

INTERNATIONAL CONFERENCE ON COOPERATIVE FEDERALISM: NATIONAL PERSPECTIVES AND INTERNATIONAL EXPERIENCE

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Overview

- National Government; Nine Provinces; 283 Municipalities
- Architecture- Central, Provincial, Local. Each of them have their own executives & legislatures
- National Government- bicameral system: National Assembly & National Council of Provinces constituted by representatives of provinces
- The structure, composition and the its functioning influenced by the manner in which power and functions are distributed in the constitution
- The vast majority of revenue is raised by central government- 96% of provincial revenue comes in form of equitable grants. Local Government raises 90% of their budget themselves through local taxes and utilities

Context

- Unitary state with federal features – balance between functionality, aspirations of participatory democracy and negotiated settlement
- Levels of government are referred to as “spheres” which are “distinct and interdependent”
- The constitution distinguishes three sets of powers: Exclusive, Concurrent & Local Government

Intergovernmental Relations

- Categorization of a power determines functioning of a sphere and how it relates to other spheres:
 - I. Exclusive Powers e.g. Defence, Intelligence & Foreign Affairs
 - II. Concurrent Powers e.g. Health, Police, Education & Agriculture
 - III. Local Government- powers disaggregated from the concurrent powers- powers relating to built environment with subsidiarity
- Policy Development and Legislative Process
 - I. Exclusive national powers- Executive coordination through Presidential Coordinating Committee (PCC); Provincial role limited to advisory in legislative process; Section 78 legislation
 - II. Concurrent powers- Area of contestation; Policy coordination through national and provisional ministerial engagement (MINMEC) and Legislative oversight at National and Provisional Level; Section 76 legislation
 - III. Local Government is an area of governance hence participates in all coordinating bodies like PCC, MINMEC, MUNIMEC

Constitutional Arrangements

- Cooperative government regulated by chapter 3 of the constitution
 - I. Concurrent power: National government limited to policy development, setting and policing of minimum norms and standards, disaggregated implementation by provincial and local government
 - II. Imperatives in Chapter 3: Unity and indivisibility of the state, respect of institutional integrity of a sphere
 - III. Encroachment into another sphere permitted in cases of failure of implementation, but highly regulated
 - IV. Provincial parliament usually legislates around implementation
- **Judiciary: Constitutional Court deliberates upon encroachment and inter-spherical disputes after alternative avenues explored and NCOP pronounced**

Challenges

- Presently cohesion of policy influenced by persuasion of strong ruling party- arrangements not tested if political permutations change
- Judiciary plays inordinately influential role in the absence of clearly defined roles and policy vacuums
- Danger of over engineering in an evolving local government system
- Difficulties around asymmetry- requires imaginative approach

Thank you