

Democratic Party: Submission to Theme Committee 3

Intergovernmental Relations

1. Introduction

In a country with three levels of government it is inevitable that tensions will arise between different governments from time to time. This in itself is not unhealthy however, one wants those tensions to be creative, dynamic and constructive, not negative, sterile and destructive.

Intergovernmental relations are therefore of critical importance. The promotion of consultation, co-operation and co-ordination between national and provincial, provincial and local, and between provincial government themselves should enjoy a high priority.

These relations are generally best left to the development of a network of voluntary arrangements and mechanisms, although there is scope for some constitutional provisions.

Evolving voluntary and largely informal arrangements will be most conducive to the promotion of a culture of mutual respect and co-operation, and a tolerance of diversity and experimentation.

2. Current Constitutional Structures

These include the Financial and Fiscal Commission, the Commission on Provincial Government, the Police Board of Commissioners and the Committee of the Minister and MEC'S, and the Senate.

All of these bodies should in some form be provided for in the new constitution. The precise role of the Senate is being considered by Theme Committee 2, so no further comment is included in this submission.

Some form of commission on provincial government should be retained for a period of 10 years to mediate and, if necessary, adjudicate disputes between the national and any provincial government as to whether that province has the capacity to assume a particular power or function allocated to provinces in the constitution. After 10 years all provinces would be entitled to assume all such powers and functions.

3. Other Intergovernmental Structures

In addition to those mentioned above, there should be a Premier's Forum or Council, which should meet at least twice each year, and provision should be made for the Provinces to be empowered to establish "Inter-Governmental Consultative Councils" to assist in achieving

the necessary co-operation and agreement between the Provinces on matters of mutual interest.

Other structures should evolve and develop from these Councils and from the existing intergovernmental structures which have already come into being. Attempting to constitutionalise these fora, committees and councils is more likely to stifle their development than promote it. One cannot force unwilling people to co-operate without encroaching on their constitutionally prescribed autonomy.

In the sections on Provincial Finance, provision should be made to give the provinces the right to be heard by the Finance and Fiscal Commission, and by the national Minister of Finance, before the budget for any year is finalised - but no formal structure need be created to achieve this.

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