid of intensity, although they may be "good" or "bad". On the other hand, it is generally conceded that relations may be of various types, such as legal, financial and personnel relations.

Relations between governmental bodies of necessity also exhibit a dimension of depth, since no two relations can be identical in all respects. It is self-evident, therefore, that intensity may be identified as a factor in any given situation where governmental relations may be subjected to investigation. This suggests the concept of *intensity of relations* as a criterion,

which means that relations between governmental bodies are also characterised by their depth or degree of intensity.

By way of explanation, the discussion on relational intensity is introduced by a few comparisons based on formal, informal and moral relations.

Formal relations between governmental bodies may be established in various ways, including by legal provisions, depending on the type of relations to be established. Since relations also exhibit different degrees of formality, the intensity of relations may vary from "imperative" (highest intensity) to "voluntary" (lowest intensity).

The following example of relations between the central government and subordinate governmental bodies serves to indicate the different degrees of relational intensity:

Legal requirement	Type of relations	Intensity
■ Imperative association	Total dependence	Highest
■ Imperative, with limited discretion	Dependence, with moderate control	Higher
■ Voluntary, with considerable discretion	Dependence, with indirect control	High
■ Voluntary, with certain obligations	Restricted autonomy	Low
■ Voluntary, with moral obligation to co-operate	Autonomy, with partial sacrifice of independence	Lower
■ Voluntary	Absolute autonomy	Lowest

There are presumably many other kinds of legal provisions which exhibit distinct intensities, and the above examples merely indicate the application of the concept of intensity of relations in formal relations.

The intensity of *informal* relations may vary from complete disregard to

full participation, for example, between a city council and a municipal community.

In contrast to formal legal relations, informal relations are not prescriptive and thus less rigid. The following six degrees of intensity are identifiable in informal relations:

- disregard (lowest intensity)
- manipulation (lower intensity)
- communication (low intensity)
- consultation (high intensity)
- advisory (higher intensity)
- full participation (highest intensity).

The following paragraphs serve to illustrate variations in the depth of intensity of relations:

■ Relations (a) - disregard: Under normal circumstances, relations are not created by a city council's disregard of the community. Nevertheless, a governmental body may, without consciously establishing relations, cause a relational situation of the lowest intensity in the course of complying with some or other legal requirement. Legislation in regard to town planning in the various provinces is a case in point. The relevant ordinances do not require a local authority to consult outsiders but generally specify that any proposed amendments to a town planning scheme shall be advertised and be available for perusal. Any interested party may, at their discretion, lodge objections against such proposed amendments and in such an event, relations will be established between the local authority and the party lodging the objections. The intensity of the resultant relations will be very low, since such relations are the result of a voluntary act and would not have existed had the act not occurred.

■ Relations (b) - manipulation: Manipulation is a conscious act resorted to by local governmental bodies and such relations with the community are of relatively low intensity. These bodies sometimes establish committees or similar bodies which represent the community to publicly support their decisions and actions, with a view to political or other gain. Hence the tactics of manipulation are intended to create the impression that the decisions of the governmental body are "acceptable" to the community. Although such manipulation still occurs today, it was notably practised

during Britain's early monarchic history (Hattingh 1984:43).

■ Relations (c) - communication: In this case, a governmental body establishes relations of low intensity with the community by advising it of the decisions and intentions of the council which affect the community's interests, and it may even advise the community of their rights and options as voters. Hence, the governmental body, to a certain degree, recognises the community's involvement. The majority of governmental bodies establish such relations with the community by means of newsletters and/or public relations officers.

■ Relations (d) - consultation: Relations of this type are established when a governmental body consults a non-governmental body prior to reaching a decision on matters which may be of interest to the latter. By virtue of such consultation, the ultimate decision reached by the relevant governmental body thus enjoys the credibility of the community. Relations created by consultations are of a relatively high intensity.

■ Relations (e) - advisory: Such relations are established when a governmental body nominates one or more advisory bodies comprising representatives of non-governmental bodies to consider matters referred to them by the governmental body in question. Such relations are dominated by the governmental body and are of a higher intensity. By establishing such relations, the governmental body indicates that it is prepared to be advised by the community and that their advice will be taken into consideration.

■ Relations (f) - full participation: Full participation in decisions results in relations of the highest intensity, first, because there is no dominant partner and second, because such relations are founded on joint decision-making. Governmental and community bodies are thus jointly vested with authority to investigate and discuss pertinent matters and reach decisions in this regard. An example of such relations is the Tennessee Valley Authority in the United States. The TVA was established in 1933 to supply electricity to a community of roughly 2,5 million inhabitants by constructing a system of dams and waterways (McCraw 1984:49). Problems originally developed in regard to the power supply, since private companies were already supplying electricity to the area in question. This problem was resolved by involving the private companies and the governmental body in one joint enterprise.

In the final instance, relations between governmental bodies may also be assessed on the grounds of *morality* in cases where the intensity of relations varies from "very weak" to "very good", although the assessment of the intensity in such cases will probably be extremely subjective.

In evaluating and applying the concept of relational intensity it should constantly be borne in mind that intensity in public administration is not an absolute factor and that any criteria which may be utilised or identified will of necessity be relative.

Mandate, Agency and Partnership

The disparate meanings attached to the terms mandate, agency and partnership range from individual interpretations of the nature and meaning of formal governmental structures to efforts to associate governmental bodies with legislative provisions. To cite an example, there are two traditional points of departure regarding relations between the central government and local authorities in Britain (Hartley 1971:439). One approach regards relations between the British government and local authorities as comparable to relations between a principal and agent. The other approach maintains that relations between central and local government should be regarded as a partnership. Others maintain that a relationship of agency is established when a higher authority instructs a lower authority to perform specific tasks, while a mandate is interpreted as a normal relationship of coercion in a general sense between higher and lower governmental bodies.

Whenever a specific task or function is "transferred" from one governmental body to another, reasons will obviously always be found to justify such a step. However, the assignment of duties or functions is generally prescribed by law. Hence a task assigned to a central government department by an act of law cannot be wholly or partially transferred to a municipal department on the grounds that the task has become too demanding, unless legislative authority exists or is obtained for such transfer. This illustrates the considerable terminological confusion experienced in the use of identifiable definitions concerning the ways in which tasks may be transferred.

In the following pages, the meaning of the terms "mandate", "agency" and "partnership" are discussed in their relational context, and an attempt is made to provide valid criteria for these phenomena.

2.6.1 Mandate

A mandate which, according to the dictionary, is an instruction, describes relations between a higher and lower governmental body (hence vertical relations) in which the higher body makes a decision which the lower body must implement (Wiechers 1973:53). A mandate ordinarily does not imply any discretion, and under normal circumstances, the higher authority would not be expected to bear the direct costs involved in the implementation of its instructions, although some form of compensation to the lower authority is not excluded. While the lower governmental body is charged with the responsibility of implementation, it will not necessarily accept liability for the consequences of its actions and the mandate is usually issued in the name of the higher governmental body, although this is not mandatory.

Although a mandate implies the issuing of instructions, this is not necessarily applicable in all cases.

This description of a mandate differs slightly from the traditional legal definition of this term. In terms of a legal mandate, any remuneration in respect of services rendered shall be voluntary and take the form of a fee or honorarium (Gibson 1977:224), while the party rendering the service need not necessarily represent the party issuing the mandate. In terms of modern jurisprudence, the latter is required in the case of an agency (Gibson 1977:224), which is discussed in the following paragraph.

2.6.2 Agency

In contrast to the requirements of a mandate, an agency may be defined as the formal authorisation by a higher governmental body to a lower body to perform tasks or render services on its behalf, and the costs of such duties or services are borne by the higher authority (Gibson 1977:224). In some cases, such authority takes the form of an instruction, notably in cases where the higher body is of the opinion that compliance is in the interests of the community. In the case of an agency, the lower governmental body without exception acts on behalf of the higher body and may or may not be required to submit regular progress reports to the higher body.

In regard to health services, however, local authorities act on behalf of the central government in respect of infectious and notifiable diseases and local authorities are remunerated according to a fixed scale for expenses incurred in this regard. Local authorities thus have no discretion in this matter and are obliged to institute measures for treating persons suffering from such diseases and to report all such cases to the Department of Health on a regular basis.

Although there is thus no fundamental difference between a mandate and an agency, there are nevertheless minor differences in the manner in which duties are assigned. Probably the most significant difference is that while a mandate is usually an instruction, an agency is generally a matter of authorisation.

2.6.3 Partnership

Relations based on partnership are less formal than relations associated either with a mandate or an agency.

A partnership between two or more governmental bodies represents a voluntary joint undertaking in respect of which the parties commit themselves to perform a task by which they stand to benefit mutually.

A partnership may readily be identified by the following four major requirements (Gibson 1977:263):

- Each of the parties must contribute to the partnership, be it in terms of money, manpower or expertise. The contribution of each partner is generally assessed in terms of its monetary value in order to determine its value for reasons of comparison.

- A partnership is established for the benefit of the participating parties. Should it be necessary for a third party to benefit from the partnership, this fact must be made known to and agreed to by all the partners.

- The purpose of a partnership is to make a profit. Such "profit" need not necessarily be monetary gain and may comprise any advantage whatsoever which is of value to the partners. Any profit accruing from the partnership is divided proportionately among the partners in accordance with their respective contribution to the partnership. However, this is not mandatory, and the profits may be divided on any basis to which the partners agree.

- The objectives of the partnership must be legal. A partnership may not be established with a view to performing acts which the partners are not authorised to perform, nor shall the partners mutually agree to perform an unlawful deed. The agreement shall be in writing, so as to obviate any misunderstanding by the partners of the requirements and duties implied by participation in the partnership.

Governmental bodies frequently enter into partnerships and in South Africa many partnerships exist, notably between local authorities. Agreements whereby two or more local authorities jointly purchase land to be used as a cemetery are well-known examples of such partnerships. Such land is then jointly developed and utilised to the benefit of the respective communities. A partnership of this type may naturally contain any provisions to which the partners may agree, and one local authority may, for instance, agree to develop the cemetery against remuneration by the other. The partners may also agree to permit outsiders to utilise such facilities and may specify the conditions under which such facilities may be used. Partnerships have recently also been established between local authorities for the purchase and joint utilisation of expensive equipment such as com-

puters and road-building equipment.

Although mandates, agencies and partnerships have been identified as different methods of establishing relations between governmental bodies, discussion of these methods has revealed that the differences are not always readily identifiable and that considerable overlapping and even duplication may occur under certain circumstances. However, this does not detract from the usefulness of the classification, which should assist in clarifying the confusion currently experienced in distinguishing the different types of relations. All in all they are really forms of delegation.

2.7 The Concept of Power in Governmental Relations

Power is generally regarded as an attribute bestowed on governmental bodies or persons by legislation or other formal acts and by which a hierarchy of power is established between governmental bodies at different levels. In an unitary state it may thus be said that according to this view the legislature establishes relations of power, for instance, between the central, provincial and local authorities, and that while the central government exercises authority over the provincial and local authorities, the provincial authorities exercise authority over local authorities. In this context, the possession of power creates mutual relations of influence between governmental bodies, as well as between governmental bodies and the communities they serve. In the latter instance power is transferred by means of a legal enactment (an election) to a governmental body by the community (the electorate).

The numerous implications of power are revealed by consideration of the fact that the possession of power in governmental relations is not merely an attribute of strength bestowed by legislation but that it in fact has far wider implications. These implications, in turn, add far more significance to the question of power in governmental relations than the mere study of power as a formal legal phenomenon, which confirms an earlier statement (par 2.2.1) that an exclusively judicial approach to the study of gov-

ernmental relations is inadequate. In the context of governmental relations, power *inter alia* refers to the possession by one or more governmental bodies of facilities which other governmental bodies require to achieve their objectives. Such facilities may include one or more of the following: funds, authority, political support, information, the ability to exercise authority (Regan 1983:47) and any other facility (such as expertise) required by another body. In this respect, the possession of power may under certain circumstances be of little significance, if the required facility is freely and abundantly available. Power may thus also be defined in relative terms as a facility in the possession of a governmental body and which is required by other bodies, and the extent to which the body possessing that facility holds the monopoly (Rhodes, 1981: 48).

2.7.1 Power Dependence

Power also has contextual implications in that it is of value only if a need for the particular facility exists. It follows, then, that a governmental body may regard power as a desirable facility, while another body does not consider it in that light, depending on the demands for the facility in question. In governmental relations, the possession of power and the need of facilities do not represent a one-way flow between the body possessing the facility and the body requiring it. Regan (1983:47) states that when one governmental body requires facilities controlled by another, the former is dependent on the latter. Such dependence, however, seldom occurs in one direction (cf interdependence of governmental bodies, par 2.3.1). Hence such power relations may be more accurately described as a continual power dependence relationship amongst governmental bodies. Governmental bodies thus compete against each other; they bargain, negotiate, and even resort to manipulation to acquire the necessary facilities for the lowest possible consideration (Regan 1983:47). Hence to a certain extent, power in this respect constitutes a negotiable commodity, even within the framework of formal legislation.

Power endowed by legislature results in relations of varying intensities between governmental bodies, and besides relations of a formal, hierarchic nature, such relations may also encompass interactive, informal relations. Such relations are in a constant state of interaction in accordance with the varying demand for and the possession of facilities which endow governmental bodies with power.

Power assigned to governmental bodies by legislature or acquired by other means mentioned above results in hierarchic or informal power relations. By bearing in mind and especially by applying the concepts of *governmental distance* and *intensity of relations* discussed in this chapter, both the type and scope of power relations may to a large extent be influenced and analysed.

Interdependence between governmental bodies therefore also creates a situation of *power dependence* between them. Furthermore, power dependence manifests itself in both *horizontal* and *vertical* relations between governmental bodies.

The possession of power in this regard would naturally create relations of different degrees, dependent upon the position of "strength" inherent in the possession of a particular facility.

Naturally, the possession of power, and the exercise thereof, has also a strong affinity with human behavioural patterns. This aspect, however, concerns the field of sociology, and will not be dealt with in any specific detail although the matter may be referred to from time to time.

2.8 International Relations

Relations between the government and other independent world states could for all intents and purposes be regarded as *extragovernmental* relations, that is, relations between the government and outside bodies. However, relations of this nature are governed by the principles of international law, and these relations therefore justify separate attention.

This chapter takes a brief look at this matter.

2.8.1 International Politics

Any discussion on international relations, even by way of a historical review, could readily trespass on the field of international politics. Interna-

tional politics deals with relations between states and governments and include topics such as the politics of power, the balance of power, conflict, diplomacy, foreign policy, propaganda, interference, war and associated "political" matters. In other words, international politics deals with relations between nations. This discussion, however, does not pertinently include politics although the study of governmental relations may, under certain circumstances, include political implications. International Politics is recognised as an *independent* academic discipline. The accent in this discussion falls on identifiable relations within the administrative process and subject matter is referred to as inter-state rather than international relations.

2.8.2 The Development of Inter-state Relations

Relations between sovereign independent states were originally established for the simple reason that every identifiable state throughout the world since ancient times has experienced a measure of dependence on other states in some way or another, although different connotations were admittedly attached to the concept "world" at different times. Early history proves that despite an awareness of a measure of interdependence, every sovereign independent state consistently insisted on being regarded as equal in sovereignty to every other state (Goodrich 1960:2). Hence each state insisted on the right to determine its own domestic and foreign policy - frequently without regard to the wishes and interests of others. These states nevertheless experienced an enduring need for contact with a view to trade, the control of movement of people across the borders of sovereign states, the control of shipping and numerous other inter-state matters.

According to Goodrich (1960:3), during the seventeenth century Hugo Grotius contributed substantially towards the formulation of the principles and regulations of international law which could be accepted by sovereign states for regulating relations between them. These states at an early stage realised that coexistence necessitated some form of control for regulating relations between them, notably in respect of non-hostile relations (Goodrich 1960:4). The concept of co-operation came to be increasingly accepted and countries entered into multilateral and bilateral agreements on a wide variety of matters. In this context, O'Connell (1971:4) points out that as many as five hundred agreements and treaties governing rela-

tions of various types may be entered into by the modern state of today.

Inventions and technological progress during the eighteenth and nineteenth centuries further increased interdependence between states (Goodrich 1960:6). Improved production methods caused foreign trade to flourish, while the frequency and pace of inter-state travel increased and communication between states improved. In addition, growing contact between states heightened the realisation that relations between states need not necessarily be based on bilateral agreements and that agreements should preferably be multilateral. In 1874, for instance, this realisation led to the establishment of the Universal Postal Union for regulation interstate postal services (Goodrich, 1960:6).

The need for improved and organised relations was not restricted to international co-operation, however. Economic development and social relations between states contributed to the realisation that uncontrolled competition between sovereign states could lead to conflict and that open conflict in the form of war could result in extensive economic repercussions (Goodrich 1960:7). This fear became reality with the outbreak of World War I in 1914.

The reality of war demonstrated that co-operation between states based on the principles of international law formulated by Grotius and others no longer sufficed to prevent disputes and even armed conflict between states. After World War I, urgent deliberations on ways and means of achieving co-operation to ensure peace among nations by international agreement culminated in the founding of the League of Nations. However, since the USA was neither a member of this organisation nor provided it with any form of support, the League of Nations proved ineffective and was eventually dissolved (Goodrich 1960:20).

In view of the devastating consequences of World War II, another attempt at international co-operation was launched which led to the United Nations being founded in 1946, with South Africa as a founding member.

It is interesting to note that the issue of membership or non-membership and the right to withdraw from the UN is not the sole consideration governing the establishment or severance of relations between states. Section 2(6) of the Charter contains a provision of fundamental importance for

interstate relations throughout the entire world. In terms of this section, the *UN has the authority to take action against any state which it feels is contravening the principles of the Charter, irrespective of whether the state guilty of such contravention is a member of the UN.*

2.8.3 South Africa and the United Nations

South Africa was for a number of years excluded from participation in the activities of the General Assembly of the UN, because of the racial policies of the former government.

With the advent of the new constitutional disposition, however, South Africa is now a full participant in all the activities of the UN. This question of international (inter-state) relations is not pursued beyond this brief summary, for the simple reason that this book basically concerns governmental relations within the boundaries of the Republic. To go beyond that would entail entering the massive field of *foreign relations* which is a subject which really falls outside the scope of the basic aims of this book.

2.8.4 Visual Illustration

The illustration which follows, and termed "Umbrella model for governmental relations in public administration" is self-explanatory and indicates the place of governmental relations in the overall field of public administration. All of the individual concepts and norms mentioned in the model and their relevancy to governmental relations are discussed in this and later chapters.

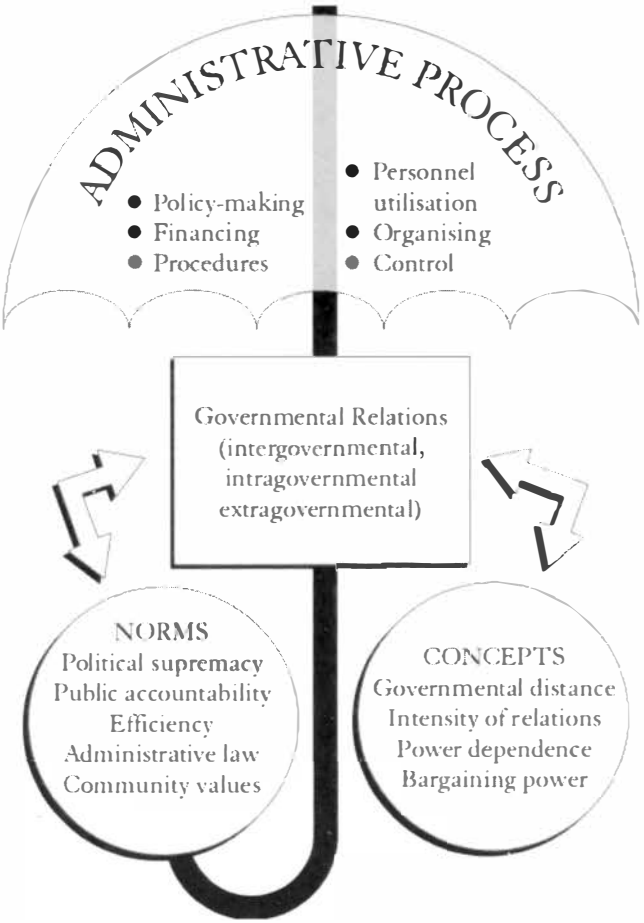
The six functions of the administrative process used in the model and in this book are the well-known and all-encompassing functions used in the study and practice of public administration in this country, and as propounded by Cloete and the majority of writers on the subject in this country.

There are a number of variants to this division, among others the POSDCORB (planning, organising, staffing, directing, co-ordinating,

commanding, reporting, budgeting) of Luther Gulick, and Henri Fayol's organising, co-ordinating, commanding, controlling and prévoyance (a mixture of forecasting and planning).

These divisions are, however, seldom used in South Africa.

Umbrella Model for Governmental Relations in Public Administration



3 The Role of Governmental Relations in Public Administration

3.1 Historical Perspective

The study of governmental relations falls within the framework of the more comprehensive study of Public Administration as a discipline and public administration both as a discipline and as activity. Hence it is considered advisable to provide a brief historic perspective of public administration both as a discipline and as an activity.

3.1.1 Public Administration as an Activity

Public administration as an activity has been practised since earliest times. The irrigation schemes devised by the early inhabitants of ancient Mesopotamia as a means of survival were presumably preceded by a number of activities currently identified as basic functions of the administrative process, including policy-making, organisation and finance (Mumford 1961:10). While it is unlikely that these functions were identified as such in those early days, it is virtually unthinkable that construction of the irrigation schemes could have got under way without some form of previous administrative arrangements, no matter how elementary.

By the same token, other official activities such as the construction in 312 BC of the first Roman road, the *Via Appia*, street lighting in Ephesus in approximately the fifth century AD, and numerous water and sewerage schemes throughout many centuries would have been impossible had they not been preceded by even the slightest indication of elements of the administrative process.

In pre-Greek and pre-Western times, government in the most simplistic

sense was vested in the monarch. In those far-off times there was absolutely no question of local self-government or any other form of subordinate government as we know it today, and all forms of government and administration were vested in the monarch (Hammond 1972:2).

The administrative process was probably initiated during the Classical Greek period, between 510 and 338 BC, with the inception of the democratic city states (Hammond 1972:174). The sovereignty initially vested in the ruling monarch, later passed to the aristocracy and subsequently to civil gatherings. In the city states, activities were eventually divided on an elementary, functional basis, for example tax gathering, public works and defence. There is also evidence that formal *relations* existed between Athens and Sparta, albeit solely with a view to regulating competition between these two city states (Hammond 1972:155).

With the advent of the Dark Ages (500-1000 AD), all forms of government virtually came to an end, leaving no more than a few historic fragments for posterity. This fate befell even sizeable cities such as London which, during the Dark Ages, was inhabited by small, heathen groups of Saxons living in squatters' camps protected by the city walls (Collingwood 1949:435).

With the reawakening of Europe at the end of the Dark Ages, new governments came into being. Manuscripts subsequent to 1100 increasingly refer to administrative functions, particularly financing. Records even refer to the progress achieved during the thirteenth century in respect of systematic record-keeping, which was regarded as a cornerstone of documentation for reconstruing historical events (Platt 1976:136).

With the ascension of William of Orange to the British Throne in 1680, the absolute autocratic power of the Stuarts came to an end, authorities were established on a vertical and horizontal level, and administrative control and the application of administrative functions were delegated to individual governmental bodies (Hattingh 1984:43). Normal administrative relations between various governmental bodies eventually developed within the framework of the overall sovereignty of the British government, and this basic system was eventually introduced to South Africa, where, in essence, it is still in force today (Shorten 1963:115).

3.1.2 Public Administration as Academic Discipline

Whereas public administration as a process of government dates back to ancient times, Public Administration as an academic discipline is far more recent. The first indications of this development date back to the early eighteenth century, and were preceded by the so-called *Kameralwissenschaft,* a science in which professors were appointed by Frederick William I of Prussia as early as 1792 and subsequently incorporated into the *Verwaltungslehre* (Hanekom & Thornhill 1983:42). Cameralism was aimed exclusively at training persons to serve the ruling monarch. While publications on the *Verwaltungslehre* are dominated by administrative law principles, this apparent negation of Public Administration is not evident in the works of some French authors, who regarded Public Administration as a discipline unassociated with legal discipline (Hanekom & Thornhill 1983:). It was eventually left to an American, Woodrow Wilson, who subsequently became president of the United States, to plead for the academic study of Public Administration as an independent discipline (Wilson 1887).

In view of the unprecedented extension of government activities, particularly after World War II, the study of Public Administration progressively gained importance due to the increasing demand for public servants thoroughly trained in the administrative sciences. Today, a course in Public Administration is even mandatory in some technical and scientific government departments and institutions, and indeed it has been pointed out that in addition to the highly developed scientific technologies required to manufacture an atom bomb, the contribution of the administrative process in this regard should not be underestimated (Waldo 1955:1).

This points to the logical conclusion that the application and continued uses of the administrative process in every government body has increased the importance and necessity of the study of governmental relations, for the simple reason that wherever one or more governmental persons or bodies have dealings with each other, the question of *relations* will become manifest.

3.2 The Meaning of Administration

The concepts "administration" and "public administration" have so far been used without elucidating their respective meanings. Since this chapter deals mainly with governmental relations within the framework of the administrative process, it is necessary to clarify the meaning of these two concepts. An explanation of the term "administration" appears in the works of Cicero, dating back to the era before Christ. According to Cicero, administration means "to serve" (Dunsire 1981:1,2). The term subsequently acquired several diverse connotations and Dunsire, for example, identified 15 different definitions for this term (Dunsire 1981:228-229). No purpose would be served by analysing and elucidating these definitions, since this book consistently focuses on the relevant meaning, that is that administration consists of the mental processes and actions required for determining and implementing an objective, but does not include all processes and actions and is restricted to a specific number of such processes and actions (Botes 1973:17-19), hence the logical conclusion to refer to administration in the governmental section as *public* administration.

