

The Imperative of Co-operative Governance



National Conference of 8–9 May 1998

Conducted in Association with:
The National Democratic Institute for International Affairs, (NDI)
through a grant from the United States Agency for International Development





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Report of the
National Council of Provinces
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Background and Introduction

The National Council of Provinces is a new and developing institution. Its establishment in 1996 was a consultative process involving workshops in each of the nine provinces. This culminated in a national workshop towards the end of 1996 which gave the NCOP its' basic shape and procedures in line with the provisions of the new Constitution.

In the course of 1997 and early 1998, the NCOP held another series of workshops in each of the provincial legislatures to assess the progress made in provinces in getting to grips with the demands of the new national legislative process.

Towards the end of 1997, the NCOP had also commissioned a detailed study and review of the functioning of the institution as part of the European Union Parliamentary Support Program. The NCOP Study by Professor Christina Murray and others was completed in April 1998 and is the first comprehensive report to be produced on the NCOP.

Both the NCOP Study and the workshops in provinces had raised a number of important issues requiring attention and further clarification. One of the key recommendations of the study was that, since the NCOP is a new and developing organization, there was an urgent need to raise it's profile in the political arena and build a deeper understanding of the important role envisaged for the structure in the Constitution.

The Presiding Officers of the NCOP decided in early 1998 to convene a National Conference whose purpose would be to explore important areas of the functioning of the NCOP and also provide a forum for debate on some of the topical policy issues of the day. The conference objectives were, in the words of Deputy President Thabo Mbeki, "to assist in the process of the growth of this important institution of our democratic life, the NCOP."

Those invited to the conference included members of Parliament, representatives of provincial government and Members of Provincial legislatures, the South African Local Government Association, Directors General of national government departments and provinces, the senior management of Parliament, representatives of statutory structures such as the Human Rights Commission, Council of Traditional Leaders, Public Protector, the media and various groups monitoring Parliament.

The conference was sponsored by the National Democratic Institute (NDI) and was attended by its President, Mr Ken Wollack, who provided a short address to conference on the objectives of the organization and its program of assistance to the NCOP.



Program

The conference program started off with a keynote address by Deputy President Mbeki. This was followed by a series of panel discussions on the following subjects:

- legislatures and the oversight function
- public participation
- legislatures and the new budget process
- provincial government: where to now?
- employment equity and
- transformation of the public service: role of, and implications for provinces

Each panel consisted of a team leader and four or five panel members. The purpose of the panel discussions was to ensure broad discussion on some of the key issues facing legislatures and government in general.

The second deputy chairperson of the NCOP, Premier Mathews Phosa, provided the closing address for conference.

Keynote Address by Deputy President Thabo Mbeki

I am pleased to join the Chairperson in welcoming you to this important working Conference. Gathered in this room is an important component part of the political leadership of our country, mandated by our people as a whole to see our country through its first transition phase.

We meet here today further to discharge our responsibilities with regard to that mandate.

I would also like to extend a special welcome to our special partners, the National Democratic Institute who have supported and thereby enabled this Conference to take place.

The NCOP, the product of the Constitution drafted by the elected Constitutional Assembly, is barely fifteen months old. By any standards, it is a mere infant which, necessarily must suffer from teething problems.

Despite the peculiar South African presumption that all problems, especially those that are intrinsically the most complex, can be solved overnight, I do not believe that anybody would accuse us of self-exculpation if we say that naturally, the NCOP is afflicted by problems of infancy.

Accordingly, we meet here today to assist in the process of the growth of this important institution of our democratic life, the NCOP.



But I believe that as we deliberate among ourselves over the next two days, we must continue to be informed by the perspective which guided us as we drafted the Constitution which gave birth to the NCOP.

Two of the most important principles, which were part of that perspective, were participatory democracy and co-operative governance. We came to these positions not because we were particularly bright or inventive, but because we wanted to address the specific circumstances of our country, in a situation in which we had the possibility to draw on the accumulated wisdom and follies of the rest of humanity, and because we emerged out of our own definitive past.

