

Accountability within the Governance of Intergovernmental Relations in South Africa

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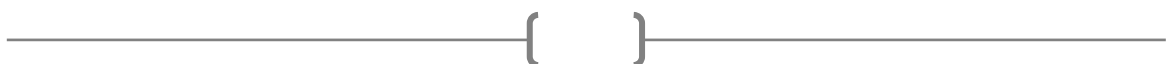
Pholo, Goitsione Moses Pholo

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Promoter: Dr Tania Coetzee

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Abstract

This study intended to investigate accountability, as advanced by public officials, elected officials, public and private sectors, stakeholders and the citizenry within the framework of governance and intergovernmental relations (IGR) in South Africa. In the process of the investigation, the study as guided solely by addressing the indicators outlined in its problem statement, and the aims and objectives as the frame of reference for the investigation.

Accordingly, the study was of the view that there were basic and key concepts of accountability within the governance of intergovernmental Relations (IGR) that needed to develop the public officials, elected officials, stakeholders and the citizenry in order to deliver an accountable state and governance to the electorate. These basic and key concepts of accountability as indicated in paragraph designed and simplified user-friendly integrated governance model (IGM) to guide the intended users.

In order to attain the maximum targets set by the study, the abovementioned indicators were adopted for the implementation and monitoring by the intended users to ensure optimum accountability measures within the governance of intergovernmental Relations (IGR). The study set out four indicators to guide the investigation as the means of the frame of reference, and they:

- (i) Demonstrated accountable governance perspectives, which included the intensity of relations, governmental distance, power dependence and bargaining power within the three spheres of government,
- (ii) Conducted the analysis on the intergovernmental governance and determined the outcomes to live up to the standards, as well as expectations for executed functions, as outlined by the Constitution (1996),

- (iii) Developed the new integrated governance model (IGM) as an instrument, to guide the intended users towards ensuring the maximum implementation of the accountability measures within the intergovernmental governance, and
- (iv) Developed the set of practical enforceable findings, conclusions and recommendations for public officials, elected officials, stakeholders and the citizenry within the intergovernmental governance. The outcomes of the findings and recommendations supplemented the intended integrated governance model (IGM) for ease of reference to the users. Therefore, the findings, conclusions, recommendations, as well as the integrated governance model (IGM) are the profound solution and the pillar of the study. Hence, the integrated governance model (IGM) of the study made the unique contribution and significance of this investigation.

Key Conceptual Words of the Study

Accountability. Accountability Measures. Constitutional Accountability. Cooperative Governance. Good Governance. Governance Accountability. Global Networking. Governance Networks. Integrated Governance Model. Intergovernmental Accountability. Intergovernmental Governance. Intergovernmental Relations. Intergovernmental Structures. Partnerships. Public Participation.

Dedication

This investigation is dedicated to two (2) important people in my life, i.e my wife (Sisinyane Lydia Pholo), and my mother (Gaoduelwe Sophie Pholo). I wish to thank them for their respective support, courage and confidence in my investigative work. I am entirely indebted to their unshaken, undivided and collective prayers to succeed with this project.

Declaration

- (i) I, **Goitsione Moses Pholo PHOLO**, declare that the thesis (or interrelated publishable manuscripts/published articles or mini-theses) that I herewith submit for the Doctoral Degree for the Programme in Governance and Political Transformation at the University of the Free State is my independent original work and that I have not previously submitted it for any qualification at another institution of higher education.
- (ii) I, **Goitsione Moses Pholo PHOLO**, further declare that I am aware that the copyright is vested in the University of the Free State.
- (iii) I, **Goitsione Moses Pholo PHOLO**, also declare that all royalties with regards to the intellectual property that was developed during the course and/or in connection with the study at the University of the Free State will accrue to the coffers of the University.
- (iv) I, **Goitsione Moses Pholo PHOLO**, furthermore declare that all reference materials used for this study are properly acknowledged.

PHOLO, Goitsione Moses Pholo

June 2020

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I am duty bound to thank the Almighty God through his beloved Son (Jesus Christ), who injected hope and light when the shades of darkness wanted to take away confidence during my studies. There is no individual brilliance in the absence of the ever-present Almighty God. The Almighty continuously showered me with blessings full of wisdom, health, and ultimate life to complete this study despite work-related pressures and other challenges.

Acronyms and Abbreviations

4IR	: Fourth Industrial Revolution
AA	: Affirmative Action
ADR	: Alternative Dispute Resolution
AG	: Auditor-General
AGM	: Annual General Meeting
AGSA	: Auditor-General South Africa
ANC	: African National Congress
AO	: Accounting Officer
APC	: African People's Convention
APF	: Anti-Privatisation Forum
APRM	: African Peer Review Mechanism
AU	: African Union
BC	: Budget Council
BCI	: Business Confidence Index
BLSA	: Business Leadership South Africa
CBO	: Community-Based Organisation
CC	: Constitutional Court
CDW	: Community Development Workers
CEF	: Central Energy Fund
CEM	: Council of Education Ministers
CEO	: Chief Executive Officer
CFO	: Chief Financial Officer
CGE	: Commission for Gender Equality
CIGFARO	: Chartered Institute of Government Finance, Audit and Risk Officers
CoGTA	: Cooperative Government and Traditional Affairs
COO	: Chief Operating Officer
CPP	: Centre for Public Participation
CRL	: Commission for Promotion and Protection of the Rights of Cultural, Religious and Linguistics Communities

CSO	: Civil Society Organisation
DDP	: Democracy Development Programme
DIF	: District Intergovernmental Forum
DPE	: Department of Public Enterprise
DSG	: Deputy General Secretary
DoRA	: Division of Revenue Act
DPP	: Democracy Development Programme
EC	: Eastern Cape
ECHR	: European Convention for Human Rights
EISA	: Electoral Institute of Southern Africa
EU	: European Union
EXCO	: Executive Committee
FCA	: Federal Court of Audit (Germany)
FEED	: Finance, Enterprise and Economic Development
FFC	: Financial and Fiscal Commission
FOIA	: Freedom of Information Act (USA)
FOSAD	: Forum for South African Directors
FRG	: Federal Republic of Germany
FS	: Free State
GMSA	: General Motor South Africa
GNU	: Government of National Unity
HR	: Human Resources
IA	: Intelligence Augmentation
IAP2	: International Association for Public Participation
ICASA	: Independent Communications Authority of South Africa
Idasa	: Institute for Democracy in South Africa
IDP	: Integrated Development Plan
IEC	: Independent Electoral Commission
IEC	: Information, Education and Communication (Tanzania)
IFMS	: Integrated Financial Management Systems
IG	: Intergovernmental
IGF	: Intergovernmental Forum
IGR	: Intergovernmental Relations
IRFA	: Intergovernmental Relations Fiscal Act

KKDM	: Kenneth Kaunda District Municipality
LED	: Local Economic Development
LGA	: Local Government Authority
LGSeta	: Local Government Sector Education and Training Authority
KZN	: KwaZulu-Natal
MDA	: Ministries, Departments and Agencies
MEC	: Member of Executive Council
MFMA	: Local Government: Municipal Finance Management Act
MIG	: Municipal Infrastructure Grant
MinMec	: Committee of Ministers and Members of Executive Committee
MMC	: Member of Mayoral Committee
MSA	: Local Government: Municipal Structures Act
MTBPS	: Medium-Term Budget Policy Statements
NA	: National Assembly
NCOP	: National Council of Provinces
NDP	: National Development Plan
NEDLAC	: National Economic Development and Labour Council
NEPAD	: New Partnership for Africa's Development
NERSA	: National Energy Regulator of South Africa
NGO	: Non-Governmental Organisation
NIF	: National Intergovernmental Forum
NMMDM	: Ngaka Modiri Molema District Municipality
NPC	: National Planning Commission
NPO	: Non-Profit Organisation
NSDP	: National Skills Development Plan
NT	: National Treasury
NW	: North West
ODAC	: Open Democracy Advice Centre
PAC	: Public Accounts Committee
PCC	: President's Coordinating Council
PFMA	: Public Finance Management Act
PhD	: Philosophiae Doctor
PI	: Plan International (USA)
PIF	: Provincial Intergovernmental Forum

P-IGF	: Provincial Intergovernmental Forum
PLM	: Phokwane Local Municipality
PP	: Public Protector
PPAC	: Provincial Public Accounts Committee
PPP	: Public Private Partnership
PPPFA	: Preferential Procurement Policy Framework Act
PWG	: Presidential Working Groups
PT	: Provincial Treasury
QLFS	: Quarterly Labour Force Survey
RSA	: Republic of South Africa
RS	: Regional Secretariat
RSMDM	: Ruth Segomotsi Mompati District Municipality
SABC	: South African Broadcasting Corporation
SACCI	: South African Chamber of Commerce and Industry
Safri	: Sub-Saharan Africa Initiative German Business
SAHRC	: South African Human Rights Commission
SAI	: Supreme Audit Institution
SAJSEP	: South African Journal of Social and Economic Policy
SALGA	: South Africa Local Government Association
SANGOCO	: South African National NGO Coalition
SANGONet	: Southern Africa NGO Network
SAPS	: South African Police Services
SARB	: South African Reserve Bank
SARS	: South African Revenue Services
SCM	: Supply Chain Management
Scopa	: Standing Committee on Public Accounts
SECC	: Soweto Electricity Crisis Committee
SEZ	: Special Economic Zones
SIU	: Special Investigating Unit
SKA	: Square Kilometre Array
SMME	: Small, Medium and Micro Enterprise
SONA	: State of the Nation Address
SOPA	: State of the Province Address
StatsSA	: Statistics South Africa

TAC	: Treatment Action Campaign
TIC	: Technical Intergovernmental Committee
TR	: Treasury Registrar
TLM	: Tswaing Local Municipality
TNA	: The New Age
TV	: Television
TVET	: Technical and Vocational Education and Training
UN	: United Nations
USA	: United States of America
USAID	: United States for Agency International Development
USSR	: United Soviet Socialist Republics
WEF	: World Economic Forum
WSA	: Water Services Authority
WSP	: Water Services Provider
WTO	: World Trade Organisations

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CHAPTER ONE

INTRODUCTION

1.1. Orientation of the Study

The then State President, Dr Nelson Mandela, officially signed the Constitution of the Republic of South Africa (1996) on 4 February 1997. In terms of Section 2, the same Constitution became the supreme law of the country. Accordingly, the birth of the Constitution was the product of the lengthy political debate by the then political parties in South Africa. These political engagements converged under the banner of the Convention for a Democratic South Africa (Codesa) I and II. The Codesa I and II collapsed but Grootes (2013:20-21) and Butler (2009:12) stated that the new forum for negotiations, called “the multiparty talks”, was established. Accordingly, the “multiparty talks” led the transition towards the first-ever democratic general elections and the subsequent Government of National Unity (GNU) in April 1994. The government of National Unity (GNU), under the presidency of Nelson Mandela, finalised the Constitution in 1997. Accordingly, since then the government of South Africa adopted the principles of constitutional democracy.

The successful stride of negotiations reached its peak during the multiparty talks. It needed mentioning that despite, the tremendous progress made, there were number of compromises reached at that stage. A significant compromise made during the multiparty talks included the establishment of the provinces. Some of the parties opposed the provincial government and preferred the central government, and amongst the opposing parties was the African National Congress (ANC). The other factor at the centre of the discussions was the conditional constitutional amendment. The negotiating parties did not agree on terms to amend the Constitution. Accordingly, the parties reached the settlement to amend the attainment of 67% majority by the party winning national general elections. Despite the fact that the Constitution earned itself international admiration, it had its own challenges and shortcomings. In simple terms, this implies that it is not sacred, as it turned out to be the centre of a political battlefield before the courts. There were continuous calls and demands by opposition parties or accountability. This might be the reason Grootes (2013:20-21) conceded that the development of the Constitution was never an easy task.

Apart from the Constitution creating and championing a platform for equality before the law for all South Africans, it included political and societal values, inclusive of economic welfare, basic education, a healthcare system, freedom of choice, and sustainable social development. It is the same Constitution that affords citizens constitutionalised governance power, sound administrative arrangements, and separate institutions of state to cement a fair and equal society (Pityana, 2013:vii). The outstanding factor, which remains the anchor and cornerstone of the Constitution, is the hosting of periodical general elections for all citizens to elect the government of their choice, which is supported by the majority (Pityana, 2013:vii). Accordingly, Picard and Mogale (2015:169) assert that the national elections, held every five years, cement democracy and strengthen public participation and governance confidence.

In Chapter 3 of the Constitution, which regulates cooperative governance, the governance of intergovernmental relations (IGR) is prioritised and formalised. The Constitution gave effect to intergovernmental relations (IGR) in Section 40 and 41. Hence, Toonen (2010:45) argues that the inclusion of intergovernmental (IG) in the Constitution made the system more formal. The international world considered the intergovernmental system (IG) of South Africa as the formal governance system because its powers and functions encrypted in the Constitution. Hence, the South African Constitution has earned a high respect globally. The spelling-out of the powers and functions further made it easier for governance in all three spheres of government to employ accountability mechanisms.

However, it must be borne in mind that with the system in place alone, with no positive human factor, is somewhat of a futile exercise. This study acknowledges the fact that the study on accountability within the governance of intergovernmental relations (IGR) is not only about the human behaviour. It includes the interactions of the governmental structures within the three spheres of government (Kahn, Madue & Kalema, 2016:16). Despite, the South African government adopted the constitutionalised democratic intergovernmental (IG) system, hailed and praised for its non-violent democratic transition, the country continued to experience challenges to achieving the prospects of good and answerable governance. The study noted that these challenges of anomalies to render good service are the result of the lack principles of accountability to the betterment of good governance. Hence, Van Niekerk (2015:845) supports

Sokhela (2006:1) in saying that the governance of IGR in South Africa is still developing. It is for the same reasons that the study finds it appropriate and justifiable to conduct an investigation on the accountability within the governance of IGR.

The study of the accountability within the governance of IGR does not solely depend on how best the structures of government support the success of IGR, but also rely on various factors. The success on delivering good governance is dependent upon the investigation on (i) human factor, (ii) political officials, and (iii) public officials. This submission by the study is sustained by Kahn *et al.* (2016:16) that the human factor in the environment of governance needs to be the speciality in the arena of "... political power, accountability, efficiency, administrative laws and submission to identified community values". In the same vein, Ball and Peters (2005:302) further broaden the debate that government officials need to have capabilities to deal with the inabilities and challenges of accountability.

Matshego (2007:7-8), Jansen (2013:200-202) and Arguden (2011:7) concur that the efforts of accountability in the national government must be realised at the provincial and local government level. Therefore, the deployment of political leadership and senior officials at both provincial and local government level ought to be realised the national objectives of the Constitution. Accordingly, Matshego (2007:7-8) argues that the managerial and leadership qualities, coupled with relevant skills, are key factors to remedy the dissatisfying service delivery, accountability, responsibility and transparency. However, Bingham (2013:387) argued that "responsibility" to render accountable government depended on the shoulders every stakeholder and in the hands of the leadership and managers alone. Accordingly, an accountable government must involve government agencies, non-governmental organisations (NGOs), businesses and the members of the public. Therefore, good governance needed the support of the joint decisions of all stakeholders (partner institutions) as afore-mentioned.

The study is relevant and necessary given the challenges facing the government of the day, which is experiencing a persistent backlash from the citizenry as the result of rendering poor governance. According to Lynn Jr (2012:61), answerable government and public policies have become a focal point in the modern researching spectrum.

Furthermore, it is argued that there is a dire need for those studies to provide adequate conceptual and empirical foundations. Poor governance in South Africa was underpinned by various factors, which are inclusive of the incapacities associated with accountability and transparency. Good governance and intergovernmental relations (IGR) have always been a debate in the world of academia.

However, according to the study, the need for further investigation on the topic persists. Hence, the topic enjoys the backing of Zulu (2013:22), and Adolino and Blake (2011:7) who maintain that there is a need to reaffirm the future values of South Africa. The reaffirmation for the future are obtained through the maximum utilisation aspects of objectivity, responsibility, accountability, and transparency. Hence, Davids and Maphunye (2009:55) and Butler (2009:159) identified the need to assess these levels on accountability and transparency in accordance with some of the Chapter 9 Institutions, as afforded by the Constitution.

Accordingly, Butler (2009:135) provides that the Constitution offer the solutions to deliver accountable governance. Despite the entrenchment of IGR in the Constitution, the challenges of the incapacities and controversies remain more bewildering in various forms. However, Butler (2009:135) further linked these challenges of incapacities to (i) the collapse of the administration system, (ii) the surface of corruption and patronage, (iii) the imbalanced distribution of power in the three spheres of government, and (iv) the immense backlog of service delivery. Hence, Seguiti (2011:276) correctly confirms, "... inappropriate accountability may overturn the benefits of allocative efficiency".

Vision 2030 as clearly spelt out in Chapter 13 of the **National Development Plan** (NDP). The National Development Plan (NDP) diagnosed five factors. These factors intend to strengthen good governance in all government spheres, and thus building a capable state. These five factors, as developed by Vision 2030 (NDP), are believed to have directed and affected accountability within the governance of intergovernmental relations (IGR) in South Africa. These factors as spelt out in page 365 and 366 of the National Development Plan (NDP) reflected that:

- The stabilisation of the political-administrative system in order to demarcate the responsibilities of functionaries,
- The itemisation of the public service and local government as the institution to create employment, develop skills and professionalism at all levels,
- The inculcation of specialists in technical and professional skills which will assist public servants in delivering better service to ensure the realisation of the Vision by 2030,
- The improvement of intergovernmental relations (IGR) whereby the roles and functions of the three spheres of government are intertwined to defuse the confusion, and
- The enhancement of the state-owned companies to achieve governance interests in order to balance the economic and social objectives.

In supplementing the above argument, the public service leadership within the governance of IGR needs distinct knowledge to be realised within the prescribed timeframe of the NDP by 2030. Jansen (2013:200-202) casts serious doubts on the success of the implementation process of the NDP due to the current lack of proper guidance in the public sector. Hence, Jansen (2013:200-202) applauds the clearly spelt out intentions of Vision 2030. The belief remains that the Plan will remain unimplementable, owing to the kind of society and the public servants who exist in South Africa. Arguden (2011:7) argues in support of Jansen (2013:200-202) that the human factor in the form of leadership and all the stakeholders involved are the key elements of success in the governance of IGR. Jansen (2013:200-202) and Arguden (2011:7) agree that leadership and the parties involved in accountable governance need to be in the right frame of mind and attitude to deliver a good, capable and answerable state by 2030.

According to Van der Waldt (2018:17), Chapter 3 of the Constitution established the framework for cooperative governance and IGR. Furthermore, it laid down the principles of cooperative governance, which regulate the relations between the national, provincial and local government. In Section 1, the Constitution states that South Africa is a unitary state, which means it is one, sovereign democratic state built on the following values:

- Human dignity, equality and advancement of human rights and freedoms,
- Non-racialism and non-sexism,
- Supremacy of the Constitution and the rule of law, and
- Universal adult suffrage, a common voters' roll, fixed elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness.

Chapter 3 of the Constitution (1996) in its **sections 40 and 41** gave effect to (i) the establishment of structures or institutions that promote and/or facilitate intergovernmental relations (IGR), and (ii) the provision of the mechanisms and the procedures to implement intergovernmental (IG) system.

Accordingly, this study will conduct an investigation on the functioning of intergovernmental relations (IGR) within the context of the key analytical frameworks. These analytical frameworks related to the principles of good governance. These analytical frameworks, as discussed by Davids (2009:34), are:

- Improving the efficiency and effectiveness of governance programmes, as well as enhancing national policies, which seek to improve IGR,
- Ensuring efficiency and effectiveness in the design, implementation, and monitoring of the intergovernmental programmes and national policies and legislation, and

- Developing the mechanisms to build managerial capacity efficiently and effectively within the three spheres of intergovernmental government.

The other key aspect regulated by the Constitution refers to the element of separation of powers (*trias politica*). In the context of *trias politica*, the Constitution protects the independence of the legislative, executive and judicial functions against the abuse of political power or influence (Brand 2015:193; Taljaard & Venter, 2006:17). This study highlights the principle of *trias politica* in conceptualised good governance, as prescribed by Naidoo (2012:662), that accountable and good governance needs the backing of sound political and administrative leadership. Similarly, Taljaard and Venter (2006:17) prescribe that, although the three branches of government ought to be free from the influence of the other, in many circumstances the legislature and the executive have the tendency to overlap. However, the essence of this section is to illustrate the distinction between these branches of government (legislative, executive and judiciary) in terms of powers and functions, as outlined below in the spheres of government (national, provincial and local), as follows:

According to Venter (2011:81), the **national government** which commonly known as the **national sphere** or national executive formed by the **National Assembly (NA)**, which is constituted by 400 elected representatives in terms of Section 46(1) of the Constitution. According to Taljaard and Venter (2006:23) and Venter (2011:81-82), the purpose of the NA is to initiate or prepare and execute legislation. Similarly, the legislations related to finances needed to be initiated by the Minister of Finance. The National Assembly (NA) is expected to provide oversight over the national executive authority and the implementation to that effect. Furthermore, the National Assembly (NA) is responsible for ensuring the existence of public participation and the supervision of the provincial government (Davids & Maphunye, 2009:56).

According to Besdziek (2006:114), the **provincial governments** are designed in replica form of the national government. However, unlike the National Assembly, the provincial government has only **legislative and executive branches**. The provincial government does not have the judiciary because it is located in the National Assembly

only. The nine provinces are limited between 30 and 80 members for the provincial legislature, in accordance with the determination of Section 105(2) of the Constitution.

The provincial governments are permitted to legislate on matters, as prescribed in Schedule 4 and 5 of the Constitution, as well as the functions, as delegated by the national government. In a case where a province is unable to perform its constitutional obligations, the national government may intervene in terms of Section 100 of the Constitution. In the same way, if the local government fails in its duties, then the provincial government may intervene as the immediate supervisor in terms of Section 139 of the Constitution. Hence, Matshego (2007:5), when referring to Section 155(6) of the Constitution, argues that local government needs to be capacitated because it is at the coalface of service delivery.

According to Ijeoma, Nzewi and Sibanda (2013:93), Picard and Mogale (2015:176), and Van der Waldt (2018:18), Section 40 of the Constitution relates to the three spheres of government as **distinctive, independent and interrelated**. Furthermore, Van der Waldt and Van der Waldt (2018:58) argue that all spheres of government must adhere to the principles of cooperative governance. In terms of the Constitution, the original powers and functions of **local government** were that:

- Municipalities were allocated the right to administer **local government** matters in accordance with Section 156(1)(a), as listed in Part A, Schedule 4 and Part B, Schedule 5.
- The administration of **local government** matters, as indicated above bullet, were restricted to administer the legislative authority in order to make and/or administer by-laws, in accordance with Section 156(2).
- Municipalities were independent from any statutory or executive assignments to exercise their powers. However, the national government and provincial governments may regulate the powers and functions of **municipalities** in terms of Section 155(7).

Ijeoma *et al.* (2013:95-96) argue that Chapter 7 (Section 151-164) of the Constitution gives a clear guide as to how the local sphere needs to be ordered, given that there are different types of municipalities in South Africa. These different categories of local government include metropolitan councils, district councils, local councils and traditional authorities. The powers and functions of these municipalities are spelt out in Section 152 of the Constitution (1996) and Section 73 of the Municipal System Act (27 of 2000).

This study is of the view that in order to develop the common and contextual understanding of the topic “accountability within the governance of intergovernmental relations”, it would be appropriate to provide the broader definitions of key conceptual terms. In line with the study, the key conceptual terms are (i) accountability, (ii) governance, and (iii) intergovernmental relations (IGR). However, study noted that there was no single accepted definition for the identified key conceptual terms “accountability, governance, and intergovernmental relations”. It is against the same understanding that provided the following definitions:

(a) Accountability

- Nealer (2018:214) oversimplified the meaning of the word **accountability** by referring to providing and accounting of, as well as becoming answerable for the decisions made and for the actions taken. There must be an account for every decision made and every action taken.
- According to Schwella (2015:37), **accountability** refers to answerability by those who are duty bound to account, to explain their conduct, and to open themselves for scrutiny and criticism by the governed.
- **Accountability** means an obligation to demonstrate that certain work is to be conducted and be completed in accordance with to agreed terms and conditions, or in line with the rules and regulations. The reporting has to be done fairly and accurately with reference to the performance results or mandated plans (Sindane & Uys, 2015:393).

- Brynard (2015:386) refers to **accountability** as an obligation of an individual to account for his/her activities, or an institution to account for its activities. Public officials should publicly explain how they exercised their authority, as publicity is the soul of justice in the democratic state.
- Fourie (2015:271) describes the term **accountability** as an obligation to account for the responsibilities placed upon the individual. These responsibilities include but are not limited to state resources, control of institutions, and performance.

The above definitions of the term “accountability” possess similarities on the functions of those assuming a position of power or authority to be accountable to those who put them in that position. Furthermore, the same people assuming positions of power or authority must be held responsible for their actions, results and intentions.

(b) Governance

- Thornhill (2015:22) defines **governance** as the cooperative actions of the state and its structures in the deliverance of services to the citizenry. It does so by including guidance, monitoring, leading, training and motivating the state and private sector on behalf of the citizenry.
- **Governance**, according to Christensen and Tschirhart (2013:65), refers to the theories and practices of social coordination and all forms or patterns of governing. Tansey and Jackson (2004:229) come close to the definition of Christensen and Tschirhart (2013:65) by stating that governance is the collective decisions, which may be seen as binding and/or not binding.
- **Governance**, according to Allen (2018:2), refers to an influential system with the power to facilitate and accelerate change and development.

- According to Schwella (2015:13), **governance** means the different ways in which social life is managed and co-ordinated. It therefore means that there may be governance in the absence of government.
- According to Tshiyoyo (2015:135), **governance** refers to the interaction of multiple influencing actors, which include businesses, communities and individuals to deliver service to the governed.

The aforementioned scholars broaden the scope of governance beyond the governance of IGR and the principle of authority. Furthermore, the definitions as provided incorporate the principle of democratic legitimacy within the governance model. The commonalities in the definition of the word governance are that “governance” complies with the rule of law. The study is of the view that, and that view is shared by McPhail (2013:6) and Levi-Faur (2012:9), that the definition of governance as provided confirms the rule of law, election competition, respecting and being accountable to the citizenry. The definitions as provided further forge the relations between the government and its institutions.

(c) Intergovernmental Relations

- Kahn *et al.* (2016:12) provide that in the context of a South African interpretation, **intergovernmental relations** refer to the relations amongst the three spheres of government and all its state organs.
- According to Van Niekerk (2015:845), **intergovernmental relations** refer to the interactions between the spheres of government to promote and facilitate intergovernmental relations in accordance with the Constitution.
- Kanyane (2016:93) views **intergovernmental relations** as the (i) complexity of interdependent relations, (ii) coordination of the governance policies, and (iii) an informal communication amongst officials, which takes place within the spheres of government.

- **Intergovernmental relations** refer to the relationship between the national, provincial and local governments, as stated by Section 40(1) of the Constitution (Tau, 2015:802).
- Malan (2015:54) defines **intergovernmental relations** as the processes, structures and institutional arrangements for two or more interactions within the spheres of government, and these interactions might be formal and/or informal in nature.

These definitions, as provided by different authors, confine IGR to the relationship between executives. The outright significance of the political-legislative intervention, which creates a space for political processes, prevails with dominance to governance. Hence, Steen and Toonen (2011:79) and Wright and Stenberg (2007:427) are of the view that IGR configures and links diverse or different levels of government. Therefore, the study denoted the common factors from the definition of the term “intergovernmental relations”. The commonalities, as drawn from the definition, include the words “relationship of government”. Hence, the study will be compelled to focus in that regard.

This study felt it the completeness if it reflected and discussed **accountability, governance and intergovernmental relations (IGR)** in a broader sense. Therefore, the study assessed the historiography of accountability within the governance of IGR under the new democratic dispensation. The discussion was to give effect to the relationship between **accountability, governance and intergovernmental relations (IGR)**. The Department of Local Government in the Free State Province, which is responsible for Cooperative Governance and Traditional Affairs (Cogta) proposes that healthy relations be forged between the officials of the provincial department and the national department of Cooperative Governance and Traditional Affairs. The synergy of operations between these departments is necessary because they, together with municipalities, are responsible for the implementation of intergovernmental relations (IGR). Martinelli (2012:5) sustains this argument, in that government departments, delivering answerable governance within intergovernmental relations (IGR), have commonalities in empowering the citizenry. They empower the citizenry by means of

seeking consensus when implementing policies, which put measures in place to deliver accountable governance.

However, Gore and Webber (2006:55) argue that not only the managers within intergovernmental relations (IGR) form an integral part of governance. The entire systems of intergovernmental policy networks evolve across constitutional democracies and thus culminate in the control of accountable and good governance. These policy networks, meant to integrate all the decision makers of government, form an integral part in the intergovernmental (IG) system. The intergovernmental (IG) system demands and encourages joint decision making through effective participation and sound policy formulation (Gore & Webber, 2006:55).

Cloete (2013:11) further presents that current South African politics can be characterised as politics of survival due to the ever-changing political environment. Largely, these changes of the political environment place the accountability, governance and intergovernmental relations (IGR) under tremendous pressure or undue influence. If these pressures and influences are not contained, the entire system of accountability is bound for pollution. Furthermore, Cloete (2013:11) argues that the contributory factors linked to the system failure are (i) the incompetency of the public servants, (ii) lack of performance-based outputs, (iii) shortage of financial management skills, (iv) accountability challenges, (v) activities of fraud and corruption, and (vi) improper record-keeping. Cloete (2013:11) and Ramphela (2012:202) agree that the mismanagement and looting of public resources is the core source of the decay of good governance.

The system of governance in South Africa has strong ties with politics, and this occurs because political principals appoint the key state drivers. Accountability to the electorate remains the most important factor for good and accountable governance. The relations between public officials and politicians should not have undue influence over one another. Accordingly, Brown-Shafi (2011:64) supports the argument that the influence of political power over governance systems should be restricted because it leads to the manifestation of abuse and misuse. On the other hand, Brown-Shafi (2011:118) states that in principle there is no fundamental problem if politics influence

governance. However, such influence should be restricted within the limits and context of the Constitution.

Arguden (2011:62-63) argues that there is a lack of cohesiveness in the subject of the governance of **intergovernmental relations** (IGR). The lack of cohesiveness in the governance of IGR influenced by certain factors, and these factors:

- Researchers not focussing on the practical problems; hence, the outcomes bear no meaningful relevance,
- Research results are not easily accessible, nor communicated to the relevant authorities, and
- The drivers of governance misconstrue the research outcomes; hence, there is no accountability with regards to the implementation of the research findings and recommendations (Arguden, 2011:62-63).

According to Willke and Willke (2012:5), the governance of intergovernmental relations (IGR) is bound to experience challenges because it was difficult to separate mandates or directives due to the incompetence of deployed government officials. It is for the same reason that Willke and Willke (2012:5) argue that solutions provided through political intervention are always temporary in nature and as such have the tendency to trigger another crisis. Accordingly, Zulu (2013:29-30), Willke and Willke (2012:5), and Mbeki (2009:63-64) concur that the objectives of the **Constitution** are compromised to the detriment of delivering accountable and good governance.

According to Picard and Mogale (2015:168-169) and Zybrands (2011:134), the management of the South African government is determined by the electorate; that is, the party winning the elections is considered to be given a mandate to advance the interests of the electorate. Zybrands (2006:138-139) concurs that those who win the elections and assume a position of responsibility become the public representatives. Therefore, these elected officials are to be held accountable and responsible to their communities and society. However, should these elected officials fail in their duties to

be accountable to the public, they become subject to removal from office (Picard & Mogale, 2015:168-169; Zybrands, 2006:138-139).

According to Turok (2008:172), since the political transition of 1994, the ruling party continued to experience serious challenges of implementing and upholding the principles of Chapter 3 of the Constitution (1996). At the same time, the spheres of government are continuously at loggerheads with each other, despite the Constitution having clearly demarcated the functions of each sphere. However, the primary mandatory task of the new government remained to provide accountable governance through building (i) a democratic society, which is united, and (ii) the undivided society, along race, gender or religion. It is for these reasons that Turok (2008:172) mapped out the following guidelines for governance, with the intention to defuse these internal disputes:

- To head governance of a diversified society, whilst at the same time sustaining economic growth, social equity, social stability and cohesion,
- To satisfy the much anticipating disadvantaged constituency and to advance programmes intended to empower women and youth,
- To improve the conditions of the working class and advance the efforts of building the second economy. The building of the second economy must accommodate the previously marginalised society, and
- To forge international relations with developed countries can positively contribute towards restructuring the country.

In compliance with the above key factors of governance, Gruzd (2010:17-18) argues that South Africa cannot operate in silos. Hence, South Africa affiliated to democratic Africa institutions, such as the African Union (AU), the Pan-African Parliament, the New Partnership for Africa's Development (NEPAD), and the African Peer Review Mechanism (APRM). Therefore, there is a need to comply with the intentions of these bodies as they seek to promote good governance. These bodies strive to ensure

peace, economic development, and growth and prosperity in the African continent (Gruzd, 2010:17-18).

1.2. Problem Statement

According to Cooper and Schindler (2006:63), a study's problem statement and research question ought to be re-aligned together. In this regard, this study's problem statement investigates "accountability within the governance of intergovernmental relations", aligned with its research question. Moreover, the problem statement and the research question are to be fact-orientated and information gathering. Hence, the study and Cooper and Schindler (2006:63) agreed that there may be reasonable alternatives to the problem statement, but there should be no deviation from the actual theme or topic. Mavhivha (2007:62) supplements Cooper and Schindler's (2006:63) argument that the formulation of the problem statement in the process of the research for the study is of paramount importance.

South Africa is governed in the form of an intergovernmental system, which is distinctive, interdependent and interrelated, in accordance with Section 40(1) of the Constitution. This makes South Africa a constitutional democratic state. However, in contrary, Kahn *et al.* (2011:208) and Moran (2011:54) are of the view that the provincial and local spheres are more of an agent to the national sphere. The argument that the provincial and local government are agents of the national government are supported by the statement made by the Minister in the Office of the Presidency. The minister unilaterally declared an investigation into the departments in all spheres (i.e. provincial and municipal) including state-owned enterprises. The Minister further vowed to prosecute all who are found to be involved in activities, which compromise the prospects of good governance (*The New Age*, 11 September 2014:4).

According to Venter (2018:105), South Africa is experiencing a serious challenge of "poor financial management, lack of control and accountability systems". Accordingly, the reluctance and the lack of skills and knowledge in the field of accountability systems lead to increased fraud, corruption and misuse of funds. These challenges ultimately affect the economy of the country, as it automatically becomes destabilised.