3.3 The Administrative Process and Governmental Relations

The above administrative thought processes and actions comprise a number of mutually inclusive generic functions. While much has been written concerning the nature of these functions, the broad classification of Cloete and others is deemed adequate for the purpose of this chapter. These functions will be dealt with under the headings policy-making, financing, organising, personnel utilisation, procedures and control respectively.

3.3.1

Governmental Relations as a Phenomenon in Policy-making

How does one define policy-making? Policy may be regarded as a norm or norms laid down by an authority or authorised body or person (the Cabinet, a Minister, a city council, or a head of a department) to engender actions for the realisation of objectives (Botes 1975:23). This broad definition includes three more or less identifiable types of policy, that is political, executive and administrative (Marais 1966:183). In practice, these three types of policy are arranged in vertical order, with political policy as the primary type. Political policy represents the policy of the political party in power, that is the government, which is presented to the electorate during elections as a series of value preferences, and according to which government is elected to implement those preferences. Hence the relevant value preferences are, in fact, the policy of the elected government.

Once the government thus elected commences the task of governing, and enacts its policy by means of legislation, it becomes the task of the Cabinet or, in the case of municipal elections, the management committee, to analyse the political policy of its elected members and transform it into an executive policy which is eventually translated into one or other enforceable form and passed on to the government or municipal department for implementation.

To enable a policy received from the highest authority to be duly implemented, an administrative policy must be laid down to serve as a guideline for the departments, thus ensuring that the overall policy be effectively and correctly applied.

In the hierarchic process identified by the three types of policy, a continual chain of different types of governmental relations may be distinguished. First, there are the relations between the electorate and the elected government (or city or town council). It is conceivable that once the body in authority has been elected to power, it has the option of various actions. Value preferences of the electorate may even be disregarded and a different or amended policy may be followed which diverges from the will of the electorate. Hence it is essential that the electorate should have the fullest

confidence that their value preferences will be implemented. Besides specific relations of trust between the authority and the community (electorate), the authority also enters into legal relations with the same community in terms of which the community is obliged to comply with the legal requirements prescribed by the authority.

In addition, specific relations are established between the central government and subordinate governmental bodies in regard to policy legislation whereby such subordinate bodies are established, controlled and provisions laid down in respect of their functions and duties. Finally, relations come into being between political office-bearers and public servants responsible for preparing, laying down and implementing prescribed policy. While these and other forms of governmental relations will be more fully identified and discussed elsewhere, it should be clearly evident at this stage that numerous comprehensive relations are established during the process of policy formulation - relations which must be maintained by governmental bodies and persons in their service.

In the case of bodies established by policy decisions and resultant legislation, the overall policy-making authority assigns powers to such bodies to enable them to determine their own policy within their field of authority. This gives rise to a framework of complex hierarchic policy relations indicating sustained policy reciprocity and policy interdependence (Hinings 1980:59).

The formulation and implementation of public policy increasingly involves governmental bodies at various horizontal and vertical levels and includes relations with bodies outside the government sector. Systems are therefore devised for determining and deciding policy matters and, as a consequence, the numerous tasks of government are fragmented and delegated to a large number of governmental bodies, each with its own duties and resources. Each of these bodies have their own system and sources of information representing a diversity of interests, and at times they even pursue conflicting objectives (Hanf & Scharpf, 1978:1).

This is one of the compelling reasons for appointing advisory committees comprising or representing various sub-systems to ensure the greatest possible degree of uniformity in determining policy in regard to specific matters.

The problems associated with policy decisions and relations inevitably become more complex as the process of government is extended and expanded and the government's sphere of influence progressively increases. In formulating and implementing policy decisions which appear to be subjected to increasing lines of responsibility and the progressive delegation of powers, it becomes increasingly difficult to determine the *source* of policy decisions and, indeed, to assess whether or not the requirements of an original policy decision have been duly met. It increasingly occurs that the responsible Minister is at times unaware of significant policy decisions taken by a department under his or her control. A very relevant example in this regard was afforded by the former Department of Information during the seventies, when numerous policy decisions were taken by subordinate officials without the knowledge of the responsible cabinet minister.

When one considers that in Britain in 1981, the control over half a million civil servants was in the hands of 40 ministers and 50 junior ministers (Hecklo & Wildavsky 1981:375), it seems inevitable that a large number of policy decisions of various types are taken and implemented without ministerial instruction and approval. This emphasises the need for effective relations between policy-makers at all levels of government and the importance of effective control over policy decisions.

3.3.2

Fiscal and Financial Determinants in Governmental Relations

Irrespective of any governmental objective and priorities accorded to a specific object, the availability or lack of funds is inevitably one of the most important criteria for implementation, at times even to the exclusion of national political considerations. Although the broad approach is adopted in this review of fiscal and financial determinants, a discussion on relations of this type between authorities is not restricted to the availability or lack of funds but encompasses all measures with financial and economic implications. To cite an example, the government establishes specific fiscal relations with local authorities by placing restrictions on the latter's capital expenditure. The fundamental aim of this arrangement is to regulate global capital expenditure in the Republic of South Africa in the inter-

ests of the country's economy, rather than to limit the expenditure of the various local authorities on capital goods.

Generally speaking, the fiscal aspects of governmental relations are for some purposes also controlled by geographical considerations, in the sense that regional interests at the local, provincial or central level may be taken into account in making fiscal decisions. In addition, specific areas are sometimes earmarked for attention.

Fiscal and financial matters in South Africa have always been a major consideration in the establishment of effective relations. This is illustrated by the many committees of investigation appointed during the course of years: the Schumann, Franzsen, Borckenhagen, and Browne Committees. The reason for the avid pursuance of satisfactory financial relations is largely a matter of speculation but may be one or both of the following:

■ *Ineffective division of functions:* At the time of unification in 1910, South Africa opted for a policy based on the specific division of functions between the uniting territories. Following protracted discussions, the uniting territories eventually agreed to a division of functions which, in the interests of unity, included a great many concessions and compromises (Pretorius 1978:94). It may be accepted with a reasonable measure of certainty that the resultant division of functions did not necessarily represent a just or logical division. As a consequence, the government in due course accepted responsibilities for functions originally allocated to the provinces and local authorities, such as health administration, roads and personal tax (Pretorius 1978:95-96). In regard to health services, the government in 1919 established direct relations with local authorities by assigning specific duties to them without any intervention by or consultation with provincial authorities, and in disregard of constitutional provisions which allocated matters pertaining to local authorities to the provincial authorities.

■ *Tendency to centralisation:* The fact that high-level authorities constantly strive to take over the functions of subordinate authorities is an age-old phenomenon. These attempts are motivated by the pretext that the high-level authority is capable of implementing a particular task more efficiently, that the subordinate authority is shirking its duty or that the central authority's policy is being thwarted (Hattingh 1984:47). As a consequence, local and provincial authorities may, for example, be uncertain

whether they will continue to be responsible for a specific function or whether some committee of investigation may decide to reassign that function.

3.3.2.1 Financial Relations Between Central and Provincial Authorities

Financial relations between central and provincial authorities are regulated in chapters 9 and 13 of the 1996 Constitution, which *inter alia* provides for the following:

- The appointment of an Auditor General, who is, among other duties, required to audit and report upon all the accounts and financial statements of all accounting officers at national *and* provincial levels (section 188).

- The establishment of a Financial and Fiscal Commission (section 220), which is required to apprise itself of all financial and fiscal information relevant to national, provincial and local government, administration, and development, and to render advice and make recommendations to the relevant legislative authority on financial matters.

- An interesting innovation in the promotion of financial relations between levels of government is the establishment by the Minister of Finance of a Budget Council (*The Citizen,* 13/3/1997). This council consists of the Minister of Finance, the Deputy Minister and officials, together with the nine MECs for Finance of the respective provinces. The Financial and Fiscal Commission has *observer* status on the Budget Council. This council is involved in governmental budgeting aspects and it can be regarded as being a co-operative and decision-making body in respect of financial and fiscal matters of the government and the provinces.

3.3.2.2 Financing by Means of Subsidies

Specific forms of governmental relations are established when higher authorities supplement the income of lower authorities by means of grants or subsidies. Byrne (1983:179-198) mentions five aspects in justification of subsidies whereby central government may attempt to regulate its relations with subordinate bodies.

- The higher authority may wish to stimulate the development of a specific service of national interest (for example, library services in the former Transvaal, in respect of which local authorities received substantial grants from the provincial authority).

- Subsidies may be granted by higher to lower authorities with a view to reducing the disparity between local authorities with ample funds and those whose funds are inadequate.

- The granting of a subsidy may be motivated by the desire of a higher authority to assist a lower authority to overcome problems in providing a specific service, for example in a scarcely populated area or in an area populated by a surfeit of indigent persons.

- Subsidies may be granted to local authorities with a view to alleviating the pressure of, say, local property taxation.

- A higher authority may grant subsidies to lower authorities by way of compensation for restrictions which may have been placed on other sources of revenue.

Whatever the case, it appears to be a worldwide phenomenon that *control over lower authorities is enhanced* when financial aid is granted by means of subsidies and that this leads to an intensification of relations between higher and lower authorities. In Britain, where the system of granting funds to local authorities for numerous purposes dates back to 1835, the danger even exists that the British government may, within the foreseeable future, attempt to influence expenditure on *individual items* by local authorities (Byrne 1983:283).

It may thus be concluded that fiscal and financial determinants may in all respects play a major role in establishing effective relations between governmental bodies. Moreover, finances and financing are flexible and readily adaptable to changing circumstances, and may at all time be utilised to underscore or amend certain aspects of official policy.

In South Africa, an interesting system of grants to provincial legislatures now applies. In terms of Section 214 of the 1996 Constitution provinces are entitled to an equitable share of revenue collected nationally, to enable it to provide services and to exercise its powers and functions.

3.3.3 Governmental Organisational Structuring

The effective realisation of government objectives, whether political, economic or social, depends to a large extent on the organisational structuring of government as a comprehensive body. Hence organisation, which is one of the functions of the generic administrative process, also makes a vital contribution to the state's ultimate objective of promoting the general welfare of society, as identified in chapter 1. It follows that every identifiable governmental body, irrespective of its structurisation, is involved in realising the ultimate objective of the state. This results in total and continual *interdependence* between government structures and governmental bodies (Rhodes 1981:4).

In view of the complex organisational structures of today which have greatly increased interdependence between governmental bodies, relations between these bodies are progressively becoming more problematical. The formulation and implementation of governmental policy is becoming more and more risky, since it is becoming increasingly difficult to discern the lines of communication between objectives, policy recommendations, steps required to implement such recommendations, imputs and the consequences of any actions. This is primarily due to the fact that decisions are no longer necessarily reached by a particular body (for example by elected representatives) but are the outcome of numerous negotiations and deliberations between numbers of governmental bodies and their reciprocal reactions in respect of each other. In the modern system of government it is virtually impossible for a particular body to fulfil its allocated tasks in isolation without the necessity, at some or other stage, of having recourse to facilities (in the broadest sense of this term) possessed or controlled by another body or bodies (Jones 1980:3). This points to the conclusion that in respect of the *organisation* function in public administration, governmental bodies are subject not only to relations of *interdependence* but that such relations also display marked elements of *interaction*. In this context, Rhodes (1981:42) maintains that analysis within the organisational framework of any specific governmental body will always demonstrate its dependence on and interaction with other bodies.

It stands to reason that this process of interaction must of necessity influence the institution's structure, behavioural patterns and performance and,

according to Jones (1980:4), this merits the conclusion that every governmental body must mobilise its own facilities as well as those of others to achieve its objectives. Hence, in an organisational context, relations between governmental bodies vary according to the number and variety of facilities controlled by each body, the different levels of proficiency in the application or use of these facilities, and their respective abilities to compensate for the lack or inadequacy of a facility by drawing on another facility which is readily available (for example information may be purchased). As a consequence, we find a continual interaction between facilities, proposed actions, proficiencies and the application of skills.

Since the terms "facility" and "facilities" are constantly used in this text, a brief explanation would be appropriate. In organising the achievement of its objectives, the government establishes a variety of governmental bodies to assist it in achieving those objectives. In addition, minor objectives will be assigned to such bodies and they will be granted authority, powers, and provided with manpower, funds, information and everything required to ensure that they function efficiently. For the purposes of this chapter, these are all classified as "facilities".

3.3.3.1 The Organisational Milieu

As previously stated, organisation is necessary for the successful achievement of an authority's objectives. Organisation may also take place within the framework of several environmental factors, all of which may influence the nature and extent of organisation.

- Organisation takes place in a historic milieu. South Africa has had a three-tiered structure of authority (central, provincial and local) since unification in 1910. Any organising demanded by altered circumstances or additional governmental is normally undertaken within the framework of this three-tiered structure of authority.

- Organisational structuring may be resorted to for party political reasons. Watson (1981:152) cites the example of events following the disclosure of anomalies in the former Department of Information and its eventual incorporation in the former Department of Foreign Affairs. Watson also maintains that this decision was not taken on rational and functional grounds, since the need for a department of information at that point in

time was greater that ever before. As a consequence, he concludes that the decision was motivated by political considerations in an attempt to avoid embarrassment on the part of the former government.

■ Organisation may take place within the framework of the economic climate (Watson 1981:125), at times with a view to enhancing relations with the private sector but usually with a view to promoting the general welfare of society. The large number of agricultural control boards are examples of organisational structuring with a view to economic objectives.

Organisation may also be applied for various other reasons, such as cultural, sociological, religious, technical and security considerations and for the purposes of geographical analysis, etc (Watson 1981:153). Irrespective of the underlying reasons for organisation, all forms of organisation generate additional relations between existing and newly established institutions, and all such relations must of necessity be maintained and promoted.

3.3.3.2 The Transient Aspect of Governmental Structures

Since the task of government is becoming progressively more comprehensive, while changing circumstances as well as the necessity for revised or additional relations constantly demand attention, governmental structures cannot be regarded as permanent. The problem in this regard is that the creation of any new organisational units, or the amendment or abolition of existing governmental relations, changes the pattern of relations between any number of bodies and necessitates consequential adjustments.

There appears to be a need for a model of organisational relations to shed light on the causes and consequences of the various types of structures, and the salient features contained in selected organisational governmental structures (Rhodes 1981:42). The question, therefore, to which Rhodes would like an answer, is *what classification of governmental structures would under specific circumstances establish mutually satisfactory relations between governmental bodies and at the same time serve the interests and welfare of the community in the best possible way*. Factors demanding consideration in an investigation of this type would presumably include the nature and scope of the relational milieu to be established, the organisational objectives of

each individual body, the type and scope of powers to be vested in these bodies, and the possible consequences of resultant interaction. Whatever the outcome of such an investigation, we may rest assured that various structural classifications could be forthcoming which would, to a lesser or greater degree, provide the optimum results sought by Rhodes (1981:61).

3.3.4

Personnel and Manpower Issues in Governmental Relations

Personnel and manpower utilisation is an important function of the administrative process, particularly in respect of the maintenance of relations between governmental bodies. A particular problem inherent in personnel administration is that administrative process is performed by people, who cannot be programmed like machines to conform to specific patterns of behaviour or perform prescribed tasks in a specific manner. Every official has a different personality and his or her sense of values could sometimes be extremely subjective.

The progressive expansion of governmental functions necessitates a continual increase in personnel and rules to ensure that objectives are achieved. On the debit side, this also creates a greater potential for unsatisfactory work and even for corruption which, in turn, may necessitate even more rules to counter undesirable practices (Thornhill 1982:43). Hence it may be stated that the personnel function plays a progressively important role in public administration and sound relations and that man as such has become a critical input in the continued administration of government (Van der Merwe 1982:104). It stands to reason that personnel fulfils a key role in a system where government bodies established by legislation must operate as distinct units in relation to each other to optimally achieve their objectives. This points to the fundamental requirement that in determining overall personnel policy, the government should prescribe a personnel policy which will not hamper the personnel function of other governmental bodies. Although public administration cannot be divorced from the political milieu, it should nevertheless be accepted that every official in a position to provide guidance should be endowed with sensitivity and should strive to be objective in his particular sphere of influence (Thornhill 1982:145).

3.3.4.1 The Task of the Public Servant

Generally speaking, government is responsible for an impressive list of functions. Some of the functions referred to by Thornhill and Hanekom (1979:1) are listed below in an attempt to facilitate appreciation of the need for a diversity both in manpower and in relations between officials. These functions include the promotion of tourism and sport; forestry; animal diseases, their control and eradication; posts and telecommunications; health promotion and health control; schools, universities and other educational centres; the manufacture of arms and defence of the Republic, and many more. Because of the interdependence and interaction between governmental bodies referred to in the discussion on organisation, the high-ranking official must keep abreast of the activities of his or her particular institution. Although this facet is pre-eminently the responsibility of the higher-ranking official, it also involves the entire personnel to a greater or lesser degree.

A chronic shortage of sufficient and adequately trained personnel is an unfortunate feature of governmental bodies at virtually all levels of authority. One reason for this state of affairs is that until quite recently, conditions of service in the private section were far more attractive than in the public sector. This problem has to a large extent been resolved (De Klerk 1984:83) by considerably improving the conditions of employment in the public service.

The shortage of adequately trained personnel also resulted in competition for personnel between the various governmental bodies and in staff members being lured from one body to another (Van den Berg 1978:121). This practice had a generally adverse effect, also on relations between governmental bodies. The reality of personnel movement between governmental bodies should nevertheless be accepted and may, within reason, even prove advantageous (Delport 1978:130) in that it may enhance relations between governmental bodies and promote a mutual understanding of the functions and activities of the various bodies.

This conceivably beneficial effect on relations between governmental bodies was recognised many years ago by the United States Federal Government. In 1971, the United States approved the Intergovernmental Personnel Act, whereby personnel employed by the various states were afforded

the opportunity to work in the Federal Office for varying lengths of time and to spend time in the other states and with local authorities (Berkley 1978:509). President Johnson's Executive Assignment System had a similar goal in mind, namely to increase the mobility of qualified personnel in the Federal Service by encouraging interdepartmental transfers (Berkley 1978:510).

Besides the introduction of a competitive element in relations between governmental bodies, a few other aspects of personnel functions also affect relations to a greater or lesser degree. These are, first, that training arrangements differ at various levels of authority and that uniformity in regard to training may be totally lacking, even between bodies at the same level (for example at local government level). Moreover, the qualifications required by different governmental bodies for identical posts may differ considerably. Second, the establishment of personnel associations at all levels of government and the matter of professionalism have given rise to considerable problems. This aspect merits specific attention.

3.3.4.2 Professionalism in Governmental Bodies

Personnel groups throughout the public service are organised by means of a large number of personnel associations, and virtually every conceivable profession and occupation in the public sector has formed its own personnel association or professional institute. To cite but a few examples, there are associations for public servants, roadworkers, municipal employees and municipal transport workers (all, fundamentally, trade unions). There are also institutes for town planners, building inspectors, licensing officers, town clerks, municipal valuers and accountants, members of the fire brigade, traffic officers, municipal civil engineers, municipal electrotechnical engineers, municipal evaluators and town planners. Although these associations and institutes should be able to play a significant role in promoting relations between governmental bodies, there is no form of liaison between them whatsoever, except for very minor, direct horizontal contact between individual members of a specific association. Nevertheless, the importance of professional institutes in the public sector is not open to question, since they afford members the opportunity to improve their knowledge in their particular field by attending meetings and congresses. An aspect deserving of attention is the patent lack of research concerning the role which professional public servants and their professional associations could and should play in promoting relations between governmental bodies.

By means of professional associations promotion of relations between governmental establishments on a horizontal level has already become a reality. It is, indeed, an aspect which practically manifests itself in various respects. The membership of *The Institute for Local Government Management* (formerly Town Clerks of Southern Africa) extends to virtually the entire body of municipal top officials in the Republic and consultations concerning various matters are held during joint conferences, from whence recommendations are channelled back to the individual local authorities for implementation or cognisance. However, no contact exists between, for example, this institute on municipal level and the Public Servants Association on governmental level. Each association and institute promotes only the interests of its own members, on its own governmental level and within the framework of its own area of expertise, notwithstanding the fact that their policies may at times coincide, and that a decision by one of the associations, regarding those governmental bodies in which it has an interest, could have a detrimental influence on the specific governmental establishments with which the latter may be involved.

The problem, essentially, is to what extent a professional association or its members would be in a position to criticise the legislature or an employer in regard to legislation or decisions affecting the relevant profession. If, for instance, an institute of municipal treasurers does not approve of the government's decisions on finance or believes them to be detrimental, to what extent could such an institute be in a position to criticise the government's policy decisions? And what influence, if any, would such critical comments have on mutual relations between the various treasury departments at central and municipal level? Hence the issue at stake is whether relations would be promoted or damaged by voicing or abstaining from criticism. In the latter event, an institute's members - and the public - may conceivably lose confidence in the relevant institute or association (Laffin 1980:20).

Another aspect regarding the role of the personnel function in governmental relations is that professionalism has given rise to so-called "technocratic politics" (Laffin 1980:18) in that the initiation, formulation and implementation of policy is increasingly left in the hands of the various professions without the effective participation of the elected representatives of the bodies involved, on the pretext that the professional officials are the experts, while council members are the laymen. By the same token, it is not inconceivable that the professions may support a reassignment of powers and authority by claiming that their expertise demands it

or that it will promote efficiency, while the true motivation may be to enhance the status of the profession concerned.

Despite these problems, the role of professional institutes in promoting governmental relations is undoubtedly significant. In this respect a measure of official recognition has been accorded to local governmental bodies by nominating members of municipal institutes on councils dealing with matters where relations are particularly important.

A vitally important question in this regard (Laffin 1980:25), and one which has cropped up from time to time, is whether the governmental authority is fully satisfied that such professional societies will unswervingly promote the interests of the community rather that their own. Although there may be no easy answer, it must be accepted that the governmental authority is obliged to honour the *bona fides* of professional institutes unless there is evidence to the contrary. Similarly, it must be accepted that professional societies prescribe certain ethical norms and that such norms will be upheld by their members.

3.3.5
Working Procedures and Governmental Relations

As administration developed and expanded, specific methods were developed to facilitate various tasks and the procedures required to perform them. This applied especially to repetitive tasks, where fixed procedures ensure that a given task will consistently be performed in precisely the same way. The advantages of this system were demonstrated during the previous century, notably by F W Taylor's experiments on the handling and loading of cast-iron blocks, where it was shown that worker's performance could be trebled by changing the working procedures.

Devising detailed procedures for numerous tasks is an integral part of the public sector's function (Hanekom & Thornhill 1983:166) and manuals on procedures consisting of loose pages (to facilitate revision and replacement) are a well-known feature in the offices of numerous governmental bodies.

Procedures may be prescribed by law or left to the discretion of the relevant governmental body, depending on the importance of adhering to a

specific procedure in carrying out a given task. In some cases, it may be considered essential that a subordinate authority should follow specific procedures in performing a given task and in such cases it may be stipulated by law that a governmental body wishing to perform a specific task may do so only on the approval of a higher body. A case in point is the adoption of by-laws by a local authority. Such by-laws must be published for public comment before they can be passed by the local authority (section 160 of the Constitution). In mentioning numerous reasons for prescribing formal procedures, Cloete (1972:158-160) makes the important point that since people are not automats, a tendency to prescribe working procedures down to the last infinitesimal detail may cause the administrative process to become inflexible. Hence excessive procedural regulations may also have an adverse effect on relations, not only between political office-bearers and officials but also among officials and among governmental bodies.

The functions and powers of the central authority are divided and entrusted to governmental structures established for this purpose. When powers are divided, it is important to make provision for effective control, and control should also be exercised by laying down procedures by means of legislation or other regulatory means. Hence, relations are also created by means of such procedures. In the interests of clarity, this aspect of procedural arrangements will be illustrated by furnishing examples of the various methods of dividing power, namely by *decentralisation, devolution* and *delegation.* The following is a brief explanation of the context in which these concepts are employed.

3.3.3.1 Decentralisation

In the normal course of public administration the concept of decentralisation is relevant to a wide range of economic, political and social activities. In this discussion, however, the importance of decentralisation centres on its connotation as an essential mechanism for achieving specific administrative objectives and the resultant procedural implications, particularly in respect of relations established by this means.

Brian Smith (1980:138-141) identified several contexts within which the concept of decentralisation is applied and which provide an indication of the diverse meanings attached to this term. To name a few examples:

(a) When a central authority establishes subordinate authorities and assigns functions to them, this is referred to by some as decentralisation of functions.

(b) The division of income and other resources between a higher authority and lower authorities is also referred to as decentralisation.

(c) The division of a single governmental function on a regional basis as, for instance, when regional branches are established by a state department, is referred to as decentralisation.

(d) Decentralisation may also denote the assignment of powers to specific subordinate government bodies by the central authority.

(e) The allocation of discretionary powers to specific political office-bearers by the legislative authority may be referred to as decentralisation.

(f) Finally, decentralisation may refer to regulatory measures in respect of capital expenditure by various governmental bodies.

The fact that all of these procedures may be referred to as decentralisation may readily lead to misunderstanding. It is not advisable, for instance, refer to both the establishment of regional offices (c above) and the establishment of local authorities (d above) as decentralisation.