The NCOP was conceived of as a critical vehicle for the achievement of these objectives. It must therefore succeed not because it exists as an institution, but because the vision of which it is an expression is fundamental to the success of the new democracy, which we sought to fashion.

Without seeking to be arrogant, we can say that the Council has elements of uniqueness in the context of constitutional systems internationally, it may therefore have significance in a manner that transcends our own national boundaries. The challenge to ensure its success, whatever its complexity, therefore becomes that much greater.

This conference has been called at an important point in the life of our new democracy. It is now a matter of months before we must once again face the electorate in South Africa's second democratic elections. In the nature of things, all of us will be called to account for work done or not done since the historic elections of 1994.

The question on everybody's lips will be - what have you done to provide a better life for me and my children? The masses will seek to judge us according to the contribution we shall have made, in the words of the Constitution, "to improve the quality of life of all citizens and free the potential of each person."

At this point, to plead institution failure may not be of much help, especially as institutions will be adjudged as not an end in themselves.

I say this to plead that what we do at this Conference should not be informed by the pressures of the need to secure electoral victories. Rather it must be driven by a common desire to ensure the permanent entrenchment of a system of governance founded on the fundamental concepts that, as South Africans, we share a common destiny and that the people shall govern.

Put in more direct terms, the NCOP provides a mechanism for harmonizing the interests of national, provincial and local government. Debates are aimed at achieving consensus on policy between the various spheres of government.

This point has been examined in close detail by the authors of a study on the NCOP. I refer here to the study by Professor Christina Murray and others, which was recently completed as part of the European Union Parliamentary Support Programme.



THE IMPERATIVE OF CO-OPERATIVE GOVERNANCE

Professor Murray outlines two competing views of the NCOP. It could be seen exclusively as an institution through which provinces ensure that national laws take their interests into account. This view would describe the NCOP as a Council of Provinces.

Yet another view would see the NCOP exclusively as an institution through which national government ensures that provinces act in a manner consonant with national objectives it sets.

But neither view is correct. To quote Professor Murray: "The NCOP is not either a House of Provinces or an institution through which provinces are committed to national policy. It is both."

Through the NCOP, national government is sensitized to provincial interests. Its own processes are accordingly enriched. But equally, the NCOP engages provinces and provincial legislatures in the formulation of national policy and demands that they do not become parochial.

By ensuring that national, provincial and local government work together in partnership, we ensure that the concerns of people on the ground are brought into the spotlight when we develop policy. By involving provincial and local government in national processes, we bring government closer to the people.

And so how do we measure the success of the NCOP!

There has been a tendency to evaluate the NCOP on the basis of the number of amendments made to draft legislation submitted to it.

What this amounts to is an impression that the NCOP is functional and effective only to the extent that it rejects legislation emanating from the executive and the National Assembly.

If the NCOP were to follow this approach, it would allow itself to be locked into a competitive mould that might be typical of other jurisdictions but which would constitute a departure from the vision and practice of co-operative governance to which the Constitution enjoins us.

There are other more constructive criteria by which to judge the performance of the NCOP. Some of the questions we must ask are:

- are provincial legislatures working to ensure that they engage their communities in evolving the important pieces of transformative legislation that has to be passed!
- to what extent are provinces evaluating legislative proposals emanating from the national executive against the conditions, which prevail in their areas!
- are provincial legislatures alerting national government to potential problems that may be encountered if particular policy proposals are pursued!

If the answer to these questions is in the affirmative, then we can say that the provinces are fulfilling their constitutional mandate.



There are other important questions that we need to pose and seek to answer. One of these is - how do we live up to the imperative of co-operative governance across narrow party lines, across provincial, regional and local boundaries!

Are we capable of crossing our parochial boundaries and thus agree on the issues, which would address the needs of our country and people and would constitute the substance of the matter, which the institutions of co-operative governance would address.

Beyond this, there are other matters we will have to consider. One of these is whether the provinces are making full use of the opportunity to participate in national policy formulation. The experience of the NCOP over the past year would seem to indicate that provinces are failing to make use of the possibilities afforded them through the NCOP.

It would seem that most provincial legislatures have not yet fully taken on board the implications the NCOP has for their own institutions. These have not yet undergone the kind of wholesale re-organization and re-orientation required if they are to function effectively in the NCOP.