At the same time, the economy, which is destabilised, negatively affects national policy and, as such, all sectors of government are bound to collapse in time.

The challenges of delivering good governance in South Africa are underpinned by various factors. However, for the purpose of this study, the focus will be centralised from the incapacities associated with accountability within the governance of IGR. Hence, Van der Waldt (2018:18-19), Mbeki (2009:64) and Ramphela (2012:112) are of the view that South Africa is heading in the wrong direction and thus facing a downward trajectory due to the lack of proper accountability in the governance of IGR. In his speech on his first 100 days in office, the premier of KwaZulu-Natal presented that accountability is the hallmark of good governance. The premier further indicated that all government officials at all spheres are bound to account to the citizenry (*The New Age*, 29 September 2014:2).

Zybrands (2006:143) boost the above argument by Mbeki (2009:64) by explaining that there is a lack of compliance and accountability in South African governance, which results from the inability to perform. Picard and Mogale (2015:169) supplement these arguments by Mbeki (2009:64) and Zybrands (2006:143) in saying that “South Africa has progressive basic laws, but South Africa’s politicians and administrators have been unable to implement them”. As such, the non-compliance with the Chapter 9 Institutions opens space to compromise the principles of accountability and transparency to the electorate. Hence, the study concurs with a news report by *City Press* (26 October 2014:4), which states that the lack of accountability in the governance of IGR has the potential to paralyse the state regarding governance.

This study further concurs with the *City Press* news report (23 November 2014:6) that proper intergovernmental (IG) systems and controls should be in place to combat all efforts of persisting maladministration, fraud and corruption. The lapse of controls triggers the intervention by the senior spheres into the junior spheres of government. The intervention by the minister of COGTA into the affairs of Phokwane Local Municipality and subsequently suspending the high-ranking officials is the classical example. These officials were suspended for allegations of gross financial misconduct, and maladministration (*The New Age*, 18 November 2014:1). Hence, Kahn *et al.* (2016:95) argue that the provinces do not exercise the autonomous powers offered by

Chapter 3 of the Constitution (1996). Therefore, a direct intervention of this nature by the national sphere into the municipal administration justifies the argument by Kahn *et al.* (2016:95). However, this intervention by the Minister involved is likely to project an interference into the junior sphere; thus, suggesting a lack of distinctiveness within the spheres of government.

This study notes an element of disrespect towards Chapter 9 Institutions with regard to accountability within the formation of intergovernmental (IG) system and these sentiments are shared by Zulu (2013:56). In the same vein, both Luyt (2010:30-31) and Davids and Maphunye (2009:55) agree that Chapter 9 Institutions play a predominant role in accountability within the governance of intergovernmental relations (IGR) in South Africa. Therefore, Chapter 9 Institutions cannot be seen as mere watchdogs of government. Claasen and Alpine-Lardies (2010:3) argue that the establishment of the Chapter 9 Institutions, either willingly or by external exerted pressure, acknowledges the existence of the challenges of accountability and good governance.

Newell and Wheeler (2006:1) argue in support of the above submission (i.e. state institutions) that accountability is at the interaction of the rights of the citizenry and state resources. Similarly, Butler (2009:159) and Martin and Mathema (2010:164, 222) positively submit that accountability to the citizenry is of crucial importance and that ignorance in that regard will constitute a breach of the Chapter 9 Institutions, given that these institutions are considered the checks and balances for the actions of those in power. Therefore, the lapse of accountability and the ignorance of these institutions put the governance of intergovernmental relations (IGR) in a vulnerable state and it reduces the capacities of good governance.

In line with the above argument, this study will direct its focus to the accountability of the public and elected officials in relation to the Chapter 9 Institutions. The accountability of the public and elected officials needed to be weighed within all sectors of the governance of IGR with specific reference to the Public Protector (PP), and the Auditor-General (AG). It is against the same background that Malena and McNeil (2010:5) and Claasen and Alpine-Lardies (2010:3) acknowledge that the investigation of accountability is crucial. Therefore, this study is of view that the

investigation in this regard be broadened to include the four sectors of accounting mechanisms. Accordingly, these accounting mechanisms ought to be discussed in full in order to determine the measurable terms for the accountability within the governance of IGR. The accounting mechanisms are:

- **Political** (The Constitution, legislation and investigative commissions),
- **Fiscal** (auditing, financial management and procurement regulations),
- **Administrative** (reporting, policies and procedures, and public oversight), and
- **Legal** (corruption control and an independent judiciary).

In the end, the study recognises the importance of governance networks, public participation, partnerships and stakeholders as the other form of democratic accountability in the governance of IGR. Hence, it is presented in *The Star* (9 October 2014:12) that governance accountability is not the sole responsibility of government, the entire citizenry and all stakeholders need to play their part in accountability in order to develop the means of good governance. Malena and McNeil (2010:5) and *Business Day* (9 October 2014:9) share the same sentiments that state institutions, citizens and relevant stakeholders are critical in the circle of accountability within the governance of IGR. Newell and Wheeler (2006:13) vindicate the seriousness of accountability in the governance of IGR in their argument that answerability and enforceability may only be achieved through the engagement of citizens, stakeholders and state institutions.

The above argument is backed by a report in *The New Age* (15 September 2014:24) indicating that the Member of the Executive Council (MEC) for the Department of Finance, Economic and Enterprise Development (FEED) in the North West Province identified the hurdles in the relationship between the government and its stakeholders. These challenges were the result of a lack of regular meetings between government officials and stakeholders; the late payment of invoices from stakeholders; and, the failure to implement the resolutions taken between government institutions and stakeholders. These challenges, as identified by the MEC in the North West Province, had the serious potential to damage the relations between the government or state institutions and stakeholders, and as such ultimately compromise the accountability measures.

According to Aurini, Heath and Howells (2016:25-26), when developing a research question, the questions, (i) what is my problem, and (ii) what is my intention should be included. In the same vein, they see the problem as the growing lack of accountability by public servants and politicians within the governance of IGR, as there is no improvement recorded in the annual audits by the Auditor-General. As a result, this study intends to investigate the problem and develop findings and recommendations, which will guide public servants and politicians towards improving the accountability measures within the different spheres of government. Furthermore, the study will be compelled to develop accountability measures as the source of an integrated governance model. This simplistic integrated governance model will assist government officials and politicians step-by-step to adhere to and implement accountability within the governance of IGR.

Accordingly, the outline of the problem statement, as narrated in this page led to the investigation to one key question that needed the study to address and answer. The key research question and the answer to it will direct the study to develop sound findings and recommendations successfully at the end of the investigation. Therefore, the key research question of the study to be answered is, “how can the government develop the best accountable measures to improve the intergovernmental (IG) governance system and accountability in South Africa?” Accordingly, Mahmud (2009:24) and the study are of the view that the provision of the right answers to the research question will greatly assist the investigation in achieving its anticipated heights.

On the other hand, in finding the right answers to the research question, the study will conclude with successful findings and recommendations, which will ultimately improve the existing problem of accountability, governance and intergovernmental relations. Furthermore, adequate answers to the research question will provide the best alternatives to the current state of affairs relating to the lack of governance accountability. Accordingly, the alternatives will be delivered in the form of developing an integrated development model, which is inclusive of the streams of accountability, governance and intergovernmental relations in order to guide the beneficiaries and users.

1.3. Aims and Objectives of the Study

1.3.1. Aims

The aim of the study is to investigate accountability within the governance of intergovernmental relations in South Africa. The investigation will conduct an analysis by using the Constitution (1996) and existing legislation, policies, guidelines and procedures, journal articles, internet sources, and newspaper articles. Furthermore, the study will analyse documents, which incorporate and/or specialise on accountability, governance and intergovernmental relations. Accordingly, the study will use Chapter 3 of the Constitution (1996) as a reference to develop its conceptual framework of intergovernmental relations in Chapter 3 of the study. Given the fact that Picard and Mogale (2015:168) perceive South Africa as a constitutional state; hence, its governance system is largely influenced by the Constitution (1996). Furthermore, Chapter 3 of this study will analyse the broader accountability perspectives, as endorsed by the Constitution. Apart from using the Constitution as the basis for reference, the study will diagnostically analyse and reflect on national policy, with specific reference to the purpose and the implementation of the National Development Plan (NDP).

Furthermore, the study intended to develop a set of theoretical findings and recommendations, which will ultimately build and strengthen the capacities of the beneficiaries and users to enforce the principles of accountability within the governance of intergovernmental relations. The said findings and recommendations will need to be aligned in accordance with the argument by Ojha, Hall and Sulaiman V (2013:1), which seeks to discourage the process of circulating the ideas of experts during the investigation. Instead, the study will adopt the sentiments by Ojha *et al.* (2013:1) in advocating the development and exploration of the underlying pitfalls of accountability, governance and intergovernmental relations. Supplementary to the intended theoretical findings and recommendations, the study will develop an integrated governance model to enhance the prospects of accountability with the governance of intergovernmental relations. However, the study will not conduct these analyses open ended and/or without timeframes. Therefore, the observation of this investigation commenced its scope from 1994 and was restricted to the end of 2019.

1.3.2. Objectives

In the process of outlining the objectives of this study, serious attention was given to the argument by Mahmud (2009:28), in that the purpose of the research objectives is to transcribe the statements, which define the research in measurable terms. As a result, the research objectives of this study will inform its problem statement and the research question. Accordingly, for the purpose of this study, the two pointers of the problem statement and the research question, as projected by Mahmud (2009:30), was adopted in this research. These two pointers referred to will be used to guide the research concerning: (i) outlining the measurable terms of the study, as well as to define what the study seeks to achieve, and (ii) constructing the research objective statements, which indicate what needs to be done.

In accordance with the above definition, the study will have to respond to the research question, which dictates: “How can government officials develop the best accountability measures within the governance of intergovernmental relations and effectively implement the same accountability measures to ensure answerable good governance in South Africa?” Hence, there is a need for the study to support the argument by Mahmud (2009:30), in that this research question (i) sets out the measurable terms for the study, and (ii) further projects what the study intended to do.

According to these research objectives, the study is in agreement with Ojha *et al.* (2013:2) that there is a need to understand the challenges of accountability within the governance of intergovernmental relations in South Africa. Therefore, the possibilities were needed for exploring solutions to the same challenges. Furthermore, the study seeks to develop enforceable recommendations to (i) develop accountable governance of intergovernmental relations in South Africa, (ii) eliminate possible misfits in the policies, which guide the accounting structures of governance, and lastly (iii) inculcate a culture of accountability within the governance of intergovernmental relations in South Africa.

This study intends to investigate the accountability of the public and elected officials within the framework of governance of intergovernmental relations in South Africa. In doing so, the study will rely solely on addressing the indicators, as outlined in its

problem statement, as well as its aims and objectives. Accordingly, the study is of the view that there are basic and key concepts of accountability within the governance of intergovernmental relations that need to be developed for the public and elected officials in order to deliver an accountable state to the electorate. These basic and key concepts of accountability, as indicated, will only be achieved by way of designing a governance model that is user friendly. Hence, the study is in agreement with Kahn *et al.* (2016:24-28) that in order to attain the maximum targets set for this investigation, the following indicators must be adopted and be implemented by the users to ensure optimum accountability measures within the governance of intergovernmental relations. Accordingly, the four referred indicators are as follows:

- (i) the demonstration of the accountable governance perspectives, which include the intensity of relations, governmental distance, power dependence and bargaining power within all three spheres of government;
- (ii) conducting an analysis of the governance of intergovernmental relations, and the determination of whether the outcomes live up to the standards, as well as expectations, of executing functions as outlined by the Constitution;
- (iii) the development of a new governance model as an instrument, which will guide the users towards ensuring the maximum implementation of the accountability measures within the governance of intergovernmental relations, and lastly;
- (iv) the development of a set of practical enforceable findings and recommendations for the public and elected officials within the governance of intergovernmental relations.

These theoretical findings and recommendations ought to supplement the intended “integrated governance model” for ease of reference for the users. Therefore, the findings and recommendations, as well as the model, will be considered as the pillar for the unique contribution and the significance of the study (Kahn *et al.*, 2016:24-26).

Norris (2011:188) insisted that the discussion of accountability and governance included elements of:

- (i) Being accountable to the community and the provision for freedom of expression, advocating for the society, which is free of violence,
- (ii) Championing the independence of civil servants from political influence,
- (iii) Capacitating public servants,
- (iv) Respecting the *trias politica* (legislative, executive, judiciary) and abiding by the rule of law, and
- (v) Eliminating all forms of corruption. Accordingly, both Rothstein (2012:147-150) and Norris (2011:188) emphasise the importance of answerability and governance, anti-corruption, maintaining the rule of law, the need to sustain democratic principles, and lastly, ensuring the government is efficiently run by those assigned with the responsibility within public office.

As indicated in the problem statement, Malena and McNeil (2010:5), and Claasen and Alpine-Lardies (2010:3) assert that the study will not be successful without determining the accountability mechanisms. These accountability mechanisms are defined by Goodin (2010:205) as the instrument that secure the actions, results and intentions that public officials can be held accountable for. It is therefore proper for the study to elaborate on the four existing accounting mechanisms in order to determine the measurable terms. In conforming to the argument by Mahmud (2009:30), the study developed its measurable terms, which evolve from the research problem, as follows:

The study used the **political mechanisms** to assess accountability, governance and intergovernmental relations, with specific relations to Chapter 3 of the Constitution (1996), and the effect of Section 40 of the Constitution, which permitted the three spheres of government to operate distinctively, independently and interrelated. Furthermore, the study will analyse the intergovernmental relations legislation and its impact on accountability within the governance of intergovernmental relations.

The study used **fiscal mechanisms** to analyse accountability in accordance with the Chapter 9 Institutions, with specific reference to the Auditor-General South Africa (AGSA). Given the background, the study will further identify the pitfalls of accounting in the compliance and adherence to government policies, legislation, and annual audit outcomes. The study will further use policies, legislation and audit outcomes as measuring instruments or measuring terms to guide the outcomes of the research.

The study used the administrative mechanisms to analyse the National Development Plan (NDP) and further determine measures in order to assess whether the set targets are achievable. Therefore, the study deems it fitting to investigate the mid-point implementation of Vision 2030 using practical examples. Furthermore, the use of applicable examples will provide a detailed picture of the capacities of public servants.

The study used the **legal mechanisms** to analyse accountability, governance and intergovernmental relations by means of using the investigation outcomes of the Public Protector (PP). Apart from the Public Protector's outcomes, the study will further utilise the outcomes of the courts as a measuring stick for accountability within the governance of intergovernmental relations.

1.4. Research Methodology

1.4.1. Method

According to Kothari and Garg (2014:6), and Sullivan, Gibson and Riley (2012:12), research methods are termed to be the techniques used by a study to conduct its investigation of the project or research problem. Sullivan *et al.* (2012:12) assert that the research method is useful as a means to collect information. Kothari and Garg (2014:6-7) and Sullivan *et al.* (2012:12) concur, in providing the distinction between research methods and methodology, in that methodology encapsulates the broader view of answering the research question, and collecting and analysing the data. Given the definitions by Kothari and Garg (2014:6-7) and Sullivan (2012:12), the study consistently used the methods, as outlined below, to conduct its investigation on “accountability within the governance of intergovernmental relations”.

The study adopted the interpretive approach because the researcher is of the view that the research topic covers a broader range of activities. The study concurs with Remenyi (2013:3), who states that for a wider range of interests, the interpretive approach is a handy method to use in analysing the data. In this regard, the study will investigate a wide range of accountability within the governance of IGR. Therefore, the interpretive method, as used by this study, provided extensive knowledge and understanding on the concepts of accountability, governance and IGR. Apart from acquiring information on the applied concepts, the use of the method became useful to diagnose the current challenges of accountability and governance in the intergovernmental governance system of South Africa. On the other hand, Remenyi (2013:213) provided a cautionary note in using “qualitative and interpretivist research”. However, the study carefully used the method to analyse the data with regard to the behaviour, content and human approach.

Furthermore, the study employed the approaches of deductive and inductive theories throughout the research process. It is important to note that the research was prompted by the continuing challenges of accountability within the governance of intergovernmental relations, as outlined on page 3 and 18 of the introductory Chapter. Accordingly, the limited knowledge at the researcher’s disposal constituted an inductive approach, and the approach unregarded as conclusive for the investigation. This submission is supported by Repko, Newell and Szostak (2012:17-18) and Graziano and Raulin (2013:38).

The researcher adopted the deductive approach to decide cognitively what would work best for the investigation. The deductive theory, as defined by Repko *et al.* (2012:17-18), is used to explore more knowledge through the investigation. However, the study did not use inductive knowledge in this introduction to determine what would work best. Instead, the inductive approach was used by the study to (i) deepen insight into the research topic, (ii) empower the user with a properly researched document, and (iii) to develop an integrated governance model, which intended to guide the user on the proper use of accountability, governance and intergovernmental relations. Accordingly, the use of the inductive and the deductive approach in this study to achieve the set targets for investigation befits the argument by Creswell (2013:48), and Graziano and Raulin (2013:38).

On the other hand, the study used the two concepts of epistemology and ontology to boost the quality of the research. The use of epistemology sought to broaden the theory of knowledge with regards to the techniques and methods, whilst ontology strengthened the theory of reality, which provided what was to be believed true and worthy by the study (Chevalier & Buckles, 2013:152). Therefore, the application of epistemology in this study was helpful to deliver a systematic approach in the form of designing the collectivity of improving accountability measures within intergovernmental governance. This deliverance is dealt with in detail concerning the technical approach to acquire knowledge in Chapter 6 and 7 respectively in the form of an integrated governance model (IGM). The reality of the lack of accountability, as denoted by the study, within the context of the ontological approach compelled the study to design a user-friendly and simplified model (in Chapter 6) for ease of reference for the user.

Figure 1: Key Concepts of the Integrated Governance Model



Source: Own Construction

Figure 1 highlights the involvement and use of epistemology and ontology in this study, which led to the development of the integrated governance model, as advanced in the last two Chapters. The use of epistemology and ontology incorporated the combination of inductive (distinguishing what is working and what is not working) and deductive

(cognitive thinking to develop what work best) reasoning to derive the integrated governance model for users.

The foundation of the arguments above were previously presented by Welman *et al.* (2005:23) and Mahmud (2009:102) who argued that descriptive methods explain the phenomena and predict human behaviour. As a result, the qualitative method in this investigation was used solely to (i) examine accountability within the governance of IGR, and, (ii) analyse accountability in line with existing legislation, policies, guidelines and procedures. Accordingly, the study aligned itself to the argument by Yeager (2007:897) and Matima (2001:36) that the investigation has to analyse the data critically in order to eliminate the possible biases. The elimination of these biases during the investigation process enabled the study to provide accurate, reliable and valid data. Hence, Aurini *et al.* (2016:25) has the opinion that the study is compelled to attain its purpose and targets to be successful, and it is for these reasons that the study used a literature review in all the Chapters to collect data, as outlined in the paragraph above.

The study used the qualitative methodology as the unique and powerful tool to generate meaning, as well as an understanding of the different aspects of daily life, such as events and activities. The study systematically and consistently outlined the research objectives to address the problem statement in order to achieve the purpose of the investigation. Given the fact that the scope of the investigation was confined to between 1994 and 2019, the study noted that their previous attempts to provide a solution by other authors. Hence, in line with the above, the study employed a qualitative data analysis to collect the data, whilst it limited itself to the outlined concepts (epistemology and ontology) and approaches (inductive and deductive) in collecting the data. The adoption and the use thereof led to the theoretical findings, the recommendations and the development of the integrated governance model at the end. This approach allowed space for an improved outcome to benefit the beneficiaries and users.

1.4.2. The Relevance of the Topic

There is insurmountable evidence that there is a gap in the discussion of accountability within the governance of intergovernmental relations. Central to the existed gap of accountability there were public servants and the elected officials; disrespect of state institutions; lack of respect within the branches of government; and lack of accountability to the electorate. The study detected the gap factors from the previous investigations. Accordingly, the investigation explored the study gap and outlined the same Chapter 2 under the literature review. At the centre of the exploration of the topic, the study identified “accountability” within the intergovernmental governance system.

The study learnt from van der Waldt (2004:3) that South Africa cannot have clean and good governance if “accountability and transparency” is not developed. The author went on to put more emphasis that governance meant “different things to different people”. Given the background, the study found the need to include the importance of “accountability” to the developing South African intergovernmental governance. The study fully agreed with van der Waldt (2004:12) in that “accountability is the key requirement of good governance. Hence, study ensured that the discussion included the (i) government institutions, (ii) spheres of government, (iii) public sectors, (iv) private sectors, and (v) civil societies.

This study conceded that there were previous scholars who covered the spectrum of good governance. The literature review in Chapter 2 demonstrated beyond reasonable doubt the discussions and challenges on the broader aspects of the public sector, corruption, leadership, institutional flaws, service delivery, governance, human rights, ethics, values and morals. Despite the intensive investigations by the identified authors in pages 47-48, the study still found the existing gap of the lack of accountability. At the same time, the study shared the view of the existing gap with Engelbrecht (2015:37) in that accountability is the pinnacle of good governance. It is for the same reason the study continued to investigate this project under the banner of “accountability within the governance of intergovernmental relations in South Africa”, hence, the topic remained unique and significant.

1.5. Chapter Outline

The primary objective of this research was to assess and analyse the existing governance of intergovernmental relations in South Africa concerning ensuring accountability in relation to sections 40 and 41 of Chapter 3 of the Constitution (1996). The investigation embarked on the analysis of the existing data (legislation, policies, guidelines and procedures) to achieve its intended objectives. Accordingly, the study was answerable to design the Chapter outline to assist the investigation. The Chapters were designed in the manner to cover the key concepts and principles of accountability, governance and intergovernmental relations from a governance perspective. These concepts and principles were analysed from the local (South Africa) as well as international sources. As already stated, the study was organised and arranged in the form of seven Chapters. The study outlined its seven Chapters as follows:

(a) Chapter One: Introduction

This Chapter introduced the study to the user. The purpose of the Chapter was to offer an outline of the entire study in the form of the background. The Chapter took the following form: the orientation of the study (1.1); the problem statement (1.2); the aims and objectives (1.3); the research methodology (1.4); the study outline (1.5); the significance of the study (1.6) and the conclusion (1.7).

(b) Chapter Two: Theoretical Perspectives of Governance in South Africa

This Chapter focussed on discussing theories of governance, which are central to the accountability and intergovernmental relations. The discussion of these theories were aligned to provide an improved meaning of global network, governance network, partnership, public participation, civil society organisation (CSO), community-based organisation (CBO) and non-governmental organisations (NGO) or non-profit organisation (NPO). As discussed throughout the investigation, the theories as given special attention in this Chapter, are aligned to the accountability within the governance of intergovernmental relations.

(c) Chapter Three: Conceptual Framework of Intergovernmental Relations

The Chapter focussed on the discussion of the theories relating to intergovernmental relations. The theories are concerned with the intergovernmental relations converging to provide the essence of accountability and good governance. In the same breath, the discussions on these theories are constrained within the parameters of accountability within the governance of intergovernmental relations.

The basis for the discussion in this Chapter confined itself to the framework of the Constitution (1996). The terms of reference for the Chapter was sections 40 and 41 of the Chapter 3 of the Constitution (1996), cooperative governance and intergovernmental relations. Furthermore, the discussion extended to the Chapter 9 Institutions. These state institutions as provided by the Constitution, encapsulated all branches of government and intergovernmental governance in the three spheres of government. The study found the state institutions to be the basic principles to promote accountability, good governance and intergovernmental relations.

(d) Chapter Four: Intergovernmental relations from International Perspective

This Chapter focussed on various perspectives of accountability and governance confined to the international intergovernmental system as compared to the use of the same in South Africa. The study used narratives of the international intergovernmental relations against the practice of the South African intergovernmental system in the three spheres of government. The comparison between South Africa and the international community became crucial to this Chapter. The study selected the following countries for the purposes of comparison (i) the Federal Republic of Germany, (ii) the United States of America, (iii) Australia, (iv) Canada, (v) Tanzania, and (vi) Uganda. All the selected countries use the similar intergovernmental system as in South Africa. However, the study detected somewhat the operational variances in the application and the practice. Hence, the outcomes of practical comparison became critically important in the development of the “integrated governance model” of the study.

(e) Chapter Five: The Critical Analysis of Governance Accountability

The Chapter critically analysed governance accountability. The study conducted the analysis of governance accountability within the boundaries of the spheres of government (national, provincial and local). The Chapter further covered the analysis of “accountability” within the context of using the branches of government to ensure the strengthened checks and balances. On the other hand, the discussion focussed on accountability from the context of the state-owned enterprises (SOEs) in form of public sector responsibility. Lastly, the Chapter will pondered on the “accountability” with relations to the national policy formulation, and the implementation with specific reference to the National Development Plan (NDP). To the greater extent, the study used the terms “National Development Plan and Vision 2030” interchangeably since they referred to the same thing.

(f) Chapter Six: The Interpretations and the Meaning of the Study

In this Chapter, the study reflected on the previous Chapters (i.e. Chapters 1-5) identify its relevant key concepts developed by in order to provide a proper interpretation and the meaning to the benefit of the user. Accordingly, the Chapter aligned the developed concepts and further provided interpretations and meanings to the main topic of the study, i.e. the “accountability within the governance of intergovernmental relations South Africa”. It is for the same reasons that, the study provided the similar interpreted concepts with the meaning in the findings, recommendation and the integrated governance model (IGM) of the study. Hence, it became important for the study that ahead of the finalising of the model to give the special attention to the individual concepts in-depth analysis of “accountability, governance and intergovernmental relations in the form of figures (diagrams) and tables to give credence to the unique contribution.

(g) Chapter Seven: The Findings, Conclusions and Recommendations

This Chapter, which was the last Chapter of the study and produced the findings, conclusions and recommendations. Given the fact that, the study mapped out its investigation on the frames of accountability, governance and intergovernmental

relations, they became key to the entire research. Therefore, the findings, conclusions and recommendations informed the outcomes of the basis of the investigation. Apart from that, outcomes of the comparison of the national and the international investigation became informative. The relations of the spheres of government in so far as the respect to the Constitution (1996), and the branches of government formed the integral part of the integrated governance model (IGM). The analysis and the combination of all these concepts made it easier for the study to produce the easier guide for the betterment of the user.

1.6. Significance of the Study

This investigation on the “accountability within the governance of intergovernmental relations in South Africa” was indeed necessary because it provided the unique model. The outcomes of the “integrated governance model” provided a simplified and easy to read process. The model by the study synchronised the functioning of the three spheres of government (national, provincial and local) to minimise conflict through improved systematic communications. Apart from the synchronised processes of the intergovernmental, it integrated the concepts of accountability and governance into the intergovernmental system. The investigation synchronised and integrated the model by simplified figures (diagrams) and tables for the ease of reference and understanding by the user.

As already indicated above in page 29, that the investigation was relevant, the integrated governance model (IGM) as summarised in the last two Chapters was a revelation to address the existed challenges of “accountability, governance and intergovernmental relations. Despite, the investigations by academic literature from various institutions, which researched related topics the challenges continued due to the failure to prioritise “accountability” as the key aspect. Accordingly, the study made reference and summaries of the related researches under item 2.2 as listed (i) the relationship between political transformation and corruption, (ii) leadership and government perspectives (municipalities), (iii) leadership and governance (the public service), (iv) the dilemma of whistle-blowing and corruption (the public sector), and (v) the question of good governance in Africa. The topics encompassed the fields of leadership, governance and corruption, but there was an absence of demarcated

accountability in their fields of study. Be it as it may, van der Waldt (2018:18-19) continued to notice no difference. Therefore, the investigation by its unique focus on “accountability” made this study significant within the borders of governance and intergovernmental relations.

Furthermore, there are significant factors that make this study unique. The focus of the the other studies, as referred to in the paragraph above, were on a standalone formation, thus, municipal or provincial legislature level, and to a lesser extent, on national government. Admittedly, there were reflections of the spheres of government in selected academic studies, but there was no discussion on intergovernmental relations. Therefore, this investigation on “accountability within governance intergovernmental relations” provides unique status to this study. Hence, this study will strive to provide guidance on the concepts of accountability, governance and IGR through the development of the integrated development model and the recommendations at the end of the investigation.

Accordingly, as the study unfolds, it will justify the uniqueness of this investigation to demonstrate its contribution to the world of science. The pillars of success concerning its contribution, and subsequently making the study unique, will be drawn from the following key indicative background:

- the enhancement of scientific knowledge on the concepts of accountability and governance,
- the elevation of theoretical knowledge on the concepts of governance,
- the contribution of theoretical perspectives on intergovernmental relations and the spheres of government,
- the advancement of new perspectives on accountability,
- the development of a new book on the theoretical perspectives of accountability, and

- the development of a charter, with the information flow to direct the study.

Ultimately, the study will strive towards fulfilling its intended aim relating to the investigation of “accountability within the governance of intergovernmental relations” by developing an integrated governance model and a set of recommendations. The model will provide step-by-step guidance for public servants and political leadership elected or deployed in the field of government. The mode is supported by the findings and the recommendations for the users in order to deliver accountable governance to the citizenry.

1.7. Conclusion

Chapter 1 laid down the introduction of the project by providing the orientation of the study. The orientation projected the challenges that necessitated the research and reasons that motivated to embark on developing the solution through the investigation. These challenges normally are reduced into what is known as the problem statement of the investigation. The study further developed the methodology, the aims and the objectives of the investigation to guide the research process.

Furthermore, this chapter described the relevance of the topic to produce the desired outcome. Such, description of study was developed in the intended form or guidance of research design. At the ultimate end, the study found it appropriate to draft and articulate the significance of the study.

In line with the above, the study found it correct to start the next Chapter by providing the theoretic perspectives of the governance. These theoretic perspectives of the broader sense of governance as the concept, needed to be provided within the context of accountability within the spectrum of intergovernmental relations (IGR). As it was already mentioned, these governance theoretic perspectives ought to be at the centre of the (i) governance networking system, (ii) governance public participation, and the (iii) the governance stakeholder partnership, and all these three aspects are to be discussed in full in the next Chapter.

CHAPTER TWO

THEORETICAL PERSPECTIVES OF GOVERNANCE IN SOUTH AFRICA

2.1. Introduction

This Chapter seeks to provide the theoretical perspectives on accountable and good governance. These theoretical perspectives of governance provided the background of (i) networking, (ii) participation, and (iii) partnerships. The study adopted the approach by Curtin, Mair and Papadopoulos (2012:2) and Ferrandino (2018:150) to caution the suggested broad usage of the term “accountability”, without identifying the phenomena of the word. Accordingly, the study concurs with Curtin *et al.* (2012:2) that accountability should be restricted to electoral representation, electorate authorities, and IGR.

Bovens (2012:18) clearly stated that the word “accountability” meant different things to different people. This Chapter intended to discuss accountability within the context of three indicators. These indicators successfully offered the theoretical perspectives to an accountable South African governance. These three indicators as mentioned are (i) networking, (ii) public participation, and (iii) partnership. Accordingly, the discussions of the indicators followed argument reference offered by Bovens (2012:18). The author cautioned that the discussions of (i) networks, (ii) participation and (iii) ought to articulate profound interpretation and meaning.

This Chapter will discuss the governance perspectives under the parameters of **networking**, **partnership** and **participation**, with the understanding that they provide better service than the actual government. Hence, Cohen, Eimicke and Heikkila (2013:xiii) concur that some functions are best performed by government, and others by civil society organisations (CSOs). CSOs exist in the form of non-governmental organisations (NGOs) or community-based organisations (CBOs), whilst others are private companies. Hence, Cohen *et al.* (2013:xiii) argue in favour of the government using networks, participation and partnership in rendering accountable governance. Given this background, it is appropriate for this Chapter to provide broader perspectives on governance to ensure accountability within the governance of IGR.

However, the Chapter will not deviate from the key guiding principles of accountability, governance and intergovernmental relations (IGR).

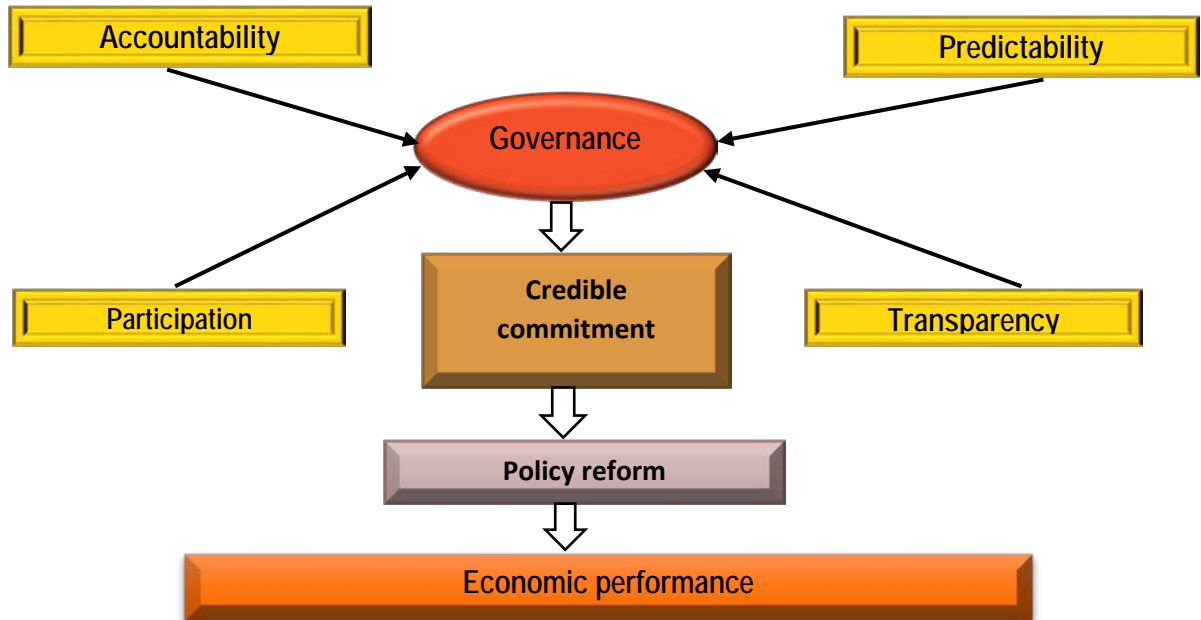
Cohen *et al.* (2013:15-16) and Curtin *et al.* (2012:9) emphasise the need to have efficient, effective governance and improvement against the accountability deficit. The argument by Cohen *et al.* (2013:15-16) is complemented by the reasoning of Lynn Jr (2012:61), which states that the teachings and studies on governance remain relevant and necessary today. However, Cohen *et al.* (2013:16) argue that although there is a need to explore theoretical perspectives, all the stakeholders involved in governance need to be accountable and act like agents of the publicly elected representatives. Accordingly, the argument deduced from Cohen *et al.* (2013:15-16) and Lynn Jr (2012:16) intends to provide a clear directive to this Chapter in terms of ensuring answerable governance through the **networking, partnerships and participation** of all the relevant stakeholders within the governance of intergovernmental relations (IGR).