In South African publications dealing with public administration the term decentralisation is primarily employed to denote a concept, such as the decentralisation of functions with a view to streamlining a service rendered by the authority - in other words by establishing regional offices (Cloete 1972:90). The best example of decentralisation in South Africa in this context is the Post Office which renders essential services to the community by establishing numerous post office branches throughout the country. At local authority level, a good example of decentralisation is provided by the establishment of regional fire stations within the boundaries (in a geographical context as well as in scope) local authorities, such as Johannesburg and Cape Town.

The establishment of geographically divided branch offices with a view to providing a specific service to the community does not imply that all

branches are identical, nor does it exclude the possibility of substantial variables. For example, different branches may function at different hierarchic levels (depending on the amount of work to be dealt with). As a consequence, different levels of responsibility and powers will be assigned to such branches. These differences may lead to differences in co-ordination, in reporting to a regional head office, in possible conflict between specialists and generalists, and in differences in regard to the frequency of personnel transfers (Smith 1980:139).

Hence control and regulatory measures are obviously essential to ensure effective relations between the various decentralised bodies and the central authority, while formal working procedures and procedural measures play an extremely important role.

Indeed, it appears that under a system of decentralisation, *work procedures* are *essential* for the effective realisation of objections. Precise directives for numerous repetitive tasks greatly facilitate the central authority's task of exercising control. Another important consideration is that it promotes uniformity, particularly in regard to relations between the community and a governmental body, since any individual member of the community who must visit more than one branch will not be confused by a diversity of procedures.

3.3.5.2 Devolution

The term decentralisation occasionally also refers to the allocation of powers by the central authority to specific governmental bodies. A clear distinction should be drawn, however, between this action and devolution. The assignment of power, functions and authority to governmental bodies by the central authority has been discussed in a previous section (par 3.3.3) and such organisational structuring should be referred to as the devolution of power. In South Africa, for instance, the assignment of powers by the central authority to provincial and local authorities is referred to as the devolution of power.

In view of the comprehensive scope and interrelation of modern governmental duties, a governmental body finds it difficult to pursue its assigned function in isolation from other governmental bodies. In some or other way and at some or other stage a governmental body will inevitably find it

necessary to utilise facilities controlled by another governmental body - hence the interdependence between governmental bodies previously referred to.

In a unitary state, despite comprehensive devolution of power to a large number of subordinate governmental bodies, the ultimate accountability for the actions of all subordinate bodies rests with parliament, which is the central legislative authority. Hence devolution of power is usually associated with extensive formal directives which generally consist of prescribing the required procedures. Procedures ensure that a task will be performed in a specific, prescribed manner, and are an invaluable aid in creating the desired relations, as evidenced by the following example.

An important recommendation of the Marais Commission, which investigated the system of local government in the Transvaal during the fifties, was that the post of town clerk of local authorities should be upgraded to that of chief administrative and executive officer (Marais 1956:3). The motivation for this recommendation was the following: the post of town clerk is a key position in local government and the incumbent of this post plays a major and important role in the promotion and maintenance of internal relations within the local authority. More important, however, is the fact that he or she is closely involved in relations with other governmental and non-governmental bodies which fall outside the jurisdiction of the local authority. Hence it is vitally important to ensure that the post of town clerk should be filled by the best person available.

This recommendation was accepted by the then Transvaal Provincial Council. Since the matter was considered of the utmost importance, it was decided that the final decision concerning the appointment of town clerk should rest with the provincial authority. As a consequence, detailed procedures were laid down in respect of the appointment of town clerks. These steps naturally also led to the creation of specific relations between the provinces and local authorities. (This procedure no longer applies.)

The effective utilisation of manpower is important - for example for promoting economic prosperity - and it is also important to maintain healthy relations between the central authority and the private sector in this respect. Since this necessitates strict legal control over industrial unrest, detailed procedures for investigating and settling industrial disputes are prescribed by labour relations legislation.

However, not all prescribed procedures aimed at promoting governmental relations are laid down by legislation, and circular letters are used by the various governmental authorities to regulate procedural relations between the provinces and local authorities and also among different local authorities. Townships development involves a large number of governmental bodies comprising state and provincial departments, various local authorities, quasi-autonomous governmental bodies (such as Eskom), and private developers. Circular letters containing comprehensive instructions on working procedures are issued and local authorities must meet these requirements before applications for establishing a township are considered.

Procedures may from time also be prescribed on an *ad hoc* basis, for example, where devolution of a particular function to a governmental body by the legislature requires a specific investigation to be conducted in that regard. In such cases, the legislature's representative (for example a Minister) may instruct the subordinate body to conduct the investigation in a specific manner.

By laying down procedures in regard to the devolution of powers, the central authority ensures that it will determine the manner in which relations are established and maintained between itself and subordinate bodies.

3.3.5.3 Delegation

Decentralisation is defined as the distribution of a specific service (for example postal services) on a geographic basis to ensure that the services will be reasonably available to all members of a community. Devolution, in contrast, is defined as the assignment of functions and the authority to governmental bodies established for that purpose by the legislative authority in cases where the central authority on its own is unable to perform all the functions which should be performed by government.

In distinguishing between decentralisation and delegation, it should be borne in mind *first,* that in the case of decentralisation, a specific task is *divided* (as in the case of providing postal services) and the identical task is then performed by each of a large or small number of governmental bodies, although in different areas or geographic regions.

Second, in the case of devolution, various functions of a central authority are *assigned* to a number of governmental bodies established for that purpose and each body thus has distinct functions to perform. Although these functions may be assigned on a geographical basis, this is not essential. Local authorities throughout the country perform numerous identical functions but each performs these functions only within its own prescribed area of jurisdiction. In contrast, an institution such as Eskom performs one function but operates countrywide.

What is delegation? To delegate means to entrust the performance of a task which is the responsibility of a specific body, political office-bearer or official to another. In essence, therefore, a task or function legally assigned to a governmental body, political office bearer or official in terms of the devolution of power may, by means of further legal provisions, be delegated to yet another body or person for implementation on behalf of the person or body entrusted with the said function (Wiechers 1973:53). South African law contains numerous examples of the functions of government being assigned to a Minister who, in turn, authorises the head of a state department or a provincial premier to implement such tasks.

Legislation by local authorities also contains provisions enabling a municipal council to authorise a committee or official to perform a specific task on behalf of the council. The delegation of power generally entails extensive regulations for ensuring that the delegated task will be duly performed by the person to whom it is delegated. Such regulations frequently include fixed procedures for determining the relationship of authority between the person who delegates power and the person to whom it is delegated. Procedural measures are extremely important in cases where relations between governmental bodies may be affected by exercising delegated power. This factor comes into play in multiple delegation, for example delegation to the nine provincial premiers or to the town clerks of local authorities. In such cases, provisions by the legislature avoid strained relations between provinces or local authorities due to the individual actions of each of the persons to whom an identical task has been delegated. However, the delegation of power at times makes provision for discretion to be exercised (Meyer 1975:43). Discretion is relevant, for instance, in cases where the person delegated to perform a task may at his own discretion decide on the method to be employed, as long as the delegated task is duly performed. In the interests of maintaining healthy relations between governmental bodies, the legislature may lay down fixed procedures regulat-

ing such discretion, in which event the person so delegated will naturally be obliged to follow those procedures when performing the delegated task.

3.3.6 Power, Conflict and Control

3.3.6.1 Political Supremacy

In any community there can be no more than one central source of supreme authority. This source has the authority to determine its task and to establish governmental bodies by means of devolution, delegation and decentralisation to assist it in performing its task. The supreme political authority thus has the power to issue instructions and demand compliance (Reynders 1969:377).

The supreme political authority (in South Africa, this authority is vested in parliament) is established by the community (the electorate) and hence has a duty towards the electorate to promote the community's general welfare by complying with the priorities determined by the electorate.

The power vested in the supreme political authority may be defined by posing the question, "the power to do what?" The obvious answer is that power is the major instrument whereby the legislature is empowered to enforce compliance with its instructions. The decisive criterion may thus be defined as the ability to exercise power, rather than the possession of power (Schultz 1961:7). Hence the concept of power may play an important part in governmental relations, and the extent of this role will depend on the intention and willingness of the wielder of power to utilise that power, and the manner in which it is utilised.

The supreme political authority is ultimately also responsible to the community for the deeds and actions of all bodies established by it. Legislation or other directives by the supreme political authority does not necessarily imply that such directives will be duly carried out in accordance with the relevant decisions in this regard (Hanekom & Thornhill 1983:38). Decisions, and even policy, may be amended or circumvented by means of misleading statements, manipulation and political untruths (Hattingh 1983:38), as well as by persuasion and coercion. Hence legislation and

other directives should contain provisions to ensure that functions will be performed in the prescribed manner. This means that the legislature should exercise control over the actions of governmental bodies and persons in authority.

Control is usually dichotomous, since it involves both internal and external control. In regard to internal control, relations are aimed at ensuring order within the administrative framework of a governmental body, whereas relations in external control are aimed at ensuring orderly control between governmental bodies, as well as between these bodies and the outside world. The latter control measures are usually laid down by law. Hence external control plays an extremely important role in regulating governmental relations generally, and usually covers a far wider field than internal control.

The fact that the legislature exercises control over subordinate persons and bodies with a view to meeting its general responsibility of accountability towards the electorate is an extremely important factor in promoting governmental relations. However, several other fundamental reasons for control aimed at ensuring meaningful governmental relations are generally also recognised. Some of these reasons are briefly discussed in the following paragraphs.

3.3.6.2 Fiscal and Financial Control

Control may be exercised for fiscal and monetary reasons. In view of the central government's responsibility for ensuring a healthy economic climate, it would obviously be undesirable to permit uncontrolled, independent financial decisions by each subordinate governmental body. In terms of the Constitution (section 230) a province or a municipality may raise loans in terms of conditions determined by national legislation. In addition, financial control by the central government is continually being extended by means of numerous exchange control regulations and other financial measures applicable to the private sector. Examples of such control measures include the exchange rate, import and export control, legislation in regard to labour and accident control and manpower utilisation, etc.

In spite of several claims that the present Constitution contains a number of *federal* principles, there is no *autonomy* (which is a prerequisite for a

federation) whatever. An example is the following: *education* is a functional area of *concurrent* national and provincial legislative competence in terms of schedule 4 to the Constitution, and the indications appeared to be that *tertiary* education would be reserved to the national government and the rest to the provinces. In a statement in Parliament (*The Citizen,* 22 April 1997) the Minister of Education emphasises that the central government should have a *direct* say in the education spending of provinces, and justifies this statement by explaining that he is talking about *co-operative government* and not *national dictation*. The fact remains that the Minister is applying a purely unitary principle, namely that of *political supremacy*.

3.3.6.3 The Protection of Group Rights

Control may be exercised by the central government to protect the rights of population groups. Laws such as the former Group Areas Act and the Prohibition of Political Interference Act provided examples of such control. An implication of the new dispensation in the Republic which has been confirmed by ministerial announcements is that personnel in executive bodies will increasingly become multiracial.

It would be naive to deny that this has the potential of creating conflict situations, and adequate control measures may thus be required to regulate relations. In this regard, it is interesting to note that the United States of America with its fully integrated society finds it necessary to regulate relations in federal executive bodies, as evidenced by the Equal Employment Opportunities Act of 1972 (Rose & Chia 1978:245).

3.3.6.4 Government Objectives

The legislature institutes control to ensure that the defined objectives of the government will be met. As previously explained, the legislative authority assigns powers and functions by means of the devolution of power to numerous governmental bodies and semi-governmental and executive bodies, each of which is responsible for discharging the duties assigned to it. Some of the functions assigned to some bodies are related to the functions of others, and in such cases, specific measures are instituted by the legislature to ensure realisation of the overall objective.

3.3.6.5 National Priorities

Control may also be instituted in the interests of national priorities. Governmental bodies established by legislation to perform specific functions in due course develop their own distinctive traits and identities. Such governmental bodies are eventually inclined to develop their own objectives, which are pursued in conjunction with objectives assigned to them by legislature. Hence it may be accepted that in many instances matters which should serve as a means of attaining a specific objective eventually come to be regarded as objectives in themselves, with the inevitable result that subordinate authorities tend to neglect national objectives and priorities and to damage good relations. Although these measures do not prevent subordinate bodies from pursuing their "own" objectives (provided such objectives are not illegal), they nevertheless induce governmental bodies to accord priority to matters of national interest.

3.3.6.6 Co-ordination

Control may also be instituted to ensure co-ordination between governmental bodies. A lack of effective co-ordination readily leads to anomalies in government administration, including the overlapping of functions and the straining of relations. Overlapping has at times occurred in South Africa, as exemplified by the former Department of Tourism and the Tourist Bureau. It is also well known that the foreign activities of the former Department of Information and the Department of Foreign Affairs overlapped considerably. As a consequence the Department of Information was abolished in 1984 and its functions taken over by the Department of Foreign Affairs.

A lack of co-ordination may cause a government objective to fall between two chairs and be completely overlooked. In view of the demanding and difficult task of co-ordinating thousands of governmental functions and ensuring adequate attention to each function, irrespective of the hierarchic rank of the body to which a function has been assigned, matters may go wrong despite concerted efforts at co-ordination. However, since efforts to ensure co-ordination may also be circumvented, thwarted or even disregarded, control measures obviously play a significant role in co-ordinating functions and establishing healthy relations between governmental bodies.

3.3.6.7 Conflict Potential

Finally, another important reason for control is to eliminate and settle conflict. It should be noted that although definitions of conflict generally tend to convey a negative connotation, this does not of necessity apply to all aspects of conflict. In essence, conflict is the purposeful expression of opposing behaviour between various parties (Buntz & Radin 1983:404-410). Buntz and Radin maintain that conflict between governmental and executive bodies and persons in authority is engendered by structural circumstances (national objectives as opposed to local objectives), processes (political change), and governmental conditions or circumstances.

The objective envisaged by conflict is self-evident. Parties (a useful collective term which denotes governmental bodies and persons in authority) arrive at a situation of conflict in an attempt to change or improve their relative positions in regard to a mutually desirable resource - be it power, money, time, position - and to ensure the permanency of this change or improvement.

Conflict may have far-reaching ramifications. Its consequences may be functional or dysfunctional in respect of one or all parties and may change relations of authority. Depending on the point of departure, such change may be regarded as advantageous or disadvantageous. Pre-eminently, however, conflict may have far-reaching and extensive consequences in regard to interrelations. Hence appropriate control measures are required for dealing with conflict situations so as to minimise the negative effects of conflict.

The aforementioned reasons for instituting control measures underscore the fact that such measures must of necessity be external and are fundamentally essential for the general promotion of governmental relations. Control measures for these identical reasons may naturally also be identified and applied between the various internal executive bodies of a single governmental body, although on a far smaller scale.

4 Ethical and Moral Norms in Governmental Relations

4.1 The Significance of Norms

In the previous chapter attention was paid to the administrative process and the manifestation of the generic administrative functions within the context of governmental relations. The discussions have indicated that governmental relations have so far centred mainly on the institutionalised legal aspect. Despite the fact that this approach is extremely important and also fundamental, the analysis and study of governmental relations should include investigations in other decisive fields, notably in regard to the processes of interaction between governmental units. This aspect is vitally important and will be dealt with later. At this stage, however, it is important to note that all aspects of governmental relations, with the exception of institutionalised legal aspect referred to above, needs must take account of the human being as the holder of political office or the official responsible for implementing the legislature's directives and decisions. And wherever the human element is involved, human behaviour and actions naturally also come into play.

Normative requirements in the field of public administration were developed during the course of many years and are applicable to virtually all circumstances in the administrative process. These norms were changed and adapted as time went on and eventually culminated in a number of identifiable, fundamental ethical or moral guidelines. It is particularly important to follow these guidelines in the interests of establishing and maintaining effective governmental relations. Whereas governmental bodies are established by acts of law, the interpretation and application of the law rests in the hands of appointed and elected public functionaries (Hanekom & Thornhill 1983:57). The ethical and moral actions of these functionaries thus play a decisive role in governmental relations, and moral choices are generally recognised as a decisive factor in the success or failure of the most critical aspects of government (Stillman 1980:429). In this context, there may be a great deal of truth in Chester Barnard's statement

that successful administration's success depends on the ability to resolve the various ethical requirements of government, since the majority of important public issues may to a large extent be regarded as ethical issues (Barnard 1938:272).

Identifying behaviour as ethical and unethical naturally constitutes a problem. From Machiavelli's writings, for example, the conclusion appears justified that an evil deed (such as lies or corruption) may be morally justified provided that it is in the interests of society (Hattingh 1984:41). This merits the conclusion that ethical behaviour is the result of a choice between alternative options, say a choice between public interest, institutional interests or personal interests.

Ethical or behavioural rules are frequently encountered in governmental bodies and apply to matters such as reporting for duty late, abuse of sick leave benefits and similar irregular practices. These ethical rules (or codes of conduct) are not considered to be of minor importance but are nevertheless not fundamentally essential in a macro sense, and are not included in this discussion. The norms discussed in this chapter are of fundamental importance in public administration, especially in the study of governmental relations. The various normative requirements are well known to students of Public Administration.

Five basic norms have been identified and they will be dealt with under the following headings:

- Deference to political supremacy
- Public accountability
- The promotion of efficiency
- Fundamental requirements of administrative law
- Respect for community values.

4.2 Deference to Political Supremacy

Political and legal authority is vested in a country's highest elected legislative body, which discharges duties entrusted to it by the electorate, to whom it is accountable. In a unitary state, the supreme authority is vested in

parliament. All other governmental bodies derive their authority from this source and are in all respects subject to parliamentary authority.

By means of the devolution of power (as previously discussed), parliament establishes subordinate governmental bodies and assigns power to them to enable them to effectively discharge the functions for which they are responsible. This means that each governmental body in its own sphere of influence is empowered to make decisions, and represents the supreme political authority within its particular field of authority. Hence a local authority is the supreme political authority within its area of jurisdiction, while even quasi-governmental institutions (such as Eskom) are endowed with supreme political authority within the sphere of their relative field of responsibility or activity, subject to the overall power of the supreme governmental body.

In discharging its duties as the supreme authority, parliament may assign tasks to bodies which it deems necessary to establish and, as previously explained, may exercise authority over such bodies within the framework of the administrative process. Once such bodies have been established by the policy decisions and actions of the legislature, the latter assigns to each of these bodies the necessary powers and duties to fulfil their functions. The legislature also ensures that the necessary sources of income required by such bodies are made available, provides such bodies with the necessary facilities to appoint personnel, institutes procedural measures if necessary and, above all, makes provision for the necessary control measures to ensure that tasks assigned to subordinate governmental bodies will be performed in accordance with the legislature's directives.

4.2.1 The Demonstration of Authority

In the course of the legislature's task of establishing subordinate bodies of authority and allocating the necessary facilities to enable these bodies to function effectively, the legislature demonstrates its legal and political authority over the bodies so established. Hence by implication the legislature is empowered not only to establish but also to dissolve such bodies. This means that the legislature is also empowered to repeal its own decisions, thereby amending the structure of or dissolving such bodies. In view of the establishment of a comprehensive structure of authority to

perform the state' s task, it is clearly an indispensable ethical requirement that the legislature, in order to establish effective authority, should for all practical and legal purposes be accepted and *recognised as the supreme political authority endowed with the abovementioned powers and authority*. In the absence of this requirement, orderly government cannot be guaranteed. Deference to the supreme political authority also simultaneously constitutes acceptance of the legislature's bona fides, in that it is accepted that whatever the legislature does will be done for the sole purpose of realising the state's objective, which is to promote the welfare of the community.

What are the implications of this ethical requirement of deference to political supremacy in respect of governmental relations? In the first instance, every political office-bearer and official and every governmental body (in so far as it is a corporate body) must recognise and accept the supreme political authority as the source of all power vested in them and also accept that they cannot create any additional power for themselves save by the authority of the supreme political power.

In the second instance, respect for the supreme political authority is indicative of a reciprocal relationship between all governmental bodies and of the fact that the integrated efforts of all governmental bodies are required to enable the supreme political authority to achieve its objectives.

4.2.2 Bargaining and Negotiation

Schulz was quoted in a previous chapter as stating that the attribute of power depended on the *ability* to exercise authority rather than in actually doing so. This opens up various options for subordinate bodies, who may opt for slavish compliance, avoidance, circumvention, evasion and may even disregard the instructions of the supreme political authority which, in turn, has the discretion of utilising its position of power to request or enforce specific compliance. This effectually means - particularly where specific compliance is not summarily enforced - that governmental bodies frequently find themselves in a more or less negotiating position with the legislature. Since political office-bearers and officials naturally play an important role in such negotiations, the ensuing process has been aptly described as "intergovernmental diplomacy" (Rhodes 1981:82). The existence of a negotiatory process in this respect also points to an absence of

complete uniformity in the actions of similar governmental bodies. In regard to local authorities, where many of the functions of the nearly 600 local authorities in the Republic are subjected to virtually identical laws, considerable variation exists in the manner in which functions assigned by the supreme political authority are performed. This is due to the fact that authorities vary in size, are subject to different environmental factors, have their own priorities and, of course, their own personnel. All these factors substantially influence the manner in which the various authorities negotiate for benefits. (Par 2.4.3.3 deals with an important theory in this regard.) These factors thus also play a role in establishing different types of relations of varying intensity (see par 2.5) and, above all, substantially influence the manner in which the various authorities apply the norm of deference to the supreme authority. With the exception of matters which are *ultra vires* the powers of local authorities and hence in any case not negotiable (since such matters would constitute an illegal action by the relevant local authority), the actions of local authorities cannot be summarily regarded as unethical or contrary to the requirements of deference to the supreme political authority when such actions do not conform uniformly in regard to a particular activity.

The criterion for determining deference to the supreme political authority in a specific instance should be sought not so much in the slavish and precise compliance with the formal directives of the supreme political power, although such instructions may at times be an absolute requirement incorporated in a law, but is rather a matter of the spirit in which the requirement is met - a view which makes allowance for differences in relations between subordinate governmental bodies and the central authority.

4.3 Public Accountability

Chapter 1 referred to the process which led to government being established as a form of association and the fact that government and society entered into an agreement in terms of which government would govern in accordance with the general will of society. The development of a system of representative government was also discussed and reference was made to the absolute requirement that the elected authority should in all re-

spects be accountable to society for the manner in which it discharges the function of government. This, then, is the meaning of public accountability. During the course of history, this requirement was repeatedly adapted as various forms of government were developed, applied, amended and distorted to meet the requirements of a specific community. In the process, several interpretations were attached to the norm of public accountability, and, in effect, the norm developed a number of variants ranging from total negation of any responsibility towards society to excessive democratisation.

Under communistic/socialistic governments, power is vested in the dictator while the community, as a rule, has little say in decisions and the actions of government. Elections are occasionally held as a gesture or pretence at acknowledging accountability, say, in electing a president. Usually, however, there is only one candidate and coercion is at times applied to ensure that the sole candidate will draw the maximum number of votes.

In contrast, a particularly democratic budget procedure remained in force in the former Orange Free State. This procedure required the annual budget of the elected council of a town or city to be submitted to the inhabitants of the area in question for their consideration prior to its approval.

The norm of public accountability discussed in this section is the norm applicable in democratic states (such as South Africa) with a system of representative government, where elections are held, or should be held, at regular, fixed intervals.

4.3.1

Values and the Community

An appreciation of the meaning of values is a prerequisite to any discussion on public accountability, since these two phenomena go hand in hand in public administration and because of the importance of values in governmental relations.

What are values? According to McMurry (1966:315-316) values determine what people regard as acceptable, correct, desirable and ethical; values provide standards and norms for daily living which enable people who

uphold these values to know that whatever they do and say will be acceptable in the eyes of their fellow men; values determine a community's approach to important matters - be they political, economic or sociological - and provide man with a virtually unlimited variety of moral principles which he may apply to rationalise and justify his actions and particularly, his thoughts and decisions .

Values represent a personal opinion concerning manifestations or events, and because people differ, all people will naturally not ascribe to the same values (Hanekom 1977:10).

In any community the inclination to regard the same values as important is so pronounced that different groups may be distinguished within the broad framework of specific values. This is particularly true of values considered to be in the general interests of the community. Depending on the extent of like-mindedness revealed by individuals in their approach to specific values, such values are identified as community values.

Community values are of particular importance in politics (and possibly, but not necessarily, in party politics). According to Easton (Adlem & Du Pisani 1982:65), politics represents the interactions whereby values are authoritatively assigned to the community. Party politics, naturally, play an important role in this respect, as evidenced by the election of political representatives.

4.3.2

Community Values and Elections

Some time prior to elections for representatives to a legislative body (at central, provincial or local level), individuals and bodies (prospective candidates, party organisers, political parties) identify a wide range of social values pertaining in a particular community. Political parties identify with and formulate these values into acceptable, understandable desires and aspirations of the electorate and reflect these values in various political manifestos.

It subsequently becomes the task of the nominated candidates of the political parties involved to convince the electorate that these values, ascribed to by every one of them, are the true values upheld by the community and

that they should thus vote for a particular candidate.

On election day, the voter exercises his option by voting for the candidate of his or her choice. In so doing, the voter sets the process of representative government in motion in terms of which the voter, in effect, instructs the candidate of his or her choice - provided he or she is elected - to ensure that the values in question are implemented (provided the candidate is a member of the political party which gains the majority vote in the elections). The implication is that the voter, by virtue of instructing the candidate, confirms that he or she is empowering the legislature to act on his behalf and that the legislature, via the elected body, is accountable to him or her for its deeds and actions. Hence the legislature is obliged to implement the mandate received from the voter. However, since the legislature must also promote the interests of the community as a whole and not solely the interests of the voters who voted for the majority party, the legislature is actually accountable to the community, and its actions should without exception promote the interests of the community. This relationship of accountability between government and society must of necessity be founded on a sound basis, and that basis is the constitution.