Accordingly, it would appear that the NCOP is very often regarded as an "add on" function and not part of the core business of provincial legislatures.

Further, at the level of the executive, it would appear that in many, if not most provinces, there is minimal involvement by the provincial executive in debates at the level of the provincial standing committees, particularly when national legislation is discussed.

It would appear that MEC's consider participation in MINMEC's as the sum total of their contribution to the development of policy and have failed to grasp the significance of the role of the NCOP on intergovernmental relations.

As a result, legislatures do not have at their disposal the experience and expertise of MEC's and their departments when considering legislation that will impact directly on the lives of the people of the province. In most instances provincial legislatures approve legislation in the NCOP without having fully examined the capacity of the province to implement such legislation.

The final product that emerges from Parliament is impoverished because the kind of co-operation amongst legislatures and executives, demanded by the Constitution, has not happened.

Understandably, because the NCOP is still relatively new, we experience these and many other problems we have to grapple with in the effort to improve our participation in the NCOP.

These range from how to go about achieving proper mandates, co-ordination of work programmes with that of the NCOP, processing of information, to the lack of both human and material resources. The list might seem long but we are convinced that no problems are insurmountable.



I am certain that we would all agree that it is important to weigh those problems against the achievements.

1997 was a busy year for the NCOP. It involved provinces in passing 108 bills. The majority of the bills that were amended by the NCOP were section 76 bills, which affect provinces. This is a clear indication that provincial legislatures have decided to prioritize legislation that has a direct impact on the provinces.

But the real value the NCOP can add to the costly exercise of governance was evident in the last few weeks by the manner in which the NCOP dealt with the Eastern Cape intervention in the affairs of the Butterworth municipality.

Here was a situation where intervention was urgently needed to ensure that the people of Butterworth obtained basic services such as electricity and water refuse removal and sanitation.

It was also a situation in which, were it not for the NCOP's handling of the case, taxpayers money and government funds would have gone instead to costly and lengthy court cases involving the provincial and local spheres of government.

The NCOP stepped in and fulfilled its constitutional obligations by ensuring that the intervention was able to proceed and that services were reinstated. At the same time it ensured that the duly elected Butterworth Council was restored to its constitutional status.

The importance of the manner in which this was handled goes beyond the small town of Butterworth itself. Among other things, it clearly indicated the parameters of such future interventions.

I am informed that one delegate who spoke in the plenary debate on the Butterworth intervention said that he was able "to see for the first time what the NCOP is really about."

The Butterworth intervention has also highlighted the important role that local government has to play in the NCOP. It is to the credit of the South African Local Government Association (SALGA), who only joined the NCOP in February this year, that they so quickly grasped the importance of the Butterworth case and were able immediately to represent the interests of local government and play such a constructive role in reaching the final agreement of the amended terms of intervention.

The NCOP's handling of the Butterworth intervention has also brought to the fore the important oversight role the NCOP has to play in future.

If the NCOP is to fulfill its constitutional obligations with overseeing both provincial interventions in municipal affairs and national intervention in provincial affairs, it is obviously important that the NCOP works out a program of monitoring the relations between the three spheres of government.

This is a role that the NCOP has not yet begun to explore. I welcome the fact however that this conference will discuss the issue of legislatures and their oversight



functions and trust that the matter will not end up as a mere agenda item for today. The issue of the national legislative process itself needs to be addressed frankly and openly.

As part of this, it must now be clear to all of us that the success of the NCOP is dependent to a very large extent on the extent to which both Houses of Parliament are able to forge a good working relationship. While progress has been made in this direction, much remains to be done to improve the relationship between the two Houses.

Much of what I have had to say in this address has highlighted shortcomings and weaknesses as we strive to build this institution called the NCOP. Yet we can also see how much has been achieved in so short a period of time. Clearly we should not allow ourselves to be so overwhelmed by the difficulties we face that we do not see the possibilities that lie ahead of us and the greater capacity to move forward which experience gives us.