Briefly, this Chapter sought to fill the prevailing gaps and voids in the broader analysis and knowledge of networks, public participation and partnerships of the governance of IGR in South Africa. Through the employment of the literature review, this Chapter will provide the meaning of governance's theoretical perspectives. These theoretical perspectives provided comprehensive analysis and assessment of networking, public participation and partnerships. As indicated, the conducted the analyses and assessments within the ambit of **intergovernmental governance** in South Africa. The Chapter will help to implement and further broaden the understanding on how (i) government networks are working, (ii) public participation impacts and deepens the efforts of accountability and transparency, (iii) to determine the essence of public participation, and lastly, (iv) to build the partnerships with the government in a democratic South Africa.

For ease of reference and understanding, in order to follow this Chapter of the study, it was essential to draw attention of the user to the thin line between participation and partnership. However, this Chapter primarily focussed on networking, participation and partnership as unfolded. At the same time, the Chapter provided for (i) who the actual participants are, (ii) what are the institutions involved, and (iii) what the core objectives

and functions of this participation process are within the context of the governance of intergovernmental relations in South Africa.

Figure 2: Governance Dimensions and Economic Performance



Source: Ahrens (2011:10)

Figure 2 demonstrates and substantiates accountability within the **intergovernmental governance** system in South Africa. It further supplements the intentions of the study by encouraging accountability and transparency, partnerships and the participation of stakeholders within the governance of IGR, and the predictability and practicability of delivering good service. Figure 2 puts governance at the centre of participation and transparency. Above the centre of participation and transparency, governance was at the middle of accountability and predictability. Figure 2 also illustrates that accountable governance is predictable, and that participatory governance is transparent. According to the Figure above, governance, surrounded by these dimensions, has the potential to deliver credible commitment, as well as the capacity to reform good policies. Figure 2 is the primary instrument to enhance economic performance.

Accordingly, this Chapter focussed on **governance accountability** to the citizens of South Africa. The study measured the governance accountability at all the levels of service delivery across the three spheres of government insofar as distinctiveness, interrelatedness and interdependency is concerned. In relation to governance

accountability, the “distinctiveness” of this study will focus on its possible impairment from the different spheres of government. Similarly, Chapter 2 will also investigate the impact of governance accountability in relation to interrelatedness and interdependency amongst the spheres of government. Moreover, this Chapter embraced the full affirmation of the argument by Pelizzo and Stapenhurst (2014:2) that “... the notion of accountability means different things in different political concepts”.

In addition, the Chapter investigated the better part of the key question of the broader study in “how government officials can develop the best principles of accountability measures within the governance of intergovernmental relations and effectively implement the same accountability measures to ensure answerable good governance?” It did so by developing the means to understand the challenges of accountability and further explored possibilities to render solutions to the same challenges. The Chapter diagnosed the accountability of public officials within the framework of the governance of intergovernmental relations, in collaboration with the citizenry.

Lastly, the Chapter investigated the depth of governance accountability in line with two state institutions, namely (i) the office of **Public Protector** (PP), and (ii) the office of **Auditor-General** (AG). The study used the basis of the Public Protector (PP) and Auditor-General in accordance with the guidelines for accountability mechanisms as advanced by Malena and McNeil (2010:5):

- **Political Mechanisms:** The discussion, in this regard, provided the supervision of the administrative wing by the political arm through the implementation and guidance of the designed legislation. The discussion unfolded in a manner in which is not repetitive since Chapter 3 presented the full argument on the subject matter. Accordingly, the next Chapter dealt with the political mechanisms, with specific reference to constitutional accountability.

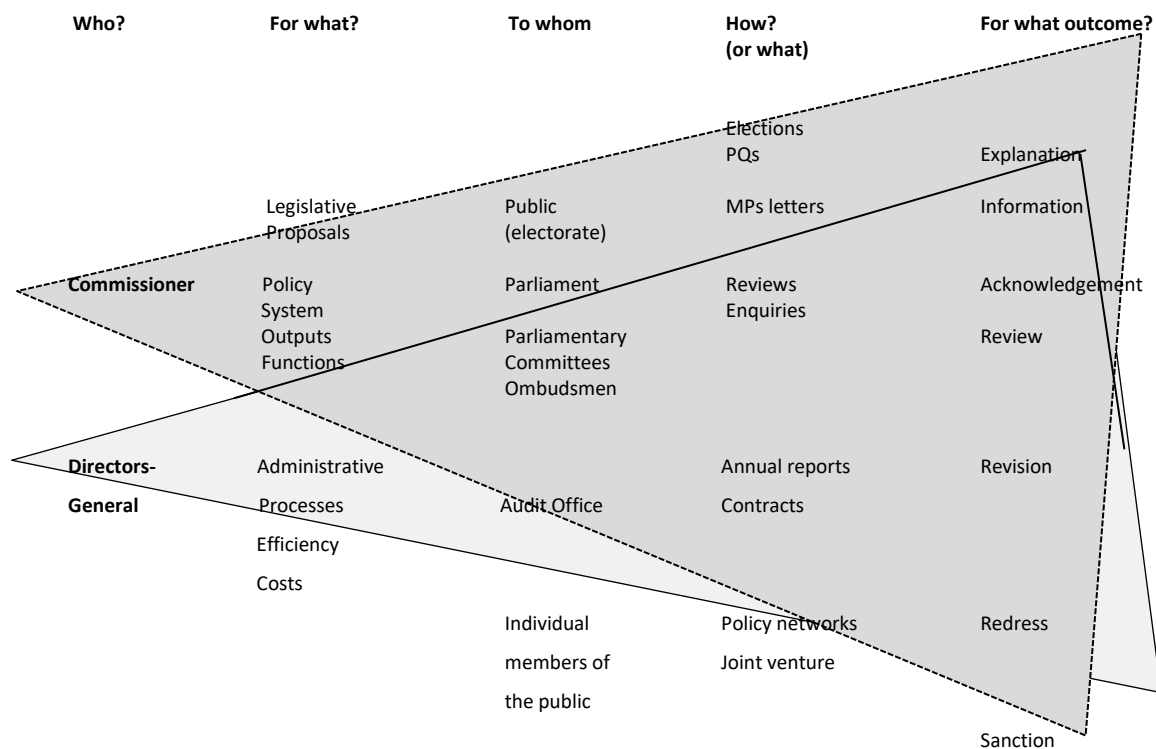
- **Fiscal Mechanisms:** This investigation departed from the outcome reports of Auditrr-General South Africa (AGSA) on financial management. The reports covered all governmental departments with regard to accountability within the governance of intergovernmental relations (IGR) in the country.

- **Administrative Mechanisms:** The investigation, in this regard, will determine the governance accountability reporting systems and policies. In the context of this Chapter, the centrality of the discussion focused on the progress made by the implementation of the National Development Plan (Vision 2030). In addition, the investigation will addressed the intervention of governmental internal oversight bodies as well as the constitutional Chapter 9 institutions.

- **Legal Mechanisms:** The study discussed the legal mechanisms based on the independence of the judiciary and its subscription by civil society. Furthermore, the discussion encroached on compliance and respect for the three branches of government, as advanced by Malena and McNeal (2010:5).

The study discussed the above factors of accountability mechanisms within the ambit of promoting democracy and compliance, and improving public authority and resources, the sentiments shared by (Wille, 2012:166-167) as well. The same discussion on the accountability mechanisms needed extension to include exercising continued scrutiny and the evaluation of the public authority. As such, the discussion will attempt to inculcate an inner responsibility in each individual public official in an effort to motivate and increase the levels of professionalism. The argument will combine accountability from the perspective of an individual and organisational virtue, which requires active participation (Wille, 2012:166-167). Accordingly, the study illustrated the underneath Figure 3 to demonstrate the discussion on the mechanisms of accountability and its responsibility to deepen the understanding:

Figure 3: Mechanisms of Accountability and Zones of Responsibility



Source: Wille (2012:183)

The mechanism of accountability, as demonstrated above, indicate a simplified process of chained responsibilities. It all starts with the identification of the responsible person to perform a specific task (Commissioner). It is followed by what task the responsible person is expected to perform and when (legislative proposals). The above Figure 3 further sought to determine the responsible person on behalf of whom the expected task needed performance (the public or electorate). The Figure also requires the process to spell out the criteria on how to attain the expected results by the responsible person (letters from Member of Parliament). At the end, Figure 3 demanded the desired outcome (information).

Apart from the study focussing on governance accountability, as already outlined in in this Chapter. The Chapter also discussed accountability in relation to intergovernmental relations in the three spheres of government in South Africa. Chapter 2 investigated intergovernmental relations' accountability in the foundations of Section 41(1)(g) of the Constitution (1996), which provides for the principles of (i)

cooperation, (ii) respect, (iii) support, (iv) information sharing, and (v) consultation amongst the three spheres of government.

Accordingly, based on the above-listed components of intergovernmental relations, as enshrined in the Constitution (Section 41), the study will focus on the oversight mechanisms applicable to all spheres. The study used the oversight mechanisms of the public accounts committee (PAC) to instil accountability within the intergovernmental relations (IGR). Hence, this Chapter directed its energies to:

- The national sphere: the standing committee on public accounts (Scopa),
- The provincial sphere: the provincial public accounts committee (PPAC), and
- The local sphere: the municipal public accounts committee (MPAC).

The committees, as located in the three spheres of government, enjoy cross-referential terms and powers in their respective spheres. However, their main objective is to ensure accountability within intergovernmental relations by means of oversight on the the three spheres of government.

Apart from the Chapter discussing the governance accountability and intergovernmental accountability, Chapter 2 also analysed the **constitutional accountability**. Despite, the synopsis of the discussion on constitutional accountability in this Chapter. The study advanced the broader and in-dept discussions on the subject matter in Chapter 3 of this study. However, the discussion in Chapter 3 avoided the repetition of institutional accountability for in which the study presented in reference to the Chapter 9 Institutions. Despite the study having discussed the state institutions, the deeper analysis referenced on the Auditor-General (AG) and the Public Protector (PP). Therefore, in the context of this Chapter, the analysis of constitutional accountability comprising the values on which the democratic South Africa was established, in accordance with Section 1(d) of the Constitution. Apart from Section 1(d), the analysis in this Chapter will expand to constitutional accountability in relation to Section 41(1)(c), which demands an “efficient, transparent, accountable and coherent government”.

In the context of this Chapter, as in the **broader sense of accountability**, Curtin, Mair and Papadopoulos (2012:2) concur with the study that accountability is rather a **broad concept**, than a single paradigm. Hence, Bovens (2012:18) argues that the word “accountability” may refer to different things. However, the term “accountability” encompasses and enjoys the intimacy of (i) electoral representation, (ii) the relationship between the authorities and the government, and (iii) the evaluation of performance. On the other hand, Bovens (2012:18) concedes that accountability means “many different things to many different people”. In the same vein, Hood (2012:66) agrees with both Curtin *et al.* (2012:2) and Bovens (2012:18) that there are multiple dimensions of accountability ascribed in the form of “answerability and culpability, formal and informal accountability, financial and other forms of accountability”.

Apart from this Chapter having adopted the analogy of Bovens (2012:18) that accountability can refer to different things to different people, it would be appropriate to draw in what constitutes “accountability” in line with the definition provided by Nzimakwe and Ntshakala (2015:834-835). In this Chapter, the study saw “accountability” as “the quest for decision-makers in government, the private sector and CSOs to be broadly accountable to the public, as well as institutional stakeholders”. Given this background, this Chapter will adopt the six pillars of accountability to avoid the vagueness of meaning different things to different people throughout the Chapter. Accordingly, these six pillars by Nzimakwe and Ntshakala (2015:834-835), as adopted by this study, will trim and guide the debate to the true sense of accountability, as they provide:

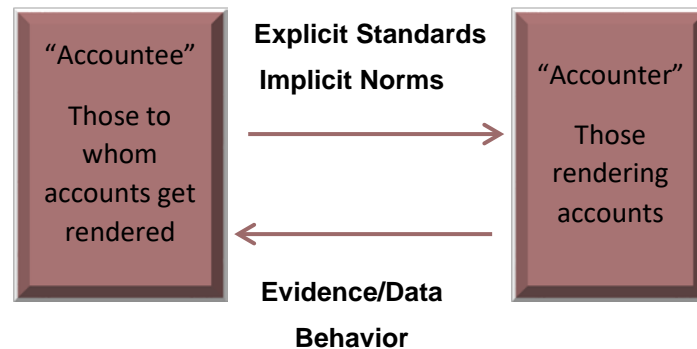
- (i) clarity to the unequivocal alignment of responsibilities and authority,
- (ii) coherence and breadth to the concepts of responsibility with regards to community, future generations and political accountability,
- (iii) clarity for the political leaders as the elected leaders and the non-elected leaders,

- (iv) public accountability as the means for accessing information, analysing the capacity and reporting,
- (v) a platform for civil society and the media to mobilise and demand governance accountability, and
- (vi) transparent governance, which permits the citizenry, civil societies and the media to access relevant information (Nzimakwe & Ntshakala, 2015:834-835).

Chirwa and Nijzink (2012:5) also concur with Bovens (2012:18) in arguing that “accountability” depends on the time, context, cultural orientation, or ideological persuasion. The study concurred with the submission by Bovens (2012:18) that the word accountability is a synonym for terms such as good governance, transparency, equity, democracy, efficiency, responsiveness, responsibility and integrity. Similarly, Chirwa and Nijzink (2012:5), Koliba, Meek and Zia (2011:22) and Corder (2012:87) confirm that an accountable process demands that (i) power holders must be answerable to their actions, (ii) public authorities should be responsive to the needs and expectations of the public, and (iii) there should be enforceability through disciplinary measures effected for unresponsive power holders.

Koliba *et al.* (2011:226) consider governance accountability as critical in governing processes and practices, which advances in the form of feedback to citizens. However, the same feedback needed evaluation and conversion into the decision-making process. In the process of feedback and decision-making, governance will play an integral part of regulating the in-between flow of both “feedback and decision-making” within the social system. In simple terms, governance accountability has the obligation to account by one party to the other in a responsible manner. This occurs when accountability results from the system of interdependency between those who are to provide accountability and those whom the accountability needed to be rendered to (Koliba *et al.*, 2012:226). Thus, Figure 4 illustrates the relations between the “accountee” and the “accounter”.

Figure 4: The Accountability Dyad



Source: Koliba et al. (2011:243)

Figure 4 above refers to the two blocks of accountability. The one block represented the public or citizens, who accountability has to benefit. However, these citizens ought to be active participants in the process of accountability. The other block represented those who are responsible to ensure that accountability takes place. The accountability dyad, as reflected above, confirmed that accountability mechanisms by the two blocks of accountability to supplement each other.

In line with the above Figure, Malena and McNeal (2010:1-2) argue that the failure by the state to account (as the accounter) to the citizens (as the accountee) has increased considerably globally. As a result, acts of citizen demonstrations against governments have also increased, which relates to the lack of transparency, responsiveness and accountability. The lack of responsive and accountable governance severely and negatively affects ordinary citizens because they automatically lose their inherent right to influence decisions. Once the state fails to account to its citizens, then the demons of fraud and corruption arrive in quick succession. Hence, the continued demonstrations against the South African government, as argued by Malena and McNeal (2010:1-2). In countering these challenges of accountability and governance, as presented by Malena and McNeal (2010:1-2), this study will attempt to source various mechanisms to enhance legitimacy in the different spheres of government. It is for this reason that Koenig-Archibugi (2012:218) posits, "**accountability** is demanded, supplied and studied mainly because of the expectation that it will contribute to establishing, maintaining or enhancing legitimacy".

2.2. Literature Review

A literature review was the method within which the study determined the views of the previous scholars and authors. Furthermore, the use of a literature review in this investigation will referred to the opinions as presented by previous authors. In the context of defining the literature review, this research sought to investigate the topic under study by using the views of previous authors. The study acknowledged all the sources used in the process of this investigation. Accordingly, the study used the literature review in this investigation as the key process guide to articulate the theoretical findings, conclusions, recommendations, and the integrated governance model. These expected findings, recommendations, conclusions and the model provided the demystified directives on governance accountability to the users. The the study used the literature review to assess the information and/or data gathered from various sources to substantiate the arguments. Mahmud (2009:14) identified three useful tips, which relate to the importance of a literature review. These crucial tips are (i) to update the current study, (ii) to upgrade the tools and mechanisms used in order to understand the current state of knowledge, and (iii) the drawing of the determination factors to examine whether the topic was previously researched or not. Accordingly, the study adopted the tips by Mahmud (2009:14) in the process of this investigation.

2.2.1 Academic Review

In line with the above argument by Mahmud (2009:14), the study chose to analyse the five academic theses from various institutions of higher learning (universities). The sole purpose was to avoid conducting an investigation on the subject matter (topic) already researched. If this study did not consider the previous researches, the risk was high to meet the same findings, recommendations and resolutions. The study study selected five academic topics on their basis of their relations to this investigation. According to Aurini *et al.* (2016:25), the selected projects need to be analysed to address the conceptual shortcomings during the investigation of the research. Accordingly, the five selected theses provided in the form of their (i) topic, and (ii) brief summary of the research to justify the significance of this investigation. The details of these five academic theses had some relevance to the “accountability within the governance of intergovernmental relations in South Africa”.

(a) A Critical Analysis of the Relationship between Political Transformation and Corruption.

This study by Cloete (2013:23) investigated the manifestations and activities of corruption in the public sector. The author referenced to the corruption within the South African Police Service (SAPS). Accordingly, the author concluded that these manifestations and malpractices of corruption within South African Police Services (SAPS) led to organisational weaknesses and institutional flaws. Hence, the continued chronic of corruption and the loss of confidence into the South African Police Services (SAPS). Given the investigation by Cloete, this study detected the serious gap of investigation within the oversight measures to ensure the application of “accountability”

(b) Leadership and Governance Perspectives in Local Government Administration in South Africa: Limpopo Province.

The intention of the study by Mavhivha (2007:45) was to examine the challenges facing the leadership and governance with specific reference to the Limpopo Province. It further sought to enhance leadership capacity in the local sphere and promote effective service delivery. In these circumstances, the intention was to build on the leadership capacity of the municipalities within the Limpopo Province to strengthen service delivery to communities. Apart from the investigation by the author referencing to the specific province, its outcomes could be used to all the municipalities across the countries because they experience almost similar challenges. Despite, governance and intergovernmental system being at the centre, “accountability” is not main argument of the author.

(c) Leadership and Governance in the South African Public Service: An Overview of the Public Finance Management System.

The study referred to Siswana (2007:65) to create an understanding between governance and managerial leadership in the public sector of South Africa. The analysis by the study further sought to identify threats to the Public Finance Management Act (1 of 1999) due to the lack of accountability. Accordingly, the

investigation aimed at improving governance systems using the existing legislations and procedures with no preference to “accountability”.

(d) The Ethical Dilemmas of Whistle-Blowing and Corruption in the South African Public Sector.

The study used Mbatha (2011:38) to explore the rationale behind the investigation on the ethics, values and morals. Apart from investigating the principles of ethics, values and morals, the author focused on analysing corruption and its continued change in formation. On the other hand, Mbatha (2011:78) extended the investigation to cover the mechanisms, which sought to combat corruption in democratic South Africa as well the author made strong appeal to strengthen the security for the whistle-blowers. This study noted the efforts by the author to cover the huge spectrum of ensuring the means of good governance. However, the challenge with the element of accountability and intergovernmental system remained a fallacy and ignored.

(e) The Philosophy of Human Rights and the Question of Good Governance in Africa.

Accordingly, Letsepe (2011:88) investigated the problems of human rights and good governance after attaining independence by the African states. The author conducted the research in relations to the limitations of equal constitutional compliance versus its respect and compliance. In the same vain, Letsepe (2011:107) strongly appealed and championed for the leadership to respect the societal human rights and good governance in democratic African countries. Similarly, this study detected that the efforts of the investigation to improve good governance ignored the element of “accountability”.

2.2.2 Importance of Review

This study concurred with Holzbaaur, Lategan, Dyason and Koko (2012:72) that the literature review is a mechanism through which the researcher engages with the sub-topic and further incorporates, translates and analyses such data into the main debate of the research. Hence, the literature review became the prime factor of this

investigation in terms of finding out what others have said on related topics, and it tested the views of reputable authors. As a result, the study critically engaged various forms of information, which included books, journals, articles, speeches, and academic material (published and unpublished PhD thesis). Furthermore, the study critically analysed the Constitution of South Africa to determine its pronouncements and endorsement of the principles of accountability in as far as the checks and balances are concerned in line with respecting state institutions (Chapter 9 Institutions). The study stretched the constitutional analysis to incorporate the improvement of accountability, good governance and intergovernmental systems and their formations. Apart from the Constitution, the study also studied legislations to support accountability measures, good governance and intergovernmental relations in South Africa. The study used the legislations to gauge the continued governance challenges in relation to the lack of accountability in South Africa's three spheres of government. Similarly, the study diagnosed the implementation of the NDP against its set timeframe (2030) versus the implementation progress. On the other hand, the study also analysed the views of experts through investigative journalism online, on national television and in the print media (newspapers). It is against the background of this paragraph (the literature review) that the study designed an integrated governance model, which laid the stringent foundations of accountability and good governance for the beneficiaries. However, the study concurred with McNiff (2017:105) to survey the available data without compromising the originality of its unique contribution, knowledge and significance to the field of study.

2.3 Network Theory

The network theory was seen from different angles in various studies. Hence, Davis, Kingsbury and Merry (2015:4-5) state that the substantial work of the network theory connects the law and power in the networking field of the old and new governance. The other aspect of the network theory was seen as the key indicator, which quantifies the theoretical perspectives of global governance in the broader context. Lastly, Davis *et al.* (2015:4-5) argue that the network theory purports to be strongly influenced by science and technology. These three key indicators of the network, as discussed by Davis *et al.* (2015:4-5), suit the exact argument of Bogdandy and Goldmann (2015:56). Accordingly, Bogdandy and Goldmann (2015:56) present that the network is

composed of officials with high-level expertise who acquired prominence in various fields. Similarly, Thornhill (2015:21) simply argues that a network refers to “governing with partnership”.

In the same vein, Hileman and Lubell (2018:372-373) define the governance network as a set of different relationships within the diverse public and private participants working jointly to achieve the finalisation of a particular project. The governance networks focuses on the structural way of doing things, which includes facilitating cooperation within closed structures. Accordingly, governance networks may have a direct influence on (i) cooperation and social learning, and (ii) the presence of open and closed network structures. Similarly, the same influence is likely to give birth to political power and control on the distribution of resources (Hileman & Lubell, 2018:372-373).

The concept of the network theory has strong roots in intergovernmental relations, which is characterised in three categories. These three characteristics involve (i) problem solving, (ii) strategic and coping behaviour, and (iii) communication networks. Accordingly, central to these three characteristics of network theory remained the management of IGR. The networking within the intergovernmental governance system provided the framework, which deals with managing all sorts of problems. The management of these networking theories has the perspectives of interdependent and distinct formations. The impact of the intergovernmental network is expanded by the managerial techniques within the intergovernmental system.

With reference to the above two paragraphs, the first one made reference to the network theory using the three indicators that connect the law and power, by Davies *et al.* (2015:4-5). The second paragraph referred to the network theory by means of using the three characteristics to manage IGR. Similarly, Shamir and Weiss (2015:111-112) direct the attention on the network theory to the relations of the spheres and the networks promoting “corporate human rights responsibility”. These corporate human responsibilities distinguish between various types and levels of responsibility, which sometimes work for the network, or the sphere of government.

According to Kahn *et al.* (2016:48), networking is better managed and controlled if it is confined to a model because it consists of a variety of public and private actors. As there is no actor placed at the centre of coordination, it becomes relevant to have an internal model to guide the interaction between and/or amongst the networking parties. Despite the positives likely to be gained as incentives from the networking process, the networked settings and the policy processes remain unstable and unpredictable. Hence, the network model becomes useful and relevant, although the model may only be an internal process to manage. It is further argued that the network model may change in the process of interaction in accordance with needs of the actors to advance another course of demand. However, the network model maintains relevance in intergovernmental matters and accountability (Kahn *et al.*, 2016:48).

According to Hileman and Lubell (2018:371), the networking system makes the world very small. It reduces the distance between the local and provincial spheres of government. These networks further examine the differences that normally exist amongst the spheres or levels of government. Accordingly, these network interactions, which are delivered in an open and closed manner within the spheres of government, ensure that the size of the world is reduced into a small entity. Accordingly, Ferrandino (2018:148-149) agrees with Hileman and Lubell (2018:371) that the networks permit various “institutions to reinvent themselves as network anchors that provide essential tools within the local governmental, non-profit and private sector organizational network”.

2.3.1 Governance through Networks

This section of the investigation on governance through networks was informed by a discussion based on network administration and network management. Therefore, it is imperative to define these two concepts to provide guidance. To intensify the meaning of the two concepts, it will also be appropriate to draw attention to certain factors, which will assist in the governing of the networks. Accordingly, Kahn *et al.* (2016:292) define the two network concepts as follows:

- **Network Administration** refers to the strategy, which includes different goals and preferences to coordinate network actors of inter-institutional relations towards overcoming problems and policy measures.
- **Network Management** refers to the activities aimed at promoting cooperative strategies within the formulation of policies during the networking process.

Given the above definitions, it was concluded that network administration and network management create an atmosphere, which demands (i) trust, mutual respect and good faith, (ii) vertical and horizontal actors, and (iii) win-win for the networking participants. Accordingly, this list solidifies governance networking to manifest in accountability, transparency and good governance within the governance of intergovernmental relations (IGR).

According to Schwella (2015:60), and Sorensen and Torfing (2018), governance networks have set the targets to make public governance as effective as possible. The targets of governance networks also focus on democratising public governance. Hence, the drivers of governance networks need to give the new developments a chance to strengthen and democratise the system. Furthermore, governance networks seek to forge the collaborative relations of purpose between the management and the political leadership. These integrated efforts tighten the political leadership into the networked process of collaboration.

This study is of the view that the networking within the governance of IGR is of crucial importance, relevant and necessary. However, Colombo and O'Sullivan (2012:92) and Schwella (2015:50) caution that with the networks the situation differs from one government to the other depending on the applicable legislation. The study further concurs with the arguments by Colombo and O'Sullivan (2012:92) and Powell (2012:118) that networked governance is to a great extent non-independent. Networked governance has the tendency to central and indirect influence from national governments.

This study subscribes to the view of Torfing (2012:99) in that governance networking plays a critical role in society and thus the interaction between the key state actors, the economy and civil society. It is for this reason that Enroth (2011:19) states that we live in a world of networks, and the same view shared in this Chapter. Hence, the argument by Torfing (2012:99) that networking is crucial to the traditional modes of governance in relation to the hierarchy and the markets. Government networks are the interaction of interdependent actors, which greatly assist the development of accountable public governance (*ibid.*). Hence, Schwella (2015:50), in agreement with Torfing (2012:99), states that governance networks may be responsible for the implementation of the set goals of the state.

Enroth (2011:22) further argues that the management of networks is critical because different actors have different interests and identities. Hence, Schwella (2015:60) and Enroth (2011:22) agree that the interaction of governance networks do not necessarily imply the existence of common values, or that they share similar views as the other actors. Thus, the interactive approach is in pursuit of their own individual interests. It is for these reasons that McLaverty (2011:403) indicates that networks may surface in different forms, submitting that there are views that advocate that networking is a threat to democracy or to the development of democracy. However, Slaughter (2010:283) insists that the accountability of government networks attract and enhance the ability of the state's common problems in the global world.

Brousseau and Glanchant (2012:63) present that the networks:

- (i) are the infrastructure for the postmodern society on which the development of the economy and sociability is built,
- (ii) are the knowledge-based economy designed to innovate and regulate models, which guide and manage the investments, and
- (iii) remain a work in progress in some parts of the world, whilst adopting interaction through lobbying public opinion.

In the same vein, Schwella (2015:50) and Brousseau and Glanchant (2012:63) further submit that some of these networks still experience challenges in terms of solving new and current key issues.

According to Kahn *et al.* (2016:302-303), intergovernmental managers are reluctant to participate in an active role to promote and involve the network system. This demands that intergovernmental managers be at the centre of the governance network system. One of the key functions of intergovernmental managers is that they must be competent enough to organise and conclude service level agreements with external parties. This has to occur because the intergovernmental managers are to be held accountable for all the networked agreements. Accordingly, the centralisation of the networking systems in the hands of the intergovernmental managers will assist the public participation process and all leaders of intergovernmental networks (Kahn *et al.*, 2016:302-303).

2.3.2 Types of Governance Networks

Mueller (2012:50) distinguishes between the three forms governance networks as (i) standard resources, (ii) privately administered, and (iii) end-to-end principle. These three forms are not distinct but interrelated as they share resources and the market. However, these forms of governance networks have clear separation and independency concerning private initiatives and control. Largely, these networks maintain their independency in the parts, which are subject to global coordination and non-inclusive access. Brousseau and Glanchant (2012:67) share this view. Mueller (2012:50) and Brousseau and Glanchant (2012:67) argue that the networks do not have a system in place to deal with conflict or the resolution thereof. Hence, Kruss and Petersen (2016:298) insist that there is a need to develop technological capacity to increase “knowledge-intensive and complex activities” in dealing with network conflicts.

According to Frydman, Hennebel and Lewkowicz (2012:144) and Agranoff (2010:72), the internet is a dangerous, but effective, networking process of the governance of IGR. When compared to the past, the internet was unworkable, but today the situation

has changed. Hence, Kruss and Petersen (2016:308) state that in the 1900s, networks were built as and when the need arose.

Frydman *et al.* (2012:144) argue that the use of the internet as a form of governance network in Europe is so effective to risk (i) the freedom of speech, (ii) the freedom of the press, (iii) the rule of law, and (iv) Article 10 of the European Convention for Human Rights (ECHR). However, Article 14 sets down the conditions for use as recommended by the all relevant stakeholders (Frydman *et al.*, 2012:144). It therefore means that the internet presents itself as one of the effective governance networks, which needs to be used cautiously. That is why Schemeil (2012:191) provides for the adoption of a cautionary approach because the internet cannot successfully work as a network because in certain areas it is not accessible.

2.3.3 Global Governance Networks

As it is the first time that the concept “globalisation” was used in the text, it would be appropriate to provide a definition, which will create a contextual meaning for this Chapter and study. Therefore, the study adopts the definition of Venter (2011:96) in that globalisation occurs when the world interacts to enhance relationships of governments in relation to political, technological, social, environmental, legal and economic networking. The definition by Venter (2011:96) coincides with the argument by Kruss and Petersen (2016:298) that in the networking process, there must be an alignment to technological capacities – the capacity to increase information-intensive technologies, management of production, as well as the management of knowledge networks.

On the other hand, Davids and Maphunye (2009:91) see globalisation as “an intensive process of global integration”. Accordingly, Davids and Maphunye (2009:91) present that the levels of globalisation take place in different forms. These forms include: (i) the manner in which investments and trade are done, (ii) the trends in which the international organisations and legislations work, (iii) the policies adopted by governments, (iv) the manner of organising production, (v) how to develop programmes and projects, and (vi) and how to improve living conditions.

The governance network, or quasi-hierarchy, as it is indicated by Messner (2011:283) and Kahn *et al.* (2016:292), has the important role of linking governance with the outside world through various activities; these activities include information sharing. The networks are considered a cost-effective method of interaction, which combines and coordinates the markets. They also provide sub-optimal solutions to various challenges of governance. That is the reason why Torfing (2012:102) argues that governance networks function in the shadow of hierarchy. However, both Torfing (2012:104) and Messner (2011:287) caution against the possibility of the proliferation of networks; thus, they need to be thoroughly demystified.

However, in an attempt to demystify the proliferation of these governance networks, the study adopts the approach of Slaughter (2010:349) that accountability needs to be the departure point in the network system, as governance networks and accountability are inseparable. Pittman and Armitage (2017:1) agree with Slaughter (2010:349) that there are different types of accountability and that there are different types of government networks, which exist internationally. The efforts of simplifying governance networks may be drawn from the submission by Pittman and Armitage (2017:2), Torfing (2012:104-5) and Messner (2011:287), who agree that there are three broad categories of governance networks. They share a similar view that the governance network stands to provide:

- Response to the differences, complex and multi layers of characters in modern societies to match goals and actors,
- Explanations to solve the gaps within the political and strategic responses given the lack of the inputs and outputs in public policies,
- Recommendations for how society and the economy ought to be managed through regulated legislation, which is combined with the latest technologies.

According to Torfing (2012:105), the abovementioned set of governance networks are not mutually exclusive, but have the potential to influence socio-political actors in an attempt to address various forms of governance accountability. These forms of accountability addressed by Goodin (2010:205-6) refers to:

- the authority mechanisms of accountability whereby the subordinates are accountable to their supervisors and vice versa,
- the mechanisms of accountability, which deal with the conflict of interests and perspectives, and
- the mechanisms of accountability focusing on the rewards, encouragements, as well as the naming and shaming of those who are on the wrong side of the law. Hence, Kahn *et al.* (2016:48) advocate for the network model to circumvent the obvious challenges and to bring uniformity to the networking world.

According to Pittman and Armitage (2017:1-3), network governance seeks to enhance capacity in addressing the socio needs of government systems. In doing so, network governance transforms the “top-down “or hierarchical modes of decision-making” towards a centralised and self-organising system of governance. There are three governance challenges in this regard, which emanate from (i) interacting with actors in multiple forms of knowledge, (ii) coordinating management resources within social boundaries, and (iii) undertaking governance at the scale of relevance. To overcome these governance challenges, the capacity of governance needs to be built (Pittman & Armitage, 2017:1-3).

According to Ferrendino (2018:152), collaborative networks bring about benefits to the participation of locals and regions. These benefits and opportunities differ in range. The relations built out of networks increase the development of various projects, which benefit locals and regions. The networks of this nature need to open new channels of engagements and thus lure more clients for growth. However, growing the new networks might only be achieved through the reduction and elimination of existing red tape in the process (Ferrendino, 2018:152).

2.4 Partnership Theory

According to Winters (2017:2), a partnership refers to a relationship that is formal between the public and private business. This kind of business relationship is bound to be (i) task orientated and informed, (ii) based on the long term, and (iii) reduced in writing for an agreement. In the same vein, these forms of business relationships tend to share the same amount of benefits and risks (Global Health Governance, n.d.) Alternatively, “partnership” is defined as the two or more organisations, which agree to work together to achieve particular objectives or goal (*ibid.*). These joint partners may set up a roadmap to achieve the intended objective or goal. They may also agree to share staff, resources, rewards and risks.