Constitutionalism was discussed in chapter 1 but a few additional aspects are included in this chapter to stress the role played by constitutions in governmental relations.

4.3.3 Constitutions and Governmental Relations

A government has the authority to assign values on the community's behalf, and the relevant directives are usually laid down in a constitution. A constitution thus serves as a framework within which a government acts. As previously stated, a constitution is preceded by a political process (for example elections) to determine the nature, scope and functions of the government and to identify the required structures and relations. These desires, aspirations and needs agreed upon by the majority of the community are laid down in the constitution. In reality, therefore, the functions of government reflected in the constitution represent the government's envisaged actions and deeds for satisfying the values and needs of the community.

It is important to note that the constitution is directly involved in a variety

of relational situations closely associated with the norm of public accountability.

In the first instance, constitutions are associated with relations between the community and the government, notably relations engendered by the political process. Secondly, constitutions are associated with relations between governmental bodies in cases where such bodies are established by the constitution. Third, constitutions are associated with relations within a specific body or authority.

These three categories of relations cover a particularly wide field and were discussed in more detail in chapter 2. They are mentioned here to demonstrate the extremely important and diverse relational situations in government, the fact that such relations are generally embodied in the constitution, and the fact that government is accountable to society for all matters which have a bearing on the relations.

Attention will now be given to the influence of the so-called "autonomy" of subordinate governmental bodies on public accountability.

4.3.4 Autonomy

The underlying principle in the South African Constitution is that the central authority assigns powers to subordinate governmental bodies and that these bodies function autonomously within their respective spheres of authority.

The term "autonomy" is inclined to conjure up all manner of ideas of independence in the minds of subordinate governmental bodies, such as the conception that autonomy authorises them go their own way and seek their own salvation as distinct, independent units. Actually, however, true autonomy does not exist in the Republic or any other unitary state. Besides the recognition of the supreme authority of parliament previously referred to, the general framework of parliamentary legislature contains so many restrictive, mandatory and imperative measures applicable to subordinate governmental bodies that problems are encountered by local authorities claiming, on the one hand, that they are autonomous while mak-

ing continual requests for "greater" autonomy (Hattingh 1984:46). While autonomy in a unitary state can at best be relative, absolute autonomy in a unitary state is unthinkable.

Within the framework of the ultimate accountability of government (parliament) to the community, the devolution of power by the central authority to subordinate governmental bodies (and their relative autonomy) has broadened the dimension of accountability. According to Ellis (1984: 101) public accountability should be accepted by all who exercise authority. This includes parliament, all state departments and public institutions. By confirming the duty of all governmental bodies, conjointly and individually, to comply with the requirement of public accountability as a fundamental ethical norm, this concept also extends the scope and significance of public accountability in promoting meaningful governmental relations.

4.4 The Promotion of Efficiency

Efficiency is an important guideline in government, and it is regrettable that a diversity of opinions abound in the public sector as to the true significance of this concept. A possible reason may be that, in contrast to the concept of efficiency in business administration, where a reasonably sound criterion - money - determines the level of efficiency, as well as in the natural sciences, where this concept may be regarded as virtually absolute, efficiency in government is a rather indefinable and unmeasurable phenomenon which at times has elicited vague definitions such as the performance of "the correct task in the correct place by the correct person at the correct time" (see Van Rensburg 1966:124). The problem is further aggravated by references to concepts such as "efficacy", "effectivity" and "productivity" as if they convey precisely the same meaning as "efficiency".

In view of the fact that the subject matter of this book has the added dimension of the manner in which this phenomenon is manifested in governmental relations, the concept of efficiency will be discussed in some detail.

4.4.1

Means-objective Analysis

The ultimate objective of government, which is to promote the general welfare of society, comprises a combination of numerous micro-objectives. While some of the personnel in government service are typists, others write letters and still others receive money and issue receipts. The person issuing receipts enables another person to determine the total amount of money received. All these steps (attainment of objectives) are followed up by a series of other steps, and they eventually form part of the relevant budget. From a micro-perceptual point of view, therefore, the activities of the clerk issuing receipts are performed with a specific objective in mind, while his or her task is at the same time a means to a further objective. Hence the overall action represents a continuous series of facilities and objectives. The concept of efficiency is associated with anything which has a recognisable objective (since this implies that an "objective" must be "attained"). It is evident, therefore, that efficiency and the promotion of efficiency constitute an omnipresent concept in government and are at all times essential, since government is an on-going series of actions (Hattingh 1970:5).

Although efficiency in government cannot be absolute, the objective should always be to promote and maintain efficient performance. For example, techniques could be applied to improve the efficiency with which tasks are performed in respect of every micro-objective (by means of work study investigations, etc). This, constitutes a micro-perceptual approach to the problem of efficiency, and has (except in the case of inter-personal relations in a distinct governmental body) no bearing on the broad context of governmental relations. In regard to the latter, the different connotations (if any) of terms such as "efficacy", "effectivity" and "productivity" should be defined, to determine which phenomena in public administration are aimed at the overall promotion of efficiency in government.

4.4.2

Effectivity, Productivity and Efficiency

In view of the considerable diversity of opinion as to the meaning of these and other associated terms it would be virtually impossible to analyse and compare all the different connotations. Hence it would be preferable to

seek overlapping connotations in an attempt to arrive at a logically and perceptually acceptable explanation of this phenomenon.

Luther Gulick stated many years ago (1954:192) that "In the science of administration ... the basic good is efficiency". This points to the implicit conclusion that efficiency is the essential phenomenon, and that phenomena such as effectivity, productivity, etc, convey a subordinately different and less important meaning.

This assumption is confirmed by a recent article in which Adlem (1982:9) states that, in the context of the identification of guidelines (the procedure followed in this chapter), efficiency of necessity includes both effectivity and productivity. The views of Gulick and Adlem give credence to the definition of this term in the *Woordeboek van die Afrikaanse Taal*, which defines efficiency as the ability to perform a task in order to achieve a desired goal or maximum result by concentrating all facilities on the task at hand. This also tallies with Cloete's definition (Cloete 1972:33) of efficiency in the public sector as the greatest possible quantitative and qualitative satisfaction of essential needs with the limited resources available.

Efficiency may thus be accepted as the omnipresent concept, and we may turn our attention towards identifying some of those matters capable of promoting governmental efficiency, and also to the study of efficiency as an ethical norm in governmental relations. Since the achievement of *micro-objectives* by efficient performance falls outside the scope of this discussion, an identification of phenomena will be restricted to *macro-perceptual* phenomena although the same tenets may naturally be applicable to the achievement of micro-objectives.

At the risk of appearing arbitrary, it may be stated that analysis and investigation merit the conclusion that the four well-known phenomena of rationalisation, co-ordination, determination of priorities and promotion of productivity prove particularly useful in promoting governmental efficiency. These four phenomena will be discussed separately, although, as is often the case in public administration, they are not entirely unassociated (for example rationalisation or the determination of priorities may result in increased productivity). Furthermore, it should be borne in mind that since these phenomena occur and are applied within the framework of the administrative process, each of the identified generic functions play a pertinent role.

4.4.3 Rationalisation

The *Verklarende Handboek van die Afrikaanse Taal* (1981) defines rationalisation as bringing something into line with logic and, in an economic context, arranging something more practically and more economically by cutting down on time, labour and raw materials to reduce production costs. Applied in an administrative-political connotation, rationalisation may thus be defined as arranging governmental functions in a manner which obviates unnecessary red tape and other redundant features in facilities, structures, working procedures and other arrangements. This means identifying and applying only the absolute necessities for achieving a specific aim, and streamlining any process wherever this may be possible, necessary or desirable.

Identifying activities or phenomena which may be subjected to rationalisation is no easy task, since this may cover a very wide field. It has been even stated (Van Gunsteren 1976:151) that the establishment of a political process by which the majority of the community may share in influencing their future is not only a democratic and ethical requirement but also an essential condition of rational government. However, this statement represents an extremely broad, political view and is not necessarily applicable to the administrative process in public administration.

4.4.3.1 Plans for Rationalising the South African Public Service

Plans for rationalisation at governmental level were published in a White Paper on the Rationalisation of the Civil Service and associated Bodies (South Africa:1980).

That report explained that the rationalisation programme was an action to improve efficiency in governmental actions 'at all levels', and it was anticipated that substantial advantages would accrue from this process, including the following (par 54.14):

- Duplication and overlapping would be eliminated.

- Matters would be finalised more rapidly.
- The task of political office-bearers in regard to administrative co-ordination would be less onerous.
- The co-ordination of governmental actions would be improved.
- Less manpower would be required.
- Career prospects would improve.

4.4.3.2 The Seat of the Policy of Rationalisation

In view of the fact that authority is vested in the central government, it is generally accepted that the central government is responsible for policy and planning of rationalisation in the government sector. However, should all the planning in regard to rationalisation be concentrated in the central authority, this will of necessity result in dependence on regulations and other directives, on obliging officials and governmental bodies and even on the use of coercion (Van Gunsteren 1976: Preface). According to Van Gunsteren, only a small number of governmental bodies and even individuals are the mainspring behind the development and implementation of rationalisation programmes. This poses the question of whether the adoption of a centralised policy of rationalisation in government could be responsible for creating relations which hamper the promotion of efficiency.

A pertinent question, for example, is whether the central authority is always sufficiently well informed on circumstances at local level to enable it to devise and implement rationalisation programmes for local government? Van Gunsteren (1976; Preface), doubts the wisdom of implementing a centralised policy of rationalisation, and feels it should be applied only in exceptional circumstances.

The White Paper on Rationalisation in the Civil Service (South Africa 1980) previously referred to was introduced by the central government solely for the purposes of the central government, and local authorities were not involved.

4.4.4 Co-ordination

Co-ordination may be defined as the convergent adjustment of the functioning of the one governmental body or group of bodies to another body or group of bodies in the same field (Van Rensburg 1966:127). This definition is compatible with Cloete's view of co-ordination, namely, that all activities aimed at a specific objective should be co-ordinated (Cloete 1972:91). Both Cloete and Van Rensburg maintain that co-ordination in a specific context is aimed at achieving a single, specific objective. Accordingly, it may be stated that since the objective of government is to promote the general welfare of the community (the determined objective), and since each governmental body both macro-perceptually and micro-perceptually pursues the same objective (the same context), co-ordination between governmental bodies is essential for the efficient achievement of objectives.

Hence *co-ordinated* action between a group of bodies for the achievement of a particular objective will generate greater efficiency than would be the case if each of these bodies individually attempted to achieve that objective, and will also promote relations.

4.4.4.1 The Key Importance of Co-ordination

In view of the comprehensive and complex task of modern government, co-ordination has become a key element in the governmental function.

Mention has been made of the fact that a single governmental body is today seldom in a position to provide a comprehensive service to a community without any form of support from other governmental bodies. Rogers and Whetton (1982:3) pointed out that rural development in the United States of America at that stage involved 88 governmental bodies. This underscores the impossibility of introducing or maintaining a successful programme of rural services without a considerable degree of co-ordination between the numerous governmental bodies.

However, a high degree of formal co-ordination between such bodies is probably not always essential for the achievement of objectives. Even in

the case of the 88 bodies referred to above, the total involvement of all these bodies in all such aspects is probably not essential, since co-ordination between such bodies - be it horizontal or vertical - displays a considerable degree of variation ranging from minor, ad hoc and informal co-operation to major, permanent and formal involvement. Co-ordination may also vary from *voluntary* to *imperative* co-operation. The most intensive degree of co-ordination is imperative and formal, and characterised by the total involvement of all six generic administrative functions. This is most likely to occur when a single local authority is functionally divided into several departments under the control of an elected political authority (a city council). In such cases, the co-ordination of every aspect of municipal action is of vital importance to the existence and for the efficient functioning of the body concerned, as well as for the maintenance of formal relations between the executive institutions involved (the departments and the council).

4.4.4.2 Negative Aspects of Co-ordination

Although co-ordination is essential for the promotion of efficiency, co-ordination does not necessarily always result in efficiency. The reasons for this phenomenon include the following:

In addition to legally stipulated objectives, governmental bodies also tend to identify and pursue their own objectives. Since they wish to achieve these latter objectives, co-ordination with other institutions may be regarded as an obstacle. This tends to lead to neglect rather than promotion of the objective which should be achieved by co-ordination, and has an adverse effect on the process of co-ordination. Such negative consequences are not only dysfunctional in regard to efficiency but may also hamper reciprocal relations with other bodies.

Another negative aspect of co-ordination, notably of mandatory co-ordination, is that it may restrict or reduce the autonomous power of participating bodies to make decisions, since it is generally required that priority should be accorded to decisions relevant to the specific co-ordinated activity (Rogers & Whetton 1982:5).

Despite the possible adverse effects of co-ordination, it nevertheless stands to reason that as the environment develops and becomes increasingly com-

plex, bodies will inevitably become increasingly specialised, resulting in a commensurate need for increasing co-ordination. Hence in the interests of promoting relations and general efficiency governmental bodies will have no option but to accept mandatory regulations for co-ordination, even though these regulations may at times restrict their freedom of action.

4.4.5 The Determination of Priorities

The determination of priorities, previously identified as the third means of promoting efficiency, also forms part of the study of governmental relations.

Aspects of the question of values have been discussed elsewhere and relativity, choice and value judgements are of crucial importance in any discussion on the determination of priorities, especially as the determination of priorities implies the "evaluation" of values.

A governmental body's choice of values is reflected in its policy and decisions, with due consideration for community values as reflected, for instance, during elections. Following this initial choice, however, governmental bodies still have a wide range of value preferences available to them, since the possibility of implementing all of them simultaneously is precluded by a lack of the necessary facilities (funds and labour). A list of priorities and their sequence of implementation must thus be drawn up and in this regard, relativism may play a decisive role.

4.4.5.1 The Relativity of Values

Once values have been identified and value preferences have been determined, the question still remains whether the "correct" values have been earmarked for implementation and whether the choice should not have fallen on other values. The reason for this dilemma is that *personal* perceptions and preferences play a very important role in deciding on the relative importance of values. Hence the question as to whether the "correct" values have been selected can be answered only in relative terms, since there can be no question of absolute terms in regard to the choice of

values. This fact prompted Arnold Brecht (1959:416) to state that values cannot be expressed in terms of "is", since "is" is truth. Furthermore, it should be added that values and value judgements can never be completely objective.

In view of the relativity of values in the government sector, the determination of priorities never results in a single, vertical list of values which can be implemented in succession. Once a governmental body has determined its value choices with due regard to the needs of the community, it finds - rather like an individual whose needs such as food, water, clothing and shelter must be fulfilled at the same time - that some of these values need to be fulfilled simultaneously. A governmental body provides water, sanitation, roads and electricity, all at the same time. Values are thus fulfilled in accordance with their relative urgency, which in fact means that needs are not fulfilled in succession but simultaneously. This is achieved by fulfilling every need as far as possible in accordance with its relative importance in terms of other needs, and in so far as the available facilities permit. Furthermore, the relative importance of such priorities is subject to continual change, since the intensity of needs in relation to each other vary from time to time, while the availability of facilities to meet these needs is also subject to fluctuation.

4.4.5.2 Factors Which Influence the Determination of Priorities

Well-considered determination of priorities is essential for the promotion of efficiency, and factors which have a restrictive influence on the determination of priorities may manifest as a dysfunctional effect. Examples of possible restrictive factors are the following:

In the first instance, a governmental body is obliged to satisfy those needs which have already been put into practice and in respect of which it may have a financial or contractual liability. In such cases, there can obviously be no possibility of adjustments or manipulation of any kind, even if urgent and essential needs should subsequently arise. Moreover, the facilities made available to a governmental body for satisfying a community's needs are reduced in accordance with the liabilities it has accepted.

In the second instance, the determination of priorities may be influenced

by political considerations. Hence the major priority may be political satisfaction rather than the promotion of, say, economic or social efficiency.

In the third instance, the identification of a large number of objectives by a governmental body may render it extremely difficult for that body to determine priorities. The relative quota of allocated facilities may in some cases fall so far short of actual requirements that efficiency and the fulfilment of needs are virtually precluded.

In the fourth instance, specialisation or professionalism may influence the choice of priorities, since specialisation tends to indicate the importance rather than the necessity of a particular field of specialisation, while professionalism comes into play when professionals could emphasise the importance of matters relevant to their own profession and hence exert a restrictive influence on the determination of priorities.

Policies laid down by the central authority may obviously result in the establishment of governmental bodies. The establishment of Iscor during the early thirties is a case in point, when the establishment of South Africa's own iron and steel industry was regarded as a top priority by the government of the day. A subsequent example was the establishment of Sasol and notably the expansion of the fuel manufacturing industry. In view of the necessity for South Africa to become self-sufficient in regard to fuel supplies, very substantial extensions were effected in the latter regard.

4.4.5.3 Criteria for Determining Priorities

When priorities have eventually been determined according to a process of evaluation, the final selection of objectives for implementation still remains to be made. Major considerations in this regard will be the necessity of the envisaged objective and the sum total of the facilities available.

The final choice of priorities could be made with the aid of a list of priority indicators prepared by the South African Treasury some years ago.

In spite of the relativity of values and the subjectivity inherent in value judgements and choice of values, it may be accepted that a final scale of precedence serves a useful purpose and that the merits of the following scale prepared by the South African Treasury should be judged in this light (South Africa Treasury 1976:3-4):

Priority A: This represents absolute priorities which, if scrapped or even postponed for a shorter or longer period of time, would have "catastrophic consequences". Situations of this nature may arise in cases where a local authority is responsible for providing essential services, such as repairing a burst water main.

Priority B: This priority, rated second in order of importance, represents essential new projects or extensions to existing projects which, if scrapped or postponed, may be seriously detrimental to the interests of the community.

Priority C represents desirable new projects or extensions which should be accorded priority, since their implementation would be of exceptional advantage to the community, either politically, economically or socially .

Priority D represents new programmes or extensions which, although they may generally be regarded as non-essential, would serve a useful purpose and should be implemented in the public interest.

Priority E, the lowest priority on the list, represents projects which may be regarded as non-essential and which could be scrapped or postponed without undue negative effects.

Although it cannot be denied that the determination of priorities may, to a certain extent, create situations of conflict and sully relations, it is obvious that the determination of priorities is conducive to the creation of meaningful relations between governmental bodies and society, and between various governmental bodies.

4.4.6

The Promotion of Productivity

According to Rosen (1984:19), the word "productivity" engenders either resistance or inspiration to any person contemplating the meaning of the word. She maintains that the term is associated by some (workers) with

visions of dismissal, personnel retrenchment or exploitation of labour potential and other negative feelings. These thoughts, in turn, encourage speculations concerning regulations generally regarded as suppressive.

To others, "productivity" has a positive connotation associated with less wastage of expensive materials and an improvement in the quality of goods, services and workers' skills - in other words, with the promotion of efficiency.

Rosen (1984:19) maintains that since in any institution both options could be applicable, particularly in regard to the promotion of productivity, neither of these views is wholly correct or wholly incorrect.

The meaning of productivity and promotion of productivity are briefly discussed in the following paragraphs.

4.4.6.1 The Meaning of Productivity

"Productivity" is a useful and simple term for denoting a ratio (Rosen 1984:26). In this context, "productivity" refers to the ratio between supply (facilities utilised to provide goods and services) and output (the goods and services actually produced). Under certain circumstances it also provides the answer to the question of how efficiently facilities are being utilised in the process of rendering an output. In other words, productivity represents the ratio between the final result and the energy expended to achieve it (Rosen 1984:27). Hence supply and output must be determined before attempting to measure productivity and the ratio it represents.

In this context, the term "supply" is a useful collective noun to denote facilities such as funds, equipment, labour, space, energy and other facilities required to achieve a specific output, result or objective. It is important to note that while 'output' refers to quantity it also refers to quality, which is far more difficult to evaluate. This aspect will be discussed elsewhere.

4.4.6.2 Measures for Increasing Productivity

Increased productivity is associated with an improved output (both qualitatively and quantitatively) and hence with achieving a more satisfactory final result while the available facilities remain constant or are reduced.

This may be accomplished in various ways (Rosen 1984:21), such as improved working procedures, improved worker performance and more realistic administrative guidance.

The performance of workers may be improved by upgrading the quality of their work through education and training, by increasing workers' involvement, reducing absenteeism and improved output. Other incentives may include bonuses for above-average performance, improved safety aspects in the job situation and greater variety in the tasks performed. In addition, workers have in recent years even been increasingly involved in decision-making in regard to their work.

Working procedures may be improved by reorganisation aimed at specialisation, and by analysing existing processes and procedures to eliminate bottlenecks and time loss to ensure optimal utilisation of equipment and labour.

Finally, administrative guidance may be improved by providing intensive training (including university training) for leading officials. This includes promoting an awareness of the importance of available facilities, of human relations and of keeping abreast with technological developments.

These three procedures or any aspect of these procedures may be applied singly or conjointly to increase productivity. The choice will depend on ruling circumstances and the specific defects identified within the governmental body concerned. The questions which must without fail be asked in this regard are: Has the best possible programme been devised for increasing productivity? Will it increase efficiency?

4.4.6.3 Measuring Productivity

Rosen (1984:22) declares that all measurements are arbitrary. While the author would hesitate to express an opinion on the validity of this statement as far as the private sector is concerned, it would appear to contain an element of truth in regard to the public sector. Productivity in government cannot be measured in absolute terms, since *values* constitute a factor which must be taken into consideration.

Aspects which should be borne in mind when attempting to measure pro-

ductivity include the following :

Productivity should be measured more than once (Rosen 1984:23). The fact that a particular typist typed a specific number of pages during a specific month is of no significance whatsoever. For this finding to be of any value as a reference of measurement, a comparison must be drawn between one or more identical periods of time. Even then, however, circumstances during the periods of measurement may have varied and hence affected her typing ability. Furthermore, the identical apparatus should be used in respect of every measurement. If, for instance, a computer and word processing program was used during the first measurement, the same computer and word processing program should be used for ensuing measurements.

Productivity is measured to identify problems and solutions and also to enable decision-makers to rectify deficient productivity (Rosen 1984:24).

When measuring productivity in any institution it is essential to measure both supply and output. Supply may be measured by investigating and evaluating one or more of the available facilities, but the determination of output is complicated by the necessity of measuring both its quantity and quality. Criteria for assessing quality vary from simple systems of observation to highly complex processes for determining promptness, accuracy, safety, courtesy, speed and reliability. Moreover, the criteria themselves may vary in accordance with the requirements of a specific case. Whatever criterion or criteria are employed, the important requirement is that they should be valid.

The association between productivity and governmental relations in a governmental body is evidenced by relations between persons who formulate and determine policy on the one hand, and employees on the other. The degree of the *intensity of relations* between employer and employee is a sound indication of the relations pertaining between them and, should these prove unsatisfactory, steps may be taken to improve such relations.

Intensity of relations as a new concept in governmental relations was discussed in chapter 2.

4.5 Meeting the Fundamental Requirements of Administrative Law

When a community agrees to establish a central authority, it empowers that authority to regulate relations within the community, be it relations between individuals and authorities or between government and governed. Most governmental bodies maintain direct relations with virtually all members of a community, and the manner in which governmental bodies and persons in authority should act towards the community are regulated by certain fixed rules. These rules and ethical requirements are based on the principles of administrative law. Such regulations are rendered essential by the existence of typical environmental factors in public administration which, under certain circumstances, are conducive to specific forms of behaviour by persons in the service of governmental bodies.

4.5.1 Factors Which May Influence the Actions of Public Officials

Environmental factors which may influence the actions of public officials are the following (Hanekom & Thornhill 1983:141):

- the mere fact of being involved in public matters;
- the provision of services to promote the welfare of the community;
- the advantage of anonymity of office-bearers and officials;
- the complexity of organisational structures and regulations;
- the diversity of public functions and activities.

The kaleidoscope of environmental climates which could be brought about by such a wide variety of circumstances clearly demands that public activity should be embarked on with caution and governed by fixed rules of behaviour .

These rules are embodied in the fundamental principles of administrative law, which owes its designation to the fact that this particular legal aspect is concerned mainly with administration of the authority of governmental bodies (Wiechers 1973:1).

4.5.2

The Fundamental Concepts of Administrative Law

Administrative law has its origins in legal provisions, decided cases and common law (Wiechers 1973:29-34). Within the framework of the judicial administrative function, the actions of individuals or governmental bodies must comply with the following criteria (Griffith & Street 1963:224):

- Action must be authorised. This means that all actions are subject to the necessary official approval.

- All actions must be within the law and performed strictly in accordance with the relevant legal requirements.

- All procedures required by law must be complied with in respect of any specific action.

- The miscarriage of justice or judicial errors of interpretation should be avoided at all costs.

- Should any official have the authority to use his discretion, such discretion may not be exercised for improper purposes or due to irrelevant considerations in any manner which is unfair or unjust.

- Actions may be performed or decisions taken only after due consideration of sufficient relevant facts or satisfactory witness.

- Generally speaking, the actions of officials shall at all times comply with the requirements of reasonableness, integrity and unimpeachability.

Compliance with these judicial-administrative principles is of cardinal importance in public administration and steps are taken throughout the world to ensure that these requirements are met. In essence, institutions such as the French Conseil d'Etat, the various systems of ombudsmen in Scandinavian countries, the British Parliamentary Commissioner and South Africa's Public Protector are all fundamentally responsible for investigating, detecting and delivering judgement on any actions which run contrary to required norms.