It would be a serious mistake if at this point I failed to recognize the contribution that the National Democratic Institute has made in helping the NCOP along its path of development. The NDI was one of the first institutions to offer assistance to the NCOP after its launch. It has remained a faithful and generous partner over the past eighteen months as this Conference demonstrates.

Our country and the NCOP in particular, look forward to a continued good working relationship with the NDI.

In conclusion, I wish to commend the NCOP for the initiative in conceiving of and organizing such a conference. I believe it is the kind of initiative, and willingness to explore beyond the boundaries of the traditional, which the Constitution requires of us if the NCOP is to fulfill its mandate of providing a national forum for the discussion of issues of interest to all structures of governance.

True to its mandate, the NCOP has succeeded in placing on the agenda here today important matters relating both to the functioning of legislatures as well as some of the more topical policy debates of the day.

The fact that we have gathered such a representative gathering of individuals and representatives from national, provincial and local government is testimony to the durability of the spirit and principles of co-operative governance enshrined in our Constitution.

I thank you for the honor of permitting me to address the conference and, on behalf of the national executive, wish you well in your deliberations today and tomorrow. Thank you.



Provincial Government – Where to now? Panel Discussion

PANEL MEMBERS:

- DEPUTY CHAIRPERSON BULELANI NGCUKA,
- PREMIER BEN NGUBANE (KWAZULU-NATAL)
- MEC MAX MAMASE (EASTERN CAPE)
- PREMIER NGOAKO RAMATHLODI (NORTHERN PROVINCE)
- MINISTER VALLI MOOSA (CONSTITUTIONAL DEVELOPMENT AND PROVINCIAL AFFAIRS)

One of the key panel discussions at the NCOP National Conference focussed on the future of provincial government. In his opening remarks at this panel, Deputy Chairperson Ngcuka said the question before the panel had deliberately been posed in a controversial fashion so as to ensure a vigorous response and discussion on such an important issue.

Mr Ngcuka kicked off the discussion by reminding delegates of the words of President Mandela in his address to the NCOP last year when he said a perception existed about provinces “that this sphere of government is a den of magnificent corruption, a centre of outstanding inefficiency and an arena of epic intra-party and inter-party battles and a platform for vibrant inactivity.”

This is far from the truth.

However, he said the perception persists. Public opinion surveys repeatedly show that the level of confidence in the provinces is low. The question the panel needed to discuss is whether there is any justification for this perception.

Deputy Chairperson Ngcuka said that the discussion had to start by asking the question - why do we have provinces in the first place? Why had South Africa’s constitution makers agreed to undertake the costly exercise of establishing the nine provincial governments?

The motive for a system of provinces with their own powers and functions could be traced back to one of the constitutional principles found in the interim Constitution which guided the drafting of South Africa’s new Constitution. Constitutional Principle 8 stated that “a unified South Africa shall not be an over centralized, impersonal and over bureaucratized country.”

“We wanted a government close to the people,” Mr Ngcuka said, “government that would allow involvement of people at every level possible. We feared the over-concentration of power in the hands of too few people. We wanted to avoid the abuse of authority that over concentration permits, the remoteness of decision-making it encourages, and the growth of bureaucracy it facilitates.”



“We wanted provinces that are economically and socially functional. We wanted to ensure coherent and meaningful planning and administration, We wanted provincial governments who would deal with problems of regional development, attend to the building up of social and economic infrastructure, encouraging cultural development and constructing the schools, hospitals, roads and irrigation projects required to satisfy the needs of the people in the area.

“In short,” he said, “we wanted more responsive and accountable government.”

Have we achieved this?

Mr Ngcuka said recent reports like the Provincial Review or so called Ncholo Report on Provincial Administration and the Report of the Presidential Review Commission indicated that there were serious problems with the provincial system of government in South Africa. The Ncholo Report, he said, had spoken of problems of poor leadership, mismanagement and lack of capacity in the provinces. It had also however pointed out that new policies were often set at national level without due consideration to organizational, financial and service delivery implications in provinces.

The Ncholo Report had said that national government departments were not providing adequate support to provinces. Provinces in submissions to the Presidential Review Commission stated this view more directly. This report had said that provinces expressed the view that they had been unfairly portrayed as failing rather than battling to cope!