However, Beisheim and Simon (2015:7) argue that partnerships are not automatically a success in delivering an accountable good governance project as the success depends on the partners achieving broad, long-term impacts. On the other hand, it is cautioned (Councillors Herefordshire, n.d.) that relations between the client and the contractor should not be construed to be a “partnership”; there must be a clear-recorded understanding between the parties.

According to Allen (2018:1), the principles of partnerships are meant to provide a clear guide to the “transparent working relationships with partners”, which work in collaboration towards one common goal. The goal towards reaching the set target should be inclusive, mutual, and equal for all partners. The partnerships of this nature emerge in the form of public, private and community partnerships, and further interact by the means of public participation to ensure transparency and accountability (Mercy Corps, n.d.). According to Du Plessis (2011:128), the partners need to work in a cooperative manner for their success and to overcome their challenges.

2.4.1 Civil Society Organisations

According to Davids (2009:73), the history of **non-governmental organisations** (NGOs) in South Africa prior to the democratic dispensation had to change. It had to change because before 1994, NGO formations were politically biased and thus involved in anti-apartheid activities. Hence, it was a great challenge for NGOs to exist

after the democratic general elections, resulting in many of them becoming redundant. However, according to Van der Waldt (2018:40-41), in the historic present of South Africa, NGOs had to shift from the protests of resistance towards working with the government as partners. They duly contributed in “bringing the government closer to the people” (*ibid.*).

Hence, an NGO should be defined for the purpose of this study. The study aligns itself with the definition provided by Thornhill and Cloete (2014:93) that an NGO is an organisation formed to advance a common objective. However, these organisations operate on a voluntary basis, independent from political influence. In some instances, NGOs may receive financial support from the government (Thornhill & Cloete, 2014:93).

Accordingly, the new transition saw the formations of NGOs at different levels. The South African National NGO Coalition (SANGOCO) was formed in 1995, and it became the largest umbrella body for NGOs in South Africa. SANGOCO’s existence was to promote governance public participation and further ensure that all the submissions made by NGOs were refined and incorporated in government policies.

NGO seems to be more vibrant in the form of public participation in the spaces where the government is somewhat distant. Apart from SANGOCO, there is also the Southern Africa NGO Network (SANGONet), which is a regional NGO for Southern Africa. Accordingly, SANGONet advocates for (i) democratisation of the states in Southern Africa, (ii) advancing gender equality in the governments and the economic fields, and (iii) integrating urban development in the Southern African region (Van der Waldt, 2018:41).

According to Kahn *et al.* (2016:212), NGOs are central to extra-governmental relations. Extra-governmental relations mean interaction between public officials within the different spheres of government. On the other hand, it includes the interaction between the private sector and NGOs. However, extra-governmental relations, in which NGOs are central, are not restricted to the two interactions, as provided. These interactions are expanded to social relations, political relations,

economic relations, as well as institutional relations. Kahn *et al.* (2016:212) state that properly constituted NGOs are characterised by the following:

- They are formed voluntarily,
- They operate independently, and
- They do not permit interference from the state and political society.

Venter (2018:104) discusses partnerships from a broad concept, known as the **civil society organisation** (CSO). These CSOs enter into partnership agreements with municipalities. They collaborate with the municipality with the intent to (i) achieve qualitative cost-effective service delivery, (ii) strengthen democracy, and (iii) supplement the municipal capacity by extending or expanding service delivery. These civil-based organisations (CBOs) are constituted of community-based organisations (CBOs) and NGOs. Venter (2018:104) further provides clarity to distinguish between community-based organisations and NGOs. These two civil society organisation concepts are distinct from each other in the following manner:

- **Community-Based Organisation (CBO):** refers to the formalised structures, which are formed to represent its members within their geographical areas.
- **Non-Governmental Organisation (NGO):** refers to an independent organisation (free from state and political influence), which is non-profit making.

Kahn *et al.* (2016:213-214) and Phutiagae (2018:173-174) argue that community-based organisations and NGOs are organisations, which work closely with local government in the form of partnerships. Authors like Venter (2018:104) agree that these organisations (CSOs) ought to be independent from influence by the state and political society. Accordingly, Kahn *et al.* (2016:213-214) argue that despite these organisations being independent “they are not apolitical or non-political”. It was further argued that CSOs were formed during the apartheid era for anti-apartheid activities. It also indicated that the end of the apartheid system in South Africa “raised the question whether these organisations are still relevant”. However, according to the authors

(2016), **community-based organisations** (CBOs) and NGOs still believe that they have a sense of relevance in the new democratic society.

Because of the above discussion, it is imperative to provide a table, which will give a picture of civil society organisations. The table will be illustrated with examples of each civil society organisation. The intention of designing this table was to simplify and clarify the debate on CBOs and NGOs, in accordance with the definitions as provided above. On the other hand, the table was designed to customise the relations of the three concepts (civil society organisations, CBOs and NGOs) in a simplified manner.

Table 1: Examples of CSO Relationship

Civil Society Organisations (CSOs)	
Community-Based Organisations (CBOs)	Non-Governmental Organisations (NGOs)
<ul style="list-style-type: none"> ▪ Stokvel associations ▪ Cultural associations ▪ Sports organisations ▪ Religious structures 	<ul style="list-style-type: none"> ▪ Public Policy research ▪ Policy dialogue support and facilitation ▪ Rights-based and interest group advocacy ▪ Capacity building in the form of information dissemination ▪ Training and support ▪ Facilitation of social service delivery and direct delivery

Source: Own Construction

Despite Van der Waldt (2018:40-41) and Kahn *et al.* (2016:213-214) agreeing on many aspects on community-based organisations and NGOs, they do not share views on their formation and purpose. Kahn *et al.* (2016:213-214) are of the view that CSOs are classified into four main types. Hence, the study discusses these CSOs underneath as follows:

- **Mass-Based Organisations** are formed in a specific community to represent the interests of the same constituency.
- **Resource Providers** stem from mass-based organisations and are involved in the running of resources centres (e.g. libraries). They are accountable to specific constituencies.

- **Technical Support Institutions:** are formed by groups of professionals to provide technical support, expertise and training to the mass-based organisations and resource providers.
- **Facilitating Organisations** are formed to create a platform for debates on political issues and further provide possible resolutions to opposing political parties.

Kahn *et al.* (2016:213) argue that mass-based organisations and resources centres are classical types of community-based organisations, whilst technical support institutions and facilitating organisations are examples of NGOs. Van der Waldt (2018:41) lists and discusses the following South African NGOs:

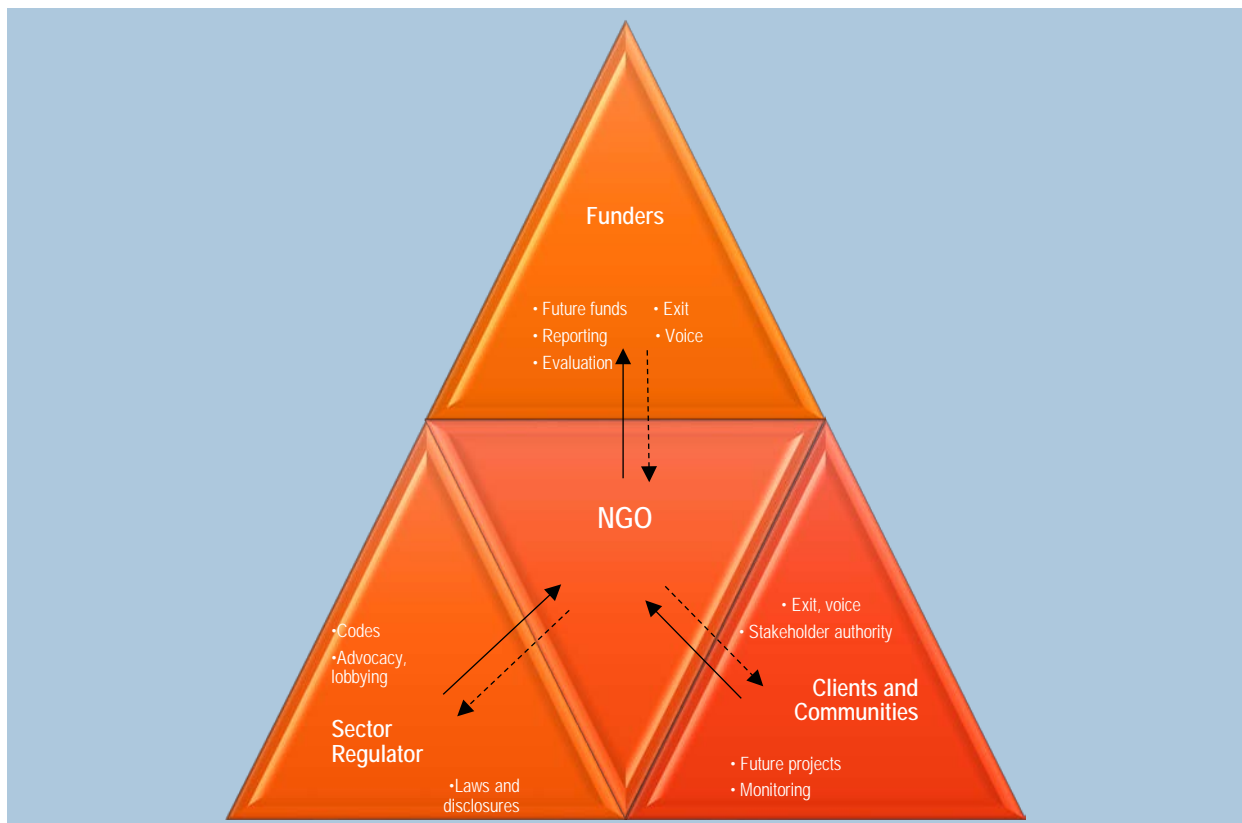
- **The Democracy Development Programme (DDP)** is a non-partisan and non-profit making organisation, which supports capacity building and social participation in South African governance matters.
- **The Electoral Institute of Southern Africa (EISA)** is an organisation that supports local government programmes and encourages the citizenry in the decision-making process.
- **The Institute for Democracy in South Africa (Idasa)** seeks to promote democracy by promoting active citizenry, democratic institutions, and social justice. However, the democratic transition threatened its existence.
- **The Open Democracy Advice Centre (ODAC)** promotes transparency, democracy and governance accountability, and assists citizens to realise their basic human rights.
- **The Participation Junction** encourages communities to challenge their own issues of governance accountability in line with the Constitution and the Bill of rights.

- **The Centre for Public Participation (CPP)** empowers civil society to engage the accountable structures and processes of governance in order to implement responsive policies.

According to Van der Waldt (2018:40-41) and Goodin (2010:220-229), partnerships stem from the strong roots of accountability, further arguing that if the opposite happens, the integrity of the government will be compromised. The United Nations (UN) and European Union (EU) form partnerships with non-governmental organisations (NGOs) with good track records of accountability. It is further explained that in any form of relationship or partnership, the responsible principals or drivers ought to be accountable (Van der Waldt, 2018:40-41; Goodin, 2010:220-229).

Kahn *et al.* (2016:214-215) and Ebrahim (2010:335-337) emphasise the criticality of the accountability of NGOs in collaborating with the government, as they continue to grow in the current dispensation. The donors of these organisations have to conduct internal audits to ensure that funds are utilised for the projects they were intended for. These audits maintain the credibility of non-governmental organisations (NGOs). Therefore, the answerable partner to government should be able to deliver accountable governance (Kahn *et al.*, 2016:214-215; Ebrahim, 2010:335-337).

Figure 5: Principal-Agent Relations of Accountability



Source: Ebrahim (2010:345)

According to Ebrahim (2010:342-345), non-governmental organisations (NGOs) as partners to the governance of intergovernmental relations have to be accountable to multiple principals. Businesses as partners report to shareholders, whilst NGOs are answerable to donors, boards and clients. It will be appropriate if a similar accountability can be instilled in the intergovernmental governance. The above Figure depicts the understanding of the accountability of non-governmental organisations (NGOs) towards their principals. As such, NGOs, as partners to good and accountable governance, have tri-cornered primary groups for accountability, namely, (i) funders, public agencies, foundations, individual donors and corporate sponsors, (ii) sector legislation which is inclusive of directives, regulations, procedures, policies and codes of conduct, and (iii) project beneficiaries, such as clients and communities (Ebrahim, 2010:342-345).

2.4.2 Public-Private Partnership

The World Bank defines a public-private-partnership (PPP) as a long-term contract or agreement between a private business and the government at any level. This business relationship should be restricted to providing a public asset or service, for which the private business bears the risk, management responsibility and rewards linked to performance. Therefore, the six key attributes that can be drawn from this definition are (i) public, (ii) private, (iii) partnership, (iv) length of time, (v) risk, and (vi) services (Khalo, 2018:265, World Bank, n.d.).

According to Nealer (2018:192) and Du Plessis (2011:128-129), a public-private partnership (PPP) is the start of good governance and practice through joint ventures. These PPPs need to be collaborative in nature to accommodate the use of knowledge and skills from different partners. These sorts of partnerships are concluded between private businesses and government. However, it is also argued that the combination includes government and NGOs. The partnership needs a high degree of planning and sound management. Such demand arises from the tendency of being involved in “expensive programmes such as the creation of infrastructure or the delivery of service ...” (Nealer, 2018:192; Du Plessis, 2011:128-129).

Khalo (2018:265-267) presents that a Public-Private Partnerships (PPP) may differ in terms of categories. These PPP categories could be classified in accordance with (i) the degree of the allocated risk to each partner, (ii) the level of capacity to negotiate contracts by each partner, and (iii) how the ratepayers are likely to be affected. Apart from these defined categories, there are five types of public-private partnerships (PPPs). For the purposes of this study, the types of public-private partnerships (PPPs), classified by Brinkerhoff and Brinkerhoff (2004:8) as traditional partnerships to advance service delivery and infrastructural projects, are discussed. The table below provided the types of public-private partnerships (PPPs) and their definitions, and it further illustrates the advantages and disadvantages thereof.

Table 2: Types of Public-Private-Partnerships

(a) Operations and Maintenance	
Partnership between the municipality and private partner to maintain a state-owned facility	
Advantages	Disadvantages
<ul style="list-style-type: none"> ▪ Potential to improve service, quality and efficiency ▪ Cost saving ▪ Flexibility in structuring contracts ▪ Ownership remains with municipality 	<ul style="list-style-type: none"> ▪ Collective agreements not permitting contracting out ▪ May be expensive for municipality ▪ Danger of reduced control by municipality
(b) Design-Build	
Partnership between municipality and private partner to build a facility to be owned and operated by the municipality	
Advantages	Disadvantages
<ul style="list-style-type: none"> ▪ Access to private sector experience ▪ Flexibility in procurement ▪ Reduction in construction time ▪ Opportunities for innovation and cost saving 	<ul style="list-style-type: none"> ▪ Reduces municipal control ▪ Complex award procedure ▪ Lower capital and maintenance costs if life-cycle approach is not taken
(c) Turnkey Operation	
The municipality finances a project and engages the private partner to design, construct and operate the facility for a specified period	
Advantages	Disadvantages
<ul style="list-style-type: none"> ▪ Place construction risk on the partner ▪ Transfer of operating obligation improves construction quality ▪ Potential public sector benefits from increased efficiency 	<ul style="list-style-type: none"> ▪ Reduced municipal control ▪ Complex award procedure ▪ Financial risk may be incurred by municipality
(d) Lease-Develop-Operate or Buy-Develop-Operate	
The private partner buys or leases a facility from the municipality and expands, modernises and operates it under a contract with the municipality	
Advantages	Disadvantages
<ul style="list-style-type: none"> ▪ Municipality may generate huge cash ▪ No need for upgrading capital ▪ Financial risk rests with private partner ▪ Improved infrastructure rests with partner ▪ Flexibility for procurement results 	<ul style="list-style-type: none"> ▪ Loss of control over the facility and infrastructure ▪ Difficulty in valuing assets for sale or lease ▪ Selling funded capital assets
(e) Build-Operate-Transfer	
Municipality and the private partner jointly finance the facility. When completed the facility is transferred to the municipality. Then the municipality transfers it to the private partner for the returns	
Advantages	Disadvantages
<ul style="list-style-type: none"> ▪ Obtains the benefits of the private sector ▪ Public sector maintains authority ▪ Public sector maintains asset ownership 	<ul style="list-style-type: none"> ▪ Possibility of the private sector terminating the partnership agreement

Source: Own Construction

According to Brinkerhoff and Brinkerhoff (2004:8), PPPs provide public and private benefits, which result from the relationship. The private sector, in the shared partnership, benefits from gaining reputation and profits. On the other hand, PPPs have the purpose to address:

- the **policies**, which regulate the networking systems and the public participation,
- the mechanisms of **delivering quality service** in the form of joint ventures and partnership agreements,
- the deficit of the accountable **infrastructural projects** through the implementation of various types of PPPs, such as build-operate-transfer, build-operate-own-transfer, and design-build-operate,
- the challenges of **capacity building** through the implementation of the knowledge network and sound contractual management systems, and
- the factors impacting **economic development** to ensure poverty reduction, enhancing profitability, and sustaining the principles of partnership.

The discussion, as presented above, may be articulated by this study in the form of a table, as adopted from Brinkerhoff and Brinkerhoff (2004:8). The study is of the view that the table below summarises all the related information about PPPs, which are concluded between the public (government institutions) and private (businesses). Furthermore, the table provides the full details of PPPs, categorised into three purposes, which include (i) organisational structures and processes, (ii) performance metrics, and (iii) normative dimensions.

Table 3: Public-Private-Partnerships: A Purpose-Based Taxonomy

PPP Purpose	Organisational Structures and Processes	Performance Metrics	Normative Dimensions
Policy	Network Task Force Joint Committee Special Commission	Technical Quality Responsiveness Consensus-Building Legitimacy	Equity/Representativeness Citizen Participation Transparency
Service Delivery	Co-production Joint Venture Contract Partnership Agreement	Quality Efficiency Effectiveness Reaching Targeted Beneficiaries	Accountability Business Values and Incentives Access Responsiveness
Infrastructure	Joint Venture Build-Operate-Transfer Build-Operate-Own-Transfer Design-Build-Operate	Quality Efficiency Value for Money Maintenance and Sustainability	Accountability Business Values and Incentives Responsiveness
Capacity Building	Knowledge Network Twinning Contract Partnership Agreement	Skills Transfer Intellectual Capital Social Capital Organizational System and Output	Ownership Agency Empowerment Autonomy/Independence
Economic Development	Joint Venture Contract Partnership Agreement	Poverty Reduction Profitability Sustainability	Equity Social Inclusion Empowerment

Source: Brinkerhoff and Brinkerhoff (2004:8)

2.4.3 Private Sector

According to Venter (2018:102-103) and Thornhill (2015:13,) the private sector has a major role to play in governance. The private sector does not only contribute towards the development of government projects, but benefits from the products of globalisation as businesses accumulate wealth. Accordingly, the private sector contributes to economic growth and development. Furthermore, the private sector strives for predictable and reliable terms for the success of their businesses. Despite

the private sector being a pillar of strength in the delivery of service, as a result of partnering with the public sector, the fact remains that the markets remains congested (Venter, 2018:102-103; Thornhill, 2015:13).

It is for the aforementioned argument that Van der Waldt (2018:40-41) and Messner (2011:285) identified the global motives that resulted from the pressure exerted by NGOs. NGOs support the government in their respective roles as the private sector to maintain and sustain the global standards of accountability. These global motives are comprised and inclusive of the following:

- Sensitive markets expect products of high standards because they are found to be credible and legitimate;
- Global competition incorporates the socio-economic factors of the business in the private sector, as well as distinguishing between competing firms;
- Global value chains, which intend to reduce the management costs for new suppliers;
- Markets, which are pressured by other global competitors to accept certain standards, as established worldwide (Messner, 2011:285; Van der Waldt, 2018:40-41).

According to Venter (2018:102-104), businesses have a duty to give back to their communities in the form of what is commonly known as “social responsibility”. In doing so, there is a need to strengthen the ties between local government and the private sector. Three mechanisms strengthen the relationship between municipalities and the private sector. In furtherance to explaining the relations of the private sector and accountable governance, Venter (2018:102-203) describes the three strengthening factors as follows:

- **Strategic Partnership:** the governance strategic partnership brings about the transition from the existing service delivery model towards the developmental strategic approach are formed by civil society organisations and the private sector. These partnerships provide for managerial expertise, financial resources, training infrastructure, and the capacity to perform independently.

- **Local Economic Development:** municipalities are at the centre of the economic development driven role players in accordance with the adopted policies. Communities are provided with the opportunity to improve their quality of life by applying new initiatives in collaboration with the private sector.

- **Corporate Citizenship:** involvement of this nature gives recognition to social and political accountability between municipalities and the private sector. These partnerships enhance ethical values, decision-making, legal requirement compliance, and respect for people and communities.

2.5 Participatory Theory

It is appropriate for the study to start by defining what is meant by “public participation” to develop a better understanding of this section. Mofolo (2016:232) defines public participation as the opportunity given to men and women to express their voices directly or indirectly in decision-making; this expression could be conducted through legitimate and/or intermediate institutions to represent their individual interests. Public participation was further defined as the deliberative process in which citizens, civil societies, politicians and officials are involved in a joint decision-making process (Mofolo, 2016:232). Hence, Kahn *et al.* (2016:181) argue, “Public participation requires a wider set of approaches and strategies including innovative communication systems, effective complaint management systems and utilisation of existing community-based structures”.

According to Kandil (2018:6), public participation is a process, which cannot be interpreted as a single event. It involves the responsibility to inform and to obtain the views of the public. This process of interaction also provides a platform for stakeholders, which include individuals, interest groups and communities to engage with the state in the decision-making. Accordingly, public participation strengthens democracy, as it does not limit the level of participation, but rather involves all forms of participants, regardless of their origins.

Mofolo (2016:233) indicates that the Constitution created a platform for public participation. However, public participation is not restricted to the Constitution, but it is also extended to the other legislation, such as the Local Government: Municipal Structures Act (117 of 1998) and Local Government: Municipal Systems Act (32 of 2000). Part six of the Local Government: Municipal Structures Act (117 of 1998) permits traditional leaders in terms of Section 81 to participate in the activities of local government. Similarly, Chapter four of the Local Government: Municipal Systems Act (32 of 2000) spells out the process of public participation in all its nine sections (Mofolo, 2016:233).

Breakfast, Mekoa and Maphazi (2015:37) agree with Mubangizi and Dassah (2014:276-277) that participation departs from four participation perspectives. These participation perspectives are not necessarily the same, but share common ground. Their commonality is informed by the concepts of public participation and citizen engagements. Despite that the background of these participation perspectives and concepts by Breakfast *et al.* (2015:37) and Mubangizi and Dassah (2014:276-277) depart from different angles, they converge in promoting accountable governance. The convergence of these perspectives and concepts on participation strengthens and deepens the principles of good governance. Given the background of the argument, it is appropriate for the study to illustrate an understanding of public participation in the form of a table and a Figure below:

- **Table 4** will demonstrate the four different participation perspectives and concepts by Breakfast *et al.* (2015:37) and Mubangizi and Dassah (2014:276-277).

- **Figure 3** will indicate the four participatory perspectives and concepts in the convergent point in the form of a continuum (Breakfast *et al*, 2015:37; Mubangizi & Dassah, 2014:276-277).

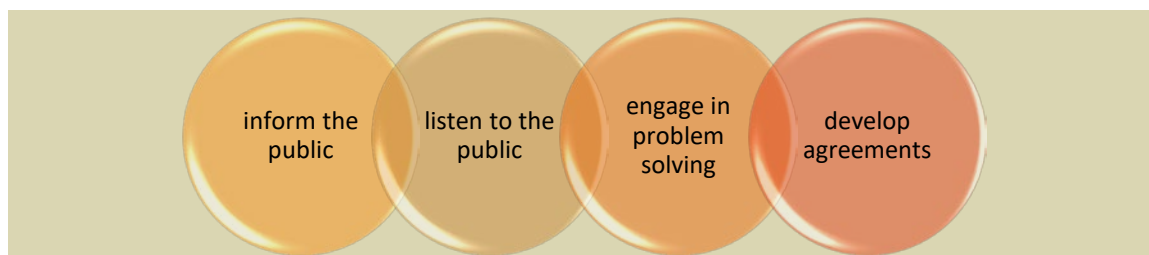
Table 4: Participatory Perspectives and Concepts

Breakfast, Mekoa and Maphazi (2015)	Mubangizi and Dassah (2014)
<ul style="list-style-type: none"> ▪ Public participation applies to administrative decisions ▪ Public participation is not just providing public interaction, it is an important component ▪ There is an organised process for involving the public ▪ Participants have some level of impact or influence on the decisions being made 	<ul style="list-style-type: none"> ▪ Participation for sharing views and awareness ▪ Participation for understanding of building a common vision and participatory-appraisal perspectives ▪ Participation as sharing responsibilities and tasks (collaborative-management) ▪ Participation as an instrument for participative-democracy

Source: Own Construction

The study designed the table above on “participatory perspectives and concepts”, using information from the two authors. The two backgrounds are not exactly the same, but rather broaden the concept and the definition of participation. Accordingly, Breakfast *et al.* (2015:37) saw participation as strengthening (i) administration, (ii) public interaction, (iii) involvement, and (iv) joint decision-making. On the other hand, Mubangizi and Dassah (2014:276-277) saw participation as a means to improve (i) sharing views and awareness, (ii) building common vision, (iii) collaborative management, and (iv) participatory democracy. All these authors provided the broader themes of participation from different angles. Hence, the study used the information to construct the table above. Furthermore, the study continued to demonstrate the essence of public participation in the following Figure on the “continuum of participation”.

Figure 6: Continuum of Participation



Source: Breakfast *et al.* (2015:37)

Thus, the study depicted the above Figure in the form of a “continuum of participation”, which brings about synergy between the argument of Breakfast *et al.* (2015:37) and Mubangizi and Dassah (2014:276-277). The continuum of participation demonstrates that participation is about (i) informing, (ii) listening, (iii) engaging, and (iv) developing agreements. Hence, the continuum of participation advances the chain of events in an effort to promote participation.

Having discussed the participatory theory in-depth, the study shares the view of Malan and Van Rooyen (2010:131) that public participation, like community participation in local government, is of the utmost importance. The argument resulted because the community participation was perceived to be “an open, accountable process through which individuals and groups, within selected communities can exchange views and influence decision-making”. Furthermore, Malan and Van Rooyen (2010:131) present the following:

- Participation is designed to promote the values of good governance and human rights,
- Participation acknowledges the fundamental right of all people to participate in the governance system,
- Participation is designed to narrow the social distance between the electorate and elected institutions,
- Participation requires recognising the intrinsic value of all people, investing in their ability to contribute to governance processes, and

- People can participate as individuals, interest groups or communities.

2.5.1 Governance Participation

The discussion on governance participation needs to include participation mechanisms. According to Van der Waldt (2018:39-44), there are various participatory mechanisms that are set to promote governance participation. Therefore, it is appropriate that when the study discusses governance participation, it also reflects on the participation mechanisms. Accordingly, Van der Waldt (2018:39-44) outlines these mechanisms as: (i) local elections, (ii) NGOs/community-based organisations, (iii) ward committees, (iv) traditional leaders, and (v) imbizos and kgotlas.

Section 59 of the Constitution (1996) states that the National Assembly must host public participation (i) in the legislative and other processes with its committees (s59(1)(a)), (ii) hold public committee meetings (s59(1)(b)), and (iii) ensure public access, which includes the media fraternity, in committee meetings (s59(b)(i)). Similarly, Section 72 of the Constitution compels the National Council of Provinces to host public participation (i) in the legislative processes of the Council (s72(1)(a)), (ii) in the form of an open manner for its Committees (s72(1)(b)), and (iii) by permitting the public and the media in committee sittings (s72(1)(b)(i)).

Apart from the participation mechanisms, as discussed above, there is also citizen participation (Van der Waldt, 2018:18). The discussion of citizen participation further broadens the concept to include “community or public participation”. All forms of participation constitute governance participation, in accordance with this Chapter, and this brings about an organised effort to increase control over resources. Furthermore, governance participation regulates the movements of those excluded from the control of resources. Van der Waldt (2018:28) and Mofolo (2018:234) further indicate that public participation is usually derived from four groups, which include:

- **Voters** - which ensure democratic accountability and the general inclusion to elect the government of choice,

- **Citizens** - who ensure participation through the formation of stakeholder organisations to contribute to the policy and other participatory processes,
- **Consumers and End-Users** - whose contribution is aimed at providing an affordable and yet credible service termed to be “value for money”,
- **Organised Partners** - which organise the resources for the purposes of developmental objectives.

According to Venter (2018:96), Chapter 4 of the Local Government: Municipal Systems Act (117 of 1998) provides for various mechanisms of participation within the governance of IGR. Municipalities are supported by legislation to promote a developmental ethos, thereby involving communities and stakeholders in the affairs of municipalities. These needs have been amplified in the government’s strategic objectives. Key issues relating to participation include, (i) the operation of ward committees, (ii) communication between the council and the community, (iii) the relationship between the political and administrative structures of the council, (iv) interaction with other spheres within the IGR, (v) key stakeholders, and (vi) measures to deal with corruption and special projects.

The study subscribes to the argument of Coetzee (2010:88) and Booysen (2009:2) that public participation is the cornerstone of good governance. In essence, good governance will not be experienced in the absence of sound and practical participation. It is in the same spirit, Coetzee (2010:89) argues that public participation is regarded as a key aspect of IGR and its structures. In this instance, public participation becomes a key factor because information and power is shared to the satisfaction of communities. As a result, decision-making is enhanced, with its outcome cherished by communities. Hence, public participation is the key to accountability and good governance (Coetzee, 2010:88-89).

According to Ndevu (2011:1248-1249), supported by Aregbeshola, Mearns and Donaldson (2011:1276-1277), and Van der Waldt (2018:29), public participation is of crucial importance to governance and has the potential to influence decisions and

institutions that affect the lives of communities. Community participation means the involvement of the community in planning, governance and development programmes at a municipal level. Such participation has to involve the broader deliberations and collective action in addressing issues of importance to the communities.

In line with the above argument, Venter (2018:96) states that the Local Government: Municipal Systems Act (32 of 2000) insists on promoting public participation and further capacitates communities, councillors and local government officials. These actors need to be developed on participatory processes, in accordance with Chapter 4. This development is explicitly outlined in Section 16(1) of the Municipal System Act (32 of 2000). As the result, the citizenry need to be developed and encouraged to take part in the following:

- Preparation, adoption, implementation and review of the integrated development plans (IDP),
- Preparation of the municipality's budget,
- Establishment, implementation and review of the municipality's performance management system, and
- Strategic decisions about the provision of municipal services.

Ndevu (2011:1249) unpacked that the parties and the agenda of the participation process as follows:

- (a) participants are the public officials and the local communities,
- (b) institutions are municipal authorities, ward communities, community development workers and the interest groups, which include churches, political parties and NGOs, and

(c) objectives and functions, to deal with issues affecting the communities, to increase the capacity and maintain relations, to render quality services, and to sustain accountable governance (Ndevu, 2011:1249).

In the context of the above argument, the study agrees with Van der Walt (2018:63-64) and Kalemba and Schmitz (2001:22) that the active participation of the citizenry in the developmental agenda deepens democracy and governance. It does so in the following three categories:

- through periodic accountability of hosting general elections every five years and the continued engagement between public officials and communities,
- through the expansion of policies around the debates and engagement between the government and citizens, and
- in writing-off all efforts which seek to exclude the public from the spheres of decision making (Kalemba & Schmitz, 2001:22; Van der Walt, 2018:63-64).

According to Van der Waldt (2018:68), Kanyane (2016:99), and Hicks, Daniel, Buccus and Venter (2011:55-56), in South Africa, community participation in the governance of IGR is both constitutional and legislative bound. This means that the Constitution and some other legislation in South Africa complement the power of the elected with the initiatives of public participation. This is done to promote a transparent, responsive and accountable state to the citizenry. At the same time, it is argued that a clear set of guidelines need to be put in place as a commitment to public participation, as this exercise demands distinctive budgeting (Hicks *et al.*, 2011:55-56; Kanyane, 2016:99; Van der Walt, 2018:68).

Stoll (2011:267) presents that it is important to develop and promote participation of the society, groups and businesses in governance activities as these state actors need to be accountable and transparent enough to be involved in governance matters. Mubangizi and Dassah (2014:275) and Malena and McNeil (2010:18-20) insist that citizen empowerment through participation is of crucial importance, particularly from

those who were previously disadvantaged. It was argued that empowerment creates awareness among citizens to participate and engage public power actors because citizens have the right to be heard.

In this part of the Chapter, which focuses on public participation, the study agrees with the submission by Struwig, Roberts and Gordon (2016:140), Booysen (2009:3), Hudson and Richards (2010:174), and Zuern (2011:176) that public participation is a key to democracy. Public participation is key in the sense that it makes the voice of the electorate heard in various forms, which include (i) taking part in general elections, (ii) participation in public fora, (iii) the use of public hearings, (iv) expressing views in the media, and (v) forming and/or joining lobby groups. Struwig *et al.* (2016:140) add that public participation stabilises a democracy and further promotes the development of accountability.

According to Booysen (2009:4-5), public participatory governance ensures periodic elections, which cement the means of democracy within the state. At the same time, he (2009) argues that democracy in itself is more of a learning process and an engagement, than the means to an end. This occurs because it encourages interactions, expression of opinions, and further allows different viewpoints from direct and active dialogues. At the same time, such participation needs to be timeously assessed for the creation of platforms for participation (*ibid.*). Struwig *et al.* (2016:141) further supplemented the submission by Booysen (2009:4-5) by stating that electoral participation is crucial to the developing democracy in South Africa.

As far as this Chapter is concerned with regard to governance participation, the discussion as presented above is focused on accountability within the governance of IGR. Therefore, the argument by Van der Waldt (2018:30) and Boko and McNeil (2010:206) becomes relevant that governance participation is of paramount importance if it is effected equally within the three spheres of government (national, provincial and local). Furthermore, it is argued that the introduction of public participation in the spheres of government inculcates a culture of monitoring the utilisation of resources.

Struwig *et al.* (2016:152) and Gaventa (2006:xiv) argue that in the instances of strengthening accountability with the governance of IGR, there should be a strong relationship between the government and citizens, NGOs and the members, elected officials and the electorate, and between government departments and between the spheres of governments. Furthermore, it was argued that the governance of inclusivity brings about accountability and transparency at the highest level of governance in all spheres of government. In the process of participation by stakeholders, the prospects of accountability arise automatically, and not only for governance, but for the actors as well (Gaventa, 2006:xiv; Struwig *et al.*, 2016:152;).