It may thus be concluded that norms founded on the principles of administrative law cover a very wide field. Indeed, the fact that administrative law has on occasion been described as an unwieldy instrument (Van Gunsteren 1976:79) may conceivably be due to the obvious impossibility of monitoring all the actions of all governmental bodies and officials within a specific geographic area - such as South Africa - in an attempt to uncover anomalous actions. The fact nevertheless remains that such norms in public administration are essential for regulating actions between government and the community and for maintaining healthy relations. These attributes will be discussed in the following section.

4.5.3 Administrative Law and Governmental Relations

What role does administrative law play in governmental relations?

First, the tenets of administrative law manifest as a fundamental influence on relations between government and governed, while the quality of such relations is determined by the quality of administrative action. Such relations are also influenced by the manner in which community requests are dealt with, either following or prior to any specific deed or action. In the event of an administrative body or person being appointed to review matters such as the above, relations will also be established between the said body or persons and members of the public. The man in the street, and even the informed public, is inclined to regard the enormous scope of governmental action as a confusing maze of people, offices and governmental bodies and generally speaking, the public often finds it impossible to ascertain to precisely what section or official a grievance should be reported or a request lodged (or where information may be obtained).

Administrative law also comes into play in reciprocal relations between governmental bodies, both at the horizontal (mutual relations between governmental bodies) and vertical levels (between higher and lower governmental bodies). The requirements of administrative law may play an important role in this context, notably in the latter instance, where relations between a higher and lower authority may be influenced by their respective actions. For example, the requirements of administrative law are specifically attuned to preventing manipulation, misleading statements, undue pressure, unreasonable or unjust actions by a higher body attempting to force its will on a lower governmental body.

Administrative law is also evident in relations within a specific governmental body. Relations between ministers and departmental heads or between city councils and town clerks or between town clerks, heads of departments and other officials are all, to a greater or lesser degree, influenced by the requirement of complying with the principles of administrative law.

Fourth, the requirements of administrative law may play a role in relations between independent states, although such relations are generally subject to the principles of international law.

4.6 Respect for Community Values

Some authors (cf Cloete 1972:24) classify "democratic requirements" as a separate norm. Although deference to democratic principles is a valid requirement in any state with a democratic form of government - such as South Africa - this norm is not universally valid.

4.6.1 Democratic Values as Opposed to Community Values

Generally speaking, a democratic parliamentary system is a method of achieving the authoritative assignment of values (which is a political func-

tion). Democracy has a distinct political tinge in that authority is established by means of a democratically oriented system of free elections which implies that it is a distinct type of governmental system. Since this system was previously not applicable to Soviet Russia or China, for instance, democratic requirements were not a valid normative factor in these countries.

In the interests of rendering this factor universally applicable, this norm is thus referred to as "community values" rather than "democratic values". A value may be universally defined as a phenomenon which, under given circumstances, is regarded as important or desirable by a person (or group of people). This brings the discussion back to the question of values.

The major role played by values in public administration is confirmed by the numerous references in this chapter to values, value judgements and community values. Indeed, the fundamental difference between public and business administration centres on the significance of values in the former and its relative insignificance in the latter (except in the case of "money" as a value!).

4.6.2 An Appreciation for Community Values

It is assumed that every public official should be sensitive to the values upheld by the community he or she serves. Indeed, the *raison d'être* for the authority he serves is to identify, evaluate and determine priorities in respect of community values. In addition, the public official is charged with the duty of attempting to settle conflict which may arise in regard to these values.

It should be borne in mind that values and value choices in a community are subject to change. Community values are influenced by numerous factors which could result in such values being amended or even changed. Factors such as population composition, development in a specific area, technological progress and even political change all contribute towards the changeability of community values.

Since community values essentially represent the desires and aspirations of the community and in fact form part of what they consider to be a

"good life", the community would obviously expect government to respect those values and take them into consideration. Having come to power, however, it would be an easy matter for an elected government to partially or totally reject the very values in terms of which it was elected and replace such values with others. Where elections are normally held every five years (a period which may, under certain circumstances, be prolonged) a government which deviates from accepted community values may conceivably wreak untold harm before a subsequent election affords the electorate an opportunity of calling the government to account. In essence, any such action by a government constitutes a breach of promise in respect of the community. Moreover, such actions are not restricted to the highest level of authority (that is to policy-making) but may occur at the employee level of government, in respect of "minor" community values.

4.6.3
The Role of Ministers and Public Officials

Decision-making and dealing with problematic issues in the administrative milieu is primarily the responsibility of public office-bearers (ministers) and high-level officials in leading positions (heads of departments), whose tasks include the duty of continually bringing undesirable trends and situations in line with the values of society. A choice of values naturally comes into play in distinguishing between desirable and undesirable in terms of community values, and in exercising this choice, persons in authority who identify a problem in an existing situation must seriously consider whether an envisaged change, while satisfying one such value, may prove detrimental to other values upheld by the community. For example, when a town planning programme in a town or city indicates that a site reserved for religious purposes should be re-zoned for recreational purposes, the community value demanding recreational facilities may welcome the decision. It would, however, adversely affect the values of another section of the community desiring facilities for religious worship.

Similar problems may arise when the adjustment of values is considered desirable at a high level of authority while lower levels of authority regard such adjustments as undesirable or contrary to the interests of the local community .

The type of problems faced in this context may give rise to conflict situa-

tions in the course of identifying and satisfying the values of a community. For this reason values must at all times be respected and all possible factors should be taken into consideration in an attempt to determine the true values of a community before effecting any changes.

The establishment and maintenance of relations between an authority and community is an important consequence of the requirement of respecting community values. As old values change and new ones come into being, governmental bodies and the community are constantly involved in a reciprocal interaction of values, also due to the fact that opinions concerning values tend to range from desirable to undesirable, subject to the ultimate evaluation of the community and the governmental body concerned.

5 The Influence of Constitutional Systems on Governmental Relations

There are numerous systems of government throughout the world and these vary from one-man dictatorships with sovereign power vested in the head of state to systems which in various ways uphold the principles of democracy. Irrespective of the features of these systems the underlying source of all forms of government is either a unitary or a federal form of government.

Besides discussing the origins and features of these two constitutional systems attention will also be paid to Great Britain, which represents a unitary form of government, and the United States of America as a federal form of government. The manifestation of governmental relations in these two forms of government will be discussed in detail. Since governmental relations in South Africa under the new constitutional dispensation are discussed in detail in the following chapter it will suffice at this stage to note that South Africa has a unitary form of government.

Although confederalism is not a constitutional system in the true sense of the word a brief discussion of this form of government is included in view of its close association to a federal form of government. Some confusion exists in regard to the term 'confederation' applicable for instance to Switzerland, which has a federal form of government known as the "Swiss Confederation".

5.1 Confederation

Confederation is a voluntary association (Kriek 1982:193) of independent states for specific purposes (for example to protect their territories against a common threat). Relations between these states are informal, as illustrated by the following characteristics of a confederation (Schulz 1961:194):

■ Each participant in a confederation must be an identifiable independent state not in any way subordinate to another state. In other words, each member of a confederation must be a sovereign independent state which voluntarily agrees to co-operate with the other states.

■ The confederation established in terms of an agreement of co-operation between the participating states does not constitute a separate state.

■ The necessary executive bodies for co-ordinating a confederal agreement of co-operation are not empowered to determine policy or make decisions. Moreover, these bodies shall act only on the joint instructions of the participant states. This requirement applies to the provision of funds and manpower, as well as organisational and procedural measures and any proposed actions.

■ Member states of a confederation retain their independent status in all respects and a member may at any time withdraw from the confederation. Hence a majority vote in favour of amending the agreement of co-operation is not binding on the members of a confederation. Unanimity is required.

In certain confederations there may be further requirements which are to a certain extent binding on member states. Nevertheless, intergovernmental relations in a confederation are essentially founded on voluntary co-operation between sovereign independent states. In this respect, a confederation is directly opposed to the principles underlying a federation.

5.2 A Federal Form of Government

5.2.1 Its Origins

The government of ancient Israel probably exhibited the very first indications of a federal form of government. The "federation-confederation" of ancient Israel was not bound by political authority but rather by race and

religion, and was brought about by voluntary agreement. It should be noted that the principle of *self-government* was in any case recognised in respect of the various tribes (Mogi 1931:22) existing at that stage.

According to Mogi, the idea of a federal state had its origins in initial indications of association among the city states of Ancient Greece during the period 510 to 330 BC, at the time when these city states adopted a democratic form of government. A loose form of co-operation existed between these states for some purposes, mainly in connection with the oath requirements of the Temple of Delphi. Practical problems were nevertheless experienced in regard to possible co-operation between the city states (Mogi 1931: 22). The cultural development of these states was of an extremely high standard for that period but also markedly individualistic. Since individual states could thus hardly agree to co-operate with other states without losing prestige, no true federation could be established. It is interesting to note that visions of co-operation were entertained by the Greek philosopher Thales of Miletus (624-546 BC), one of the seven sages of Ancient Greece, who suggested that the various city states should erect a council building for joint use (Stanley 1975:12).

No true ideas of federation were expressed prior to the development of sovereign independent states (Mogi 1931:25), when it became imperative to establish relations of some type between these states. This is probably why Jean Bodin, the father of the theory of sovereignty, was recognised as the first true protagonist of the federal philosophy in 1577 (Mogi 1931:26). Bodin stressed the co-operative nature of federalism and maintained that an association of independent states could be established by agreement, in other words, a federation of sovereign states could be established in that manner.

5.2.2 Federation

According to Mogi (1931:33), the federal philosophy, besides envisaging a partnership between independent states, also envisaged co-operative and uniform action between the participating states and their communities. Relations between such states would thus be characterised both by unity and independence .

The following six basic federal principles developed from this philosophy form the basis of *mutual relations* between such governments and between the various governments and the federal body (Sawer 1976:1):

(a) A geographically identifiable totality which initially contained a number of geographically identifiable independent governments with common boundaries is established subject to (b) below. Each individual government is sovereign in its own right and in no respects subordinate to any of the adjacent governments. These governments each appoint the necessary executive bodies to fulfil the functions of government within their respective areas.

(b) For purposes of international and other law, the combined geographical area of all the individual governments constitutes a federal government with its own executive bodies necessary for fulfilling the functions of the federal government, and empowered with limited, identifiable authority over the entire area, in other words, over the joint constituent governments.

(c) The division of power between the federal and individual constituent governments provides for direct control by the constituent governments over their own communities and direct overall control by the executive bodies of the federal government over the community as a whole.

(d) The distribution of power between the federal and other governments is arranged by means of a constitution (usually in writing). The constitution is usually characterised by a considerable degree of inflexibility, while fundamental provisions contained in the constitution are entrenched. The reasons for these steps is to avoid the agreement between the governments being regarded as a loose agreement of co-operation, and to formally protect the rights and authority of the federal and other governments .

(e) The constitution also makes provision for regulations in respect of the settlement of disputes between the federal and constituent governments.

(f) The distribution of power between the federal and constituent governments as entrenched in the constitution is interpreted and upheld by a judicial authority. In the event of any reason to suspect that the federal or any of the constituent governments is exceeding its constitutional rights, the judicial authority is empowered to determine the validity of any acts (including legislation) by the federal government and any of the other governments. Hence the judicial authority also deals with situations of conflict.

With due regard to the above parameters, the federal government prescribes a number of identifiable relations between the constituent governments. The most important of these endows the federal government with the constitutional right to exercise authority over the constituent governments in respect of matters referred to in the constitution, while the individual governments enjoy full autonomy within their respective areas in respect of all matters not assigned to the federal government.

In the following paragraphs, a unitary form of government is discussed, after which attention will first be paid to the institutional aspects of a federal system with special reference to its manifestations in the United States of America, after which the unitary system of Great Britain will be looked at.

5.3 A Unitary Form of Government

5.3.1 Its Origins

A form of government develops by a process of evolution (Rienow 1966:212). This is especially true in the case of a unitary form of government.

The source of a unitary form of government may, for all practical purposes, be traced back to the so-called philosophy of sovereignty (Mogi 1931:269). The early monarchs of England and France held sovereign power in the countries under their rule. To the ancient Greeks, sovereignty meant the ultimate and absolute power vested in a community within an identifiable state (Wiechers 1967:19). This implied that the community was able to reject the authority appointed to govern it and replace it with another, provided that it was sufficiently powerful to do so.

With the advent of the Roman Empire, the power of authority was initially transferred from the community to a community gathering and from there to the Caesar (Wiechers 1967:20). It was on the basis of this principle that the English and French monarchs extended their powers until supreme power in the countries under their rule was vested in the mon-

arch; in other words, the supreme sovereign power was in their hands.

During the period when identifiable geographic areas, such as England, were established, these areas were inhabited by a number of distinct "segments" (Hinsley 1966:18) consisting of separate authorities ruled by kings or members of the aristocracy, and with little or no contact between the separate, distinct communities. It stands to reason, therefore, that there could be no question of united action as long as each of these communities went their own way.

In England, these segments were subjected and united by a series of wars of conquest (Rienow 1966:22). Following the victories of 1066, England emerged as a united state with supreme power vested in the ruler. It was only in the eighteenth century that supreme political power in England became vested in parliament (Wiechers 1967:31), following a protracted struggle between the king and parliament.

5.3.2

Fundamental Characteristics of a Unitary Form of Government

It would be difficult to find a more apt description of a unitary form of government than the comment by Louis XIV of France (cf Wiechers 1967:29) who stated: "*l'état c'est moi*" ("I am the State"). According to the doctrine of sovereignty, a unitary form of government recognises a supreme authority in every state, which is not subordinate to anything or any person. This is the basic premise of the principles whereby a unitary form of government may be identified and forms the basis of relations between governmental bodies in a unitary state (Wiechers 1967:29):

- In a state with a unitary form of government, supreme power is indivisible and unlimited. Since there can be only one supreme power, it follows that power must be indivisible. By the same token, supreme power is unlimited, since no other power exists whereby it can be restricted.

- Within the internationally recognised boundaries of a unitary state the central legislative authority is empowered to promulgate, repeal or amend laws in respect of any matters affecting the state and its citizens.

- The constitution of a unitary state (in the case of a written constitu-

tion - Britain does not have a written constitution) would normally not set any limits to the authority of the central legislative authority, unless the central legislative authority voluntarily consents to such limitations. (It should be noted, however, that such limitations may at any time be repealed by the legislative authority.)

■ The legislative authority is empowered to create such financial sources for itself as it may deem necessary, and establish by means of its legislative powers as many executive bodies of whatever nature as it may require for the proper performance of its functions.

■ Should the nature and scope of its functions demand it, the highest legislative authority is empowered to establish on a geographical or other basis and at various hierarchic levels, as many subordinate multi-purpose or single-purpose governmental bodies as it may deem necessary. Similarly, it may recognise and approve of any separate governmental units which may have existed before the creation of the unitary state, and they may be incorporated into the hierarchical structure.

■ The legislative authority is empowered to assign powers and authority to the governmental bodies thus established, and to assign the necessary funds or financial sources to enable them to discharge their respective duties and functions.

■ Relations between governmental bodies at different hierarchic levels are determined by the legislative authority.

Relations between governmental bodies in a unitary state presuppose absolute subordination to the highest legislative authority. However, absolute subordination may be tempered by the type of control to which a subordinate body is subjected and the degree of discretion permitted it in fulfilling its assigned functions.

5.4 Differences in Relations Between Unitary and Federal States

In respect of the arrangement and establishment of governmental relations, the following fundamental differences may be identified between unitary and federal states, although these differences cannot be regarded as absolute (Schulz 1961:179):

(a) Because of the principle of supreme sovereign power inherent in a unitary state, a unitary form of government is more flexible than a federal one in regard to the distribution and redistribution of functions between governmental bodies and the revision of geographical boundaries. Hence the legislative authority in a unitary state may, in view of changed circumstances in the country, establish new governmental structures and assign to them such functions and authority as it may deem necessary. The legislative authority is also empowered to extend or reduce any geographical areas controlled by governmental bodies should this prove necessary, and even to amend the existing number of levels of authority. Such changes cannot be effected by these means in a federal state. For example, a federal government is not empowered to amend the functions and authority of constituent governments without their permission, nor is it empowered to change boundaries without the permission of the governments concerned.

(b) Uniform policies are more readily implemented in a unitary state. A federal government's authority to determine policy is restricted to matters assigned to it in terms of the constitution. Should a federal government consider it desirable to implement a policy in the entire federal state, such a policy can be implemented only with the permission of all the constituent federal governments. For this reason, important matters can be more readily co-ordinated between the participating authorities in a unitary state than in a federal state.

(c) A unitary form of government naturally offers fewer guarantees against centralisation of authority than a federal form of government. This difference is particularly important, since maximum effective individual participation by every member of the community is one of the basic tenets of

democracy (Wiechers 1967:19). Such participation fully involves the community in determining community values and makes a fundamental contribution towards the establishment of meaningful extragovernmental relations. In a federal state, local authorities are insured against the summary centralisation of authority by means of entrenched guarantees. While there are no such guarantees in a unitary state, it is nevertheless unlikely that centralisation will be summarily effected.

5.5 A Federal Government in Practice: The United States of America

Prior to the federal system, the original thirteen states of the United States of America had for specific reasons been joined together in a confederal system where any relations existing between them had been of a loose and voluntary nature. The confederation was dissolved with the promulgation of the American Constitution in 1789. During the next few years, the implications of legal and other relations contained in the constitution were put to the test, while an important aspect of the relations became fixed by verdicts of the court in 1868 and 1869.

5.5.1 Important Court Decisions

A particular aspect of the relations between the states and the federal government and between the states and local government was emphasised by two important court decisions, which determined that in terms of the constitution, the hierarchic position of authority of states and local authorities were irrevocable.

5.5.1.1 Texas

In 1869, the State of Texas, which had become unwilling to accept the authority of the federal government any longer, decided to withdraw from the federation and become an independent state (Berman 1981:29). The

court ruled that in terms of the constitution, Texas did not have the power to do so, since any withdrawal from or repeal of the federation could be effected only with the consent of all the constituent states. The significance of this decision lies not only in its implications concerning vertical intergovernmental relations (subordination to the authority of the federal government) but also in its implications concerning intergovernmental relations at the horizontal level between the various states whereby, in effect, federation established a mutual bond between the various states which could be severed only with the consent of all the constituent states.

5.5.1.2 Dillon's Rule

When groups of people in America initially gathered together to form communities, local authorities were the first governmental bodies to be established. Many of these authorities subsequently united without forfeiting their fundamental autonomous rights. The larger and rapidly developing local authorities, in particular, strongly disapproved of being subjected to the authority of the various states in terms of the new federal constitution. These local authorities felt that their freedom was being restricted and some of them attempted to withdraw from the federation. This led to the famous verdict in 1868 by Judge Dillon of Iowa, generally known as Dillon's Rule. The relevant portion of the verdict reads more or less as follows (Martin 1967:29).

The rights and powers of municipal authorities are assigned to them by state legislation, without which they would not exist. A state has the authority to establish or abolish local authorities and therefore also to change and control such authorities, even without the consent of the federal government.

Hence there can be no limit to the authority of a state over local authorities within the area of its jurisdiction.

Dillon's Rule thus leaves no question that unitary principles, and not federal principles, apply in regard to relations between the State and local authorities in the US federal system.

The federal constitution, the court decision in regard to Texas and Dillon's Rule clearly testify to the vertical lines of authority between the federal

government, the various states and local authorities in the USA. Changed circumstances, however, notably in the wake of World War II, have resulted in deviations in the federal system of government. Some of these circumstances and their repercussions on governmental relations in the USA are discussed in the following paragraphs.

5.5.2 Changed Circumstances in the USA

Changing circumstances in the USA may be divided into the following three fundamental issues: financial problems, resulting in the increasing inability of the states to accept responsibility for local government; a virtually unprecedented urban growth rate; and the community's increasing involvement in governmental affairs.

5.5.2.1 The States

As Dillon's Rule clearly testifies, the states were initially charged with the duty of resolving urban problems as far as possible. However, the manner in which this duty was discharged became increasingly unsatisfactory. Apart from their financial inability, the attitude of the states also suggested some unwillingness to resolve the problems of local authorities (Martin 1967:18). This led to an increasing realisation by the federal government that local authorities should be assisted, particularly in regard to finances. Because of a willingness in federal circles to provide financial assistance, the federal government became directly involved in the affairs of local authorities, notwithstanding the fact that this represented a deviation from the pattern of relations laid down by the US Constitution. This involvement resulted in dramatic changes in intergovernmental relations between the federal government, the various states and local authorities, also in the sense that it constituted a negation of the fundamental principles of a federal form of government.

5.5.2.2 Urban Growth

The development of America into a number of metropolitan-urban communities had far-reaching consequences for America and gave rise to unprecedented urban problems. The rural population flocked to urban ar-

eas in large numbers and contributed significantly to the population increase in urban areas (Martin 1967:14). The five major problems caused by urbanisation were the following (Martin 1967:15):

(a) Urban decline. Most of the buildings in the city centres of large urban areas had been erected fifty to one hundred years ago, and very little attention had been paid to the renovation and proper maintenance of these buildings. As a consequence, the cores of many urban areas were dilapidated and had to a large extent become unfit for use. Business and residential areas affected by this deterioration declined even further when undesirable elements occupied these buildings.

(b) Housing problems. Housing erected during the twenties started deteriorating rapidly, and large and expensive houses within walking distance of the city centres vacated by their owners were eventually occupied by two or three families, and numerous substandard housing units were erected. As a result, slum conditions developed.

(c) Urban transport. Tremendous problems were encountered in providing transport for the masses of urban dwellers. Apart from an essential increase in public transport facilities, which were operated at a considerable loss, the number of private vehicles increased at an alarming rate.

(d) Education. Massive urbanisation also gave rise to educational problems in urban areas. The increase in numbers, the growing demand for technical training and the considerable funds required for buildings and equipment, contributed to the financial problems experienced by large cities.

(e) Pollution. Massive health problems were experienced in urban areas due to air pollution and a deterioration in the quality of water supplies. Steps to improve the quality of water supplies and reduce air pollution proved inadequate, and conditions deteriorated.

These problems, in conjunction with the inability of the states to provide assistance, paved the way for federal assistance.

5.5.2.3 Public Participation

In any city throughout the world, public participation in the administrative processes of governmental bodies is effected by means of political parties, interest groups, the media and pressure groups (Adlem & Du Pisani 1982:76). In the USA, a new dimension was added to public participation at the beginning of the sixties by specific legislative provisions for maximum active participation by the community (Wright 1982:57). The influence of this participation was substantial, particularly on extragovernmental relations. In Dayton, Ohio, increased public participation was introduced at the same time as the PPBS (planning, programming, budgeting systems), which had a negative effect on relations between the community and local government (Hattingh 1973:footnote 119). In this regard, Wright (1982:57) states that the legislative encouragement of public participation introduced an unstable element in mutual relations.

5.5.3 Innovations Which Influenced Federal Relations

The changed circumstances resulted in a deviation from the formal federal system in the USA, as illustrated by the following examples :

(a) The federal government initiated substantial aid programmes to the various states and hence also commenced to intervene indirectly in the internal policy of the various states. The federal government even succeeded, by means of manipulation, in applying federal policy in the states (Wright 1982:114) by advising the states that subsidies would be withdrawn if certain federal policies were not accepted. As a consequence, unitary elements were introduced into the federal relations pertaining between the federal government and the states.

(b) Similarly, a deviation from fundamental federal principles was brought about by the fact that the federal government increasingly bypassed the states by providing financial and other aid directly to local authorities. Direct relations between the federal government and local authorities were progressively established and, mainly in view of the financial aid provided by the federal government, the latter was in a position to prescribe to authorities what they should and should not do. These deviations from the

fundamental provisions of the constitution were justified by the claim that intervention would be restricted to the provision of aid (Wright 1982:117). This so-called "aid" to local authorities resulted in substantial changes in the vertical relations between the states and local authorities, because local authorities tended to disregard the hierarchic authority of the states and preferred to negotiate directly with the federal government. This has resulted in the development of close relations between the federal government and local authorities (Wright 1982:118).

(c) These developments necessitated drastic adjustments by both the states and local authorities in respect of their own intragovernmental relations. Policies had to be amended and, as a consequence, internal priorities had to be changed in view of the fact that subsidised projects, due to the federal government's aid programme, could be initiated far more readily than would otherwise have been the case. In addition, financial arrangements and budgets had to be revised in view of the financial aid received from the federal government. Other changes necessitated by federal aid included changes in departmental structure, a revision of personnel structures, new procedural regulations, and the necessity to revise control methods to accommodate a more direct form of control by the federal government (Wright 1982:118).

(d) Drastic changes in extragovernmental relations were brought about by these developments. Subsidies and other financial aid to the states and local authorities substantially changed the power base of interest groups, community associations and voters (Wright 1982:119). Indications are that the influence exerted by these groups also increased due to legislative encouragement. In addition, participation frequently escalated into direct intervention in cases where federal donations occasioned by requests from outside groups were made to local authorities. In numerous cases, moreover, pressure groups even regarded federal funds made available to states and local authorities (for welfare work, for example) as funds which could be utilised to bring pressure to bear on local authorities (Wright 1982:58).

In view of all these deviations, amendments and adjustments to the fundamental principles inherent to a federal form of government, it is not surprising that authors of publications on governmental relations in the USA (Wright, Sawers, Martin) refer to the "new federalism" and find difficulty in defining and elucidating the growing complexity of governmental relations pertaining in the USA. The problems experienced by these

authors can be appreciated in view of the many deviations from the federal system as laid down in the American Federal Constitution.

5.6 A Unitary Form of Government in Practice: Great Britain

As previously indicated (in par 5.3.1), the origins of a unitary form of government can be traced to the so-called philosophy of sovereignty which gained ascendancy in Britain. The unitary approach in British governmental relations today has undergone a gradual process of evolution between central and local authorities, and this process will be briefly discussed by reviewing events in Britain from the tenth century, in other words, subsequent to the virtually stagnant historical period of five hundred years between 500 and 1 000 AD (Collingwood 1949:444).