The Commission was of the view that in the rush to devolve powers insufficient attention had been given to the capacity of provinces to assume these powers.

“Throughout our investigations,” the Commission reported, “it became clear that provinces resented being treated as bantustans of the national government.”

While the Commission accepted that this was not the government’s intention, it noted that national government often doubted the capacity of provinces to assume greater responsibility than they have at present.

The same concern at the capacity problem in provinces was expressed by a senior cabinet Minister who in a moment of exasperation pointed out that while there had not been adequate consideration of individual province’s capacity to exercise various powers, the lack of a spirit of co-operative governance between national and provincial spheres of government had added to a difficult situation.

He had the following to say to the Commission: “When we all came into government each and everyone looked after his(sic) own department and so you don’t like ... anybody to touch your turf. It became worse with the provinces. In 1994 all the Premiers were shouting: Give me my powers! My powers! ... And so we had to rush, work very, very fast to devolve powers directly to Provinces. And from then onward they didn’t want anybody from national government, What they expected from national government was money and nothing else but money. And it became very difficult.”



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Mr Ngcuka said the NCOP had been created to provide provinces with a direct means of participation in the national legislative process to ensure, amongst other things, that provincial considerations were taken into account by national government. However, the experience of the NCOP, as already expressed by Deputy President Mbeki, seemed to indicate that provinces were optimistic about the potential benefits of the NCOP to them, they were failing to make use of this new opportunity.

Despite the benefits of the system, the question therefore had to be asked whether the costs involved in maintaining nine provincial legislatures justified what we have been able to achieve thus far!

This was the challenge that Premier Ngoako Ramathlodi of the Northern Province took up when he began his input to the panel discussion. He agreed with Mr Ngcuka that the desire to take government closer to the people was the guiding thought behind the creation of provincial and local spheres of government.

However he returned Mr Ngcuka's challenge by asking whether the government actually believed in the system of provincial government. It is important to know, he said, whether we truly believe in it as opposed to simply providing for it in the Constitution.

He cited the example of the public service. The decision had been taken that there would be one national public service, regulated at national level with wage negotiations also at central level. Premier Ramathlodi said such decisions did not rest easily in a provincial system of government since provinces were not part of decisions taken at national level, such as the decision to retain the bulk of the civil service after the elections in 1994.

The implications of a national public service for provinces were so severe, he said, that it resulted in a situation where up to 80% of a province's budget was already committed to so-called statutory commitments based on decisions taken at national level.

Issues such as the rightsizing and functioning of government departments should be based on a comprehensive assessment of government. While much had been made of the Provincial Review or so-called Ncholo Audits, it should be remembered that national government had, at that time, not yet been investigated in a similar fashion.

There are no holy cows, Premier Ramathlodi said. One should not assume capacity where it did not exist. Public attention was so focused on whether national government should intervene and take over provinces, that it missed the important point that the Constitution also obliged national government to build capacity in provinces.

Premier Ramathlodi also criticized the operation of the various Ministerial Forums known as MINMEC's convened by national government. These structures, he said were not provided for in the Constitution but derived from the constitutional principle of co-operative governance.



In practice however, these forums had moved beyond policy co-ordination to co-ordination of implementation of policy. This, he suggested, made nonsense of the role of Premiers and provincial government as a whole.

The actual situation was one in which various national Ministers ended up being the political heads of various provincial departments and co-ordinating inter-provincial activity as well. The kind of confusion and duplication this resulted in, needed urgent attention if provincial government were to function effectively.

Despite these difficulties, he said, provincial government had made gains. One of its achievements he said was to give voice to the variances at provincial level. The provincial system, said Premier Ramathodi, allows people to express themselves in their own environment, culture and language in ways, which would not be possible at a central level.

Premier Ramathodi took provinces to task as well, for behaving towards local government in much the same way he accused national government of treating provinces. Provinces were in many instances, not allowing local government to play its' fullest role envisaged in the Constitution, he said.

It was becoming more and more clear, he said, given the state of uneven development in the country, that it was extremely difficult, if not impossible to build capacity at all three spheres of government. Priorities therefore had to be considered and hard decisions taken.