This study somewhat concurs with the submissions by Satterthwaite (2015:385) and Newell and Wheeler (2006:13) that accountability is not necessarily an outcome, but a process. This means accountability is not static, but a continuous process, which engages between citizenry and government. In itself, accountability has two dimensions, of answerability (it creates a platform for claims and responses) and enforceability (permits sanctioning to the non-responsive). It is for these reasons that Cortez and Pare (2006:107) argue that the lack of participation in the management contributes to a lack of accountability and mistrust within all spheres.

According to Davids and Maphunye (2009:65), the government alone is a stakeholder in the package of good governance. Therefore, governments need other beneficiaries in the form of stakeholders to participate in order to deliver good and accountable governance. Hence, Guthrie, Ndlovu, Wanjiru and Chiwangu (2010:143) and Thinyane, Sieborger and Reynell (2015:243) demand that participation should not be left at the level of engagement and empowerment only, but it must be stretched to the level of participating in the budget processes of the programmes. The involvement of stakeholders in the budget process brings confident and stable governance. The authors (*ibid.*) further argue that in a democratic society, communities have ways and means of enforcing transparent and accountable governance through active participation. In the same vein, Thinyane *et al.* (2015:243) argue that a lapse of public participation means "... a communication breakdown between councils and citizens, no accountability, political interference in administrations, corruption, fraud, bad management, violent service delivery protests, factionalism, and depleted municipal capacity".

It is also important to clarify the aim and purpose of public participation. The study concurs with the submissions, as presented by SALGA, whereby it argues in line with the above analysis (in terms of 2.4), that the aims of public participation are:

- To inform the community about proposed policies and actions,
- To allow public inputs on proposed policies and administrative actions,
- To work and cooperate with communities and other stakeholders on policies and priorities, and
- To share decision making with communities and other stakeholders.

The above four intentions of public participation will be able to counter undue expectations about policy decisions in order to attract the support from individuals, communities and other stakeholders. Furthermore, this exercise will project an opportunity to voice opinions and for transparency, in order to change the behaviour patterns of individuals, communities and other stakeholders (SALGA, n.d.).

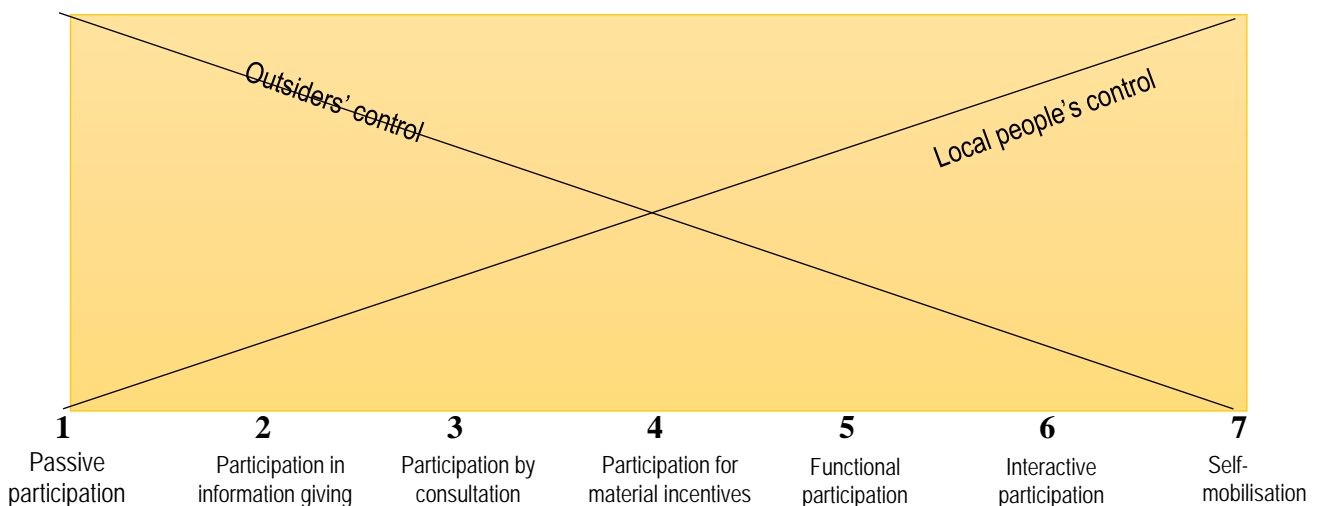
2.5.2 Forms of Participation

Hileman and Lubell (2018:378), Theron (2009:116) and Booyesen (2009:8) present that there are various forms of public participations in governance by stakeholders. These formations are distinguished in typological order. However, these typologies by Booyesen (2009:8) and Hileman and Theron (2009:116) are not themed similarly, but project the same concept of participation from a different angle. The study is of the view that both scenarios be projected to broaden the understanding of the said context. Given the background, the study presents the first scenario by Theron (2009:116):

- **Passive Participation:** this form of participation relates to the unilateral decisions from top-bottom or delivered instructions by those in authority;
- **Participation in Information Giving:** participation in this regard is conducted by questionnaires and telephonic interviews, but it does not influence the *status quo*;

- **Participation by Consultation:** the public participates through consultations conducted by professionals. This form does not impact decision-making by the public;
- **Participation for Material Incentives:** participation occurs in exchange for labour and remuneration, while the people do not have a stake to prolong the incentives;
- **Functional Participation:** happens in the group context for the purposes of pre-determined objectives; it normally materialises after important decisions are made;
- **Interactive Participation:** participation takes place at all levels of decision-making and it is viewed as the right, rather than the tool, to achieve certain objectives;
- **Self-Mobilisation:** people apply their own initiatives and they take charge of their lives, with no external influences.

Figure 7: Spectrum of Public Participation - Seven “Typologies”

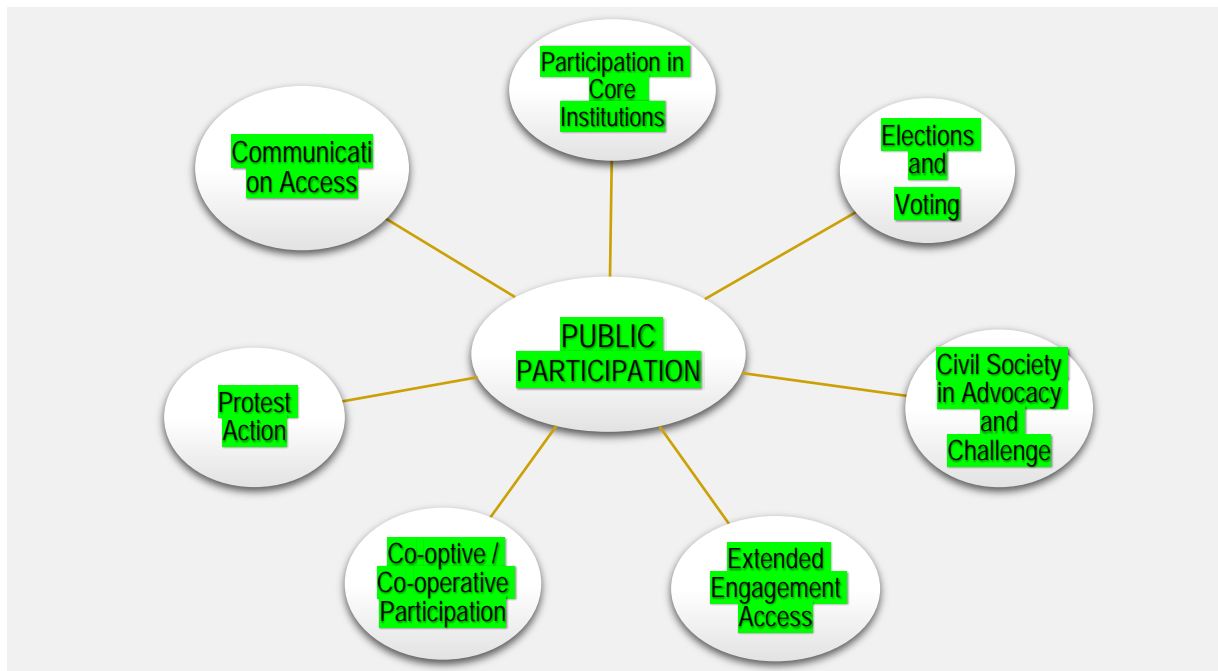


Source: Theron (2009:118)

In the second scenario of typologies, as presented by Booysen (2009:8-9), the Figure allows for different modes of participation, which involve interaction and co-existence. These forms of typologies have flexibility, which permits bottom-up participatory activities, as well as top-down initiatives. Unlike the typologies projected by Theron (2009:126) above, Booysen (2009:10-18) argues as follows:

- **Electoral Participation:** five year periodic elections, participation in voting by those eligible to do so, and the subsequent proportional representation into power and the management of the country,
- **Participation in Core Institutions:** participation through legislative committees, Chapter 9 Institutions, public submissions, National Council of Provinces (NCOP) interactions, parliamentary programmes, and the Youth Parliament,
- **Civil Society Participation:** participation through representation by NGOs, such as the Treatment Action Campaign (TAC), imbizos, the Soweto Electricity Crisis Committee (SECC) and the Anti-Privatisation Forum (APF),
- **Extended Executive-Community Engagement:** participation through committees, such as the IDP, Ward Committees, CDW operatives, Operation Hlasela in the Free State (FS), and Setsokotsane in North West (NW),
- **Co-optive and Co-operative Civil Society Participation:** participation through the initiatives of Presidential Working Groups (PWGs), the South African Forum for Directors-General (FOSAD), cabinet clusters and co-opted business groups,
- **Protest Participation:** participation through various means of pressure groups demanding attention to certain aspects of service delivery and corruption; response by the authorities by making commitments.

Figure 8: Complexity of Public Participation in democratic South Africa



Source: Booysen (2009:8)

The above Figure clearly demonstrates the comprehensive public participation of the study. The study concurred with Picard and Mogale (2015:171) that the public participation needed the ingredients of public participation as stated in Figure 8 above. Furthermore, they agreed that the factors of participation outlined by Booysen (2009:8) are of critical importance. This widespread public participation enjoys the support of the Constitution (1996). Picard and Mogale (2015:171) stated that South Africa is rich in with good legislations supporting public participation and political activism but its downfall was the implementation. Picard and Mogale (2015:171) are of the view that “despite all the legislation, policies, and participation in place, however, public participation has still not been effectively achieved and what does occur is often largely symbolic”.

The Figure above and the table below, which illustrate the typology of public participation, see public participation as the anchor of South African communities. Both are central to the argument by Hileman and Lubell (2018:378) and Kahn *et al.* (2016:91) that the commitment towards public participation promotes accountability.

Table 5: Typology of Public Participation (South Africa)

Mode of Participation		Illustrations - Actions, Institutions, Organisations
1	Participation through representative democracy and resultant institutions	Participation in elections, representation by elected public representative, acceptance of electoral outcomes
2	Participation in the core institutions of democracy, including Chapter 9 Institutions	The Constitution's requirement of opportunities for public participation, constitutionally established institutions facilitating participation through, for example, public submissions and hearings, outreach programmes (such as "Taking Parliament to the People" of the national, provincial and local government, and reviews of effectiveness in engagement with public institutions, such as the "Asmal Commission").
3	Co-optive engagement directed from the centre	The Presidency and Cabinet Clusters for government management, direct opportunities for consultation and public engagement in government processes, centre-need-defined consultation with civil society enclaves
4	Civil society action in advocacy and challenge	The Anti-privatisation Forum, the Treatment Action Campaign, strikes, civil society petitions and campaigns
5	Extended engagement, access and participation	Ward committees, Imbizos, Community Development Workers, Project Consolidate, Thusong Service Centres and e-Government
6	Direct action and protest participation	Protest against the lack of "service delivery" and government performance in areas such as housing and services
7	Communicative participation	Dissemination of information by the government, coverage of policy and governance by electronic and print mass media, formation and expressions of public opinion, with implications for other modes of participation

Source: Booyesen (2009:9)

This study is in agreement with Breakfast *et al.* (2015:36-37) and Lardies and Claasen (2010:212) regarding the categorisation of public participation, which is refined to improve accountability within the governance of IGR. Such categorisation by Lardies and Claasen (2010:212) will define the approach in this Chapter regarding public participation. As such, the categorisation includes (i) the engagement of the public outside the public institutions to enhance service delivery at all levels, (ii) the government-led institutions, participation within the spheres of governments, between

departments, provinces and municipalities, and (iii) the participation between the government, civil society and/or the private sector.

McNeil and Malena (2010:194) and Halliday (2015:212-213) distinguish through classification of the participants between the state actors and the actors within civil society. These authors (*ibid.*) argue that these two groups of actors are dynamic and complex. State actors are formed mostly from mayors, councillors, members of parliament (MPs), public servants, bureaucrats and employees of public companies, while societal actors include ordinary citizens, community organisations, community leaders and activists, the media, social movements, professional associations, unions, academics and NGOs. The participation of these actors has the potential to deliver an answerable governance within IGR (Halliday, 2015:212-213; McNeil & Malena, 2010:194).

2.5.3 Participation Mechanisms

Van der Waldt (2018:39-44) characterises the four mechanisms of participation at the level of local government. However, the author (2018) refers to the four mechanisms as key and significant, but they are not necessarily conclusive. These participation mechanisms are instrumental to community engagement, which simultaneously promotes democracy in various manners. The indicated mechanisms include but are not limited to the following:

(a) Local Elections

Local elections are regarded as the best mechanisms of participation, which allows the country to participate in the election of municipal councillors every five years. Local elections promote participation and democracy by electing preferred representatives. Therefore, each citizen was afforded an opportunity within the ward he/she resides to elect his/her councillor of choice. Thornhill and Cloete (2014:61-62) outline the requirements for participating in these local elections as follows:

- Only registered parties or independent candidates may contest the elections,
- A party may contest elections by giving notice of intention to do so in accordance with the Local Government: Municipal Electoral Act (27 of 2000),
- The ward candidates are to meet the requirements in terms of Section 17 of the Local Government: Municipal Electoral Act (27 of 2000),
- The voting stations are established by the Independent Electoral Commission and the boundaries for each voting station are determined,
- The presiding officers and the counting officers are appointed, and
- The political parties contesting elections appoint their respective party agents.

(b) Non-Governmental Organisations and Community-Based Organisations

Van der Waldt (2018:40) argues that NGOs and community-based organisations (CBOs) are central in the form of an educational watchdog. In the same vein, the same institutions bring the government closer to the community through participatory governance. At the centre of it all, the two key factors of NGOs and CBOs are to promote democracy and to strengthen decision-making structures. NGOs and CBOs cut across all the sectors of society at different levels of municipalities, provinces and countries (Van der Waldt, 2018:40).

(c) Ward Committees

Kahn *et al.* (2016:178-189) presented the same argument as Van der Waldt (2018:43), that ward committees are positioned as the critical structure for public participation at local government level. Accordingly, each ward consists of an elected ward councillor and ten elected ward committee members. The community residing in that specific ward elects the ward committee members. The election of the ward committee

members is done to promote community representation and participation in the local government sphere (Kahn *et al.*, 2016:178-179).

(d) Traditional Leaders

Van der Waldt (2018:43) refers to the involvement of traditional leadership in public participation as a unique formation in South Africa. Both Van der Waldt (2018:43) and Kahn *et al.* (2016:180-181) agree that the role of traditional leaders is regulated by the Traditional Leadership and Governance Framework Act (41 of 2003). Furthermore, Kahn *et al.* (2016:180) and Bikam and Chakwizira (2014:142) present that the involvement of traditional leaders in local government harnesses relationships in order to enhance land use planning and governance processes. Similarly, Bikam and Chakwizira (2014:148) assert that municipalities and traditional leaders are compelled to work together for the following reasons:

- Spatial planning processes and to be part of the part of the provincial house of traditional leaders to jointly plan developmental projects,
- Allocation of budgets and finances for spatial planning and development projects,
- Capacitation of the development of traditional leaders in order for them to be active and effective within their areas of jurisdiction,
- Partnering with ward councillors for effective participation in ward committees activities, and
- Forging meaningful cooperation in economic developmental projects intended to uplift the lives of rural communities.

2.5.4 Participation at Local Level

According to Venter (2018:92-93) and Dufils (2010:158), there is a shift in many countries who practice the intergovernmental system. This shift directs the powers and responsibilities of administrations to be more focussed on the provinces and local spheres than the national government. This is done to quell ineffectiveness and to improve the services rendered at local government level. It might be for these reasons that Venter (2018:96), Taljaard, Venter and Jolobe (2013:27) and Chapter 7 of the Constitution (1996) dictate that municipalities must (i) render democratic and accountable governance to the citizenry, and (ii) promote the involvement of society and community organisations in the matters of local government.

According to Kahn *et al.* (2016:177), Chapter 4 of the Local Government: Municipal Systems Act (32 of 2000) supplements Chapter 7 of the Constitution, stating that all local governments must develop the means of consulting and involving their communities. Hence, in his speech during the visit by the National Council of Provinces (NCOP) to Sebokeng in 2007, the Executive Mayor of the City of Johannesburg insisted that participation could not be taken as a token of consultation, as participation is the process that seeks to deepen democracy (Hudson & Richards, 2010:173-174). In the same meeting, the Executive Mayor outlined the reasons why public participation is important in his jurisdictional local government:

- To remind the elected officials and the public servants of the concerns of the communities;
- To promote a culture of teaching in the communities on the importance of the local government and the effect of public participation;
- To promote the importance and the values of accountable governance and the rights of the society;
- To narrow the gap between the citizenry and the elected public officials through public participation;

- To increase the knowledge of the communities on how to make their voices heard in the management of local government (Hudson & Richards, 2010:173-174).

Madzivhandila and Asha (2012:373-374) and Breakfast *et al.* (2015:39) argue from a different angle, that communities have a significant role to play in the development of local government, and that this happens for various reasons, depending on the divergent ideologies and practices of that particular institution. A lack of community participation results in corruption and poor service delivery to the very same communities. These authors (*ibid.*) went on to identify reasons why communities and community organisations should take the lead in the development of local government:

- Participation at all levels of governance assists the government to meet the basic needs of communities;
- Participation brings about a better sense of ownership in community development programmes and also boosts the morale of the participants;
- Participation develops active stakeholders in the form of the government, developmental agencies, private organisations and NGOs to eradicate poverty;
- Participation is the tool to promote and instil a culture of good governance at local level;
- Participation encourages and promotes accountability and transparency in the development of programmes in the local sphere.

2.5.5 Participation at Provincial Level

The provincial sphere of government was also regarded as a key partner for accountability within the governance of IGR. This argument is embodied in the argument by Besdziek and Holtzhausen (2013:105-106), in that the importance and

relevance of this sphere is endorsed in the Constitution. In efforts to cement the argument, Besdziek and Holtzhausen (2013:112) insist that the provincial sphere ought to include public participation meetings as a means of accounting to the public. The authors (2013) further argue that public participation should not be considered a formality and, as such, these meetings should be well publicised, with the agenda clearly spelt out.

According to Kahn *et al.* (2016:58-60), the provinces are given an accountable role over their affairs and over the affairs of municipalities, and accordingly they argue that this accounting provision by the provinces manifests from the Constitution. It is for this reason that the North West Provincial Executive Council (EXCO) resolved to intervene in various municipalities (Ditsobotla Local Municipality (DLM), Ventersdorp Local Municipality (VLM), Tswaing Local Municipality (TLM), Madibeng Local Municipality (MLM) and Ngaka Modiri Molema District Municipality) in terms of Section 139(1)b of the Constitution due to the failure to be accountable in their rendering of service. The intervention by the North West Provincial EXCO is in line with the argument by Besdziek and Holtzhausen (2013:105-108) that the provincial government is accountable for the smooth running of the municipalities to ensure that they maintain and promote the minimum standards of municipal service delivery.

2.5.6 Participation at National Level

The national government has also made tremendous efforts to promote and encourage public participation. This was done through the formation of governance partnerships. Davids and Maphunye (2009:65-66) provide the classic example of the establishment of the National Economic Development and Labour Council (NEDLAC). The national government formed NEDLAC to promote public participation at the national sphere, and the national government, business and labour federations constitute it. Hence, Phutiagae (2018:164-165) is of the view that the same participation strategy, which saw the formation of NEDLAC may be used to promote Local Economic Development (LED). Accordingly, public participation is at the centre of development within all spheres of government.

Theron (2009:114) argues that public participation programmes in South Africa are more progressive. This is because South Africa included the programmes of accredited and internationally recognised institutions, like the International Association for Public Participation (IAP2). Public participation of South African programmes includes the following:

- The public should air their views and raise their voices on decisions and actions impacting their lives;
- The public participation process as means of a promise that public contribution will be considered in the process of decision making;
- The public participation process, which communicates the interests and meet the needs of the participating actors;
- The public participation process, which facilitates the engagements of those potentially involved;
- The public participation process, which outlines the process of participation for the participants;
- The public participation process, which provides feedback to the participants on how their inputs affect the decision;
- The public participation process, which provides information on the issues to be discussed, to make a meaningful contribution.

The classical examples of active participation, as outlined above, can be drawn from the recent xenophobic attacks, which started in KwaZulu-Natal and spread across the big centres of the country. These attacks shocked not only South Africans, but also the entire world. The KwaZulu-Natal government, led by the premier and other distinctive leadership, formed the inter-ministerial committee to interact with community-based organisations and foreign nationals to combat these attacks. The

inter-ministerial committee consisted of Ministers from the following departments: (i) Home Affairs, (ii) the Police, and (iii) State Security. Apart from the inter-ministerial committee, the President also led from the front (*The New Age*, 20 April 2015:7).

2.5.7 International Participation

Participation from an international perspective was interpreted as the “continuum of interaction” between the government and the public. This interaction may range from the state sharing information with the public, whilst at the same time inviting suggestions and listening how the citizens would like to see changes in the governance system. Hence, public participation was considered a “deliberative process” informed by the interaction of the citizens, civil societies and government actors in the design of government policies. Accordingly, public participation compels the participating actors towards the shared and common understanding as opposed to being reduced to a platform for exchanging views (EUKN.EU, n.d.).

According to Theron (2009:112), the term “public participation” is gaining much attention worldwide. The public participation was deduced from the continued discussions on participatory development in all quarters of the public and in businesses, and at all levels of accountable governance. Furthermore, public participation was seen as joining international and national bodies, which promote public participation for common programmes and partnerships. Phutiagae (2018:165) and Theron (2009:112) substantiated his argument by using the South African examples of (i) the integrated development planning (IDP), (ii) public-private partnerships (PPPs), and (iii) Local Economic Development (LED).

2.6 Forms of Accountability

Having developed the roadmap for the discussion on accountability for this Chapter, as outlined in 6.2 above, It would be correct to provide the prevailing views of accountability within which this Chapter aligns itself. The discussion in this Chapter embraces the existence of various forms or types of governance accountabilities. Given this background, the study adopts the argument by Koliba *et al.* (2011:242) that there are various structures of accountability. These accountability structures need the

actors to be “responsive and responsible” to their constituencies. Accordingly, these actors are constrained to the frame in which governance accountability must be rendered. As such, these actors include (i) elected representatives, (ii) citizens, (iii) courts, (iv) supervisors, (v) professionals, (vi) owners, (vii) consumers, and (viii) collaborators.

Given the discussion above by Koliba *et al.* (2011:242), Solheim (2014:3) argues that the absence of accountability within the governance fraternity is an obstacle to progress. The author (2014) further argues that there is a growing need to strengthen accountability, whilst at the same time acknowledging women’s rights by promoting gender equality. It is argued that “... the lack of accountability can be more of an obstacle to progress in this area than, for instance, a lack of resources”. This will thus ensure a well-defined accountability mechanism, to be provided by this Chapter, in order to answer the concerns of the people and their representatives (Solheim, 2014:3).

Hence, the study concurs with Pelizzo and Stapenhurst (2014:2-6) that this nature of accountabilities involves a person, group or institution, which public officials are bound to account to. The study further agrees with Pelizzo and Stapenhurst (2014:2-6) that the said nature of accountabilities may take the formation of four principal concepts, namely, (i) horizontal, (ii) vertical, (iii) diagonal, and (iv) social. Hence, the four concepts are discussed below, as follows:

2.6.1 Horizontal Accountability

According to Pelizzo and Stapenhurst (2014:3), Horizontal Accountability relates to internal controls, which are intended to conduct the checks and balances of officials. Accordingly, Chirwa and Nijzink (2012:6) and Mattes (2010:14) concur with Pelizzo and Stapenhurst (2014:3) that Horizontal Accountability refers to internal control, which was established by the state to hold all other state organs to account. In the South African context, the classical example would be the appointment of the (i) Public Protector (PP), and (ii) the Auditor-General (A-G) by the National Assembly (NA), in accordance with Section 181 of the Constitution (1996).

The other factor influencing Horizontal Accountability, according to Mungiu-Pippidi (2015:33), is the distance between the electorate and political leaders. The lack of Horizontal Accountability creates an imbalance in the rendering of better governance. The voters anticipate the formation of horizontally accountable governance and thus expect to enjoy continued relations with their politically elected leaders. These relations between voters and their elected representatives may be strengthened through effective and sound public participation (Mungiu-Pippidi, 2015:33). Hence, DAC (2014:23) argues that horizontal mechanisms put more emphasis on ensuring the checks and balances among the executive, the legislature and the judiciary.

Horizontal Accountability in South Africa is one of the strongest means to ensure good governance. These measures of Horizontal Accountability became visible in the process whereby the Standing Committee on Public Accounts (Scopa) subpoenaed senior members of the South African Police Services (SAPS). Scopa demanded answers to the Auditor-General's 2015/2016 financial report, which revealed that 103 SAPS officials were doing business with the government. Among these 103 SAPS officials, there were senior officials. However, the report of Scopa confirmed that 32 of 103 cases, as reported on in the 2015/2016 Auditor General's Annual Financial Statement were already dealt with (*The New Age*, 14 June 2017:4).

2.6.2 Vertical Accountability

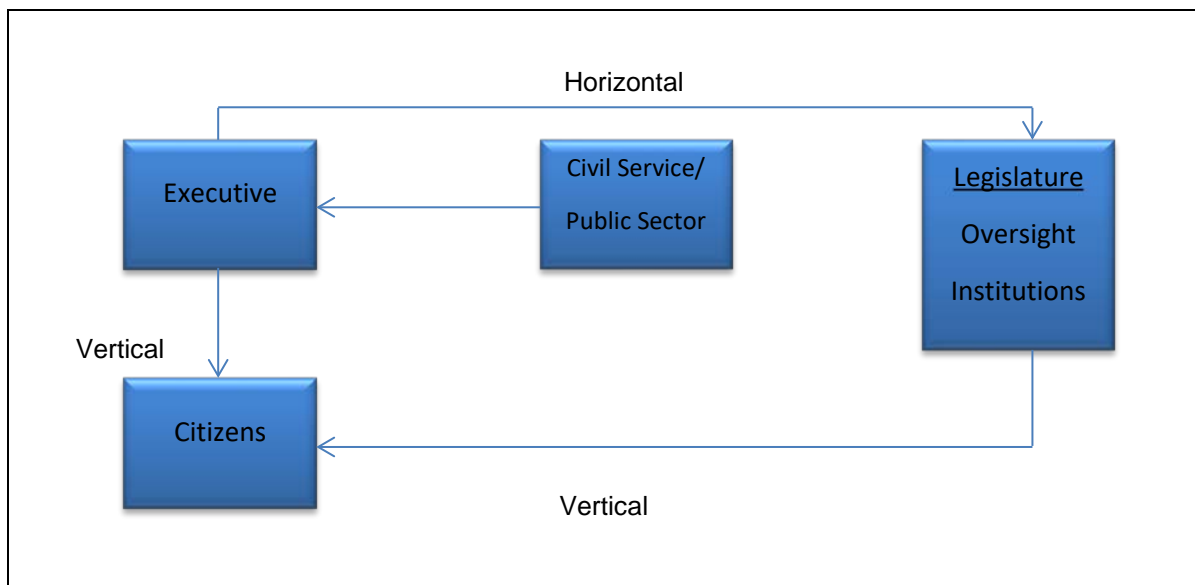
According to Chirwa and Nijzink (2012:6) and Mattes (2010:13), Vertical Accountability materialises when the internal state institutions (Chapter 9 Institutions) subpoena the state organs to account, by means of explaining and justifying their decisions or actions, to the public. Pelizzo and Stapenhurst (2014:3) broaden the debate by explaining that those who are supposed to hold the state accountable include citizens, the media, and relevant stakeholders.

Horizontal and Vertical Accountability are regarded as traditional concepts, which have been used as the measuring tool of governance accountability in South Africa since 1994. The full discussion of Horizontal Accountability, with applicable examples, was provided in the previous section (6.3.1).

The call by the then minister of Finance, Malusi Gigaba, for Scopa to account by answering questions about the mismanagement of Integrated Financial Management Systems (IFMS) supplements is a vertical form of accountability. The other example of Vertical Accountability occurred when the Chairperson of Scopa, Themba Godi, subpoenaed the same Gigaba to account on the financial health of the Water and Sanitation Department and the National Treasury. Furthermore, Godi demanded answers on the accruals, which caused a deficit of R1,2 billion, by the Department of Water and Sanitation. He further demanded the reasons behind the failure to prevent such funding by the National Treasury (*The New Age*, 9 June 2017:4).

In the same way, the culture of both Horizontal and Vertical Accountability was related in nature and thus need to be clearly defined for public consumption. These two accountability concepts involve the executives, the citizens, and the oversight bodies. However, it differs slightly in the location of the citizens, as the stakeholders in the order of preference. Therefore, the Figure below sketches out the relations between Horizontal and Vertical Accountability within the South African government:

Figure 9: Prevailing concepts of Accountability



Source: Pelizzo and Stapenhurst (2014:4)

The above Figure represents both Horizontal and Vertical Accountability. Thus, the Figure presents the member of the executive (the then Minister of Police) being called to account on behalf of his Department by the oversight committee (Scopa) – this system projects Horizontal Accountability. The Figure aptly paints Scopa as the oversight for the national sphere of government. The same Figure also reflects Vertical Accountability, demonstrating that citizens may hold the executive accountable. Hence, the definition by Pelizzo and Stapenhurst (2014:3), that Vertical Accountability emanates from “the means through which citizens, mass media and civil society seek to enforce standards of good performance on officials”.

2.6.3 Diagonal Accountability

Burnell (2012:285) sees Diagonal Accountability occurring when citizens directly interact with state institutions, which are directly charged with the responsibility to hold state organs accountable. Pelizzo and Stapenhurst (2014:5) agree with Burnell (2012:285), stating that Diagonal Accountability gives citizens direct access to engage with state institutions – this deals with Horizontal Accountability. Communities and stakeholders have direct access to interact with state institutions in matters, to hold the government accountable (*ibid.*). This form of accountability mechanisms constitutes the diagonal, according to Burnell (2012:285), and Pelizzo and Stapenhurst (2014:5).

As part of public participation, the Public Protector (PP), advocate Busisiwe Mkhwebane paid a series of visits to various provinces. The visits by the PP were public participation meetings, which represented Diagonal Accountability. They were in fact termed Diagonal Accountability because members of the public were afforded an opportunity to interact directly with one of the Chapter 9 Institutions (i.e. Public Protector). Amongst visits to other provinces, the PP also visited the Free State. A meeting was held between the PP and members of the Free State Provincial Legislature in Bloemfontein, as well between the PP and residents of Thaba Nchu (*The New Age*, 16 March 2017:8). Both meetings symbolise the strong practice of Diagonal Accountability.

Apart from the interaction between the PP and citizens in the Free State, another example of Diagonal Accountability can be found in the interactions and involvement of the Auditor-General (AG), Kimi Makwetu. Upon the finding of irregular expenditure of R16 billion accrued over a number of years by the North West province, the AG recommended those involved and responsible be prosecuted. As a result, the established *ad hoc* committee met with several stakeholders (i.e. communities, the provincial administration and the inter-ministerial task team) to discuss the AG's report. The interaction of the AG's *ad hoc* committee and the stakeholders represented Diagonal Accountability. The result of this accountability led to President Cyril approving an intervention in the North West provincial administration in terms of Section 100 of the Constitution, 108 of 1996 (*The Star*, 31 October 2018:25).

2.6.4 Social or Societal Accountability

According to Pelizzo and Stapenhurst (2014:5) and Claasen and Alpin-Lardies (2010:3), Social or Societal Accountability is an approach that demands the engagement of the citizens (civil engagement) to enforce accountability from those in power. Chirwa and Nijzink (2012:6) simplify Social or Societal Accountability by defining it as the demand for accountability by society through the means of (i) public decision-making and public participation, and (ii) public protests and media interactions. It is in line with the above argument by Pelizzo and Stapenhurst (2014:5) and Chirwa and Nijzink (2012:6) that McNeil *et al.* (2010:186) present that Social Accountability demands public access to "information, consultation, and citizen participation" in an effort to enhance and sustain its existence.

Accordingly, Social or Societal Accountability was endorsed in the form of legislation to ensure the seriousness of government on the matter. The endorsement of Social or Societal Accountability was referred to in Section 29(1) and 25(4) of the Municipal System Act, 32 of 2000. Therefore, Section 29(1) and 25(4) of the Municipal System Act (32 of 2000) may serve as a classical example of Social or Societal Accountability. As such, the sections referred to compels all the municipalities to host public participation for (i) the Integrated Development Plan (IDP), (ii) the budget for the next financial year, and (iii) presentation of the AG's report. It must be borne in mind that

when municipal councils are convened to adopt these listed items, the invitation must be extended to members of the public.