5.6.1 The Tenth Century

During the first half of the fifth century, when it was already evident that the Roman Empire would come to a fall, Roman Britain consisted of a number of tribal authorities spread across the length and breadth of the country. At that time, minor elements of separate governments emerged as a consequence of Honorius instructing these authorities to manage their own affairs. By the year 450, the last vestiges of these separate governments had disappeared (Collingwood 1949:315).

Tangible signs of a unitary form of government in England emerged only during the tenth and eleventh centuries. Following the conquests of 1066 in England, an elementary form of municipal status was granted to local authorities, while relations were governed by the fact that local authorities were in all respects merely the instruments of the central authority (the king) (Platt 1976:130). By the end of the twelfth century, in contrast, the king had already granted a considerable degree of autonomy to local authorities (Platt 1976:135).

5.6.2

The Fourteenth Century

Towards the end of the fourteenth century, and for some centuries thereafter, relations between the central and local authorities were dominated by the emergence of military despotism occasioned by a marked irresponsibility and corruption prevalent in England (Mumford 1961:353). As a consequence, local authorities again found themselves in a position where they were required to request permission from the central government for anything they wished to undertake. By the beginning of the nineteenth century, matters had deteriorated to such an extent that virtually all local representative councils had been abolished (Redlich & Hirst 1971:32).

In the meantime, however, the despotic rule of the Tudors and Stuarts had come to an end and had been succeeded by a new era, notably in intergovernmental relations.

5.6.3

The Nineteenth Century

The ascendancy of William of Orange to the British throne put an end to the strife between absolute and constitutional government, and for the first time local authorities were no longer subject to administrative control (Hattingh 1984:45). Another innovation was the devolution of authority by the central government, effected with due regard to the fundamental principles of a unitary state, in other words, the supreme authority of the British parliament.

A Royal Commission of Inquiry was appointed in 1834 to investigate the position of local authorities. The commission found that although local authorities had mayors, town councils and local communities, the community had no part in the nomination of political office-bearers, while political office-bearers had no knowledge of their respective functions (Clarke 1955:43).

Reports submitted by the Commission of Inquiry led to the promulgation of the Municipal Corporations Act in 1834, whereby a uniform system of local government was introduced in Britain, while relations between the central government and local authorities were regulated by provisions contained in the Act.

5.6.4 The Twentieth Century

Governmental relations between the central and local authorities in Britain are currently dominated by financial problems and marked indications of the centralisation of authority. It has been pointed out (par 5.4) that the centralisation of authority is a relatively simple matter in a unitary state, since supreme authority is vested in the central government.

These problems in Britain emerged in the post-war period and have progressively increased in intensity up to the present time, where local government, to all intents and purposes, is dominated by the British central government.

Tony Byrne (1983:279) foresaw six crisis areas in the late nineties and beginning of the twenty-first century which could fundamentally affect relations between the central and local governments in Britain.

First, the issue of local government structures: Since plans to restructure local authorities came into effect in 1972 when local authorities were either changed, abolished or reclassified, no finality has been reached and no satisfactory structural scheme has been devised, despite continuing efforts to arrive at a solution.

Second, the fact that local authorities have to date not succeeded in finalising their internal structures - despite the restructuring programme initiated in 1972 - is having a generally harmful effect on intragovernmental relations in local government. Some local authorities abolished the post of chief executive officer (town clerk) and subsequently reversed this decision by reinstating this post (Byrne 1983:280). A so-called Corporate System of Management was introduced but has in the meanwhile again been rendered virtually powerless.

Third, it would seem that local government, in so far as some political aspects of extragovernmental relations are concerned, has become a political football in the hands of political parties in Britain. This problem was aggravated by the emergence in the political arena of a strong Social Democratic party, in addition to the Conservative and Labour Parties. In

an attempt to comply with promises contained in political manifestos it has even been alleged that the ruling political party is "opposed" to fundamental forms of local government. These fears have been confirmed by legislation which abolished the Greater London Council.

A fourth problem - which also affects political relations - is a mooted change in the electoral system from the well-known system based on wards to one of proportional representation. This could conceivably result in local authorities being entirely reconstituted, for instance, to accommodate greater representation by the business sector.

A fifth problem - which, as in the USA, probably represents the most critical aspect of relations between the central and local governments - is the question of finances. A complex scheme of financial aid to local authorities has been in operation for many years, but it is alleged that new regulations in this respect threaten to undermine the discretion enjoyed by British local authorities to determine their own level of expenditure (Greenwood, 1982: 253). This could mean that local authorities in Britain would again be plunged into a position of absolute subordination to the central government, similar to the situation pertaining in the Middle Ages.

The sixth problem is a fundamental issue, and concerns the actual relations between the two levels of authority. Although Britain has a unitary form of government, it has no formal constitution to regulate relations between these two levels of authority, and relations between the central and local governments are interpreted by means of general assumptions and conventions. And although a tendency to progressive centralisation of authority is strongly suspected, this tendency can neither be substantiated nor refuted, due to the absence of parameters. According to Byrne, there can be no doubt that any vestige of consensus which existed between the two levels of authority has been destroyed.

The aforegoing historical review clearly reveals that relations between the levels of authority in Britain are founded on the principles of a unitary form of government and that the central government still assiduously exercises its supreme sovereign power in this respect. In addition, these relations exhibit varying degrees of intensity, ranging from relative local autonomy to absolute subordination. This suggests a lack of political stability which is not calculated to promote local government or meaningful governmental relations.

Having considered the basic principles of federal and unitary forms of government and the deviations and problems associated with the forms of government discussed in this chapter, we progress to the next chapter, which deals with governmental relations in South Africa.

1 The Constitution and Governmental Relations in South Africa

This chapter is devoted to important aspects of governmental relations in South Africa, specifically in terms of the Constitution of 1996.

The background to constitutionalism has been dealt with in chapter 1, and those facts need not be repeated except to repeat an aspect of what has been stated pertinently, namely: "In the modern era relations between government and society are regulated by so-called national politics by means of a constitution."

It has also been repeated a few times that the primary aim of government is to promote the welfare of the society it represents, that is, government should govern for the benefit of all.

French philosopher Jean-Jacques Rousseau (1712-1778), wrote in his *Social contract* in 1762: "Should we enquire in what consists the greatest good of all, the ideal at which every system of legislation ought to aim, we shall find that it can be reduced to two main heads: *liberty* and *equality*" (1946 p 308).

The South African Constitution of 1996 pre-eminently aims to create relations which will do just this. This is verified by two specific provisions in the Constitution.

First, Section 2 of the Constitution Act states:

"This Constitution is the supreme law of the Republic; law or conduct which is inconsistent with it is invalid, and the obligations imposed by it must be fulfilled."

Second, Section 7 of the Constitution Act states in connection with the *Bill of Rights* in Chapter 2 of the Constitution:

"This Bill of Rights is a cornerstone of democracy in South Africa. It en-

shrines the rights of all people in our country, and affirms the democratic values of human dignity, equality and freedom."

In this manner firm relationships are established in South Africa between state and subject, through its Constitution.

6.1 Historical Perspective

6.1.1 The National Convention

Two years prior to the National Convention of 1908, when the four colonies of Transvaal, the Orange Free State, the Cape and Natal met in Durban to discuss the possibility of unification, the choice between a unitary and federal form of government for the proposed new state elicited considerable interest, also in countries abroad (cf Thompson 1960). One of the most widely known local publications in this regard was a comprehensive document of the Central News Agency entitled "The Government of South Africa" (1908) which objectively discussed the administrative implications of federal and unitary forms of government. Other publications included a lengthy appeal in favour of a federal form of government, in *The Transvaal Leader* of October 1908 by the well-known author Olive Schreiner (Schreiner 1961).

In motivating her preference she maintained that a unitary form of government would be unsuitable in view of the disparate history and traditions, as well as the diverse nature of the territories to be united. Her main motivation was that she felt a federal system would be more in keeping with the spirit of individual freedom, since in a unitary state the various territories would be closely united and consequently forfeit their individual freedoms.

The National Convention opened in Durban on 12 October 1908, and lasted until 5 November of that year. On the second day, the matter of a constitutional system was raised by John X Merriman of the Cape and Jan Smuts of the Transvaal, who both strongly favoured a unitary form of government (Thompson 1960:187). Merriman underscored his arguments

by attempting to discredit the federal system and cited examples of "undesirable" conditions in the federal systems of the USA and Australia.

Smuts, who also advanced arguments in favour of a unitary form of government, maintained that the new state should be based on mutual trust and that the colonies should thus be united under a unitary form of government. He pointed out that federalism would result in an inflexible constitution and that the final say on matters affecting the community would rest with a court of law instead of with representatives of the community. As a union, the country would instead function as an economic unit, while a uniform approach could also be adopted on issues concerning the black population. He was careful not to discourage the colonies, however, and in conclusion, promised that the "provinces" would be endowed with distinct powers in terms of the constitution. Smuts and Merriman were strongly supported by Steyn (Orange Free State), while Natal initially resisted these proposals but agreed to a unitary form of government after having called a referendum. On 11 May 1909 the constitutional proposals were approved in Bloemfontein, and submitted to London for finalisation and proclamation as a British law.

6.1.2

The Constitution of 1909

In terms of the *Zuid Afrika Wet, 1909,* the four former colonies were united in a union under a single, sovereign authority. Concessions in respect of the division of functions between the central authority and the provinces prompted intimations concerning the federal nature of the Constitution which, in some circles, was described as quasi-federal (South Africa 1987:135). This approach, however, was incorrect, *since the supreme sovereign power of parliament was clearly defined in the constitution.* A division of functions does not imply a division of power, and power was vested in parliament. The *Zuid Afrika Wet* made provision for relations on three vertical and three horizontal levels, the former being central, provincial (the former colonies) and local (under provincial authority); and the latter being legislative (parliament), executive (the cabinet) and judicial authority (the courts).

Specific relations laid down by the 1909 constitution deserve particular attention. The *Zuid Afrika Wet* was drawn up for the Union parliament,

which was subordinate to the British parliament, largely as a result of the British Colonial Laws Validity Act, which stipulated that colonial legislation was subject to approval by the British throne. Although South Africa subsequently attained dominion status and its laws were no longer subject to British approval, ties with Britain were finally severed only with the promulgation of the 1961 constitution.

Other important relations laid down by the constitution were those between the legislative and judicial authority. With the promulgation of the 1909 constitution, the judicial authority. was created to deal with all judicial matters in South Africa. As a consequence, the courts occasionally also delivered judgement on parliamentary legislation. However, a watershed in these relations was reached in the Harris case (see Wiechers 1967:503), when the court delivered judgement against the government concerning a matter of fundamental importance. This gave rise to the promulgation of Act 9 of 1956, which stipulated (sec 2) that no court of law would in future be empowered to investigate or deliver judgement on an Act passed by parliament. The well-known 'entrenched' clauses in respect of the official languages were excluded from this stipulation. By passing this Act, the legislative authority demonstrated its sovereign power in respect of judicial matters.

6.1.3 The Constitution of 1961

The Constitution of the Republic of South Africa, 1961 (Act 32 of 1961) was promulgated to establish the Republic, following South Africa's decision to withdraw from the Commonwealth. This constitution thus finally severed British constitutional relations with South Africa, in contrast to the 1909 constitution, which recognised South Africa's subordination to Britain.

The vertical and horizontal relations created by the 1909 constitution were incorporated in the 1961 constitution and provided for three hierarchic levels of authority (central, provincial and local) as well as a legislative, executive and judicial authority at the horizontal level. As a forerunner to the 1983 constitution this Act also made provision for a state president as head of the Republic (Sec. 7) but with only nominal powers in relation to the legislative authority.

The Constitution Act of 1983 made far-reaching changes to the 1961 constitution.

6.1.4 Race Relations in South Africa

Before discussing governmental relations manifested in the 1983 constitution, it would be useful - particularly with a view to the fundamental changes it embodied in comparison to the previous constitutions and the ethnic basis introduced by it - to discuss race relations which, even before Unification in 1910 and up to the 1996 constitution, have always formed an integral part of South African politics. In the interest of clarity, the actions in respect of the various racial groups are discussed separately.

6.1.4.1 Governmental Relations with Indians

Prior to unification, Indians were entitled to the vote in Natal and the Cape Colony. After unification, registered Indians in Natal retained the right to vote but no further Indian voters were registered. For all practical purposes, Indians in the Cape Province, as in Natal, lost the right to vote in 1956 with the introduction of separate voters rolls (Booysen & Van Wyk 1984:7).

The first essentially *formal* relations between the central government and the Indian population came into being with the establishment of the Indian Council in terms of the South African Indian Council Act, 1968 (Act 31 of 1968). Prior to the establishment of the Indian Council and at least up to 1960, it had been National Party policy that steps should be taken to repatriate Indians living in South Africa (National Party 1960: par 7). In the Orange Free State, the domicilial rights of Indians had been abolished in 1891. In terms of the 1968 Act, the Indian Council had no legislative authority and acted merely in an advisory capacity to the South African government. This Act was repealed by the 1983 constitution.

In the course of time, a few local authorities for Indians were established by the Natal Provincial Council, while advisory bodies were established in Indian areas within the jurisdiction of the white local authorities.

Meanwhile the Group Areas Act, 1966 (Act 36 of 1966) made provision for a system of local government whereby certain urban areas would gradu-

ally be developed into independent local authorities (both in respect of Indians and coloureds). A consultative committee was initially established within the jurisdiction of white local authorities to advise the latter, while provision was made to upgrade such committees to management committees (or local affairs committees in the case of Natal), provided that this step was merited by the further growth and development of the relevant areas. These committees were to discharge duties assigned to them by regulation by the central government from time to time, and in such cases relations with the white local authorities extended to a system whereby the committees would *advise* on local government services for the relevant community.

These committees could eventually develop into independent local authorities. This last step was achieved only in respect of Indian communities in Natal, where four "autonomous" local authorities were established at Verulam, Isipingo, Umzinto North and Marburg.

The *intensity of relations* between the government and the Indian population was thus characterised by a high degree of dependence, since Indians had at no stage been granted autonomous authority and were in all respects subordinate to the government. The 1983 constitution and other legislation inaugurated an entirely new phase in relations between Indians and the central government. This aspect is discussed at a later stage.

6.1.4.2 Governmental Relations with Coloureds

Relations with the coloured population of South Africa were consistently more formal than with the Indians.

In the old Cape Colony, the right to vote was subject to certain requirements, irrespective of race or colour. This ruling was incorporated in the *Zuid-Afrika Wet* of 1909 as an entrenched clause, and coloureds who met these requirements thus retained the right to vote after unification in 1910. An Advisory Coloured Council was established in 1943, which was subsequently succeeded by a Union Board for Coloured Affairs in terms of the Separate Representation of Voters Act, 1951 (Act 46 of 1951). Both the Advisory Council and the Union Board were *advisory* bodies.

The Act of 1951 above came into force with retrospective effect only in 1956 following a protracted struggle in the courts against the government's intention to remove Coloureds from the white voters' roll. Since the

coloureds were entitled to the vote in terms of an entrenched clause, the court insisted that the government follow the legal procedures required to amend an entrenched clause, which called for a two-thirds majority vote in a joint sitting of parliament and the senate. As a consequence, the government circumvented the obstacle by increasing the number of senators in order to meet this requirement (The Senate Act, 1955 (Act 53 of 1955).

With the promulgation of the 1951 Act the coloureds were thus removed from the white voters' roll and obtained, instead, the right to be represented in parliament by four white representatives. This right was repealed by Act 50 of 1968, leaving the coloureds without direct representation.

The Coloured Persons Representative Council Act, 1964 (Act 49 of 1964) made provision for the establishment of a Coloured Persons Representative Council. However, this council was established only in 1969, in terms of Proclamation No 77 dated 3 April 1968. It replaced the previous Board for Coloured Affairs. In contrast to the Indian Council of 1968, this council was endowed with qualified legislative authority in respect of finances, local government, education, welfare, agriculture and coloured settlements. The relevant Act was thus responsible for decreasing the intensity of relations between the government and coloureds. All such legislation was, however, subject to the approval of the Minister of Coloured Affairs and, where applicable, the Minister of Finance and the provincial administrators. The government's underlying motive was that the Coloured Representative Council should prepare the ground for the eventual development of a coloured parliament. The experiment failed, however (Booysen & Van Wyk 1984:9), since coloureds refused to allow the council to function properly.

The Coloured Representative Council was abolished in terms of Act 24 of 1980 (sec 4), and the latter Act was repealed in Annexure 2, vol 2 of the 1983 constitution.

As in the case of Indians, relations with coloureds at local government level were regulated by the Group Areas Act. Only one fully developed coloured local authority, that of Pacaltsdorp, was established in the Cape.

6.1.4.3 Governmental Relations with Blacks

At the time of Unification in 1910, blacks in Natal and the Cape whose names appeared on the voters' roll retained the right to vote and, by way

of a concession to the Cape, black franchise in the Cape was entrenched in the Constitution. Blacks were nevertheless removed from the white voters' roll without excessive protest, as in the case of coloureds, at a later date. In exchange, black voters obtained the right to elect three white representatives to parliament and two to the Cape Provincial Council in terms of the Native Representation Act, 1936 (Act 12 of 1936).

In 1959, when the idea of establishing self-governing homelands for blacks was very much in the forefront of South African politics, indirect black representation in parliament was abolished by the Promotion of Self-government Act, 1959 (Act 46 of 1959). The subsequent establishment of self-governing black national states added a new dimension of interstate relations to governmental relations with homeland blacks.

6.1.4.4 Governmental Relations with Urban Blacks

The expression, "urban" blacks does not necessarily refer to blacks living in urban areas, and the expression is employed merely to distinguish between blacks living in and outside the homelands which were established.

The purpose of the Native (Urban Areas) Consolidation Act, 1945 (Act 25 of 1945) was to regulate the presence of blacks in white areas. In cases where blacks resided in or adjacent to the areas of white local authorities, the white governmental bodies controlled such areas on behalf of the central government in terms of Act 25. Since blacks had no representation in white areas and, in addition, had no councils or committees of their own, relations were without exception of a high intensity.

In terms of the Administration of Black Affairs Act of 1971 (Act 45 of 1971) administration boards were established to take over the administration of black areas from white local governmental bodies as from July 1 1973. As a consequence of this legislation, relations between the central government and black areas changed from indirect control by means of white local authorities to direct control by the central government, *although the intensity* of relations was not affected. Blacks still had no say whatever in governmental affairs.

The Community Councils Act of 1977 (Act 125 of 1977) represented the first step towards the establishment of separate local authorities for blacks. These community councils which, generally speaking, took over the func-

tions of the administration boards, were appointed in large black urban areas, while the functions of the administration boards were changed to one of overall control over community councils, since more than one of the latter could be established within the area of an administration board. The members of community councils were elected by the local inhabitants, which meant that for the first time, the interests of black communities were attended to by black councillors elected by the relevant communities.

The next step towards the establishment of "autonomous" black local authorities was the Black Local Government Act, 1983 (Act 102 of 1983), in terms of which the Minister of Co-operation and Development could establish local areas or town or city councils for blacks, depending on the size and state of development of the area concerned. The community council in a particular area was thus replaced by the establishment of the new council in that area. The functions of these new councils were virtually identical to those of white local authorities, and even the designations of the various posts were identical. However, in view of the wide diversity of traditions, cultures and lifestyles obtaining in black urban areas, it was an open question whether black local authorities could be run on the same basis as white local authorities. A more appropriate system would probably have proved more efficient and have contributed towards more satisfactory and more meaningful relations with the central government. Nevertheless, the new legislation provided urban blacks with an opportunity to attend to the interests of their own communities in their own areas.

6.2 Governmental Relations Under a New Constitutional Dispensation (1983)

6.2.1 Initial Steps

Preparatory steps to the changes embodied in the 1983 constitution were taken in 1976 with the nomination of a cabinet committee to investigate the possibility of amending the Westminster Parliamentary System applicable in South Africa, mainly with a view to accommodating other popu-

lation groups in the process of government (Booysen & Van Wyk 1984:13). This committee, chaired by the then Minister of Defence, PW Botha, made various recommendations which were to eventually culminate in the promulgation of a new constitution.

6.2.2 The Schlebusch Commission

The Report of the Botha Committee engendered little enthusiasm in government circles and the matter was thus referred to the so-called Schlebusch Commission for further investigation (Booysen & Van Wyk, 1984:14). Among the most important recommendations of this commission to be embodied in subsequent legislation were that the senate should be abolished, that parliament should be enlarged by the *appointment* of 12 additional members, and that a president's council should be established to advise the state president. These recommendations were embodied in Act 101 of 1980.

A remarkable aspect of these amendments was the acceptance of the principle that some members of parliament should be *appointed*. This constitutes a deviation from the principle of representative government, which was one of the fundamental requirements of extragovernmental relations between the central authority and the community (the electorate). According to this principle, the *electorate* appoints a representative who is accountable to them (cf paragraphs on constitutionalism). Members of parliament who were appointed did not meet this requirement.

Numerous drafts were considered before the constitution in its final form was passed by Parliament in September 1983 (Act 110 of 1983). In November of that year it was subjected to a referendum and approved by a large majority of the white electorate. *The referendum was held exclusively among white voters.*

By virtue of the referendum result, the new dispensation was an established fact and the new constitution embodied drastic changes in governmental relations in many respects.

6.3 The Constitution of 1983

The Constitution of the Republic of South Africa, 1983 (Act 110 of 1983), resulted in far-reaching and fundamental changes in the administration and government of the Republic and gave rise to extensive changes, amendments and revised accents in intergovernmental, intragovernmental and extra-governmental relations throughout the entire public sector.

It would serve no useful purpose to discuss the 1983 constitution in detail since the changes affected by the 1993 Interim Constitution and the final Constitution of 1996 basically nullified the provisions of 1983.

6.3.1 Constitutional Developments Since 1993

The year 1994 is of great significance in the constitutional history of the Republic of South Africa. The entire governmental spectrum, ranging from central government level to local government, was restructured.

The basic reason for the fundamental changes can be found in the steps of the central government to completely abolish constitutional differentiation between racial groups in the country. In the process a traditional government system, which had existed since the amalgamation of the four provinces into the Union of South Africa in 1910, was upended.

It has already been mentioned that a constitution is a set of rules in terms of which an elected government rules over its subjects.

The Republic of South Africa Constitution Act 110 of 1983 was repealed with effect from 27 April 1994. The Interim Constitution of the Republic of South Africa 1993, Act 200 of 1993, came into effect on the same day. This 1993 Act was superseded by Act 108 of 1996.

Because of the radical changes, which took place in the Republic and because of the fundamental effect these changes had on relations, comparisons will constantly be made between the respective provisions in the 1983

and 1996 constitutions. Meanwhile it is of some significance that the 1996 Constitution has specifically provided for principles of co-operative government and in particular emphasises the basic importance of governmental relations. Section 2 (a) of Section 41 of the constitution clearly identifies this necessity as follows:

"An Act of Parliament must establish or provide for structures and institutions to promote and facilitate intergovernmental relations."

In terms of the analysis of relationships identified in this book, it is accepted that this section in the Act would naturally include *inter*governmental, *intra*-governmental and *extra*governmental relations.

6.3.2

The Electorate

(a) The 1983 Provisions

In terms of the 1983 constitution, white, coloured and Indian persons who were South African citizens and who were at least 18 years of age could be registered as voters.

Voters' rolls for the three groups were kept separately, and *each group voted for its own representatives* in parliament and in their own constituencies.

Parliament consisted of 166 members in the white House of Assembly, 80 members in the coloured House of Representatives and 40 members in the Indian House of Delegates.

Provision was also made for the appointment by the state president of a small number of additional members to each house.

Functions of parliament were divided into general affairs and own affairs.

Each house exercised power in respect of its own particular group, and all general affairs were exercised by parliament as a whole (matters such as defence, foreign affairs, police, and finance matters).

It is important to note that in terms of the 1983 constitution blacks were not

It is important to note that in terms of the 1983 constitution blacks were not eligible to become voters and consequently had no direct representation in parliament. Black affairs were entrusted to the state president and for this purpose he generally appointed a minister in the cabinet to deal with these matters.

All relations (*intra-, inter-* and *extra-)* were still founded on racial lines, as had been the case since 1910.

(b) The 1996 Provisions

Far-reaching and fundamental changes to the electorate are affected in the new constitution.

In terms of section 3 of Act 108 of 1996 there is a common South African citizenship. This provision in the constitution means that for the first time, all South Africans are able to take part together in the election of representatives to the South African parliament.

At the time of unification in 1910, blacks in Natal and the Cape whose names appeared on the parliamentary voters' roll retained their vote, and the black franchise in the Cape was even retrenched in the 1910 constitution. Later, however, blacks were removed from the voters' roll without much protest and they obtained the right to elect three white representatives to parliament and two to the Cape Provincial Council.

However, in 1959 when the system of self-governing homelands for blacks was under consideration, the indirect representation of blacks in parliament was abolished.

In terms of the new constitution, all eligible voters share a common vote with no strings attached, and relations in respect of voting are no longer bound by racial restrictions.

6.3.3 The Election Process

(a) The 1983 Process

For the purposes of elections, the Republic was divided into electoral constituencies and seats were allocated to the various provinces and between the various races as follows:

	Cape	Natal	OFS	Transvaal
House of Assembly (white)	56	20	14	76
House of Representatives (coloured)	60	5	5	10
House of Delegates (Indian)	3	29	-	8

The political party obtaining the most representatives in parliament formed the government until the next election.