All of this, in Premier Ramathodi's view underlined the importance of a national indaba or gathering to discuss problems of government. The NCOP Conference, he said was a start and should be quickly followed up by an even bigger gathering of all stakeholders in government.

In direct response to Mr Ngcuka's challenge on whether the achievements of provincial government merited its continued existence and cost, he said he believed it was important to retain the policy-making authority of provincial government. This was the only way, in his view, in which regional and local community interests from the most remote areas of the country were able to make an impact on policy making at a national level.

Interestingly however, he said that the administrative capacity of provinces should not be strengthened. The administrative capacity of local government should be strengthened instead since this is where service delivery should take place.

This locally driven approach to delivery was in keeping with the African tradition, Premier Ramathodi said. A role had to be found for traditional leadership at the local government level, he said, citing as he saw them, the positive aspects of traditional system of government such as consultative government and self-supervision and discipline.

The rather controversial recommendations made by Premier Ramathodi that traditional leaders should head local government seemed to fly in the face of progressive thinking. However, he said that innovation was required if government were to function effectively.



He advocated a "dual" system in which traditional leaders headed municipal councils and took decisions with the council on municipal matters and on traditional matters would work with Councils of Elders and so on.

The role of provincial government as a bridge between national and local government, would be more cost effective, he said. One would not require the kind of political and administrative structures, which presently existed in provinces. He hastened to add that this approach did not amount to calling for an eradication of the provincial system of government but what he called a "fine tuning of the system as a whole."

In his input on the panel, Premier Ben Ngubane of KwaZulu-Natal Province, welcomed Premier Ramathlodi's remarks and said that were it not for the fact that he functioned at provincial level, Premier Ramathlodi would not have gained the wisdom and insight revealed in his input.

The fact remained, Premier Ngubane said, that national government was not in touch with regional and local developments "however hard they may try."

Provincial and local government was important, he said, because "it brings in the buy-in by the ordinary person... it creates credibility, there's empathy."

Premier Ngubane however took the argument a step further by stating that provinces required more powers if they were to fulfil this role effectively.

Development in South Africa can only succeed at the local government level, Premier Ngubane said. He took issue with the achievements of national government Ministers such as those of Minister Kader Asmal of the Department of Water Affairs and Forestry. Projects, which brought water to the people, had to be connected to broader developmental programmes at local level.

He went on to question the need for a national Ministry of Water Affairs, other than setting broad policy and legislation. The actual use of water, he said had to be managed at provincial and local government level.

Premier Ngubane spoke bitterly of what he described as KwaZulu-Natal's "emasculatation" with regard to forestry as well. The private sector, he said had succeeded in creating small to medium enterprises in the forestry sector. They were creating wealth and alleviating poverty while the province was prevented, he said from working in synergy with them because of the present system of government.

As Premier Ngubane moved on to criticize the Ncholo Reports and echoed Ramathlodi's frustration at the lack of control provinces actually had over their budgets due to national commitments, it struck many in the panel discussion, how similar the concerns of the two Premiers were. While there were political nuances in the different inputs, it became clear that, despite the difference in political party affiliation, the experiences of the two Premiers at the provincial level, it seemed, had taken precedence over narrow party interests.

Premier Ngubane expressed his own frustration perhaps in a more bitter and cynical fashion by stating bluntly that the perception in his own province was that they had



been “set up to fail.” His reasoning was as follows - provinces had little actual control over their finances, were unable to sustain the expenditure passed on to them arising from national decisions on issues such as wages and pensions, were forced to borrow money from national government, were caught up in a debt spiral and finally face the accusation from national government that they were “useless” and would have their functions take over by national government.

Premier Ngubane concluded by calling for the establishment of a standing commission in the NCOP to study all aspects of provincial government. This was necessary to ensure that the debate on the future of provincial government was not handled superficially in the media, as at present. Without such a commission which would take account of all views, he seemed to suggest that the present debate could end up being viewed as a justification of the present situation, a situation in which provinces had little power to intervene and ended up being “dictated” to from outside.