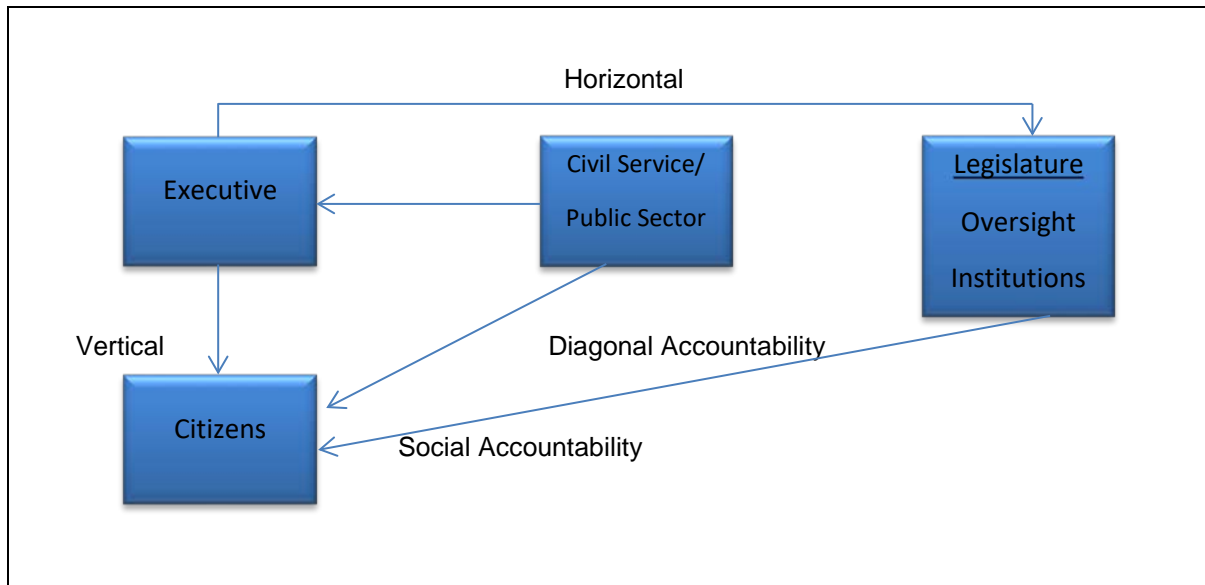
It is of paramount importance that the public participation meetings, as referred to above, be budgeted for by each municipality. Hence, it is reported (*The New Age*, 1 June 2017:10) that the Executive Mayor, Hon. Cllr Kgotso Khumalo, of Municipality NW405 (which incorporates former Tlokwe and Ventersdorp) thanked the residents for their submission of inputs to the IDP during his presentation to the Council for adoption. The extension of the invitation and subsequent attendance of members of the public signalled the use of Social Accountability. The study further submits that not only municipalities are subject to public participation as a compliance matter. The national and provincial government does the same during the State of the Nation Address (SONA) and the State of the Province Address (SOPA) and/or ahead of enacting any legislation. However, the study must declare, in accordance with the argument by McNeil and Malena (2010:201), that some initiatives of Social Accountability are conducted independently by civil society.

Malena and McNeil (2010:15-16) and McNeil *et al.* (2010:201-202) concur that some governments are sceptical and reluctant to apply Societal Accountability, as they perceive it as a threat. They accept that the use of Societal Accountability means to overcome resistance and reluctance from the public, but it remains a positive and productive approach between the citizenry and the government. Accordingly, Malena and McNeal (2010:15-16) correctly argue that Social or Societal Accountability has the potential to reduce protests by citizens. It also builds a healthy relationship between all the stakeholders and the government and politicians. Hence, the study concurs with Malena and McNeal (2010:16) in their argument that “enhanced social accountability can ultimately contribute to political stability and peace” (Malena & McNeal, 2010:15).

Chirwa and Nijzink (2012:6) and Pelizzo and Stapenhurst (2014:3) agree that Diagonal and Social (societal) Accountability are new concepts of governance accountability. They state that the well-known and prevailing practices of accountability are the “horizontal and vertical” formations. Therefore, the Figure below, seeks to draw a distinction between these governance accountability concepts (refer to Figure 9 above and Figure 10 below). The previous Figure indicated Horizontal and Vertical

Accountability, while the Figure below demonstrated Diagonal and Social (Societal) Accountability as new concepts. The relationship of Horizontal and Vertical Accountability enjoins Diagonal and Social (Societal) Accountability. The newer concepts of accountability encapsulate the combination of all four concepts (horizontal, vertical, diagonal and societal), as reflected in Figure 10 below.

Figure 10: Newer Concepts of Accountability



Source: Pelizzo and Stapenhurst (2014:4)

In a summary on the accountability concepts, the study finds it befitting to adopt Pelizzo and Stapenhurst's (2014:8) argument on the typology of accountability to demonstrate the relationship of these concepts. Furthermore, the table outlines the impact of accountability on governance in terms of its intensity on the existing institutional programmes. Hence, Table 6 provides an in-depth summary on the concepts of accountability.

Table 6: Typology of accountability

	Accountability within Government (Horizontal)	Accountability outside Government (Vertical)	Accountability outside Government (Diagonal)	Accountability outside Government (Social)
High enforcement/ sanctions capacity	Supreme audit institutions Legislative committees Interpellations Courts Enforcement agencies	Elections Professional codes of conduct National/ international standard-setting bodies Accreditation agencies Referenda	Parliamentary hearings Administrative review councils	Public interest law Freedom of information law
Low enforcement/ sanctions capacity	Questions/ question period Ombuds offices Advisory boards Inter-ministerial committees Blue ribbon panels Sunshine laws	Policy research Service delivery surveys Investigative journalism		Citizens' charters Citizen oversight committees Civil society watchdog institutions

Source: Pelizzo and Stapenhurst (2014:8)

Table 6 above projects the high and low enforcement capacity of the four typologies of accountability. The table provides examples of each concept of accountability to demystify the proliferation of factors. Apart from the table classifying the accountability concepts into high and low enforcement capacity, it also provides a clearer picture and a summary of the discussions, as expressed in pages 93-100 of the study.

2.7 Mechanisms of Governance Accountability

This section emanates from the aims and objectives listed in Chapter 1 of this study. In terms of governance accountability mechanisms, the study seeks to demarcate the means of accountability into four compartments to avoid a proliferation of facts. These compartments of governance accountability mechanisms are drawn from the political, fiscal, administrative and legal. These compartments are discussed with appropriate examples below:

2.7.1 Political Mechanisms

According to Brown-Shafi (2011:77), political mechanisms need to develop a firm grounding for economic sovereignty, in line with existing policies and guidelines. The economy, which is governance-oriented, will allow options for job creation with the power to combat corruption and maladministration in delivering an answerable government. However, if the politics-administration dichotomy is not developed and put in place, then the argument by Deleon (2010:169) became relevant that the administration will be overshadowed. Thus, the efforts of developing stability will not be guaranteed.

Deleon (2010:163-164) argues that the political mechanisms only become applicable and relevant as a means of direct accountability in an environment where the goals are unclear or conflicting. In the absence of a clear direction, the political principals are at liberty to design the legislation to guide the process, in which the administration will ensure the results through compliance. Hence, political accountability was seen as an internal mechanism of an organisation in order to control the public servants and their functions to attain a desired standard of professionalism (Deleon, 2010:163-164).

A classic example of political accountability mechanisms within the South African context may be drawn from the intervention of President Cyril Ramaphosa in the then troubled South African Revenue Services (SARS). As a result, President Ramaphosa was compelled to appoint retired Judge Robert Nugent to head the commission of inquiry to establish governance accountability and tax administration by SARS. The commission found relapsed accountability measures within the institution. It further

probed the appointment of the SARS Commissioner, Tom Moyane, who was found to be reason for instability. Hence, the commission of inquiry recommended the termination of the employment contract of Commissioner Moyane, which Ramaphosa effected on 26 October 2018 (*The Star*, 31 October 2018:25).

2.7.2 Fiscal Mechanisms

According to Creamer (2010:205-207), South Africa is a developmental state, which needs to be built from sound fiscal principles. These fiscal principles have to be informed through the Constitution, legislation and policies in order to transform the economy of the country. Given the imbalances of the past and attempts to redress the socio-economic ills, the implementation of fiscal principles cannot solely be restricted to the public sector, but need to be expanded to the private sector and state-owned enterprises. The fiscal principles within the South African context cannot be a success if the AG, as a state institution (Chapter 9 Institution), was excluded as it is needed for a proper audit, interpretation and implementation (Creamer, 2010:205-207).

According to Brand (2015:184), financial management in South African's three spheres of government is regulated by two different pieces of financial legislation. The pieces of legislation referred to are the Public Finance Management Act (1 of 1999), commonly known as the PFMA (this Act applies to the national and provincial spheres of government, as well as the state-owned enterprises), and the Municipal Financial Management Act (56 of 2003), which is popularly known as the MFMA, with its focus on municipalities (the local sphere).

The pieces of legislation referred to above, together with the National Treasury regulations, are used as the implementing instruments for accountability and transparency in the three spheres of government. These pieces of legislation (the Public Finance Management Act, 1 of 1999 and the Local Government: Municipal Finance Management Act, 56 of 2003) and the National Treasury regulations are used as the measuring tools by AGSA. Furthermore, it was presented that the AG is the key factor in the financial management (i.e. auditing and reporting) of all government departments (Brand, 2015:184). It is for the same reason that Hatchard (2014:73)

insists that in the process of promoting fiscal transparency, the AG becomes critically important in playing an oversight role.

Ramphela (2012:110) argues that there are tendencies to undermine state institutions, such as AGSA and the PP, by the authorities by means of political interference. Therefore, the line separating the state, the government and the president have grown to a central point during the Mbeki presidency. As a result, the performance of the government was guided more by the values of power than measured efforts. Furthermore, Ramphela (2012:111) recalls the establishment in 2006 of an *ad hoc* committee, led by the late Kader Asmal, to review Chapter 9 Institutions. Its findings included (i) broad weaknesses in general, (ii) administrative and legal deficiencies, and (iii) the lack of coherence, which undermined the efficiencies of the institutions.

During the 2017 Budget speech, the then Minister of Finance, Pravin Gordhan, said, “Government is committed to implementing its plans for boosting economic growth, working together with business, labour and all citizens”. Gordhan provided the plan to achieve economic growth by prioritising the following:

- Increasing the support for small businesses,
- Increasing electricity supply, investment and employment,
- Revisiting the government’s procurement processes and making it flexible for the improvement of business and the creation of job opportunities for black people and women, and
- Improving the reliability of public transport.

The Minister also expressed his confidence in the growth of the economy and the Budget, which would be an added advantage for the government to (i) sustain service delivery, (ii) maintain strong public finances, (iii) improve quality spending, and (iv) eliminate wasteful expenditure, and eradicate corruption. Gordhan cautioned, “The government has to learn to do more with less”. Growing the economy and delivering

these expectations was however dependent upon the participation and involvement of the citizens by holding their leaders accountable (People's Guide: 2017 Budget, n.p.).

2.7.3 Administrative Mechanisms

The study will discuss the administrative mechanisms as a means of accountability, which depart from the statement by DeLeon (2010:171) that "accountability is not inconsistent with administrative reform ... for professional managers need result in diminished accountability". Thus, the study will analyse and discuss the NDP, as the national policy, as anticipated in Chapter 1. However, the study intended not to deviate from its core theme of "accountability within the governance of intergovernmental relations". Therefore, Chapter 14 of the National Development Plan (NDP), set to promote accountability and to fight corruption, will then become critically important for the purposes of reference to "administrative mechanisms". Hence, the study concurs with the argument by Ball and Peters (2005:242) that the appointment of senior administrative staff be restricted to the executive control, in conjunction with the legislature.

According to Ramphele (2012:108-110), the administration under the leadership of the former President Thabo Mbeki deteriorated because of his deployment strategy. Ramphele (2012:108-110) advanced the argument that the Mbeki surrounded himself with close associates, instead of competent personnel, and thus compromised the administrative functionary and the general performance (Ramphele, 2012:108-110).

2.7.4 Legal Mechanisms

According to Koliba *et al.* (2011:247), legal accountability structures put more emphasis on the judiciary. It ensures sound and reasonable courts outcomes, but there should be a clear distinction to differentiate between legal and political accountability. Accordingly, legal accountability is associated with democratic principles; therefore, it needs to be proper legislation with explicit standards. As a result, there must be compliance to the rule of law and full cooperation with the legislative mandates. Furthermore, legal mechanisms are influenced by compliance with standards, which may be from internal or external bodies. The compliance with

the set standards is subject to independent performance verification (Koliba *et al.*, 2011:247).

McNeil *et al.* (2010:190) argue that compliance with the legal mechanisms is informed by the Constitution and its policies or guidelines, which are aimed at entrenching respect in the three branches of government (i.e. the executive, legislative and judiciary). Hence, Ramphele (2012:110) concurs that there must be respect for the branches of government, by one for the other, with no interference. The respect for these branches suggests that the executive, legislative and judiciary cannot be perceived as “hunting” on the territories of one another. The interference of one branch in another branch’s affairs compromises integrity and competence.

2.8 Challenges of Governance Accountability

The study agreed with the submission by Allen (2013:8-9) that there are serious challenges with regard to governance accountability. These challenges resulted in citizens treated badly by others. Hence, the society has resorted to using wrong and ineffective options, such as (i) keeping silent on issues of constructive criticism and/or at the same time (ii) spoke their minds and creating a new problem. The study noted the doubts about the methods and systems of holding the people in power accountable. Allen (2013:7-9) cautioned that accountability is for everyone in “when it came to holding others accountable, we had only learned to walk”. The use of this direct quote by the study sought to suggest that there are challenges of accountability, and as such, the citizenry still need to learn the principles of accountability. The study needed to ensure that every citizenry are aware of issues expected from government, in order for the government to be held responsible and accountable for (Allen, 2013:8-9).

The Mpumalanga Provincial Treasury identified seven municipalities that had a shortfall in their financial capacity to turn around their financial status. The Mpumalanga Provincial Treasury opted to appoint a team of financial experts to intervene and provide financial coaching for sustainable financial solutions to the municipalities. The intervention by the provincial government was a clear indication of playing an oversight function over the local government. The training and development

of these officials by the Provincial Treasury included (i) financial controls, (ii) contract management, (iii) project management, (iv) systems of Supply Chain Management, and (v) asset management. According to the spokesperson of the Mpumalanga Provincial Treasury, this training was set to bear fruit in the next financial year (*The New Age*, 4 July 2017:18). The seven identified municipalities were:

- Emalahleni
- Emakhazeni
- Mkhondo
- Lekwa
- Msukaligwa
- Dr JS Moroka
- Thaba Chweu

This intervention by the Mpumalanga Provincial Treasury, as reported on by *The New Age* (4 July 2017:18), confirms the interrelatedness of the provincial government and the local government. The Mpumalanga Provincial Treasury identified the challenge of a skills shortfall within the seven municipalities and provided an assistance. This assistance by the Provincial Treasury to the municipalities constituted centralised planning, in accordance with the argument by Hendriks (2017:315). The author (2017) argued that the centralised planning between the Mpumalanga Provincial Treasury and the seven municipalities confirmed that the provincial and local governments served as “delivery agencies” for the national government. It was argued that such assistance strengthens political accountability (Hendriks, 2017:315).

2.9 Conclusion

This Chapter sought to provide the theoretical perspectives of governance within intergovernmental relations. These perspectives were expected to be drawn in the line of accountability within the governance of accountability. As a result, the Chapter designed frames of reference to avoid a haphazard discussion, instead providing a constructed guide. These references were drawn to reflect (i) the different forms of governance networks, (ii) the importance of partnerships, as well as the relations to

civil society organisations, and lastly, (iii) the various forms of public participation, and how the perspectives of participation support democratic governance.

Chapter 2 began with discussing the **governance networking systems** against the background of three indicators. It provided the network system form against the background of Davis *et al.* (2015:4-5), which connects the law and power, as well as connecting the new and old governance network systems. On the other hand, the governance network system was the indicator to quantify the theoretical perspectives of global governance. Furthermore, the Chapter analysed the networking system as a solid influence in the world of science and technology. Apart from these three indicators, the Chapter further explored that governance networks share learning experiences. It also provided that networking is a means of governing by partnerships.

Furthermore, the Chapter diagnosed the concept of **network theory** as the strong root of intergovernmental relations (IGR). It also characterised the theory as solving problems and communication networks. Hence, the Chapter found that the networking system within the governance of IGR brought about cohesion amongst stakeholders and sectors of government. This argument on governance networks adds expertise and provides the legitimacy of the stakeholders. Hence, Hileman and Lubell (2018:371) argued that these interactions among the experts and stakeholders reduced the governance distance between the spheres and the global world.

On the other hand, this Chapter mapped out the theoretical perspectives of governance through the means of **partnerships**. Various forms of partnerships were identified and their contribution was discussed at length. This included the importance of the government to partner with public-private partnerships (PPPs), civil society organisations (CSOs) and their federations, such as SANGOCO and SANGONet. CSOs, formed of non-governmental organisations and community-based organisations, were found to strengthen governance. The Chapter further presented that partnerships promote accountable governance between the government and the stakeholders. Hence, the Chapter agrees with Goodin (2010:220-1) that CSO partnerships within government create strong roots for accountability.

At the end, the Chapter focussed on public participation as the mechanisms that deepen, promote and sustain democracy. At the same time, effective participation was seen as a means of **community involvement** for joint decision-making and accountable governance. Furthermore, the Chapter emphasised the importance of capacitating the citizenry in order to fulfil the meaningful role of participation. Moreover, the discussion broadened to cover the different forms of public participation and their contextual meaning to governance and accountability in South Africa.

In conclusion, this Chapter provided a broader perspective of **governance accountability** from various spheres. It provided accountability at the level of local, provincial, national and international governance. The Chapter further supplied the essence of accountability within the governance of IGR in South Africa through the reference of **networking, participation and partnerships**. Governance accountability in relations to the background perspective of this Chapter coincides with the argument of Goetz and Jenkins (2005:8) in that “accountability is thus a relationship of power”, which denotes the variety of power, behaviours and capacity that impose a penalty for poor performance.

This Chapter further investigated the four concepts of **accountability mechanisms** in the multi-layered government, as well as state-owned enterprises. The mechanisms were political, fiscal, administrative, and legal. The study found that the four concepts departed from different angles of accountability. Hence, the study indicated that the **political mechanism** needed to do more about governance accountability in relation to the oversight over administration officials and strategic interventions in the areas of need. On the other hand, the study uncovered that the **fiscal mechanism** addressed stringent financial discipline with regard to compliance to applicable legislation (i.e. the Public Finance Management Act, 1 of 1999 and the Local Government: Municipal Finance Management Act, 56 of 2003), and that all these institutions are subject to the Auditor-General. It is also stated that in terms of the **administrative mechanism**, there should be no interference. The study concluded that the **legal mechanism** emphasises the independence of the judiciary, and that no branch of government must be allowed to “hunt” the other.

The Chapter diagnosed accountability within the context of intergovernmental relations (IGR), with specific reference to the means of oversight, which is a replica in the three spheres of government. Accordingly, these public accounts committees are given similar powers and functions, which include monitoring and reviewing of public accounts on the applicable sphere. The committees may subpoena all members of the executive to account on their departmental expenditures or the overall financial performance. The relations of functionaries in this regard signify and intensify the formation of cooperative governance, as anticipated in Section 40 and Section 41 of the Constitution.

CHAPTER THREE

CONCEPTUAL FRAMEWORK OF INTERGOVERNMENTAL RELATIONS

3.1 Introduction

This Chapter will present a brief overview on accountability within the governance of intergovernmental relations, with specific reference to (i) the constitutional framework, and (ii) the policy environment within which the theories of intergovernmental relations are informed. In brief, the Chapter will focus on how the Constitution (Act 108 of 1996) provides the meaning and the interpretation to IGR. Furthermore, the study will demonstrate how the same Constitution promotes accountability within the governance of IGR. This Chapter developed an advanced debate and the analysis of the Constitution (1996). The discussions in this Chapter dealt with the intergovernmental relations (IGR). Hence, Thornhill (2005:179), and Mle & Maclean (2011:1365), presented the same argument that South Africa was a sovereign democratic state. As the result of its nature of governance system, South Africa promoted intergovernmental governance system. The Constitution (1996) entrenched the very same intergovernmental system in its sections 40 and 41 of the Chapter III. The study in this Chapter departed from the common understanding that South Africa is a “unitary” state. Kahn *et al.* (2016:252) argue that “South Africa has a **unitary government** with federal features ...”.

Apart from the South African government declared a **unitary state**, it was demarcated into nine **autonomous provinces**. Furthermore, the nine provinces are divided into 278 municipalities. Despite the autonomy of the provinces, Moeti and Khalo (2007:133) argued that there are supervisory restrictions imposed by the Constitution upon the provinces. Kahn *et al* (2016:154-160) and Moeti and Khalo (2007:133) argued that Section 100 and Section 139 of the Constitution neutralises the autonomy of the provinces from the central government. This argument was advanced from the background of the national government intervening in the affairs of a province (Section 100), in case a province not fulfilling its constitutional obligations. Similarly, the provinces were given the same powers by Section 139 of the Constitution, if municipalities are not fulfilling their constitutional obligations.

The above discussion by Kahn *et al* (2016:154-160) and Moeti and Khalo (2011:133) on the spread and/or the operational split of the intergovernmental relations (IGR) in South Africa, was summarised by Mle and Maclean (2011:1365) in that:

- The **national government**, which was constituted by the President, Deputy President, Parliament (National Assembly and National Council of Provinces) and Ministers (i.e. implementation of Chapter 4 of the Constitution),
- The **provincial government**, which was informed by the Premier, the Legislature, and Members of the Executive Council (as envisaged in Chapter 6 of the Constitution), and
- The 283 municipalities, constituted **local governments** in accordance with Chapter 7 of the Constitution (Mle & Maclean, 2011:1365).

Despite the fact that the Constitution addresses **intergovernmental relations** in Chapter 3 under the heading, “**Cooperative Government**”, it must be borne in mind that there is a significant difference between the two, that is, co-operative governance and intergovernmental relations. In this regard, the study agrees with Malan (2015:55-57) in that (i) cooperative government is more philosophical and focuses on the activities of government. Furthermore, these activities include the powers of the spheres of government and the structures of government, and organising and exercising political power. On the other hand, (ii) intergovernmental relations (IGR) dealt more with the values of cooperative government, in accordance with institutional and statutory issues, which are inclusive of the executive and legislative functions of government (Malan, 2015:55-57).

The **Constitution** of the Republic of South Africa (1996) was drafted in terms of Chapter 5 of the interim Constitution (1993). It was adopted by the National Assembly on 8 May 1996, and it was finally signed into law on 10 December 1996. Finally, it was approved to be the Constitution (1996) by the Constitutional Court on 4 February 1997. In accordance with the argument presented by Kahn *et al*. (2016:31), Taljaard, Venter and Jolobe (2011:22), Brand (2015:195) and Hicks, Daniel, Buccus and Venter

(2011:45), the Constitution (1996) is the supreme law of the land. Any other law or legislation inconsistent with the Constitution is invalid. Therefore, no other law or government action can supersede the provisions of the Constitution. Hence, Venter (2011:8) argues that not even the Parliament, provincial laws or municipal laws may contradict the principles of the Constitution.

This Chapter concurs with the argument of Galligan and Versteeg (2013:8) that the Constitution deals with the nation's past, and the hopes and aspirations for the future. Furthermore, the Chapter navigates into past events with the intention to remedy the problems of the past. As Galligan and Versteeg (2013:9) aptly stated, the intention of the **South African Constitution** (1996) was to redress the social ills of apartheid and to build a united democratic society. Further reference was also made to the 1949 German Constitution by Galligan and Versteeg (2013:9), as this Constitution sought to deal with the mass murders of the Jews by the German Nazi during World War II.

According to Venter (2011:8), the **Constitution** (1996) possesses the fundamental rules and the political principles, by which the state is expected to be governed. The Constitution further spells out the duties, powers and functions of the government. Furthermore, it provides for the management of the three spheres of government and the relationship between the state and the citizenry. Thornhill and Cloete (2014:14) concur with Venter (2011:8) that the Constitution provides for the directives whereby legislative, governmental and administrative systems are presented in South Africa throughout the three spheres of government.

The **Constitution** (1996) is the basis for the foundation of an open society, which is based on democratic values, social justice and fundamental human rights. As the Constitution is the highest law of the country; therefore, everybody and all institutions are bound to respect it. It is for these reasons that South Africa is termed a constitutional state. According to the Constitution, the Parliament is expected to pass laws and to ensure that all laws are made in the spirit of the Constitution. That is the reason why Kahn *et al.* (2016:3) argue that the Constitution is the mechanism for ensuring that the power lies with the communities. The Constitution sets out the powers and functions of the authorities and/or defines how the country is to be governed. This argument by Kahn *et al.* (2016:3) may be summarised by the

submission of Hardin (2013:52) whereby he presents that the purpose of the Constitution is to direct and organise politics and society in a particular way. This kind of constitutional organisation provides for representation, rights, a legal system, and social justice. Despite the argument by Kahn *et al.* (2016:3) and Hardin (2013:52) on defining the purpose of the Constitution, King (2013:77) sees the Constitution as the document that seeks to limit the government.

As discussed above, the Constitution did not provide for the important democratic principles, known as the separation of powers. The separation of powers simply refers to the separation of power between the interdependence of the three branches, namely, the legislature (the Parliament), the executive (Cabinet) and the judiciary (the courts). The Constitution also caters for the independence of the three interdependent branches of government.

According to Steytler (2013:442), the **Union of South Africa** (1910) was a product of the negotiations by the white elite, who were strongly influenced by the formation of the federation of Canada in 1867, as well as the formation of the federation of Australia in 1901. The Union of South Africa sought to unify the Dutch-speaking and the English-speaking communities for the purposes of sharing the gold wealth of the Witwatersrand. This unification led to the establishment of the 1909 South African Act, which gave birth to the four provincial governments, namely, (i) Transvaal, (ii) Orange Free State, (iii) Cape, and (iv) Natal.

According to Picard and Mogale (2015:108), in 1950 the minority South African **Nationalist government** agreed to change the Native Administration into the Bantu Administration because they felt “the term native had a derogative connotation”. The formation of the Bantu Administration or separate black homelands were the initiative of the Verwoerd scheme. Hence, these Bantustans were divided along South Africa’s black ethnic groupings. The Nationalist government intended to grant these **Bantustans** total independence, thereby depriving the black communities of their right to South African citizenship. However, these so-called independent states were not recognised internationally, they were only recognised by the South African Nationalist State. Steytler (2013:443) and Botha (2015:87) confirm that only four of the 12 identified Bantustans opted for total independence (i.e. Transkei, Bophuthatswana,

Venda and Ciskei), and as such the Constitution was amended. The remaining Bantustans were termed to be “self-governing territories”. Accordingly, Picard and Mogale (2015:2) confirm that these Bantustans were not internationally recognised because they were fully controlled by the then apartheid regime. Furthermore, Picard and Mogale (2015:2) argue that the success of investigating “... governance, intergovernmental relationships, and civil society” largely depends on examining these setups of the apartheid regime (Picard & Mogale, 2015:2; Steytler, 2013:443).

According to Picard and Mogale (2015:137), in 1983 the **Botha administration** introduced the Black Local Authorities (BLAs). As such, the Constitution of 1983 was amended to accommodate the BLAs in the form of a **tri-cameral government** of whites, Coloureds and Indians. These three houses sat together, but managed their own affairs (Steytler, 2013:443). However, the 1990 South African transition gave birth to the development of the 1993 interim Constitution, which did away with the tri-cameral system of government. This occurred because the system was complicated and inefficient, as argued by Picard and Mogale (2015:128). Hence, the finalisation of the official South African Constitution (1996) in 1996.

Steytler (2013:444) presented that the Constitution gave rise to the intergovernmental governance system in the form of the three spheres of government. The new Constitution provided for (i) the national government, as outlined in Chapter 5, (ii) the nine provincial governments, as fully discussed in Chapter 6, and (iii) the local governments, commonly known as municipalities. As such, they are expressed in Chapter 7 (Steytler, 2013:444). According to Bezdrob (2006:269), the new Constitution (1996) was concluded by the **Government of National Unity** (GNU).

Brand (2015:166) argued that **cooperative government** is the key overarching characteristic of the South African government, comparing its nature of cooperative government to that of the Democratic Republic of Germany. Furthermore, the formation of the South African **spheres of government** was compared to the layers of government in the United States of America (USA). As in the previous Chapter of this study, where a thorough constitutional analysis was conducted and the government formations of four countries were discussed, Brand (2015:193) confirmed the functioning of the South African government with regard to its multi-sphere (i.e. the

USA, Canada, Australia and Germany). Brand (2015) argues that in a multi-sphere, which is informed by democracy, the power of the government is distributed amongst its spheres.

Cooperative governance is central to coordination and, as the result, it coordinates the actions and efforts of shared purpose or vision. Hence, Kahn *et al.* (2016:259) present that the effective coordination of cooperative governance may be realised through the adoption of four distinct mechanisms. These mechanisms may be distinguished and characterised in the following manner:

- legislation and legislative mandates from different spheres of government and respective departments,
- coordination of functions or roles within a clear spatial developmental framework,
- alignment of budgets and human resources, and
- performance management indicators to efficiently identify and meet priority development goals.

However, it must be clearly stated that the Constitution of South Africa is dependent on its pledge and Chapter 1. As a result, the study finds it appropriate to quote this section of the Constitution, as South Africa is seen by the world as a constitutional state, governed by the means of constitutional democracy, under the following values:

(1) The Republic of South Africa is one, sovereign, democratic state founded on the following values -

(a) Human dignity, the achievement of equality and the advancement of human rights and freedoms,

(b) Non-racism and non-sexism,

(c) Supremacy of the Constitution and rule of law,

(d) Universal adult suffrage, a national common voters' roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness,

(2) The Constitution is the supreme law of the Republic, law or conduct inconsistent with it is invalid, and the obligations imposed by it must be fulfilled.

Despite Section 1 of the Constitution prescribing that “the Republic of South Africa is one, sovereign, democratic state”, the study concurs with Kahn *et al.* (2016:252) that South Africa is a unitary government with strong features of a federal government due to the legislative and political powers provided to each sphere of government. Those features were thoroughly discussed in the previous Chapter.

3.2 Intergovernmental Relations within Cooperative Governance

In accordance with the introduction, as presented above, the study deems it necessary to distinguish between cooperative governance and intergovernmental relations. The distinction between the two may be drawn from their respective definitions. It would be appropriate for the study to provide a full explanation of the two concepts (i.e. cooperative governance and intergovernmental relations) before the discussion. However, it would also be appropriate for the study to provide an overarching background on these two concepts ahead of providing the definitions. The background obtained from Malan (2015:56) who stated, “Cooperative government is about partnership government as well as the values associated with it - which may include national unity, peace, proper cooperation and coordination, effective communication and avoiding conflict”. Malan (2015:56), in turn, defines intergovernmental relations as “the means through which the values of cooperative government may be given both institutional and statutory expression and may include executive or legislative functions of government”.

This part of the study seeks to demonstrate in detail the relationship, the interconnectedness, as well as the differences between the concepts of governance, intergovernmental relations and cooperative government. This is done in order to convey a properly investigated analysis of intergovernmental relations in accordance with Chapter 3 of the Constitution (1996).

(a) Cooperative Governance

At first it needs to be stated that the study concurs with the argument presented by Bevir (2011:2), in that governance attracts more attention for the complicated processes and the interactions, which constitute various patterns of rule. Kahn *et al.* (2016:261) concur that governance is complex in nature, as it encompasses the element of exercising authority. It is further argued that the governance of intergovernmental relations has to deal more with the functions, actions, processes or qualities of government, and it has little to do with the structures of government. Furthermore, Kahn *et al.* (2016:261) are of the view that the essence of the term “governance” is broader than the term “government”. In short, governance is more focused on the following ambit of the framework to fit its actual meaningful usage and reference:

- It provides the guiding principles for directors and management in order to (a) advance the interest of the stakeholders, (b) to optimise effective leadership, (c) to improve returns, (d) to minimise risk, and (e) to fight the abuse of power by leaders,
- It is composed of the mechanisms, process and directives through which the leadership and stakeholders direct their interests to meet their obligations, as well as the mediation of differences,
- Governance establishes the balance between accountability, ownership and leadership.

According to SALGA (2016:48), the Constitution has three spheres of government, which are not hierarchical. The Constitution provides that the spheres are unique and no sphere is subordinate to the other. Furthermore, these spheres are expected to work together in order to deliver quality service to the citizens; this relationship is interpreted by the Constitution as cooperative governance. Furthermore, SALGA (2016:48) presents that the spheres of government:

- Provide effective, accountable and transparent government,
- Cooperate with one another and foster good relations,
- Consult and coordinate actions and legislation, and
- Avoid legal proceedings against one another.

Table 7: Spheres and Branches of Government (Integration)

Spheres	Branches	LEGISLATURE	EXECUTIVE	ADMINISTRATION
NATIONAL		Parliament	President and Cabinet	Directors-General and Departments
	PROVINCIAL	Legislature	Premier and Executive Council	Heads of Departments and staff
	LOCAL	Municipal Council	Mayor and Mayoral Committee	Municipal Manager, Heads of Departments and Staff

Source: SALGA (2016:48)

Table 7 above provides clarity on the demarcation of the cooperative governance system within the context of Chapter 3 of the Constitution (1996). The table has the combination or the integration of the branches of government and the three spheres of government. The branches of government (legislative, executive and administrative) demonstrate the autonomous functions for the purposes of accountability. On the other hand, the spheres of government (national, provincial and local) also demarcate the autonomy, which is derived from the concepts of being distinctive, interdependent and interrelated, in accordance with Chapter 3 of the Constitution.

Malan (2015:56) defines the term “cooperative governance” in three-fold, as follows:

- The partnership of the three spheres of government, which demands that each sphere fulfils its unique specified roles, informed by the principles of accommodation, compromise and consensus, rather than excluding the society, and thus creating conflicts.
- The relationships amongst institutions, was guided by the policies to enhance collective capacity against individual efforts. The collective efforts are aimed at fighting corruption and speeding-up transformation targets. This definition by Malan (2015:56) relates to the definition advanced by Kahn *et al.* (2016:259) in that it refers to “... the relationship in government and to the relationships between government and civil society”.
- The means to boost economic development, as well as to better the standard of living of the citizenry.

(b) Intergovernmental Relations

The Constitution states in Section 1 that “South Africa is one, sovereign and democratic”; while Section 40(1) indicates that the government is constituted in the form of the national, provincial and local spheres of government. These spheres of government and the organs of the state are constitutionally bound by the principles of cooperative governance. The interdependent and the autonomous status of these spheres under the Constitution provides for strengthened accountability measures. There are, however, limits in which each sphere can direct and/or control the other in the manner of approach taken by the other sphere.

According to Kahn *et al.* (2016:262), intergovernmental relations seeks to provide a thorough understanding and balance among the three spheres of government. This may be achieved by systematising the distinctive effort, capacity, leadership and the resources acquired. These indicators direct the achievement of the developmental process and service delivery targets. However, Kahn *et al.* (2016:262) are of the view

that the success of intergovernmental relations depends on (a) the level of participation by the key stakeholders in the process, (b) the extent of participation by the participants, (c) the determination of whether the participation is competitive or cooperative in nature, and (d) determining the ontological state of the intergovernmental relations system.

