

South Africa: Provincial Implementation of National Policies

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South Africans agree that change is essential and that it is not happening fast enough. Too few people have shelter, water, and access to basic health care and too many people are malnourished, uneducated, and unemployed. Provinces are key to dealing with these issues. Although the national government sets national policy, provides virtually all the financing, and prescribes the standards to which provinces must adhere, it is provinces that are expected to implement change.

The system of shared responsibility between provinces and the national government requires a great deal of cooperation between the two spheres. **Will the emerging practices of government in South Africa's new multi-level system ensure that cooperation occurs and that both the national and provincial governments can contribute in ways that strengthen democracy and contribute to the eradication of poverty?**

Each of South Africa's nine provinces has a fully-fledged legislature and executive on the parliamentary model. However, the central government is very strong. It has power over all but a short list of functions reserved for provinces and local government. The provinces do have the power to legislate on a list of matters critical in a developing country (such as education, health, and housing), but they share this authority with the central government and their main role is to implement the policies of the national government.

The decision to vest considerable power in the central government was in response to the massive transformation needed to undo the legacy of South Africa's apartheid past. The consensus has been that the transformation could not be ad hoc or dependent on the resources and commitment of individual subnational governments. Nor could the redistribution of wealth and opportunity be limited by provincial boundaries. It must be countrywide.

A provincial chamber in the national Parliament, the National Council of Provinces (NCOP), has been established to ensure that provinces participate in the passage of the national laws that the provinces must implement. In the National Council, each province has one vote and the support of five provinces is needed for a bill to pass.

In addition, the Constitution establishes "cooperative government" as an overarching principle of government. In all their activities, the national government and provinces must consult and cooperate. This means that executive intergovernmental relations, which have become a characteristic of federations worldwide, are formally required by the Constitution. When the national government develops policy in an area in which it shares responsibility with provinces, it discusses the policy with provinces at executive intergovernmental forums on an ongoing basis. To clinch this constitutional commitment to cooperative government, the Constitution also forbids a court from considering a dispute between governments, unless adequate attempts have been made to resolve the matter outside court.

Despite the commitment to cooperative government in the Constitution, many people think that federalism and the provincial system are not working. They point to relatively inactive provincial legislatures, the weakness of provincial administrations, the failure of the provinces to influence national policy through the NCOP, and the absence of any evidence that the distinct views of provinces are heard in policy debates.

Of course, shared powers and a strong commitment to cooperative government do not on their own determine the pattern of executive and legislative government. Three other aspects of South Africa's political landscape are critical to understanding current patterns of government.

First, South Africa is a one-party-dominant system heavily influenced by its Westminster origins. The African National Congress (ANC) controls the national government with an overwhelming 69 per cent majority of the vote in 2004 and it controls all nine provinces. In addition, party discipline – and loyalty – is strong. The individuality and innovation that a multi-level system is expected to bring has yet to be seen.

Second, apartheid left South Africa with a ragged and racially structured government infrastructure and very few skilled administrators. Governments at all levels, but particularly in provinces and municipalities, struggle with a lack of human capacity. For many, simply keeping up with the most basic responsibilities is a challenge. Effective participation in complex negotiation required to develop the multi-level system is beyond reach.

Finally, the beginnings of the system of multi-level government in South Africa were not auspicious. The governing ANC opposed the provincial system from the outset. Most people, including members of the political elite, remain unenthusiastic about it. It is viewed as an unwelcome compromise made to secure peace in the country at the time of transition.

Each of these features has a centralizing tendency. The system is controlled from the top and many provincial ministers regard the national minister for their line function as their “boss.” The relative inactivity of provincial legislatures encourages provincial departments to view themselves as agents of the central government, whose main role is to implement national legislation. This is reinforced by the fact that provincial premiers are “deployed” to the post by the national ANC; they do not gain office through autonomous politics at the provincial level. Real confusion also exists about accountability. If provincial ministers are responsible for implementing national policy, to who are they accountable? What is the role of the provincial electorate and legislature?

For some, the failure of provincial governments, and particularly provincial legislatures, is a fatal flaw of the system, because it means that multi-level government fails in one of its most important goals, which is to deepen democracy and thereby enhance accountability. For others – perhaps the more pragmatic – it reflects a compromise of regional accountability in favour of more efficient government that is appropriate in a young democracy with massive developmental needs.