The input from MEC Max Mamase, on behalf of Premier Arnold Stofile of the Eastern Cape raised many of the same issues as those outlined by Premiers Ngubane and Ramathodi. However, he was at pains to emphasise, because of the history of the Eastern Cape province itself, the negative consequences of the heritage of provinces from the apartheid system of government.

Thus, he said in the former homelands, development had been the responsibility in the main of the Development Bank of South Africa. This resulted in a situation where virtually no infrastructure existed in the province.

To add to its difficulties, together with the complete lack of infrastructure, the province had also inherited approximately 150 000 civil servants from the former bantustans. After the process of re-organization, the province had been stranded with a so-called supernumerary staff of anything between 18 000 to 20 000 people.

In dealing with the question of the performance of provinces, Mr Mamase said, one had to take into account that in most instances provinces found themselves budgeting for this apartheid baggage instead of capital development.

Mr Mamase echoed concerns expressed by the previous two panelists, when he called for clarification of the roles of national and provincial government with regard to co-ordination of service delivery. “We all have the generalization that we should co-ordinate, but in reality we are not co-ordinating,” he said, “we have become implementing agents of government.”

As conference delegates listened to the tirade delivered by the two Premiers and MEC Mamase, many wondered how Minister Valli Moosa would respond on behalf of national government. As Minister Moosa began his response however, it was clear that there was no real cause for concern.

Being the skilled politician that he is, Minister Moosa had few difficulties in sidestepping the provincial broadside. It also became clear as Minister Moosa responded that he is deeply committed to the provincial system of government and shares many of the same concerns expressed by the provinces themselves.



He cleverly turned the provinces' tirade against them, by pointing out how futile it was to assume that all the problems rested either solely with national or provincial government. Many national Ministers, he said, would state that all the blame for the problems experienced by provinces, rested with provinces themselves.

What was called for, Mr Moosa said, was a "critical look at the provincial system of government rather than be comfortable in an analysis which says that all the problems we have in provincial government is caused by national government."

The impression was fast being created, he said, that the sole reason for national government's existence was to cause problems for provinces! One could be forgiven for imagining a situation in which national Ministers awoke each morning and thought "what can we do to the provinces today, how can we disrupt their work, how can we deny them more funds?"

On a more serious note, he said, it was important to remind the conference of why provinces had been included in the present constitutional dispensation.

As Mr Moosa continued to spoke, it became clear how easy it is perhaps to forget the state the country was in prior to the 1994 elections. The over-riding concern in the negotiations at Kempton Park had been, he said, "how to establish a non-racial democratic state which would not disaggregate itself, which would not implode from within ..."

It was vital he said that South Africa should avoid the unfortunate experiences of other post-colonial African countries which were landed with a situation of "permanent conflict" quite often on ethnic or language basis or on a basis of advantage versus disadvantage.

It would be dangerous, he said, to overlook the powerful forces, which often came into play in situations of transition. Forces, he said, which were unpredictable and led in many instances to a massive process of disintegration.

It was precisely in order to avoid such a situation, that the provincial system of government was necessary in 1994 and was still needed in South Africa today.

Mr Moosa agreed with the Premiers when he said that problems of capacity, efficiency and corruption should not be viewed as creations of the provinces, but problems which concerned government as a whole.

Even if provinces did not exist, structures would still be needed to carry out many of the same functions. Capacity therefore was not an issue, which was necessarily linked to the argument on the merits of the provincial system of government.

One could not judge provincial legislatures by the number of provincial laws they passed. The Constitutional Assembly, he said, had recognized that most legislation took place at national level and had therefore provided for the NCOP to ensure that provinces participated in the national legislative process.

He agreed with the Premiers that provincial politicians were more in touch with their own provincial realities. It was precisely these provincial realities, he said, which



should be brought to bear, through their participation in the NCOP, into national policies and laws.

Minister Moosa said he had no difficulties in “making a case for provincial government.” The size of the country alone, he said, required decentralization. Therefore, he agreed with the view that the idea behind provincial and local government was to take government closer to the people.

If elected politicians did not rule at provincial level, he said, bureaucrats would and it was far better to have decision-makers elected by the people.