This system, which is called the Westminster system, and which was adopted from the British system, was not a very satisfactory method, because a party that obtained a majority of representatives could nevertheless have only obtained a minority of the total number of votes cast in the election.

(b) The 1996 Process

The election process in the new constitution is totally different from the previous system, and is based on "proportional representation" (section 46 of the Act). Elections are held in accordance with the provisions of the Electoral Act 202 of 1993.

The National Assembly consists of 400 members, who are elected on the principle of proportional representation. Briefly this means that political parties must submit lists (separate lists for the National Assembly and the provincial legislative authority of each province) before the election takes place.

Each voter is entitled to cast one vote for the National Assembly and one vote for the provincial legislative authority in his province.

After the election all votes cast are counted, and the 400 seats in the National Assembly are filled in accordance with a system of proportional representation in terms of the number of votes received by each party.

The number of seats awarded to a party participating in the election is that calculated by dividing the total number of votes cast nationally in favour of such party by the quota of votes which has been determined.

6.3.4 Parliament

(a) The 1983 Parliament

In terms of the 1983 constitution parliament consisted of the three houses mentioned previously. These houses met separately, but provision was also made for joint sessions of the three houses for particular purposes, on the order of the state president. At such joint sittings the principle of combined majority vote was not applied, *and when a vote was taken the votes of the respective houses were counted separately.*

(b) The 1996 Parliament

In terms of section 42 of the 1996 constitution, parliament consists of a National Assembly and National Council of Provinces.

The National Council of Provinces is composed of ten members from each province. Members are nominated by the parties represented in the respective provincial legislatures.

6.3.5 The National Executive

(a) The 1983 Constitution

The 1983 constitution provided for the appointment of a state president by parliament, and of a cabinet by the state president and for minister's councils for each of the three houses of parliament.

The Cabinet was generally responsible for general affairs, and the respective Minister's Councils dealt with the various own affairs of the respective Houses.

A member of each Minister's Council (usually the chairman) was also appointed to the cabinet by the state president.

Members of the cabinet were usually allocated various portfolios as their respective executive responsibilities.

(b) The 1996 Constitution

(i) The President

The 1996 Constitution provides for the appointment of a president (note, *not* a state president).

In terms of section 83 of the Act, the president is the head of state and head of the national executive, and he or she must exercise and perform his/her powers and functions in accordance with the constitution.

The president is elected by a majority of votes in parliament, and the procedure in this regard is set out in schedule 3 to the Act. Parliament must elect one of the members of the National Assembly as president.

The powers and functions of the president are set out in section 84 of the Act and are basically similar to those of the former state president. He or she generally also acts in consultation with the cabinet.

(ii) Executive Deputy Presidents

Executive deputy presidents are appointed as follows (section 91 and Schedule 6 of the Act):

Every party holding at least 80 seats in the National Assembly is entitled to designate an executive deputy president from among its members of the National Assembly.

If no party or only one party holds 80 or more seats, the party holding the largest number of seats and the party holding the second largest number of seats is entitled to designate an executive deputy president. This provision will lapse from the 1999 elections, leaving provision for only one deputy. An executive deputy president performs such duties as are assigned to him by the president.

(c) The Cabinet

The cabinet consists of the president, the executive deputy presidents and not more than 27 ministers appointed by the president (section 91). The system of proportional representation also applies.

Meetings of the cabinet are presided over by the president, and the cabinet functions in a manner which gives consideration to the spirit of consensus-seeking.

6.4 Constitutional Court

There was no constitutional court in the 1983 legislation.

Powers and duties of the constitutional court

In terms of section 167 of the 1996 Act, a constitutional court has jurisdiction in the Republic as the court of *final instance* over all matters relating to the interpretation, protection, and enforcement of the constitution.

A decision of the constitutional court is binding on all persons and all legislative, executive and judicial organs of the state.

In the event of the Constitutional Court finding that any law or provision is inconsistent with the constitution it will declare such law or provision invalid to the extent of its inconsistency. The Constitutional Court may require parliament or the responsible body to correct the defect within a specified period, and the defect will remain in force for that period.

Proceedings at the Constitutional Court and the manner in which its duties are engaged, are regulated by rules prescribed by the president of the Constitutional Court in consultation with the chief justice. These regulations must be published in the Government Gazette.

6.4.1

The Essential Role of the Constitutional Court in Relations

As already stated, the Constitutional Court is the court of final instance and in terms of section 167 of the Constitution, "makes a final decision whether a matter is a constitutional matter or whether an issue is connected with a decision on a constitutional matter".

In the ordinary course of events the Constitutional Court would, for all intents and purposes, generally decide whether any legislation - national, provincial or local - is legal within the bounds of the constitution. In other words, it would adjudicate on *formal relations* between and within state structures generally. This would not normally affect the man in the street unless he is directly involved in a dispute with a governmental body.

However, as far as the new South African constitution is concerned the matter has far greater implications especially as far as relations are concerned. The reason for this is that the 1996 constitution contains most significant chapters concerning relations, involving virtually *every single member of society in South Africa*, namely chapter 2 - *the Bill of Rights.*

The Bill of Rights, which is most comprehensive, is purported to be "a cornerstone of democracy in South Africa" (section 7(1)) and "The State must respect, protect, promote and fulfil the right in the Bill of Rights" (Section 7(2)).

It is obvious that a relationship of the highest intensity is created through the Bill of Rights, between the state and its subjects. The watchdog in this regard is, of course, the courts. It is also clear that, by virtue of the fact that the Constitutional Court, as the final arbiter on constitutional matters, and the fact that the Bill of Right forms part of the Constitution, is the final guardian over the rights included in the Bill of Rights. The relations created by this situation are indeed multifaceted. Not only must the Constitutional Court guard the relationships between government and society and between governmental body and governmental person, it must also guard the relationships between persons and persons - all of this revolving around the simple fact that the many clauses contained in the Bill of Rights must be properly interpreted. Add to this the fact *that the*

interpreters are human beings, each one having his own subjective sense of values.

All of which makes the Constitutional Court a principal actor in inter-, intra- and extra-governmental relations arenas in the Republic.

Provincial Government

The relations between the government and the provinces are set out in chapter 6 of the constitution.

6.5.1

A New System and New Provinces

An entirely new system of provincial government is introduced in the new constitution.

The former provincial councils which were originally established in terms of the 1910 constitution (the Transvaal, Cape Province, Natal and the Orange Free State), remained in force in the 1961 constitution but the councils were entirely excluded from the 1983 constitution.

The areas of the four provinces remained intact, and these provinces were governed by an administrator and an executive committee appointed by the state president.

In terms of the new constitution the four provinces have been abolished, and nine new provinces as indicated in section 103 of the Act are established as follows:

Eastern Cape
Mpumalanga
KwaZulu-Natal
Northern Cape
Northern Province

North-West
Free State
Gauteng
Western Cape

6.5.2

Elections for Provincial Legislatures

Members of the provincial legislatures are elected on the same date as the members of the National Assembly on a separate ballot paper.

The allocation of seats among the various participating parties in the election is also on a proportional basis in accordance with provincial lists submitted by the parties.

6.5.3

Provincial Executive Authorities

(a) The Premier

The executive authority of a province shall vest in a premier (section 125 of the Act), who must exercise and perform his/her powers and functions subject to the provisions of the constitution.

Note that the office of premier replaces that of the former administrator of a province, who was appointed by the state president.

The premier is elected in terms of section 128 of the Act by the provincial legislature at its first setting after it has been convened.

The election of the premier takes place in accordance with the provisions of schedule 3 to the constitution, that is, basically by means of a secret ballot of all the members of the provincial legislature. The candidate receiving a majority of all votes cast is elected premier.

(b) The Executive Council

In terms of Section 132 of the Constitution the Executive Council consists of the premier and not more that ten members appointed by the premier from the members of the provincial legislature.

The premier of the province determines the specific portfolios to be allocated to each participating party in accordance with the number of portfolios allocated to the parties, and after consultation with the leaders of the respective parties.

6.5.4 Provincial Finances

Provinces are entitled to an equitable share of revenue collected nationally, based on a percentage of income tax collected in the province, and a percentage of value added tax. All percentages are to be fixed by an Act of Parliament (section 214 of the Act).

Provinces may also levy taxes, surcharges or levies, provided they are authorised by an Act of Parliament. Provinces may raise loans for capital expenditure only.

6.5.5 Powers of Provinces

The legislative powers of provinces are contained in schedule 5 to the Act. These powers do not significally differ from the powers which were granted to the previous four provincial authorities which existed under the previous government.

It must also be borne in mind that the government is a government of national unity, and although it may appear that aspects of federalism are present in the allocation of powers to the provinces, federalism is, in fact, absent from the constitution. The relations between the government and the provinces are based on purely unitary principles, as described in chapter 5.

6.5.6

Provincial Constitutions

In terms of section 142 of the constitution, provincial legislatures are empowered to draw up provincial constitutions for their respective provinces. Such provincial constitutions will be of force and effect only after the Constitutional Court has certified that none of its provisions is inconsistent with any provisions in the national constitution. These constitutions will generally form the basis of relationships between the provincial authorities and the citizens of each province.

6.5.7

National Council of Provinces

A most significant change in emphasis in relations between the national government and the various provincial governments is the introduction and establishment of a *National Council of Provinces*, which, together with the National Assembly constitutes the parliament of the Republic (section 42(1) of the Constitution Act 1996).

The National Council of Provinces is composed of a single delegation from each province consisting of ten delegates.

All legislation must be passed by government. The National Council of Provinces represents the provinces to ensure that provincial interests are taken into account in the national sphere of government (section 42(4)).

Extended provisions are made for voting procedures in parliament, but generally, any bills amending the constitution must be supported by the votes of at least six provinces.

The importance of the establishment of the National Council of Provinces lies in the fact that the provinces are now drawn directly into the legislative process, thereby creating relations of *high intensity* between the national government and the provinces. Previously, provinces were generally left to their own devices (within the controls which apply in a unitary state).

In a later chapter (where relations in other countries are compared with those in South Africa), the question of *access* is dealt with as an important catalyst for intergovernmental relations in France in particular. This present legislative process in South Africa, where the national government and the provinces (through the National Council of Provinces) meet to form the two pillars of parliament, undoubtedly provides a meaningful method of *access* between the *two governmental* sectors. This can only lead to an increase of meaningful relations between the national and provincial bodies.

6.5.8 Commission on Provincial Government

In terms of section 163 of the *Interim* constitution of 1993 a Commission on Provincial Government was established by the president to advise on various matters concerning provincial affairs. (This commission is *not* included in the final 1996 constitution). The commission issued a progress report for the period June to December 1994, in January 1995 (Commission report1995).

It is interesting to note that the commission identified a number of crucial issues to be clarified and resolved, the first issue being "(a) The relationship between powers of national government and provincial government (p 8)".

This is another indication of the importance being attached to the question of relationships between the government and governmental bodies.

NOTE: It is of importance to note that provinces have *no autonomous powers*. Section 100 of the Constitution states: "When a province cannot or does not fulfil an executive obligation in terms of legislation on the Constitution, the national executive may intervene by taking appropriate steps to ensure fulfilment of that obligation ..."

6.6

Local Government

In terms of chapter 7 of the constitution extensive provision is made for the establishment and development of local authorities and for powers and duties allocated to them.

As far as the question of relations is concerned, local government will continue to be under the control of the provinces as was the case since the establishment of the Union in 1910. This means that the so-called "autonomy" of local government is still virtually non-existent as previously, and all power still vests in the respective provincial authorities.

No extended provision has been made for further financial resources (a complaint of many years' standing), except that section 214 to the Constitution Act provides that an Act of Parliament must provide for "the equitable division of revenue raised nationally among the national, provincial and *local* spheres of government".

It is to be expected that the government will have to re-assess its financial relations with local government. There are large numbers of deprived communities throughout the country, and the government will be compelled to investigate carefully its subsidy policies and general financial relations as far as local government is concerned, simply because it is obvious that existing communities will not be able to finance essential upliftment programmes without considerable assistance.

A welcome improvement in the relations between local government and the higher bodies has however been provided by means of modes of *access* into the structures of the higher bodies.

First, in terms of Section 67 of the Constitution, the following provision is made:

"Not more than ten part-time representatives designated by organised local government... to represent the different categories of municipalities may participate when necessary in the proceedings of the national Coun-

cil of Provinces, but may not vote."

Second, in terms of section 220 of the constitution a Financial and Fiscal Commission is established to advise the state on financial matters.

Section 221(1)(c) provides that, among other, *two persons nominated by organised local government* will be appointed to the commission.

These two provisions in the constitution constitute meaningful *access* methods for local government which would also lead to an improvement of relations between the various governmental bodies.

6.7 Some Significant Provisions Concerning The Advancement of Relations

In addition to the fundamental provisions of the Bill of Rights as contained in chapter 2 of the constitution, which creates an intense relationship between government and subject, there are a few further provisions which also affect relations considerably. These are contained in chapter 9 of the constitution and are aptly termed "State Institutions Supporting Constitutional Democracy".

6.7.1 Public Protector

The public protector, the successor to the former ombudsman of the previous government, has the power "to investigate any conduct in state affairs, or the public administration in any sphere of government, that is alleged to be improper or to result in an impropriety or prejudice" (section 182 (1)(a) of the Constitution Act).

This power of the public protector is, therefore, primarily aimed at ensuring that the relationships as required by the fundamental *requirements of*

administrative law, as set out in a previous chapter, viz for example, actions must be authorised; all actions must be within the law; all procedures required by law must be complied with; the miscarriage of justice must be avoided; discretion must not be improperly exercised, and actions of officials must at all times comply with the requirements of reasonableness, integrity and unimpeachability.

It is obvious that the relationships required by the provision of administrative law are of the utmost importance in governmental matters, and that the duties of the public protector in this regard are therefore of fundamental necessity for intergovernmental, intra-governmental and extra-governmental relations throughout the entire process of government, and of public administration in general.

6.7.2 Some Further Provisions

There are a few other commissions provided for in the constitution, which are generally also intended to improve relations on all of the *inter-, intra-* and *extra*-governmental levels, and they are mentioned here merely to complete the picture of the importance of governmental relations as portrayed in the constitution generally:

- Human Rights Commission (section 184)
- Commission for the Promotion and Protection of Rights of the Cultural, Religious and Linguistic Communities (section 185)
- Commission for Gender Equality (section 187).

7 Bargaining and Negotiation in Governmental Relations

7.1 Introduction

Decision-making is a deliberate human behavioural action of selecting from alternative choices that activity which is designed to solve a problem or to achieve a goal. (Hanekom 1987:13). Hanekom also states that a decision "is but a moment in an ongoing process", while at the same time he acknowledges that in making a choice between alternatives, numerous related actions are required to be considered and or carried out before the decision-making "moment" eventuates.

Decision-making activities become manifest in the public administration process in various ways. Generally, state legislation and other regulatory directives dealing with the establishment and operation of subordinate governmental bodies are to a large extent peremptory (the *shall* syndrome). Because of this, it could vaguely be argued that the value allocations between the state and its subordinate bodies have become so rigidly institutionalised and fixed that the very act of decision-making has become a mere formality, requiring few or no choices between alternatives. This could also be taken to imply that decision-making "moments" in public administration are limited, and that ongoing actions in the making of choices have only a limited place in the decision-making process.

These assumptions concerning the decision-making process can be basically equated with the general theory of perfect competition in the field of economics - any possibilities of bargaining and negotiation, or of value judgements, are excluded as being superfluous (Coddington 1972:43). In other words, if this line of thought is followed still further, the state would provide those resources which it regards as being adequate, it would issue the necessary directives, and the subordinate bodies concerned would receive and utilise that which is given strictly in terms of the directives.

This type of approach could be valid to some extent in the Republic of

South Africa because of a large number of restrictive laws and regulations - but as a general criterion it does not really exist in a democratic state. In spite of the sometimes formalistic nature of state legislation, necessity dictates that there will always be an abundance of delegated legislation, with a wide range of discretionary powers (the so-called *may* provisions). The consequent exercise of such delegated discretionary powers would inevitably involve the consideration of alternative choices in seeking to arrive at the particular "moments" where decisions are to be made. And where the consideration of alternative choices is necessary in respect of any particular matter, bargaining and negotiation would inevitably play a role. Very few functions allocated to particular governmental bodies by delegation are exercised solely and in isolation by each body. Rhodes (1981:86) states in this regard that there is a constant interdependence upon and an interrelationship between governmental bodies (and also between governmental bodies and the private sector) in their search for the resources required to carry out their respective functions - "resources" in this particular sense meaning funds, information, enabling legal provisions, political resources, or anything else that would assist in the carrying out of a task. The search for such resources would require bargaining and negotiation to a greater or lesser extent.

The basic purpose of this chapter is to briefly investigate the role of bargaining and negotiation in public decision-making within the framework of governmental relations.

With this in mind, a brief survey will be made of the scope, problems, methods and processes of bargaining and negotiation in the context of their being essential aids to decision-making.

The Scope of Bargaining and Negotiation

The *Oxford English dictionary* provides the following brief definitions:

> To bargain is to treat with any one as to the terms which one party is to give, and the other to accept, in a transaction between them.

> To negotiate is to hold communication or conference with another for the purpose of arranging some matter by mutual agreement.

These definitions indicate that bargaining and negotiation are closely related activities, the main difference appearing to be that in the case of bargaining the question of agreement on exchange is the relevant factor while in the case of negotiation agreement is pertinent, although the question of exchange could also be relevant. These two activities obviously complement and even overlap each other, and in view of this, the discussions which follow will refer to negotiation only as being the collective word for both activities.

In determining the scope of negotiation the following factors will apply:

(a) The process of negotiation could vary from the most simplistic to the most complex. On the one hand negotiations could cover singular and elementary matters, but on the other hand negotiations could be of a highly complicated and extended nature (Coddington 1972:43). The protracted discussions on the future of the former South-West Africa during 1988 represent a typical example of this type of negotiation (bearing in mind that the bargaining action was especially relevant in this particular instance).

(b) The negotiating process could vary between a situation of bilateral monopoly, consisting of two single participants at the negotiating table (Siegel & Fouraker 1960:1), and multilateral participation by a large number of actors.

(c) Negotiation is subject to a wide behavioural scope, running through attitudes such as honesty, bluffing, brinkmanship, coercion, blackmail, manipulation, power exertion, intransigence, antagonism, deceit, and probably a number of other human attitudes (Coddington 1972:44).

(d) As a factor in decision making negotiation will initially be based on expectation in the face of uncertainty of the outcome. In other words the ultimate reaching of a final decision-making moment may even appear to be remote at the commencement of negotiations.

(e) Any decisions which may be arrived at as a result of a negotiating process would probably have temporal limits - they would be subject to

review, revision, re-evaluation, revocation or renewal (Strauss 1978:5). This means that negotiation can hardly ever be negotiation for all time in respect of any particular matter.

(f) Negotiation is essentially a relationship situation in which the abilities of the various participants to gain their respective ends are dependent to an important degree upon the choices and decisions that each opposing participant may make (Schelling, 1960:89).

The Scope of Decision-Making

It has been indicated that a decision is but a moment in an ongoing process, but that the decision-making process could take some considerable time. Choices involve the objective consideration of available information and the analysis of various possibilities and preferences. Choices also involve knowledge of different decision-making approaches. Furthermore they would involve the necessity for applying different skills in the utilisation of various facts and values, in order to finally make a deliberate choice between a number of alternatives. All this means that the decision-making process is a complex phenomenon with many facets (Hanekom 1987:13). Participants in the public administration process share a common interest in arriving at satisfactory decisions, especially in view of their joint efforts to promote the welfare of the community. In their efforts to achieve that goal the participants would probably have divergent views, values and objectives, and that would make negotiation an essential activity in the decision-making process (Ingram, 1977:501).

The Scope of Governmental Relations and Negotiation

The contemporary state consists of a large and varied number of public institutions, operating by means of many public office bearers and officials. These institutions and persons are distributed haphazardly through-

out the country, and it would be well-nigh impossible to provide a single classification which could convey a true picture of their divergent natures, aims, functions and specific areas of operation. It is within these wide-ranging and complex frameworks that the problem of governmental relations is manifested. Perhaps Dwight Waldo's description (as was previously mentioned) of this problem is relevant to the complexity of the situation. He states that the problems of governmental relations are political, administrative, legal, constitutional, practical, theoretical, social, economic and ideological, and that those characteristics are interrelated and interwoven into a multitude of relations and situations (Hawley 1969:preface) which make the analysis and study of governmental relations most complex. It is within the framework of those relationships that negotiation also must inevitably take place, as governmental bodies (through their respective representatives) vie with each other for those resources which would enable them to perform their respective functions meaningfully and effectively.

7.5 The Negotiating Process

The negotiating process can be illustrated by means of two examples which will indicate two extreme negotiating situations, viz simplistic and complex situations. Within the bounds of the two extremes there may be a myriad of other situations, each with a lesser or greater degree of complexity.

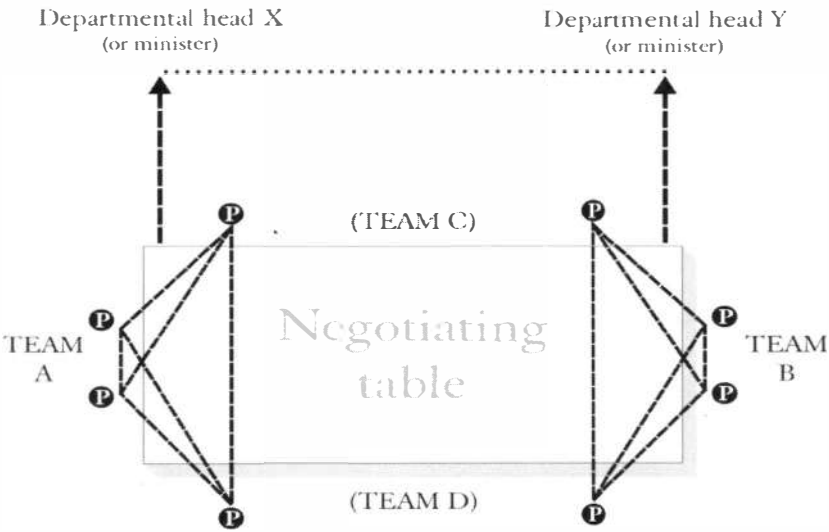
7.5.1 Simple Negotiating Situations

These particular situations do not require much attention or explaining. Negotiation between two participants (both possessing full decision-making powers) is direct and unfettered, and unhampered by extraneous circumstances of any nature. This type of negotiation, being of a basically straightforward nature, could result in decisions being taken speedily, depending, of course, upon the complexity of the subject matter. The simple form of negotiation is related to the concept of bilateral monopoly in the

study of economics "in which a single buyer of a specific commodity is confronted by a single seller of that commodity" (Siegel & Fouraker 1960:2). Each participant will attempt to achieve maximum benefit for himself.

7.5.2 Complex Negotiating Situations

Complex negotiating processes can be explained by means of the following illustration :



(P represents the participants in the various teams)

The following negotiating situations may be identified in the illustration:

(a) There are four participants within each team (A & B). Each participant, being an individual with his or her own personal value preferences, will be inclined to have his or her own attitudes towards the matters to be negotiated and for the sake of providing a united front there would have to be an initial and continuous horizontal internal negotiating process within each team, and also initial and continuous decision-making.

(b) Straightforward across-the-table negotiation will take place between teams A and B.

(c) Should the decision-making power not vest in the respective teams, they will be required to constantly consult and negotiate vertically with their respective departmental heads or ministers (X & Y), as the negotiations at the table progress.

(d) A complicating factor could enter the relations and negotiations when departmental head (or minister) X and departmental head (or minister) Y involve themselves in mutual sideliner across-the-air negotiations on matters on hand, based on inputs from their respective teams.

(e) It is feasible that the negotiating table could also accommodate further teams (C & D), which would enhance the negotiations and relations to a more highly complex criss-cross horizontal and vertical negotiating situation, infinitely complicating the already difficult processes enumerated under (a) to (d) in respect of teams A and B. (In this respect also the 1988 negotiations on the future of South-West Africa are a typical example of this type of situation). It is evident that in a complex negotiating process as described above, negotiations could be protracted and difficult, which could aggravate the decision-making process. It is evident that a large number of secondary decisions would probably have to be made during the negotiating process. The final decision-making "moment" will occur only after the teams around the table reach complete agreement on all points, and after they have reported to their respective department heads or ministers (should that be required), on the terms of any agreement reached.

7.6 Negotiating Problems

To add to the complexity of the decision-making process where negotiation plays an important role, there are a number of aggravating circumstances which could play a complicating role in the relations and in efforts to arrive at decisions. Some of the more important circumstances are dealt with briefly.

(a) It is sometimes difficult to ascertain where, or at which place in time, the negotiating process in respect of a particular matter commences. It is evident that some form of discussion, or even of preliminary negotiation and decision-making must precede the commencement of formal nego-

tiations. This view is aptly described by Cameron (1988:6). "Negotiations do not start around the conference table - this is but the culmination of a very protracted and subtle process." This could in some instances imply that the participants around the negotiating table could possibly already be committed to act under various sets of directives, or decisions already made.

(b) Time is invariably a complicating factor in the negotiating process. Short-term gain or gain in the long run will influence the negotiating strategies of the various participants (Coddington 1 972:45). Any form of delay from any of the participants could place the process in jeopardy if time is of the essence for other participants. If time is not of the essence, there is no saying when negotiation will lead to final decisions being taken. All kinds of extraneous circumstances could then become complicating factors - financial aspects, changes in the composition of the negotiating teams, and sometimes even the very reasons for the negotiations may lapse or change.