Malan (2015:55) provides a two-fold definition for intergovernmental relations, as follows:

- As an essential interaction between the governmental institutions within the three spheres of government. Despite their distinctiveness being influenced by the features of complexity and interdependency, they are characterised by (a) the growth of governmental institutions, (b) the variety of public officials in intergovernmental relations, (c) the regularity of public officials' contacts, (d) the importance of officials' actions and attitudes, and (e) financial policy issues. The definition of intergovernmental relations (IGR) by Malan (2015:55) was shared by Kahn *et al* (2016:5) and Tau (2015:802) stated that intergovernmental relations refer to the manner in which the different spheres of government relate to the other.
- As the promoter and facilitator of collective decision-making across the spheres of government for the purpose of delivering quality service and meeting the needs of the society.

In line with the above discussions and the definitions of cooperative government and intergovernmental relations, it has become necessary to adopt the table used by Malan (2015:57). The underneath table draws the distinction between the two concepts and further demystifies their use for the purposes of this investigation.

Table 8: Comparison of IGR and Cooperative Governance

Intergovernmental Relations	Cooperative Government
Encompasses all the complex and interdependent relations among various spheres of government - the set of formal and informal processes as well as institutional arrangements and structures for bilateral and multilateral cooperation among levels or spheres of government	Represents the basic values of government - the fundamental philosophy of government (constitutional norm) that governs all aspects and activities of government

Source: Malan (2015:57)

3.2.1 The Essence of Cooperative Governance

According to Burger (2007:247), “The Constitution (1996) lays down a framework for the division of responsibilities between national, provincial and local government. It prescribes an equitable division of revenue between the spheres of government, taking into account their respective functions. It also creates an independent central bank and sets out the principles governing financial accountability to Parliament, as well as annual budget process”. In the same vein, Kanyane (2016:101) is of the view that the Constitution (1996) “makes provision for cooperative government as a partnership amongst equals, in practice it is a top-down relationship”.

Nzimakwe (2015:826) confirms that the three spheres of government have made great efforts to nourish the challenges of cooperative governance. The author (2015) identified three steps, which are found to be central and key to the elimination of these challenges within cooperative governance, as follows:

- the development of intergovernmental forums at the national and provincial level, as well as ensuring the aligned, integrated and coherent functioning of the three spheres of government,
- the creation of conducive systems and processes within which the national, provincial and local government drive towards achieving common interests, and

- voluntary cooperation in working together on common projects to support and ensure the full attainment of common objectives.

Kahn *et al.* (2016:263) argue that each sphere in the cooperative government is distinctive with equal status; yet they are interdependent. However, the spheres have to work jointly for the purposes of ensuring service delivery to communities. Despite the fact that cooperative government is complex in nature, Kahn *et al.* (2016:262) argue that South Africa may effectively overcome its challenges by means of (a) coordinating its activities to avoid competition and duplication, (b) developing a multi-sectoral perspective to achieve the national goals, (c) settling disputes with no litigation involved, (d) utilising the public resources within the framework of mutual support, and (e) clearly defining the roles and responsibilities among the spheres to avoid confusion, but instead to enhance effectiveness.

The study will discuss cooperative governance within the context of Chapter 3 of the Constitution (1996), and the debate will further include the argument by Chirwa and Nijzink (2012:5) on the “accountable government”. Makoti and Odeku (2018:99) and Van der Walt (2018:57) concur that cooperative government provides an “effective, transparent, accountable and coherent regime”. Chirwa and Nijzink (2012:5) describe an accountable government as being informed by the time, context, cultural orientation and ideological persuasion. The background of this argument by these authors (2012:5) becomes more precise and relevant to this research; hence, the research in this Chapter seeks to provide answers to the accountability within co-operative governance and intergovernmental relations (Chirwa & Nijzink, 2012:5).

According to Nzimakwe and Ntshakala (2015:835), the essence of cooperative governance departs from each sphere of government having determined its jurisdiction of competency. Cooperative government also enjoins the relationship of the relatedness and independency of the spheres of government. These authors (2015:835), also see cooperative governance as the administrative function, which enhances the means of cohesiveness, predictability, and excellent service delivery. They (2015:835) further confirm Section 41(1)(c) of the Constitution as the cornerstone for cooperative governance. Accordingly, the basic principles of cooperative

governance are informed by (i) effectiveness, (ii) transparency, (iii) accountability, and (iv) cohesive government (Nzimakwe & Ntshakala, 2015:835).

Kahn *et al.* (2016:267) elaborate on the four key principles of cooperative governance, as listed above by Nzimakwe and Ntshakala (2015:835), as follows:

- **Effective government** – that cooperative government needs to be informed by the effective and efficient use of resources for the collective effort of energy, instead of wastage and the duplication of programmes,
- **Transparent government** – that cooperative government should not be embroiled in continued or countless consultative meetings, which are likely to confuse the responsibilities and tasks,
- **Accountable government** – that the systems of cooperative governance and IGR should not impede the independence of the legislative, executive and judiciary functions, and
- **Coherent government** – that cooperative government employs the rational means of governance informed by the consultation methods between the spheres of government to avoid contradictions (Kahn *et al.*, 2016:267).

A classic example of the above argument arose from a meeting held by the Minister of Basic Education on 8 February 2016. Senior officials in the North West province (i.e. provincial government, and district directors, thus local government) attended the meeting. The Minister was bitterly dissatisfied with the matric results. He insisted that a new plan be developed and be finalised by the next day because the current plan had failed. The Minister demanded that the new plan be measurable, practical and concise for ease of interpretation. The gathering constituted an IGR meeting because it had representation from the three spheres of government. The purpose of the meeting was to design a new plan to improve the Grade 12 results (*City Press*, 14 February 2016:8). On the other hand, the Member of the Executive Council (MEC) argued that the poor matric results were influenced by the plans, which were complex

to interpret. Hence, continued poor matrix results because of plans are not measurable and thus lack a sense of accountability (*City Press*, 14 February 2016:15).

Besdziek and Holtzhausen (2013:125), Kahn *et al.* (2016:260-265), Layman (2003:9) and Edwards (2008:66-67) agree that the principles of intergovernmental relations are influenced by Section 41(1) of the Constitution (1996). The Constitution dictates to the three spheres of government to be less confrontational and it drives the spheres of government to be more consensual in nature. It is for these reasons that Kahn *et al.* (2016:260-265) agree that the operations of the three spheres of government have to be less confrontational. In support of the less confrontation approach of IGR, Besdziek (2013:125) compares such an approach with the German Bundestreue, which is described as “mutual trust and respect, obligation to co-operate and the interdependence on which the functioning of the federal system is based”. Similarly, Kahn *et al.* (2016:260-265) emphasise the argument that IGR needs to be less confrontational in order to achieve the adoption of the three basic rules, which are the ground rules for cooperative governance (Kahn *et al.*, 2016:260-265), namely:

- (a) **Loyalty:** by means of promoting common loyalty to the country and its entire citizenry in assuming a position of power by officials. The commitment to deliver an answerable service to communities through efficient and transparent governance should exist.
- (b) **Respect:** to observe and maintain the distinctiveness of each sphere of government thus gives rise to respect for the constitutional status, institutions, powers and functions of each sphere.
- (c) **Integrity:** to cooperate with each other in the spirit of mutual trust and good faith in an effort to achieve the objectives of cooperative governance. Besdziek and Holtzhausen (2013:124) substantiate this viewpoint by stating that this can be achieved through:

- Fostering friendly relations,
- Assisting one another,
- Informing and consulting one another on matters of common interest,
- Co-ordinating the activities and actions of one another,
- Adhering to the agreed procedures, and
- Avoiding litigation against each other.

Malan (2015:56-57) argues that cooperative governance represents the values of government and these values are implemented through the establishment of structures and institutions. Through these establishments, the government has to form partnership with the citizenry to instil a culture of participation. The values associated with partnership in co-operative governance revert to the paragraph above whereby the culture of accountability within the three spheres of government becomes central and critical. Hence, Besdziek and Holtzhausen (2013:124) supplement the argument by Malan (2015:56-57), which says that co-operative governance champions the principle of intergovernmental communication and co-ordination in South Africa.

The above argument by Malan (2015:56-57), that cooperative governance represents the values of government and further champions intergovernmental coordination in South Africa is supported by Makoti and Odeku (2018:99). They (2018:99) argue that the principles of cooperative governance are modified by the Constitution to become the law of intergovernmental relations. Intergovernmental relations saw South Africa divided into national, provincial and local government. However, these governments are segregated into specific areas of competence. According to Makoti and Odeku (2018:99), these governments enjoy a certain degree of autonomy.

3.2.2 The Essence of Intergovernmental Relations

According to Mofolo (2016:230-231), South Africa is categorised into three spheres – national, provincial and local. Amongst the three spheres of government, the local government is regarded the closest sphere to the citizenry. As the result of the local sphere being at the coalface of communities, municipalities must ensure sound public participation in communities. Hence, Malan (2015:55) presented IGR as the chain of

interactions among the three spheres of government. However, the distinctive nature of these spheres bears the risk of an increased complexities and interdependency. These complexities and interdependencies within the spheres of government need to be restricted and be reduced from the following possibilities:

- The continued growth in the number and size of governmental institutions;
- An increasing number of officials employed within the environment of IGR;
- The intensity and the regulation of relations of the officials within IGR;
- The importance of the accountability of such officials and their control of their behaviour towards the citizenry, and
- The knowledge of financial policies and management operatives within the governance of IGR.

Apart from the above listed complexities and interdependencies, Besdziek and Holtzhausen (2013:120), Malan (2005:228-9), and Brynard and Malan (2002:103-4) further argue that the governance of IGR is informed by a set of formal and informal processes, institutional arrangements and structures. These informal arrangements are obvious from the National Council of Provinces (NCOP) report from its visit to Tswaing Local Municipality (TLM) on 19 August 2015. At the time of the visit, TLM was placed under intervention through Section 139(1)b of the Constitution. According to the report, the District Municipality (NMMDM) owed TLM more than R19 million for water and sanitation services. The amount continued to grow and the Ngaka Modiri Molema District Municipality did not seem interested in paying their debt to TLM. Despite numerous calls by TLM to both the District Municipality and the North West provincial government for repayment, the debt remained unpaid. TLM further engaged the Provincial and National Treasury Department for the repayment, but with no assistance from them.

Table 9: Powers, Functions and Implementing Agencies of TLM

Powers and functions	Local sphere Authority	Function performed by Tswaing Local Municipality or service provider
Water Services Provider (WSP)	Yes	Tswaing Local Municipality provides bulk water services via boreholes and reservoirs, and reticulation services via household street connections (6455 in total) to the four main “towns”, namely Delareyville, Ottosdal, Sannieshof and Atamelang. The Municipality also provides tanker services to supplement where required.
Water Services Authority (WSA)	No	<p>Ngaka Modiri Molema District Municipality (in conjunction with Sedibeng Water Board) provides bulk water services via boreholes and reservoirs, and water reticulation services to communal standpipes to the surrounding 24 “villages” (rural areas).</p> <p>The Service Level Agreement between the Local and District Municipalities has been the subject of much discussion over a period of time, particularly relating to water services, and it has not been signed. The powers and functions are therefore in a state of flux.</p>
Sanitation (Urban Areas) (WSP)	Yes	<p>Tswaing Local Municipality provides sewer reticulation services via household street connections to Delareyville and Atamelang.</p> <p>Tswaing Local Municipality provides septic tank services to Ottosdal and Sannieshof, which remains a critical function of Ngaka Modiri Molema.</p>
Sanitation (Rural Areas)	No	Ngaka Modiri Molema District Municipality provides the on-site Ventilated Improved Pit latrines (VIPs) to the surrounding 24 “villages”.
Roads, (Local)	Yes	Tswaing Local Municipality provides the service to local and feeder roads.
Roads (District, Provincial and National)	No	<p>Ngaka Modiri Molema District provides this service for district roads.</p> <p>The North West Provincial Department of Public Works and Roads provides this service for Provincial roads.</p> <p>SANRAL provides this service for National roads.</p>

Source: TLM Financial Recovery Plan

The table above depicts that the services that are rendered to the communities of TLM are in the form of collaborative IGR. It further shows TLM as an active and integral partner of the same intergovernmental system. Despite having to plan jointly on the other activities and the calls by TLM that NMMDM pays its outstanding debt, the District remained uninterested. TLM also made numerous calls on various intergovernmental platforms (including the Provincial and National Treasury) to avoid governmental litigation, but did not succeed. The table above indicates that some disputes and litigation in the governance system are unavoidable.

Besdziek and Holtzhausen (2013:120) emphasise that these intergovernmental arrangements place the burden of complexities and interdependencies on the fiscal and administrative process to share revenues. The other factor of complexities and interdependencies is the availability and the division of general resources within the governance of IGR. Hence, it became imperative that relevant legislation be adopted to govern the relations of the spheres of government and the conduct of officials. In agreement with this study, Malan et al. (2005:229) identifies six key objectives of IGR, which seek to guide the state institutions, and the actions and behaviour of officials within the governance of IGR:

- There are efforts to achieve the national policy goals with inputs from both the province and local spheres;
- The introduction of measures to deliver cost-effective and sustainable services, which will respond to the needs of the communities;
- The development of a clearly demarcated line of responsibilities and accountability in all state institutions is necessary;
- The calibration of management levels to gauge provinces and local governments and to explore alternatives to poor capacity indicators;
- There is a need to encourage creativity for collaboration and partnerships to strengthen performance and accountability in all distinctive spheres;

- The elimination of costly efforts over legislation, born from wasteful and unnecessary repetitions needed to be avoided.

3.2.3 The Intensity of Intergovernmental Relations

In his State of the Nation Address on 11 February 2016, the then state President, Jacob Zuma, showed a sense of accountability when he highlighted the progress made on the nine points of the previous State of the Nation Address of 2015. Zuma highlighted the progress made as follows:

- The stability of electricity whereby load shedding was stopped and managed since August 2015 and the investment made on the independent power producers,
- Stability brought to the clothing and textile industry, which sustains the industrial policy plan,
- The start of the five agriparks to ensure growth in the agriculture sector,
- Implementing land proposals received from the Eastern Cape and Free State provinces in respect of joint ownership (farmers-workers),
- The building of water augmentation projects in Limpopo and the top up of the wall of Clanwilliam Dam,
- Stability in the mining sector whereby the declaration was signed to save jobs,
- Investing in the ports and the establishment of nine aquaculture farms, and
- The establishment of a judicial inquiry on higher education (*City Press*, 14 February 2016:1). Clearly, the National Development Plan (NDP) by the then president incorporated the intergovernmental system since sanctioned in the provinces and municipalities.

In his budget speech in 2016, the then Minister of Finance, Pravin Gordhan, urged all levels of government and the broader society within South Africa to learn to deliver more with less, or on a reduced budget. The speech by Gordhan was hailed by the parties because the control of accountability was placed on the national departments, provincial government and the municipalities to reduce unnecessary expenditure. According to *The Star* (25 February 2016:22-23), the Minister introduced strict measures of accountability within the governance of IGR through the means of utilising available resources.

3.2.4 Checks and Balances

According to Koliba *et al.* (2011:5) and Ramphela (2012:110), the legislative, executive and judiciary are viewed as a means to conduct checks and balances. As such, they are expected to ensure the separation of powers. It is further argued that the separation of powers flow through relational spheres and may be conducted vertically, horizontally, or diagonally. However, such flow should not be seen as losing its meaning of being separate, distinct and interdependent (Koliba *et al.*, 2011:5). According to Dadze-Arthur and Skelcher (2016:225), the Constitution provides the clearly outlined boundaries of legislature, executive and judiciary, which confirm constitutional checks and balances.

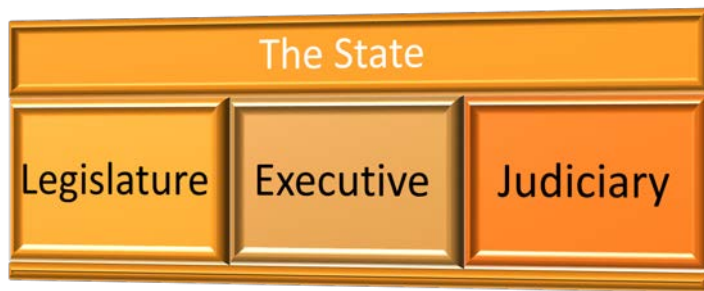
Koenig-Archibugi (2012:218) further argues that checks and balances is the key factor of accountability for good governance of the elected and the unelected. Therefore, the Constitution should reflect these institutional perspectives to combat the main concerns of tyranny, corruption, and overbearing power. According to Page (2012:83), who concurs with Koenig-Archibugi (2012:218), checks and balances are the extension of the concept “accountability” to the processes and mechanisms of the periodical elections of the democratic state. Bovens (2012:27) further broadens the argument, saying that these branches of government must be autonomous and be able to operate independently to deliver good and accountable governance.

Kanyane (2016:99) argues that the doctrine of the separation of powers is the cornerstone of the South African constitutional democracy. As the result, it regulates the manner in which public power is exercised in the country. However, it does not limit the judiciary to deliver remedial action over the other arms of government with regards to litigation and the interpretation of legislation. The separation of power and IGR are all about the management of powers and ensuring efficient service delivery to the communities, and this functionary is eminent at municipal level. However, the doctrine of the separation of powers and power relations needs to be further clarified at municipal level to provide the distinction between the legislature, the executive and the judiciary, which take place at national government level (Kanyane, 2016:99).

According to Koliba *et al.* (2011:5) and Brand (2015:166), the executive, legislative and judiciary, commonly known as the branches of government, are not supposed to be have full control and authority over the others. These branches of government are considered to be the checks and balances of the functioning and operations of the government in the democratic state. In the same way, Kahn *et al.* (2016:3) assert that the branches of government are strengthened by the principle of separation of power in a democratic society. Kahn *et al.* (2016:3) further state that regardless of the concept of the separation of powers being an old principle emanating from the history of Aristotle, it is still relevant in the modern governance system. Schwella (2015:xi), in agreement with Kahn *et al.* (2016:3), state that the separation of powers is modern constitutional governance, which has the potential to intervene appropriately into the state where “all power tends to corrupt; absolute power corrupts absolutely”.

According to Brand (2015:166), the concept of the separation of powers was incepted during ancient times by Aristotle. The concept refers to the legislative, executive and judiciary, and therefore, the theory relates and corresponds with ancient Greek practices. Kahn *et al.* (2016:3) further argue that the essence and the meaning of the theory of separation of powers implies that the rules are designed by one group (legislative), and applied by another group (executive); on the other hand, the same set of rules are interpreted by another group (judiciary). Figure 11 depicts the integrated relations and functioning of the legislative, executive and judiciary:

Figure 11: Separation of Powers



Source: Own Construction

3.2.5 The Legislature

The National Legislature comprises of two houses, which Brand (2015:168) calls the bicameral system; that is, the National Assembly and the National Council of Provinces. Each of these two houses has its own functions and powers. The functions of the National Assembly include (i) to elect the president, (ii) to pass legislation, (iii) to hold the Executive accountable to execute their functions, and (iv) to create platforms for public participation. On the other hand, the functions of the National Council of Provinces include (i) to make laws, (ii) to host public hearings to discuss issues affecting the provinces, and (iii) to represent the provinces in the National Assembly. In special circumstances, the local government is also represented in the National Council of Provinces (SALGA, 2016:45). Brand (2015:168) lists the powers of the legislative authority as follows:

- To amend the Constitution in terms of Section 74(4),
- To pass legislation, including items as listed in Schedule 4, and
- To assign legislative powers to any legislative body of the other sphere of government, but excluding the power to amend the Constitution in accordance with Section 44(1) of the Constitution.

3.2.6 The Executive

The national executive is the body that puts the laws written by the Parliament into action. Section 85 of the Constitution (Act 108 of 1996) concurs with Brand (2015:167) that the executive authority of South Africa is vested in the President. Hence, the

President is considered (i) the head of the state, (ii) the head of the national executive (Cabinet), and (iii) the commander in chief of the Defence Force. The President, the Deputy President and the Ministers as the Cabinet enjoy executive authority. The executive prepares and initiate legislation and presents them to Parliament for approval. Once the legislation is approved, it is implemented as the means of running the administration of the country. The executive is fully accountable to the Parliament (Salga, 2016:45; Kahn *et al.*, 2016:90). It is for these reasons that Hicks *et al.* (2011:44) submit that the Cabinet (executive) links the (i) public interest of the country, (ii) the public service, and (iii) Parliament to improve the living conditions of the citizenry. In summary, Brand (2015:167) provides the functions of the National Assembly as follows:

- To develop and implement national policy,
- To implement national legislation,
- To coordinate the functions of state departments and administrations,
- To prepare and initiate legislation, and
- To execute functions provided for in the Constitution or in legislation.

3.2.7 The Judiciary

According to Brand (2015:170), the judiciary system is the third branch of the judiciary in the *trias politica*. The judicial system is vested in the hands of the Courts for interpretation. Furthermore, Brand (2015:170) states that the judiciary is critical in playing an oversight role over the other two branches of government as an independent judiciary. The judiciary system in South Africa is informed by (i) the Constitutional Court (CC), (ii) the Supreme Court of Appeal (SCA), (iii) the High Courts, (iv) the Magistrates' Courts, and (v) other Lower Courts. The Constitutional Court is headed by the Chief Justice of South Africa. All these Courts are expected to operate independently and with impartiality from the Legislature and the Executive. The Judiciary is expected to function with not undue influence from both the Executive and the Legislature to ensure independence, impartiality, dignity, accessibility and effectiveness (Salga, 2016:45). As such, the independence of the Judiciary is shown in the following table, which illustrates the authority of the separation of powers.

Table 10: Authority Distribution across the Separation of Powers

		Principal Authority Over		
		Legislature	Executive	Judiciary
Agent Authority To	Legislature	Makes laws	Recommends laws, vetoes laws, makes regulations that have the force of law	Reviews laws to determine legislative intent, new interpretations = law making
	Executive	Overrides vetoes, legislates vetoes of regulation, impeaches president	Enforces and implements laws	Reviews executive acts, restrains executive actions
	Judiciary	Impeaches judges, calls witnesses in hearings	Pardons criminals, nominates judges	Interprets laws

Source: Koliba *et al.* (2011:6)

3.3 Functions and Budgets of the Spheres of Government

Thornhill and Cloete (2014:18) argue that in terms of the Constitution, the legislative authority is invested in the legislatures of various spheres of government. Taljaard, Venter and Jolobe (2011:20) further present that the legislatures occupy a critical position as the machinery of government, as these legislatures are vested with formal law-making powers. These legislatures are categorised in the following manner:

- In the national sphere, the authority of government is vested in the Parliament,
- In the provincial sphere, the authority of government is vested in the provincial legislatures, and
- In the local sphere, the authority of government is vested in the municipal councils.

3.3.1 National Sphere

In accordance with Chapter 4 and Section 42 of the Constitution, the Parliament is composed of (i) the National Assembly, and (ii) the National Council of Provinces. Taljaard *et al.* (2011:22) state that the core functions of the Parliament include (i) to pass legislation, (ii) to scrutinise and oversee the Executive and organs of the state, (iii) to facilitate public participation and involvement in the legislative and other processes, (iv) to participate in, promote and oversee cooperative governance, and (v) to participate in, and oversee international relations.

Furthermore, some of the key functions of the Parliament are (i) to hold the Executive accountable, primarily on the budget vote debate of each minister, (ii) the appropriation of funds from the national revenue funds, (iii) to approve the annual budget, (iv) the establishment of the Select Committee on Public Accounts (Scopa) to oversee the use of public money, and (v) to create a platform for a debate on issues of national interest (Taljaard *et al.*, 2011:23).

According to Chapter 4, Section 42 of the Constitution, the Parliament is constituted by two bodies with distinct functions, namely, (i) the National Assembly, and (ii) the National Council of Provinces. These two houses, which are termed to be a bicameral parliament (Hicks *et al.*, 2011:45), are discussed in detail below:

(a) National Assembly, the First House of Parliament

The National Assembly has the power to amend the Constitution. Thornhill and Cloete (2014:18) argue that the National Assembly is responsible for passing legislation, which will regulate the functionalities, as listed in the Schedule 4 of the Constitution. Schedule 4 contains the items that are relevant to both the national and provincial legislatures. The National Assembly may also delegate its exclusive powers to any sphere of government, but the power to amend the Constitution is exclusively reserved for the National Assembly. It must be indicated that the members of the National Assembly are collectively and individually accountable to the Parliament. The national government may administer the laws on any matter, but exclusively, as listed in Schedule four of the Constitution (Thornhill & Cloete, 2014:18). Table 11 indicates

Schedule four, according to the Constitution, and the same schedule (part B) is narrated by Brand (2015:200):

Table 11: Schedule 4 - Concurrent National and Provincial Legislative Powers

Part A	Part B (Local Government matters overseen by National and Provincial Government)
Administration of indigenous forests Agriculture Airports (other than international and national airports) Animal control and diseases Casinos, racing, gambling and wagering, excluding lotteries Consumer protection Cultural matters Disaster management Education at all levels except tertiary Health services Housing Indigenous law and customary law Language policy, subject to Section 6 of the Constitution Media services, subject to Section 192 of the Constitution Nature conservation, excluding national parks and botanical and marine resources Police, to the extent of the provision of Chapter 11 of the Constitution Pollution control Population development Property transfer fees Provincial public enterprises Public works in respect of the needs of provincial government departments Public transport Regional planning and development Road traffic regulation Soil conservation Tourism Trade Traditional leaders, subject to Chapter 12 of the Constitution Urban and rural development Vehicle licensing Welfare services	Air pollution Building regulations Childcare facilities Electricity and gas reticulation Fire-fighting services Local tourism Municipal airports Municipal health services Municipal planning Municipal public transport Municipal public works in respect of the needs of municipalities Pontoons, ferries, jetties, piers and harbours, excluding international and national shipping Stormwater management Trading regulations Water and sanitation series, limited to potable water supply systems and domestic wastewater and sewage disposal

Source: Venter and Landsberg (2011:109)

It is argued that the Schedule 4B list is comprised of items of the national, provincial and local government. However, the involvement of the national and provincial government in Schedule 4B is more of a supervisory capacity to ensure the effective

performance of municipalities of their functions. This means that the local government is responsible for regulating Schedule 4B matters. It is appropriate to outline the role of national government. According to Nzimakwe and Ntshakala (2015:828), the national government plays more of a regulatory role. Its main purpose is to set out and promulgate the policy norms and legislation across all organs of the state. On the other hand, the national government is also responsible for designing the budgets and equally for distributing the revenue proportionally among the three spheres of government. However, the distribution of this revenue has to be effected in accordance with the “budget process, monitoring impact, providing information and support and exercising oversight” (Nzimakwe & Ntshakala, 2015:808).

In line with the above framework, in 2016, the then Minister of Finance, Pravin Gordhan, insisted that all national departments were to do more with their reduced budgets. He was optimistic that this plan was achievable, if the departments could build on their strengths to get rid of their weaknesses. The confidence of the Minister to develop and grow the South African economy was built around an action plan, and this action plan involved all the national departments, provincial governments and municipalities (IGR). The action plan sought to:

- bring forward the budget framework and to reduce the budget deficit to 2,4% by 2018/2019,
- raise the tax base at a moderate pace; this would be done cautiously without imposing a heavy burden on the low-earning workforce,
- minimise and restrict extravagant spending by personnel, whilst on the other hand, continuing to reinforce financial measures, and
- introduce strict financial controls and accountability towards the growing expenditure on training and development at tertiary level, economic infrastructure, social protection and health services (*The Star*, 25 February 2016:25).

According to Khuzwayo (*The Star*, 25 February 2016:2), the Minister applied the budget cuts which were necessary in the interest of upgrading and developing (i) the economy, (ii) managing rising debt, and (iii) doing away with high interest charges. It is for these reasons that the study wishes to demonstrate the impact of the rise in the tax base on taxpayers' pockets, as projected and announced by the Minister of Finance during the budget speech on 24 February 2016. The tax rise appeared to be the cornerstone of the anticipated action plan, which sought to develop and grow the South African economy.

Table 12: Personnel Income Tax Rate

Personal Income Tax Rate and Bracket Adjustments, 2015/16 - 2016/17			
2015/16		2016/17	
Taxable Income (R)	Rates of Tax	Taxable Income (R)	Rates of Tax
R0-R181 900	18% of each Rand	R0-R188 000	18% of each Rand
R181 901-R284 100	R32 742+26% of the amount above R181 900	R188 001-R293 600	R33 840+26% of the amount above R188 000
R284 101-R393 200	R59 314+31% of the amount above R284 100	R293 601-R406 400	R61 296+31% of the amount above R293 600
R393 201-R550 100	R93 135+36% of the amount above R393 200	R406 401-R550 100	R96 264+36% of the amount above R406 400
R550 101-R701 300	R149 619+39% of the amount above R550 100	R550 100-R701 300	R147 996+39% of the amount above R550 100
R701 301 and above	R208 587+41% of the amount above R701 300	R701 301 and above	R206 964+41% of the amount above R701 300

Source: *Daily News (Budget Special)*, 25 February 2016:5

(b) National Council of Provinces, the Second House of Parliament

According to Kahn *et al.* (2016:111), the National Council of Provinces (NCOP) is the second house of Parliament. Accordingly, the functions of the NCOP cannot only be seen as a means of representing provinces in the National Assembly, but also as a source of strengthening IGR between the national and provincial spheres of government. To the greater extent, the NCOP performs a supervisory role over the Executive, thus reviewing the national and provincial executive functions, which impact

on the distinctiveness of the other spheres. Similarly, Thornhill and Cloete (2014:18) argue that the NCOP also participates in the amendment of the Constitution in relation to any matter consistent with the list of functional areas in Schedule 4 and Section 76. Kahn *et al.* (2016:270) further argued that apart from strengthening the intergovernmental relations (IGR), the NCOP has three main responsibilities. They are:

- To consider and pass national bills;
- To balance the interests of the spheres of government through the means of specific oversight tasks afforded by the Constitution; and
- To ensure that the South African government is in a partnership between the spheres and between the organs of the state and the citizenry.

3.3.2 Provincial Sphere

The provincial government has obligations and duties to perform as one of the spheres of government. According to Nzimakwe and Ntshakala (2015:829), one of the key functions of the provincial government is to monitor, support, regulate and supervise municipalities. Apart from these listed functions, the provincial government is to ensure that municipalities are professionally ran according to the guided principles of effectiveness and efficiency to realise the developmental mandate. Moreover, Kahn *et al.* (2016:95) argue that provinces have a constitutional mandate in terms of Section 100 to intervene into the affairs of local government, if a municipality fails to perform its duties. Accordingly, both the national and provincial governments have a legislative and executive responsibility over a municipality to exercise its executive mandate (Nzimakwe & Ntshakala, 2015:829, Kahn *et al.*, 2016:95).

In line with the above statement, *The Star* (25 February 2016:23) reported that provincial MECs for Finance undertook to embrace the action plan, announced by the Minister of Finance, in order to manage expenditure and enhance service delivery. However, the MECs for Finance further intensified the action plan by including key

measures applicable to provincial management; thus, (i) improving revenue collection, (ii) closing redundant and underperforming programmes, (iii) intensifying cost containment measures to keep up with the national guidelines of the action plan, and (iv) arresting personnel expenditure. *The Star* (25 February 2016:2) also reported that the Finance Minister would be cutting the equitable share to provinces by R14,9 billion, against the forecast of the 2015 mid-term budget. According to *Daily News* (25 February 2016:19), the provinces were to be deeply affected by the budget cuts, which suggests that they needed to live with what they had.

According to Besdzik and Holtzhausen (2011:104) and Thornhill and Cloete (2014:19), supplemented by Section 103 of the Constitution (1996), the country is demarcated into nine provinces, namely:

- Eastern Cape
- Free State
- Gauteng
- KwaZulu-Natal
- Limpopo
- Mpumalanga
- Northern Cape
- North West
- Western Cape

According to Thornhill and Cloete (2014:19) and Section 104 of the Constitution (1996), each province has its own provincial government, which is made up of provincial legislatures and a provincial executive. The legislative authority of a province is vested in the provincial legislature. Conversely, Brand (2015:198-199) presents that the executive authority of a province is vested in the hands of the Premier. The Premier is elected by the other members of the provincial legislature, and the Premier becomes the automatic head of delegation to the NCOP in the national sphere. Thornhill and Cloete (2014:19) and Besdzik and Holtzhausen (2013:104) explain that Section 104 of the Constitution allows a province to (i) pass a Constitution of its own, in line with Section 142 and Section 143. Besdzik and

Holtzhausen (2013:105) confirm that the Western Cape has adopted its own provincial Constitution.

Besdziek and Holtzhausen (2013:105) further argue that apart from adopting a provincial Constitution, the provincial legislature also has the right to pass its respective legislation, which are:

- in line and/or aligned to the national Constitution and legislation,
- provided in line with both Schedule 4 and 5 of the Constitution, which outlines and distinguishes the powers and functions of the national and provincial government, and
- exclusive of the money bills, as they are restricted to the national competency.

Besdziek and Holtzhausen (2013:114) presented an argument in support of Section 125 of the Constitution, stating that the executive authority of a province is vested in the premier. It therefore means that the premier, together with the provincial executive council, exercises the executive authority. It is for this reason that Brand (2015:205) presents that the provincial legislature is a provincial authority and, as such, it has the constitutional powers to design laws in respect of the following:

- To pass a constitution of the province (but to date only the Western Cape has done so);
- To pass legislation relating to concurrent matters, as listed in Schedule 4 and exclusive provincial matters, as reflected in Schedule 5 of the Constitution;
- To pass legislation on matters outside the functional areas, but expressly assigned to the province by the national legislation;

- To pass legislation on matters in which the Constitution envisages the enactment of provincial legislation. A classic example would be the endorsement of 11 official languages by the Constitution; while, on the other hand, the provinces being afforded the opportunity to dictate their own official languages according to their own demographics;
- To pass legislation, which allows the province to use its legislative powers to creatively expand its legislative activities legitimately; and
- To coordinate the functioning of the provincial administrative departments.

Besdziek and Holtzhausen (2013:110) and Brand (2015:201) further provide a simplified method in distinguishing the functions of the three spheres of government in the form of Table 13 below.