He agreed also that provinces allowed for the expression of language and cultural variety. Without provinces, one could well have a situation in which there would be even greater concern than there is presently about whether or not cultures and languages are sufficiently accommodated within the present system.

While debates could continue about the limits of provincial autonomy, he said that one of the areas of reform in the provincial system, was the greater devolution of power from national to provincial - and even greater devolution from provincial to local government.

Mr Moosa cited the instance of health in which he suggested that virtually all the health functions were better handled at provincial and local level. Similarly, he said many of the current challenges in other areas such as education and policing could be resolved by looking at the possible role of local government.

While he supported the need for further financial decentralization, he said this had to be balanced with the need for equity, which could only be addressed at a central level. Nevertheless, he said, there was still room for considering increased revenue-raising powers for provinces within the present constitutional framework.

In yet other instances, he said, there was a need for greater centralization, The welfare function, he suggested, seemed to call for greater political centralization.

The discussion that followed the inputs from provinces and Minister Moosa and Mr Ngcuka, was short but lively. The first issue that arose from a provincial legislator, was that provincial legislatures did bring government closer to the people. The same delegate however was uncomfortable with Premier Ramathodi’s suggestions on bringing traditional leaders into local government. This would undermine democracy, she said, and would ensure amongst other things, that no woman ever headed local government!

The Director General of the North West Province, Mr Job Mokgoro, said the question posed to the panel should have been: What should be done to make provinces more effective? If one took the approach that one should question the existence of government because it was experiencing problems, then - if the approach was consistently applied - one could end up having to obliterate the entire system of government!

Unless the state was strengthened, he said, development was doomed. Mr Mokgoro went on to suggest that a “top slice” of the national budget be set aside for the purpose of training and transformation of all spheres of government.



From the Northern Province, MEC Collins Chabane seemed to agree with Mr Mokgoro that it was inappropriate for political leadership to be asking, hardly two years since the adoption of the Constitution, whether its fundamentals were wrong? The question, he said, should be whether government was doing all it ought, in order to make the Constitution work?

Mr Chabane generally took issue with what he saw as too much of an administrative emphasis in the inputs, and said that the decision to constitute provincial government had essentially been a political one based on political considerations. He seemed to echo Minister Moosa's assertion that the decision in favor of provinces was to ensure that South Africa dealt adequately with "the national question." The previous regime had created a situation in which people tended to identify themselves with groups rather than the nation as a whole. Provinces had been created, he said, because national government did not have the ability to deal with this fundamental political question.

MEC Kas Human of the Free State, said that all three spheres of government had the responsibility of improving the lives of the people and suggested a "bigger role" for the NCOP to play "to make sure that the provinces and national government are really carrying out their constitutional obligations to build capacity at the bottom, to bring money down to the bottom where things need to happen."

A delegate from Mpumalanga province brought the debate to a further level of reality by emphasizing the dire need for stability, since he cautioned, it would be difficult to create commitment among public servants that continually feared for their jobs!

A delegate from the South African Local Government Association highlighted the need for a change in attitude. National, provincial and local government, he said, represented in one sense "an African model of marriage." These partners in marriage, he said seemed reluctant to "hold hands and work together in building this family and that is the basis of our problems ..."

The last few delegates who spoke in the discussion, which included a Member of the National Assembly and provincial MEC, all called for the convening of another conference or forum where the debate could be taken forward. This forum, it was suggested had to involve all stakeholders and should enable government as a whole to set the agenda and lead the discussion.

In his closing remarks after the discussion, Minister Moosa thanked the NCOP for its initiative in organizing the conference. There was a need for such a discussion to begin, since there was a lot of disquiet about the future of provinces. His department, he said, looked forward to making a contribution to further discussion and would hold a further discussion with the NCOP on how the discussion should be taken forward.



Deputy Chairperson Ngcuka said that he would not even attempt to summarize the discussion, except to state that at the heart of the efforts in organizing such a discussion was to “place the NCOP in the centre of things.”

This, he said had been achieved.

“We came here to say that the NCOP is part and parcel of the national structures of government, here to resolve these problems. I think all of us are beginning to say the potential is there, that there is a place for us in the NCOP and we must begin to utilize it...”