(c) The nature of the agenda on the negotiating table could be a complicating factor. An open agenda could lead to side-tracking aspects entering the negotiating process, and instances of "bargaining avoidance" (Rosenthal 1980:8) intended to deliberately delay or totally avoid the reaching of decisions, may even occur. A fixed and inflexible agenda, on the other hand, could contain and bind participants to such an extent that decisions could only be arrived at with difficulty.

(d) Pressman (1975:12) states that inter-governmental relations are in fact inter-governmental negotiations, in which the parties concerned are negotiating with each other on a wide range of matters in order to take specific decisions. That being so, a number of intergovernmental concepts could complicate the negotiating process.

(i) Governmental distance (Regan 1982:51-65) as a concept implies that every governmental body has a relative size within the framework of the total governmental hierarchy, based (in the case of local authorities, for instance) on its population, area of jurisdiction and financial resources. The implication, in the case of negotiation, would be that the smaller the relative size, the weaker the negotiating power and ability will be.

(ii) In terms of the concept of intensity of relations, relations between governmental bodies reflect dimensions of depth, since no two relations can be identical in every respect. The intensity of the relations between participants at the negotiating table will be influenced by factors such as their respective legal standing, their status, the degree of formality (or informality of the negotiations), and the behavioural attitudes already enumerated (honesty, bluffing, etc).

7.7 Methods of Negotiation

"In the game of chicken, victory goes to the side that more successfully demonstrates that it will not yield" (Fisher 1983:149). Fisher's statement goes some way towards describing in general the methods which could apply around the negotiating table. However, just as the game of chicken could, in practice, have unexpected results, an attitude or approach of this nature around the negotiating table, could place the negotiating process in jeopardy. Nonetheless, negotiating situations are essentially situations in which the ability of one participant to gain his or her ends is dependent to a significant degree upon the choices or attitudes of the other participant (Schelling 1960:89) and to that extent an element of ordinary market haggling will probably always be present in negotiation. Furthermore, negotiating processes must inevitably be seen as efforts to arrive at decisions in the face of uncertainty (Coddington 1972:47) in the sense of the absence of foresight on the possible outcome of the negotiations. Added to these problems cognisance must also be taken of a frequently used attitude of "pure bluffing" (Cross 1965:70-71) which can be considered to be "deliberate misrepresentation of the outcome expectations in order to influence the opponents".

Rubin (1983:145) has made a point that the process of negotiation is "one of the best human inventions" for the solution of problems, and consequently for arriving at satisfactory and acceptable decisions.

Two well-known authors in the field of negotiating problems and processes, OR Young and Roger Fisher, have researched means and methods by means of which negotiation can be utilised in ways which could avoid many problems that negotiators may encounter, and two of the more impor-

tant of these are briefly discussed.

(a) The availability and possession of information play a crucial role in successful negotiation. (Young 1975:9). Apart from the obvious requirement that a negotiator should have available all the relevant information concerning the matter in hand, his negotiating powers could be strengthened if he also has available adequate knowledge about the participants at the other end of the table, concerning, for example, their possible range of alternative choices, their preferences, and their probable reactions to specific proposals and suggestions (Young 1975:18).

(b) Possessing or acquiring the necessary negotiating power increases chances of success at the negotiating table, because it provides the ability to influence others (Fisher 1983:152). Fisher believes that the negotiator must be able to answer two questions with regard to negotiating power, viz how to utilise such power as he may have, and how to enhance that power. He provides the following checklist for utilising and changing negotiating power (p 153): the learning of negotiating skills; the establishment of good relationships before and at the negotiating table; the search for all possible alternatives; the search for "elegant" solutions to problems; the development of objective criteria and standards of legitimacy; and the planning and demonstrating of valid commitments to the matter at hand.

In terms of this Fisher checklist, the mere possession of power does not necessarily provide any advantage at the negotiating table. The advantage is gained rather by the manner in which power is utilised.

In the presentation of this short chapter on the negotiating process, and particularly as an aid to decision-making within the framework of governmental relations in public administration, it would be appropriate to conclude with a short summary of requirements for successful negotiating, as advocated by Jeffrey Rubin (1983:45). He states that a negotiator must

(a) be aware of the difficulties which could confront the participants around a negotiating table;

(b) avoid attempts to always look good in the eyes of the others;

(c) be sensitive to the other' s moves and gestures;

(d) help to instil a sense of negotiating competence around the table;

(e) avoid any form of intransigence; and

(f) be sensitive to any form of possible conflict which could jeopardise the negotiations.

7.8 Bargaining Power

The concept of *bargaining power* manifests itself mainly in the field of labour relations, where employer and employee negotiate over conditions of service. However, in government generally there are constant negotiations over a wide range of matters, in which bargaining power plays a prominent role.

Wherever one body possesses or controls a facility which is sought after by another body, the question of bargaining and negotiation becomes relevant as the respective parties jockey for maximum advantage. The outcome of this bargaining process will generally favour the possessor of the greater bargaining power, which can be determined by one or more of the following factors:

- Bargaining power is influenced by the respective hierarchical positions of the participating parties. A higher governmental body or person would generally have a greater relative bargaining power than a lower body or person.

- The nature and measure of interdependence between the two groups will have a bearing on the bargaining power.

- The degree of relative autonomy of the parties will act as a determinant of their respective bargaining strengths.

- The history and nature of the co-operation or competition between the parties will be a factor in determining the bargaining power.

- Bargaining power can also be influenced by behavioural actions in a variety of mannerisms - by manipulation, coercion or persuasion.

Naturally, in spite of these factors, bargaining power will inevitably be

limited or extended by legal enactments, or by specific rules and regulations laid down for particular instances or circumstances.

Above all, most important, however, is the fact of the ever-presence of *people* who conduct the bargaining process and who create the relationships flowing from the process. Irrespective of any rules and regulations, and notwithstanding the influencing factors mentioned above, the subjectivity (or objectivity) of the participants, and their general demeanour (dominating, submissive, stubborn) will to a marked extent determine the relationships and the possible outcome of the bargaining.

Bargaining power can thus be considered to be a relative concept, which may be subject to any of a large number of factors and diverse influences.

On the whole, the bargaining power in a particular case will vest in those persons who prepare themselves properly on the subject matter of any bargaining get-together, and who have the further ability to take cognisance of all the possible extraneous influencing factors, and to utilise those factors to the best advantage.

7.9 Complexity of Negotiation and Bargaining

While it may be said that a decision is but a "moment" in an ongoing process, those actions required to be considered and executed before the "moment" arrives, could be complex, also because different decisions may require different decision-making models and different skills in the application of facts and values (Hanekom 1987;13). Whatever models or skills are applied, however, the negotiating process would invariably find a place somewhere along the decision-making line when making choices between alternatives. This line of thought is clearly illustrated by Bacow and Wheeler's statement that one of the great virtues of applying decision analysis to negotiation is the fact that it combines such variables as uncertainty and time into a single process (Huelsberg & Lincoln 1985:127). Negotiation as part of the decision-making process in public administration is of particular importance as it is applied in an overall environment where all the participants work towards a common goal - arriving at decisions aimed at the advancement of the general welfare of the community.

8 Some Cross-National Patterns of Governmental Relations between Central and Regional Governments

The study of governmental relations within states has become an important aspect of the study of government in recent years - and the vertical relations between the central and local authorities have dominated these investigations.

This phenomenon can be ascribed to a number of circumstances which pertained after the second World War II. First, comprehensive reconstruction investigations were undertaken in a number of European countries, following the devastation which occurred in cities and towns as a direct result of the war activities. The underlying principle in these investigations was that a universal shortage of funds made it imperative that the reorganisations should be undertaken as economically as possible.

Greater delegation of powers was also investigated because this would enable local government bodies to fend for themselves instead of looking to the central government for funds.

Because of the divergent approaches to the creation and maintenance of relations between the central and local governments in different unitary states, cross-referencing could possibly lead to more acceptable and meaningful understanding of the methodology applied in the various states in this regard.

8.1 Cornerstones For Cross-National Comparison

It would serve no real purpose to select and compare the *governmental systems* of various states, as this would not bring us any nearer to comparative governmental *relations*. It is therefore rather necessary to seek and apply those criteria which could act as catalysts for relations between the central and local authorities of the respective states selected for comparison.

For this purpose two of the more important catalysts have been selected namely *access* (that is, those channels of communication which are available to local authorities and provincial governments in their dealings with the central government), and *control*, because control always creates basic relations between governed and government wherever it is applied. The essence of these catalysts will be briefly explained.

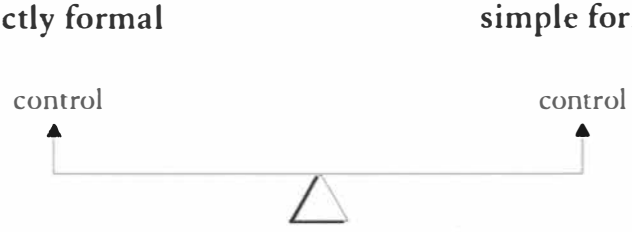
8.1.1 Access

Access on governmental level refers to channels of interpenetration between central, provincial and local authorities, by means of which these bodies can create relations on both formal and informal grounds. This can be accomplished in various ways, by means of direct personal contact, through committees or associations, and also through statutory bodies. Each method of access creates its own particular types situations of relations between the higher and the lower authorities, and each state applies its own methods by means of which access can be arranged to suit local circumstances.

8.1.2 Control

The political supreme body created by the electorate must eventually give account to the electorate on its actions and also the actions of those subor-

dinate bodies created by it. For this very reason the introduction of *control* is so necessary and consequently, particular control patterns are created between the higher and lower authorities. The basic reason for this is that the control actions generally become manifest on any given point of a *linear control scale*, as indicated in the following simple sketch:



Moving to the left from the centre point of the linear scale, the control action becomes more and more strict and formal. On the other hand, a movement to the right causes a gradual loosening of control until a position of simple informal control is reached. The eventual point of control on the linear scale will determine the nature and extent of the relations between the central and the local authorities in any particular state.

By means of cross-national comparisons between the various states, similarities and differences can be determined.

With the above information at hand, it now becomes possible to compare relationships between central and local authorities in various states, and for this purpose Great Britain and France have been selected to compare with the Republic of South Africa, for the simple reason that all these states are in essence also *unitary* states.

8.2 Access as Catalyst for Relations

8.2.1 Great Britain

A number of channels of communication between the central and local authorities in Britain have developed through the years in terms of which

local authorities obtained access to the central government. Access can take place between *persons* (political officers and officials), by municipal associations and also by means of bodies created by statute for this purpose.

(a) Access Through Persons

This mode of access is of a fluctuating and *ad hoc* nature, and is frequently informal. Personality traits of the participants form an important part of this type of relationship, and could therefore also fluctuate between very good and very bad. Nevertheless, officials of the lower order do get the opportunity to create relations and to discuss their problems with persons of the higher order.

(b) Access Through Associations and Institutions

British central government generally takes pride in the fact that access by the lower authorities has virtually become part of the constitutional process and that no governmental statutes are considered or approved without consultation with one or more of the local government associations (Page & Goldsmith 1981:81). Some of these associations are the *National Association of Local Government Officials (NALGO), The Society of Local Government Chief Executives (SOLACE)* and *The Chartered Institute of Public Finance and Accountancy (CIPFA).* These are all national municipal associations. There are also a few associations of municipal political officials, such as *The Association for County Councils (ACC), The Association for Metropolitan Authorities (AMA), The Association for District Councils (ADC), and The National Association of Local Councils (NALC)* (Byrne 1983:246).

The primary objective of these associations is to promote the general interests and the interests of local government by means of access to the central government for the discussion of matters concerning local government. In respect of very important matters arrangements are made for joint action by the associations (Byrne 1983:247). As stated, these associations enjoy wide acceptance by the British government. However, the importance of these associations as pressure groups must not be overemphasised, because often they are simply used by the British government as sounding boards. Nevertheless, they remain important access instruments for the creation and maintenance of mutual relations between central and local government.

(c) Statutory Access

Access machinery for *personnel* matters was created in Britain as long ago as 1944 by the establishment of a *National Joint Council for Local Authority Services* (Byrne 1983:169). This body consisted of approximately forty separate committees representing a diversity of trades and professions on local government Level. A *Local Authorities Conditions of Service Advisory Board* was responsible for co-ordinating the activities of all the committees (Byrne, 1983:286). What is regarded as probably the most important access body in Britain is the *Consultative Council on Local Government Finance*, established in 1975 (Byrne 1983: 236).

This consultative council draws local government within the orbit of the central government's overall budgeting machinery. The main objective of the Council is to discuss financial policy matters on a mutual and regular basis. Local government finances especially are discussed and analysed.

Although this council therefore appears to be a controlling body, it nevertheless gives local government direct access to governmental discussions on financial policy trends of the central government. This type of dialogue does a lot to stabilise and promote relations between the central government and local authorities, especially in the light of very stringent financial control measures of the British government (Byrne 1983:237) and which have already been referred to in previous chapters.

8.2.2 France

A number of interesting access methods promoting relations between the central government and local authorities are to be found in France.

(a) Access Through Individuals

An important access catalyst between the government of France and its regional and local government bodies is found in its system of *cumul des mandats* which has applied in the public services since the nineteenth century. In terms of this system political office-bearers in France may hold two or more offices at one and the same time. In this regard it appears that

more than 90 per cent of the senators in the central government are at the same time also mayors, or councillors of municipal or regional councils (although certain restrictions were applied in 1986).

The duality principle embodied in the *cumul des mandats* results in an intimate access facility between local and regional bodies and the central government. Relations between the central and lower governmental bodies are facilitated and promoted to a great extent because of the interpenetration into state activities and vice versa provided by the *cumul des mandats*. Because of this mutual interpenetration, one-sided changes to the relations between central and local are not summarily forced upon local government. (Meny 1987:88). The system also facilitates local government relations and access at all levels of governmental sovereignty, and enables local government to make representations on all matters relating to local affairs.

(b) Access Through Associations

Local and regional authorities in France also have a strong access potential by means of associations of representatives. The more important of these are the *Association des Maires de France*, an association of mayors, and the *Presidents des Conseils Generaux*, an association of departmental executive officers. These groups provide a strong access mechanism. The *Association des Maires* is always strongly represented in the Senate through the dual membership of its members, and they are able to influence possible legislation concerning local authorities. Any governmental reforms concerning local government should at least bear the silent approval of these associations.

(c) Access Through Statutory Bodies

In view of the broad access spectrum of the associations, together with the extensive influence exercised by local and regional bodies through the system of *cumul des mandats*, no specific important bodies exist to provide for access and to facilitate relations between the central and regional and local bodies in France. The existing arrangements provide a virtual relational situation of osmosis as opposed to separation between the central and regional and local bodies, which makes official statutory bodies unnecessary. There are, however, some statutory bodies to control urban de-

velopment and land use but these are rather overall planning bodies which are not specifically directed to the creation of access for regional and local authorities.

8.2.3 The Republic of South Africa

Historically, the South African constitutional set-up is related to the British system of government, and systems of access between the central and regional government in South Africa show a similarity to those in Britain.

(a) Access Through Individuals

As in the case of Britain, personal communication between senior officers in local and regional government and the central government forms an important access basis. There are no specific formal arrangements for this type of discussion, although this may be done if the necessity arises. A typical example was that of the Croeser Working Group which was established by the then Minister of Finance in 1980, where lower and regional and central government officials met to discuss overall financial problems pertaining to central and local government.

(b) Access Through Associations

Also as in the case of Britain, a large number of associations, consisting of groups of officers or officials have access to the central authorities to discuss their basic problems. Apart from the numerous personnel associations, there are a few trade unions representing the interests of employees, such as South African associations of municipal employees, and those representing the employers, such as the Municipal Employers Organisation.

In addition to these associations there are municipal associations consisting of municipal councillors and a limited number of senior officials. These associations provide access to their various provincial bodies for the discussion of matters relating to their various local councils. Because of South Africa's transitional state, and in view of the fact that there are new provincial boundaries, these associations are also in a transient stage, and no specific names are mentioned.

(c) Access Through Statutory Bodies

(i) The Financial and Fiscal Commission

Probably the most important statutory body in the Republic which now provides access mechanisms between the central and regional and local authorities, is the *Financial and Fiscal Commission*, established in terms of section 220 of the Constitution Act. Among its members two persons must be nominated by organised local government. This commission must make recommendations to parliament concerning financial matters. This commission therefore provides an access platform for local government in its financial relations with the central government.

In addition to the establishment of the *Financial and Fiscal Commission*, section 163 of the Constitution provides that an Act of Parliament must be enacted to determine procedures by which local government may consult in the national or a provincial government, and to lay down foundations whereby local government representatives may be designated to the *National Council of Provinces*, and the *Financial and Fiscal Commission*. It is envisaged that when an Act of this nature is promulgated, it will provide significant access mechanisms for local government.

Regarding local government representation on the National Council of Provinces, section 67 of the Constitution provides that not more that ten part-time representatives from organised local government may participate in the proceedings of the National Council of Provinces, but they may not vote.

In spite of this last restriction, it is obvious that local government possesses a significant access mechanism in the National Council of Provinces.

(ii) Composition of Parliament

A most important access facility between the national government and the provinces is the fact that, in terms of section 42 of the Constitution Act, parliament consists of two statutory pillars, namely the *National Assembly* and the *National Council of Provinces*. This means that the prov-

inces are in effect part and parcel of the entire process - *a method of access which can hardly be equalled anywhere else in the world.* This also means that, by virtue of its access arrangements with the National Council of Provinces, local authorities also enjoy the fruits of this access between state and provincial bodies.

(iii) The Budget Council

Finally, access is enhanced by the establishment of the Budget Council by the Minister of Finance, where the Minister of Finance and the respective MEC's for finance of the provinces co-operate in dealing in the budgeting affairs. This mode of access for the provinces is a valuable instrument in promoting financial relations between the central and provincial governments.

8.3 Control as Catalyst for Relations

8.3.1 Great Britain

Apart from the general overall control by the central government over its subordinate bodies in a unitary state (which could be a relation of high intensity), financial control relations play an important role between the two levels of government, in addition to some rigid forms of judicial control.

(a) Financial Control

Authorisation to local authorities to perform a large number of functions leads to an equally large specific number of control measures, of which financial control measures are the most important. Financial control over local authorities in Britain has constantly bedevilled relations between the two levels of government (Byrne 1983:214). Local authorities in Britain are responsible for approximately 30 per cent of the total governmental expenditure annually. Almost one half of this local government expenditure emanates from the central government in the form of grants and subsidies. Because of this virtual imbalance the grants and subsidies from the

central government lead to the exercise of strict control over local government activities.

In terms of the "Block Grant System", for instance, the central government is empowered to "penalise" (by means of a reduction in the grants and subsidies) those local authorities which, in the view of the central government, spend more that their "true needs" justify under given circumstances (Byrne 1983:200).

The application of these financial control measures have caused much ill feeling between the central and local authorities, and much dissatisfaction exists in the relations between the higher and lower authorities. This state of affairs has led to the appointment of numerous commissions to investigate the problems.

Unfortunately these problems have become vital issues in *party political matters* in Britain, with the result that local government has become something of a political football, to the detriment of healthy and meaningful relations between the central government and local authorities.

(b) Judicial Control

Judicial control over local authorities, which causes many problems between the central and local authorities, is found in the *ultra vires* principle which exists within the general bounds of the famous British doctrine of the *rule of law* (Byrne 1983:65). In terms of the *ultra vires* principle, a local authority may not do, or undertake to do, anything whatever for which it does not possess *explicit* authorisation. This generally causes endless discussions and negotiations between the central and local authorities where specific legal provisions are vague, and this leads to unsatisfactory relations between the two levels of government.

8.3.2 France

(a) The Tutelle Relationship

An interesting feature of control over local authorities in France, and the relations which emanate from such control, is to be found in the principle

of *tutelle* which is prevalent throughout the governmental service in France (Ridley & Blondel 1969:104). *Tutelle*, which in essence means "guardianship", has generally been observed with suspicion by local authorities in France, because this form of control has been regarded as too stringent. The result has been that relations between the two levels of government have been strained. In practice, the *tutelle* relationship is something akin to a strictness as between a father and a son. However, it does appear that the existence of the *cumul des mandats* results in a more lenient application of the *tutelle* principle. According to Meny (Page & Goldsmith 1987:88) the *tutelle* principle of control over local authorities as applied by the French government can rather be likened to what Alexis de Tocqeville said many years ago: "The rules are rigid, but the practice is limp."

(b) Financial Control

Financial control in France, which is also subject to the *tutelle* principle, has always been considered to be too strict and detrimental to satisfactory relations between the central and local authorities. However, reforms introduced in 1981-1983 have to some extent neutralised the *tutelle* principle, especially in the financial control sphere. Local authorities were treated in a more liberal manner regarding the exercise of their functions and the manner in which their financial resources were dealt with. In some instances financial control was withdrawn in respect of subsidies and grants (Meny 1987:99). This has generally led to an improvement in the relations between central and local authorities in recent years.

8.3.3 The Republic of South Africa

As in the case of Britain and France, the situation in the Republic of South Africa, as a unitary state, is that local authorities are also subject to the political supremacy of the central government, and control over local authorities is therefore also comprehensive.

Financial Control

Financial control over local authorities in the Republic is generally not as rigid as in the case of Britain, for instance. Within the framework of the

general broad control measures over financial matters, expenditures by local authorities in the Republic are basically discretionary, provided that any proposed expenditure is not illegal. Reference has already been made to the Financial and Fiscal Commission as an instrument of access for local authorities. It is obvious however, that this commission is without doubt also a commission for *financial control* in terms of powers granted to it in terms of the constitution. Similarly, the Budget Council discussed under the *access* methods is also a significant *control* mechanism in the financial relations between central government and the provinces.

8.4 Summary

From the comparisons made in this chapter between Britain, France and the Republic of South Africa, it is of interest to note the various access and control methods in creating and maintaining relations between the respective central and local authorities in the three countries. For easy comparison, three *unitary* states were selected, because relations in *federal* states are founded on totally different principles which would have made comparisons virtually impossible. It would appear from these comparisons that the system of *cumul des mandats* as it exists in France (and which, incidentally is not permissible in either Britain or the Republic) creates a sound basis for meaningful relations between the central and local authorities, and which makes the establishment of formal access bodies virtually unnecessary.

As far as the *control* aspect in the creation of relations is concerned, it would appear that the South African system of control, (conveniently termed "relative autonomy") provides a much better basis for meaningful relations between central and local government than is the case in either Britain or France, where rigidity of control seems to predominate.

The ultimate objective of both *access* and *control* methods in any country, is to be found in the principle of *public accountability*, in terms of which the supreme political power must eventually give account to the electorate of its actions and the quality of its relations with other bodies during its term of office. It must also give account of how its actions during its term

of office have succeeded in improving the general welfare of its electors. What is of great importance, however, is the fact that Section 41 of the Constitution Act of the RSA (headed "Principles of Co-operative Government and Intergovernmental relations") states that an Act of Parliament must provide for structures and institutions to promote and facilitate intergovernmental relations, and it also provides for intergovernmental disputes to be referred to a court of law if such disputes cannot be settled amicably.

9 Evaluation

The study of governmental relations is for all practical purposes a study of aspects of public administration. Hence this subject should be studied as a phenomenon within the framework of the administrative process with regard to the well-known generic functions. Each function within the administrative process, from policy determination to control, may be influenced by relations which are essential for effective administration.

Normative and ethical requirements in governmental actions have always been a particularly important facet in the study of governmental relations, since they influence the fundamental concepts of relations in public and municipal administration. A study of norms is fraught with problems, since administration is conducted by *people*. And people, despite adequate guidelines for ethical behaviour, nevertheless tend to nurture own subjective norms and ethical concepts from time to time. Hence individual action may exert a considerable influence on relations of all kinds. This book has touched but briefly on the human aspect of relations, since a detailed study would not be in keeping with the purposes of this book.

In the introductory chapter it was stated that the study of governmental relations as a phenomenon is a relatively new concept and that the study of this phenomenon has to date been confined largely to a superficial and pragmatic approach. Articles and other publications on governmental relations tend to concentrate exclusively on the contextual aspects of governmental structures without paying due regard to the fact that these structures are merely the frameworks within which relations are established. Besides a discussion on governmental structures, which is essential in any book of this kind, the various types of relations (mandate, agency, partnership), the classification of relations as intergovernmental, intragovernmental and extragovernmental, and the influence of power on relations have been discussed at some length in an attempt to provide a sound foundation for the study of relations. In view of the complexity and extensive scope of this field of study, these discussions are by no means comprehensive but should nevertheless serve as a useful point of departure for further study.

The problematics of the study of governmental relations are very broad

and multi-dimentional. Not only are relations concerned with an ever-growing number of governmental bodies that penetrate ever deeper into society and human activities. It also concerns the fact that these governmental bodies and governmental requirements must be manned and applied by *people* - people who have their own subjectivities and sense of values. The quality and success of relations in the governmental sector will therefore also be dependent upon the behavioural patterns of *people*. Consequently, the study of governmental relations is not only the study of the interaction between and within governmental bodies and between governmental bodies and society in general, but it is also a study of the relevant actions of public officers and officials in their bi-lateral capacities as *production-oriented* and *people-oriented* public officers - production-oriented because they conduct their various tasks within the generic functions of the administrative process, and people-oriented because they must operate within, and in terms of, the identified ethical norms.

Because the administration of a country is a *political reality*, the study of governmental relations must also become manifest in practice. In this particular regard the identification and application of the four basic concepts, namely *governmental distance*, *intensity of relations*, *power dependence* and *bargaining power* should pave the way for translating governmental relations as a study subject into the practical world of administration. In this manner it becomes possible to analyse specific relations *qualitatively*, which must inevitably lead to greater efficiency and the improvement of relations in general.

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