Table 13: Schedule 5 - Exclusive Provincial Legislative Powers

Part A	Part B (Local Government matters overseen by Provincial Government)
Abattoirs Ambulance services Archives, other than national archives Libraries, other than national libraries Liquor licenses Museums, other than national museums Provincial planning Provincial cultural matters Provincial recreation and amenities Provincial roads and traffic Provincial sport Veterinary services, excluding their professional regulation	Beaches and amusement facilities Billboards and the display of advertising in public places Cemeteries, funeral parlours and crematoria Cleansing Control of public nuisances Control of undertakings that sell liquor Facilities for the accommodation, care and burial of animals Fencing and fences Licensing of dogs Licensing and control of food outlets Local amenities Local sports facilities Markets Municipal abattoirs Municipal parks and recreation Municipal roads Noise pollution Pounds Public places Refuse removal, refuse dumps and solid waste disposal Street trading Street lighting Traffic and parking

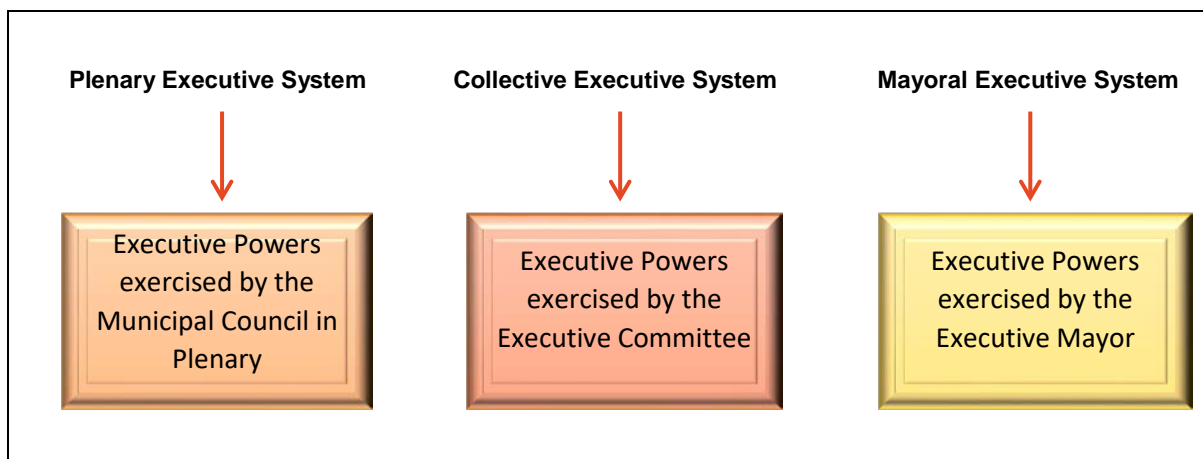
Source: Venter and Landsberg (2011:110)

3.3.3 Local Sphere

The local government is considered the third sphere of government and is regulated by Sections 151-164 in Chapter 7 of the Constitution (1996). Zybrands (2011:134) asserts that local government is at the coalface of the citizenry. It is for these reasons that Thornhill and Cloete (2014:20) present that the Constitution determines that:

- Local government, as one of the three spheres, consists of municipalities, which are comprised from the whole territory of the Republic,
- The executive and legislative authority of a municipality is vested in the municipal council,
- A municipality has the right to govern on its own initiative, in accordance with the national and provincial legislation, as provided by the Constitution,
- The national and provincial governments are not to impede a municipality's ability to exercise its powers to perform its responsibilities.

Figure 12: Legislative and Executive Powers



Source: Practitioner's Guide to IGR in South Africa (Free State Online, n.d.)

Thornhill and Cloete (2014:20-21) state that the key objectives of local government include:

- The provision of democratic and accountable government for local communities,
- Ensuring the provision of services to communities in a sustainable manner,
- Promoting social and economic development,
- Promoting a safe and healthy environment, and
- Encouraging the involvement of communities and community organisations in the matters of municipalities.

Accordingly, this study is of the view that local government cannot be discussed without providing clarity on the concept “local government”. Van der Walt (2018:56) defines local government as a distinct sphere of government, consisting of a demarcated area or municipal area. Nzimakwe and Ntshakala (2015:829) view local government as the strategic centre for service delivery; and Picard and Mogale (2015:33) see local government as a forum for reaching local communities.

Van der Walt (2018:56-57) and Nzimakwe and Ntshakala (2015:829-830) agree that the duties of local government include rendering quality services to the community. These authors (*ibid.*) further assert that municipalities have to do adequate budgeting and planning through integrated development planning for sound administration. In the same way, municipalities have the obligation to work with communities to improve their social, economic and material needs. These may be achieved through the maximum utilisation of the local economic development programmes and the municipal infrastructural grant (MIG).

According to *Daily News* (25 February 2016:19), the Finance Minister announced that municipalities would only receive 9,1% of the available budget for the next three years. Accordingly, the municipalities would receive the (i) equitable share amounting to R67,5 billion, (ii) R52,1 billion for human settlement, electrification and water, (iii) R40,7 billion for public transport, and (iv) R23,3 billion for MIG. The news report further indicated that municipalities would have to reduce their expenditure drastically. The

Minister also highlighted that the number of municipalities would have to be reduced from 278 to 257 (*The Star*, 25 February 2016:23). The minister further presented that municipalities had to adopt a cautionary approach with their reduced budget because municipalities had already exceeded their capital spending by R53 billion by 2014/15.

According to Thornhill and Cloete (2014:21) and Zybrands (2011:139), there are different types of municipalities; as such, they are classified into (i) Category A, Category B, and (iii) Category C. Section 155 of the Constitution, supported by Thornhill and Cloete (2014:21), distinguishes between the categories of municipalities as follows:

- **Category A Municipality**

Van der Waldt (2018:8) and Nealer (2018:179) explain Section 155(1)(a) of the Constitution (1996) as follows: that a Category A municipality refers to “a municipality that has exclusive municipal, executive and legislative authority in its area”. According to Zybrands (2011:139), in this category, (i) Speakers, (ii) Members of Executive Committees, (iii) Executive Mayors, (iv) Members of the Mayoral Committee, (v) a Chairperson of a Sub-council, and (vi) a single Whip appointed for Council are to be appointed on a full-time basis. Thornhill and Cloete (2014:33) describe Category A as metropolitan municipalities, which are (i) The City of Johannesburg, (ii) The Greater Cape Town Metropolitan Municipality, (iii) eThekweni Metropolitan Municipality, (iv) Ekurhuleni Metropolitan Municipality, (v) Tshwane Metropolitan Municipality, (vi) Nelson Mandela Metropolitan Municipality, (vii) Mangaung Metropolitan Municipality, and (viii) Buffalo City Metropolitan Municipality.

- **Category B Municipality**

Van der Waldt (2018:8) and Nealer (2018:179) further clarify that Section 155(1)(b) of the Constitution refers to category B as “a municipality that shares municipal executive and legislative authority in its area with a Category C municipality within whose area it falls”. Zybrands (2011:139) states that in this municipal category, the (i) Speakers, (ii) Members of an Executive Committee, (iii) Executive Mayors, and (iv) Members of the

Mayoral Committee are to be appointed on a full-time basis. Thornhill and Cloete (2014:33) confirm that there are a total of 228 municipalities within Category B.

- **Category C Municipality**

Van der Waldt (2018:8) and Nealer (2018:179) supplement Section 155(1)(c) of the Constitution in its definition that a category C municipality “has municipal, executive and legislative authority in an area that includes more than one municipality”. Zybrands (2011:139) states that (i) the Speaker, (ii) Members of an Executive Committee, (iii) Executive Mayors, and, (iv) Members of the Mayoral Committee are to be appointed on a full-time basis. According to Thornhill and Cloete (2014:33), 42 district municipalities fall within this category.

- **Tenure and Undelegated Functions by Municipalities**

Thornhill and Cloete (2014:24) and Zybrands (2011:142) present that the term of a municipal council is restricted to five years and that within 90 days of its expired term an election must be held. At the beginning of the term, the council is obliged to elect (i) the chairperson (commonly known as the “Speaker”), and (ii) the executive mayor or mayoral committee. Thornhill and Cloete (2014:24) confirm Section 160(2), which states that the council may not delegate the following:

- Passing of by-laws
- Approval of budgets
- Imposition of rates and other taxes, levies and duties
- Raising of loans
- Entering into a service contract
- Amending the Integrated Development Plan (IDP)

3.4 Legislation Supporting Intergovernmental Relations

Apart from the Constitution (1996), there were legislations supporting the governance of intergovernmental relations (IGR) in South Africa. The National Assembly (NA) and National Council of Provinces (NCOP) as the senior houses of the national sphere endorsed these pieces of legislations. Accordingly, the Chapter discussed these pieces of legislations in detailed to determine their relations with the intergovernmental system of government. The virtue of discussing these legislations further intended to demonstrate the relationship and the accountability mechanisms to strengthen the principles of intergovernmental relations (IGR) and cooperative governance in line with Chapter III of the Constitution. Therefore, the study identified the legislations supporting the intergovernmental relations (IGR) as:

- Local Government: Municipal Structures Act (1998),
- Local Government: Municipal Systems Act (2000),
- Local Government: Municipal Finance Management Act (2003),
- Local Government: Intergovernmental Relations Framework Act (2005), and
- Division of Revenue (3 of 2016).

According to Kahn *et al.* (2016:252-253) and Malan (2015:54-56), the evolution of IGR in South Africa was a success in creating a constitutional and institutional framework to encourage cooperation and interaction amongst the spheres of government. Malan (2015:54-56) further sustained the argument by stating that in the first ten years of democracy, South Africa successfully managed to adopt policies and pass a convincing number of laws and policies. To qualify this argument, Malan (2005:230-2) extracted a table containing the successes concerning the implementation of these policies and legislation. The Chapter saw the need to adopt Table 14 below in order to demonstrate the evolution of intergovernmental relations (IGR) during the democratic era in South Africa.

Table 14: Policy Environment for Intergovernmental Relations

Policy	Intergovernmental Relations Implications
White Paper on Reconstruction and Development, 1994	A policy document that stipulated the importance of a participatory local government system to encourage provincial-local intergovernmental relations
Development Facilitation Act, 67 of 1995	The Act provides a basis for a coherent framework for land development, according to a set of binding principles - promoting IGR among all spheres of government and stakeholders in the process of land development
Auditor-General Act, 12 of 1995; South African Qualifications Framework; Housing Act, 107 of 1997; National Water Services Act, 108 of 1997; Rural Development Strategy; White Paper on Transforming Public Service Delivery, 1997; National Environmental Management Act, 107 of 1998; Skills Development Act, 97 of 1998; White Paper on Municipal Service Partnership, 2000	Reflects principles of co-operation, integration and the promotion of governmental relations pertaining to development, planning, and service delivery issues
Constitution of the Republic of South Africa, 108 of 1996	Chapter 3 - principles of co-operation and IGR
Organised Local Government Act, 52 of 1997	The relationship between provinces and municipalities was formalised - monitoring, supervision and intervention
Financial Fiscal Commission Act, 99 of 1997 and Intergovernmental Fiscal Relations Act, 97 of 1997	Make provision for the establishment and determination of fiscal IGR among the three spheres of government
Division of Revenue Act, 3 of 2016 - for each financial year	Provides for equitable division of funds to all three spheres of government - promotes transparency during the budget allocation process
White Paper on Local Government, 1998	Encourages provincial governments to support the promotion and maintenance of IGR
Municipal Demarcation Act, 27 of 1998; Municipal Structures Act, 117 of 1998; and Municipal Systems Act, 32 of 2000	Formalisation of various roles of provincial governments in terms of provincial-local IGR
Municipal Finance Management Act, 56 of 2003 and Public Finance Management Act, 1 of 1999	Modernise the financial management system and ensure accountability. Define the relationship between spheres of government's financial management, as well as the supervisory and monitoring roles of provincial governments
Intergovernmental Relations Framework, 13 of 2005	Seeks to provide focus, clarity and certainty regarding core aspects of IGR at the executive level of government. Provides for the establishment of intergovernmental structures (President's Coordinating Council, National Intergovernmental Forums, and Municipal Intergovernmental Forums) as well as the conduct of IGR disputes

Source: Malan (2005:230)

Table 14, as presented above, represents the progress made within the first ten years of the democratic dispensation and, as such, developments in the same field continue. Thus, the assessment in the development of IGR with regard to policy formulation and implementation can be confirmed to be on the right track. The success in this regard may be drawn from the various and different interventions by the national government into the provincial governments.

3.4.1 Local Government: Municipal Structures Act, 117 of 1998

The Local Government: Municipal Structures Act (117 of 1998) was designed to provide for:

- (a) the establishment of municipalities in accordance with the requirements relating to categories and types of municipalities;
- (b) to establish criteria for determining the category of municipality to be established in an area;
- (c) to define the types of municipality that may be established within each category;
- (d) to provide for an appropriate division of function and powers between categories of municipality;
- (e) to regulate the internal systems, structures and office-bearers of municipalities;
- (f) to provide for appropriate electoral systems; and to provide for matters in connection therewith". Van Niekerk (2015:844) asserts that the Local Government: Municipal Structures Act (117 of 1998) provides for -
 - the provision for the different types of municipalities (categorisation),
 - the division of powers between the district and local municipalities,
 - the election of the municipal councillors, and

- the composition, membership, operations and the structuring of the municipal councils.

The above indicators by Van Niekerk (2015:844) put the Local Government: Municipal Structures Act (117 of 1998) at the centre point of intergovernmental relations (IGR). It first classifies a municipality into a category in terms of Sections 8-11. In the second instance, it outlines the powers and functions of all the participants of local government in Chapter 4 and 5. Thirdly, it sets out the process of electing the municipal councillors in the district and local municipalities in terms of Sections 22 and 23 of the Local Government: Municipal Structures Act (117 of 1998). Lastly, it outlines the composition, membership, operations and structure of the municipalities in Chapter 3. Hence, Van Niekerk (2015:844) sees the Local Government: Municipal Structures Act (117 of 1998) as the heartbeat of intergovernmental relations (IGR) in South Africa.

According to Mofolo (2016:235), the Local Government: Municipal Structures Act (117 of 1998) empowers the municipal council to develop the community participation processes in order to endorse the principles of participatory democracy. Apart from cementing public participation, the council was ordered to conduct an annual review on the needs and the strategies of the community. Accordingly, Mofolo (2016:235) sees the participation of the community in municipal affairs as crucial to ensure participatory democracy. Hence, Chapter 4, with reference to Part 4, which deals with the establishment of Ward Committees, which was considered as a critical component for the consultation with the community (*ibid.*). It was further argued that the chairperson of the committee has to be a Ward Councillor (Mofolo, 2016:235).

3.4.2 Local Government: Municipal Systems Act, 32 of 2000

According to Van Niekerk (2015:844), the Local Government: Municipal Systems Act (32 of 2000) impacted IGR through community participation and the integrated development plan (IDP). Accordingly, the Act outlines community participation in Chapter 4, Sections 16-22. The Act further details the IDP in Chapter 5, Sections 23-37. Chapter 4 and 5 of the Local Government: Municipal Systems Act (32 of 2000) are the key link, which strengthens IGR. Hence, Van Niekerk (*ibid.*) argues that the Local Government: Municipal Systems Act (32 of 2000) provides for the roles of the national

and provincial government; this is done by setting the standards that monitor and evaluate municipalities.

Mofolo (2016:235) further presents that Section 5 of the Local Government: Municipal Systems Act (32 of 2000) provides for the rights of community members in the respective municipalities. Accordingly, Section 5 states that community members should be informed of every decision taken by the municipality. It was argued that Chapter 4 of the Local Government: Municipal Systems Act develops the culture of municipal governance; thus, it augments participative or participatory government in the local sphere. Participatory governance in the local sphere was regarded as an essential factor of municipalities because through Chapter 4 of the Act public participation is promoted (Mofolo, 2016:235).

In support of the aforementioned arguments by Van Niekerk (2015:844) and Mofolo (2016:235), Van der Waldt (2018:47-48) argues that the Local Government: Municipal Systems Act (32 of 2000) was enacted to “establish a framework for planning, performance management systems, effective use of resources and organisational change”. The author (*ibid.*) further concurs that Chapter 4 of the Local Government: Municipal Systems Act (32 of 2000) promotes public participation and further advances the means of developing the culture of community participation in terms of Section 16(1). Van der Waldt (2018:48) also agrees with Van Niekerk (2015:844), that Chapter 5 of the Act, which provides for the IDP, is integral to local government. Therefore, it is critical that there is compliance to Chapter 4, which deals with community participation, by all the actors in the local government structures (Van der Waldt, 2018:47-48).

Picard and Mogale (2015:171-172) opined that the South African government was heavily regulated, particularly in the local sphere. These pieces of legislation are aimed at the commitment to unify the public service system and enhance the monitoring mechanisms. The authors (*ibid.*) argue, “Despite all the legislation, policies, and participation mechanisms in place, however, public participation has still not been effectively achieved and what does occur is often largely symbolic”.

3.4.3 Local Government: Division of Revenue Act, 3 of 2016

The Division of Revenue Act (3 of 2016) was designed to provide for -

- (a) The equitable division of revenue raised nationally among the national, provincial and local sphere of government for the 2016/17 financial year,
- (b) The determination of each province's equitable share and allocations to provinces, local government and municipalities from national government's equitable share and the responsibilities of all three spheres pursuant to such division and allocations; and
- (c) The provision for matters connected therewith". According to the Picard and Mogale (2015:198), each sphere of government is empowered by the Constitution to determine its budget, as well as to generate its revenue.

According to Thornhill and Cloete (2014:103-104), Section 227 of the Constitution provides that the local and provincial governments are entitled to an equitable share generated by the national government. The Division of Revenue Act (3 of 2016), which is passed on an annual basis by the Parliament, is responsible for the division of revenue among the three spheres of government. However, Thornhill and Cloete (2014:103-104) indicate that there are different types of allocations. These types include (i) the conditional allocations to the province or municipality in relations to Section 214(1)(c) of the Constitution, and (ii) the Municipal Infrastructure Grant (MIG) for the powers and functions allocated in accordance with Section 84 of the Local Government: Municipal Structures Act, 117 of 1998 (Thornhill & Cloete, 2014:103-104).

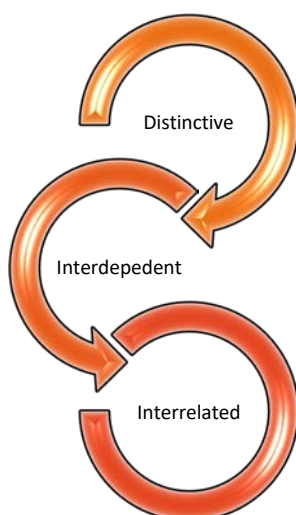
3.5 Framework of Intergovernmental Relation

Muller and Uys (2006:209) and Kahn *et al.* (2016:259-260) agree that "South Africa is one, sovereign, democratic state"; accordingly it has established its co-operative governance within the framework of three spheres of government (national, provincial and local). This formation of cooperative governance gave rise to the governance of

IGR. Hence, in accordance with Chapter 3 of the Constitution (1996), cooperative governance became the cornerstone of IGR in South Africa. These spheres of government ought to be autonomous from one another. However, Kahn *et al.* (2016:259-260) present that the autonomy of these spheres is theoretical as it represents that ideal, rather than the formal prescription. This argument was presented against the background that the Constitution provides the general framework of IGR, but it is not precise on how the national and provincial departments should coordinate and integrate their departments.

According to Tshishonga and Mafema (2012:252), the Constitution, which is the supreme law of the Republic of South Africa records that the three spheres of government in IGR are distinctive, interdependent and interrelated. Edwards (2012:68) relates to the distinctiveness, interdependence and interrelatedness of the spheres of government as a precondition to partnerships and communicating with one another for the betterment of the citizenry. The Chapter further advances the argument on the governance relationship in line with the debate by Van der Waldt (2018:18) that South Africa is distinctive, interdependent and interrelated. Hence, the study deems it fit to illustrate in the form of a Figure the functioning and the operations of these three features of the three spheres of government.

Figure 13: Nature of the Spheres of Government (South Africa)



Source: Own Construction

The Figure above demonstrates the nature of government in South Africa, as dictated by Section 40(1) of the Constitution. Section 40(1) stipulates, “In the Republic, government is constituted as national, provincial and local spheres of government which are distinctive, inter-dependent and interrelated”. Despite the spheres of government being autonomous from each other, the above Figure illustrates their relationship as distinctive, interdependent and interrelated. Hence, the Figure seeks to justify the fact that despite the autonomy of the three spheres of government, South Africa remains “one, sovereign, democratic state” in accordance with Section 1 of the Constitution. Thus, a full discussion on the features of government follows.

3.5.1 Distinctive

According to Kahn *et al.* (2016:259-260), the Constitution refers to the distinctiveness of IGR as the mutual respect of a particular sphere by the others in terms of the constitutional status, institutions, powers and functions of government. On the other hand, Nzimakwe and Ntshakala (2015:831) argue that “distinctiveness” means that certain tasks are best performed in a specific sphere of government. Each sphere ought to exercise its powers and functions in the manner that does not encroach on the geographical, functional or institutional integrity of the other. Hence, Tshishonga and Mafema (2012:253) concur that by virtue of each sphere being distinctive from the other; it means they all enjoy the benefit of equal status.

Malan (2015:62-63) argues that the distinctiveness of any sphere from the other emphasises the autonomous co-relationship between the national, provincial and local government. Malan (2015:62-63) is supported by Nzimakwe and Ntshakala (2015:831) that the distinctive sphere of government has distinctive legislative and executive competencies. Therefore, in South Africa, the “distinctiveness” of the different spheres of government remain that each sphere enjoys legislative and executive autonomy. Besdziek and Holtzhausen (2013:124) summarise the discussions advanced on “distinctiveness” by Kahn *et al.* (2016:259-260), Tshishonga and Mafema (2012:253) and Malan (2015:62-63) as the manner in which the autonomy of the “executive and legislative functions are exercised”.

In this regard, “distinctiveness” implies that each sphere of government is unique with its own identity and in the manner in which each sphere conducts its own governance system. Brand (2015:166) asserts that in the distinctiveness of the sphere of government, there is an own constitutional jurisdiction and a relative amount of autonomy. Each sphere of government is also at liberty to make decisions, whilst at the same time remaining within the ambit of being accountable for their actions therein. However, Kahn *et al.* (2016:260) caution that distinctiveness is not synonymous with independence. According to Section 40(1) of the Constitution, distinctive refers to the rights of governance enjoyed by each sphere of government. Each sphere takes a final decision on the matters within its jurisdiction.

3.5.2 Interdependent

Tshishonga and Mafema (2010:577) present that the relationship in “interdependency” is mutual. As such, the governance was rendered through substantial engagements for power and resources to achieve the set objectives. These authors (*ibid.*) are of the view that the sense of IGR occurs at the juncture of the interdependent levels. Nzimakwe and Ntshakala (2015:831-832) argue that the success of each sphere of government is dependent upon the other. As the study continues to summarise the term “interdependent”, it was argued that the three spheres of government in South Africa are interdependent upon each other.

The same argument as advanced by Tshishonga and Mafema (2010:577), is summed up by Kahn *et al.* (2011:66), that even though the spheres of government are distinctive in nature, they are, however, encouraged to work together by the Constitution. Besdziek and Holtzhausen (2013:124) conclude the arguments of Tshishonga and Mafema (2010:577), Malan (2015:62-63) and Kahn *et al.* (2016:229) by stating that “interdependent” is the degree to which the spheres of government effectively execute their functions. On the other hand, Van der Waldt (2018:18) sees interdependent as the sphere of government performing the duties of government in a cooperative manner with the other. As Kahn *et al.* (2016:9) states, the government institutions depend on one another.

According to Kahn *et al.* (2016:260), this concept also indicates that the responsibility and the authority of service delivery remains shared among the other spheres of government. However, similar to the conceptualisation of the concept “interdependent”, Brand (2015:166) combined the concept with interrelated to imply the relations and the interaction of the three spheres of government. Therefore, the spheres of government are equally responsible to deliver quality service to the citizens in terms of Section 40(1) of the Constitution. Furthermore, it is submitted that interdependency and interrelatedness seem to justify the concept “distinctive”. Similarly, the concept “interdependence” is seen to be closely related to practical implementation by means of collaboration of the other two concepts (Kahn *et al.*, 2016:260).

3.5.3 Interrelated

Nzimakwe and Ntshakala (2015:832) define “interrelatedness” as the sphere of government, which is part of the holistic system of government, among the interrelated spheres of government and unified government. This definition by Nzimakwe and Ntshakala (2015:832) is supplemented by the argument of Tshishonga and Mafema (2012:253) that “interrelated” refers to the hierarchical response of supervisory powers within the spheres of government. Furthermore, Tshishonga and Mafema (2012:253) sustain that the interrelatedness of the spheres of government do not operate in silos or in isolation from one another.

These spheres of government, as discussed above, are interrelated. Therefore, they have a constitutional obligation to cooperate with each other in the form of advancing respect through “mutual trust and good faith” for the benefit of the country. Hence, Nzimakwe and Ntshakala (2015:832) assert that the interrelated spheres of government “... preserve the peace, national unity and the indivisibility of the Republic ...”. Accordingly, the interrelatedness of governance promotes effective, transparent, accountable and coherent collective governance.

Table 15: Characteristics of the South African Cooperative Government

Distinctive	means that the Constitution allocates specific functions and powers to each sphere of government, which then has the final decision-making power on those matters (refer to Schedule 4 and 5 of the Constitution, 1996)
Interrelated	means that the exercise of autonomy by a sphere is related to the functions performed by another sphere of government (for example, health is assigned to all three spheres)
Interdependent	means that each sphere must exercise its authority to promote the common good of the country by cooperating with other sphere(s); that is, by noting the effects of its operations on the functions of other spheres

Source: Malan (2015:63)

The table above demonstrates the relations and network amongst the characteristics of cooperative government. These characteristics of cooperative governance are the source and the pillar for sound IGR in South Africa. Their interactions are regulated under the umbrella of the three defined characteristics of distinctiveness, interrelatedness and interdependence.

Kahn *et al.* (2016:260) argue that the local and provincial spheres of government are subject to regulations, supervision and possible intervention by the national government. This suggests that the national government can at any given time monitor and assess the activities of both the local and provincial governments. Similarly, Section 146 of the Constitution (1996) obligates the national government to supplement coherent governance in South Africa. Hence, Kanyane (2016:94) confirms that the interrelatedness of the three spheres of government are meant to promote and facilitate cooperative decision-making. Furthermore, the elements of the interrelatedness are found to have the potential to enhance the projects of service delivery. Kanyane (2016:94) asserts that “the interrelatedness of the spheres of government means that each has the duty to cooperate with others in mutual trust and good faith”.

3.6 Intergovernmental Structures

According to Kahn *et al.* (2016:90-93), the intergovernmental relations in all spheres of government are aimed at ensuring the harmonious functioning of IGR in South Africa. It further forges the principles of cooperative government, as enshrined in the Constitution. As a result, these intergovernmental structures are built on the principles of distinctiveness, interdependence and interrelatedness to attain the prospects of accountability and answerability. Picard and Mogale (2015:172) concurred that intergovernmental relations (IGR) is the cornerstone of the Local Government: Intergovernmental Relations Framework Act (13 of 2005), designed to promote cooperative governance. Cooperative governance sought to achieve the national priorities.

Table 16: Intergovernmental Structures

National Intergovernmental Forums	Provincial Intergovernmental Forums	Municipal Intergovernmental Forums
President's Coordinating Council	Premier's Intergovernmental Forum	District Intergovernmental Forums
Budget Council and Budget Forum	Other Provincial Intergovernmental Forums	Inter-municipality Forums
Meetings	Interprovincial Forums	
Joint Meetings		

Source: Kahn *et al.* (2016:93)

Table 16 above provides a summary of the different government institutions within the three spheres of government. It also seeks to indicate the harmonious relationship and the functioning of IGR. In a broader sense, the table further illustrates how IGR is replicated in national, provincial and local government. The effective use of the government institutions in Table 16 will also justify the cooperation and the integration of actions in the three spheres of government.

Besdziek and Holtzhausen (2013:126) argue that the intergovernmental forums play a predominant role within the environment of cooperative governance, as they bring together all the spheres of government. However, the argument was advanced that although these intergovernmental forums are consultative in nature, they have the potential to influence decision making on matters of common interest. These forums enjoy the power of influence in the presence of national ministers, MECs and organised local government; they also consult, coordinate, align and discuss the issues on the provision of services (Besdziek & Holtzhausen, 2013:127).

3.6.1 National Level

According to Van Niekerk (2015:846), the Local Government: Intergovernmental Relations Framework Act (13 of 2005) is a framework that is not static, as it gave effect to the establishment of intergovernmental instruments in the three spheres of government. The author (*ibid.*) highlighted the key intergovernmental relations (IGR) instruments as follows: (i) the President's Coordinating Council (PCC), (ii) the Ministers and Members of Executive Council (MinMECs), (iii) the National Council of Provinces (NCOP), (iv) the Forum of South African Directors-General (FOSAD), and (v) the Budget Council and Budget Forum. These structures are discussed below:

(a) President's Co-ordinating Council (PCC)

According to Mathebula (2011:1423) and Thornhill and Cloete (2014:48-49), the President's Co-ordinating Council (PCC) is essential in consulting on the implementation of national policies and legislation; it further aligns the priorities of all spheres. Kahn *et al.* (2016:102-103) confirm that the PCC was formed on 15 October 1999, and that it is constituted by the (i) president, (ii) premiers of nine provinces, (iii) provincial chairpersons of the South African Local Government Association (SALGA), and (iv) national ministers. Kahn *et al.* (2016:102-103) and Thornhill and Cloete (2014:48-49) agree that the sole purpose of the PCC is to ensure cohesion and synergy on issues regarding planning, policy and regulation between the province and the other spheres of government. One other critical function of the PCC is to assist the premiers in complying with their constitutional obligations regarding (i) policy

development, (ii) initiating legislation for the province, and (iii) implementing national legislation.

(b) Cabinet Clusters

Kahn *et al.* (2016:101-102) and Besdziek and Holtzhausen (2013:126) submit that cabinet clusters are the crucial intergovernmental relations instrument in restructuring the Presidency. These clusters are organised in accordance with the relationship of the functions of departments. Hence, the Cabinet was divided into six clusters: (i) social sector, (ii) investment and employment, (iii) economic sector, (iv) international relations, justice, crime prevention and security, (v) governance and administration, and (vi) the Forum for South African Directors-Generals (FOSAD). According to Malan (2015:119), the operations of these Director-General clusters (FOSAD) are similar to the Cabinet's operations. Hence, Malan (2015:119) argues that FOSAD "... operates like the cabinet of the DGs in the sense that it acts as a consultative forum on issues that cut across all seven clusters ...".

In 2005, the provincial governments were incorporated in the cabinet clusters (also called Makgotla). The inclusion of the provincial governments, which was followed by SALGA (representing local government), made cabinet clusters more representative of all spheres of government. The involvement of the sixth cluster, FOSAD, enjoys the full support of the other five cabinet clusters. The inclusion of FOSAD makes it easier to implement the decisions of the cabinet Makgotla, and ensures the use of the departmental resources in line with the agenda of the cabinet clusters (Kahn *et al.*, 2016:101-102; Besdziek & Holtzhausen, 2013:126).

Table 17: FOSAD Clusters

Cluster	Coordinating Department
Infrastructure Development	Transport and Public Enterprises
Economic Sectors and Employment	Trade and Industry and Economic Development
Human Development	Education and Health
Social Protection and Community Development	Human Settlements and Social Development
Governance and Administration	Public Service and Administration and Cooperative Governance and Traditional Affairs
Justice, Crime Prevention and Security	Police and Justice and Constitutional Development
International Cooperation, Trade and Security	International Relations and Cooperation and Defence

Source: Malan (2015:119)

(c) Ministers and Members of Provincial Executive Councils (MinMECs)

The Ministers and Members of Provincial Executive Councils (MinMECs) are the instruments on IGR, which bring together the national ministers and the provincial members of the executive council. Before the enactment of the Local Government: Intergovernmental Relations Framework Act (13 of 2005), MinMEC was both statutory and non-statutory (Kahn *et al.*, 2016:103-105). According to Besdziek (2013:126), the preamble of the Local Government: Intergovernmental Relations Framework Act supports Section 41(2) of the Constitution (1996) in the call for the cooperation and the integration of government activities. It is for these reasons that Edwards (2008:70-71) and Kahn *et al.* (2016:103-105) submit that they are critical IGR instruments to achieve decisions on planning, budgeting, progress reviews, and interacting with the government entities.

Apart from promoting cooperation, coordination and communication between national departments, their provincial counterparts and organised local government, according to Kahn *et al.* (2016:103-105), MinMEC also creates a platform for interaction between the national ministers and the provincial MECs. This platform of interaction has the opportunity to (i) provide advice, (ii) identify problems, (iii) identify potential conflict with the spheres, (iv) comment on national policies, and (v) propose legislation. Furthermore, Kahn *et al.* (2016:103-105) list the other roles and responsibilities of MinMECs with regard to IGR as follows:

- The harmonisation of legislation in each sector,
- The division of financial resources,
- The harmonisation of programmes
- The consultation on the national norms and standards,
- The integration of intergovernmental policies and strategy,
- The formulation of joint programmes and projects,
- The sharing of sector information,
- The distribution of responsibilities amongst the spheres of government.

(d) Intergovernmental Forum (IGF)

According to Kahn *et al.* (2016:106-107), the Intergovernmental Forum (IGF) was formed to create an opportunity for consultation and joint decision-making between Ministers and Premiers in matters of mutual interest. The permanent members of the IGF are at the centre of coordination. Accordingly, the main purpose of the IGF is to create, implement and coordinate an integrated intergovernmental framework on financial and fiscal matters. The IGF is at the centre of IGR. It was further argued that the IGF is given a broad mandate by Section 9 of the Local Government: Intergovernmental Relations Framework Act (13 of 2005). At the same time, Kahn *et al.* (2016:106-107) is of the view that the enactment of the Local Government: Intergovernmental Relations Framework Act (Act 13 of 2005) made the functions of the IGF redundant because they were absorbed by the President's Co-ordinating Council (PCC). This argument was presented because Section 9(1) and 9(2) broadened the mandate of the Local Government: Intergovernmental Relations Framework Act (13 of 2005) to read:

(1) "Any cabinet member may establish a national intergovernmental forum to promote and facilitate intergovernmental relations in the functional area for which that cabinet member is responsible.

(2) Any MinMEC that existed when this Act took effect must for the purposes of Act be regarded as having been established in terms of subsection (1), except when such MinMec has been established by an Act of parliament."

Apart from an advisory role, and the creation of a platform for consultation and decision making of the intergovernmental forum (IGF), Kahn *et al.* (2016:106-107) argued that IGFs are responsible for:

- creating and implementing an integrated, as well as coordinated, intergovernmental policy framework,
- multi-sectoral or lateral policy issues,
- finance and fiscal matters, and the
- constitutional directives (Kahn *et al.*, 106-107).

(e) Budget Council

According to Thornhill and Cloete (2014:47) and Besdzik and Holtzhausen (2013:120), the Budget Council was established in terms of Section 2 of the Intergovernmental Fiscal Relations Act (97 of 1997). Kahn *et al.* (2016:105-106) argue that at the time of the enactment of the Local Government: Intergovernmental Relations Framework Act (13 of 2005) only two statutory IGRs existed. These two statutory bodies were known as the Budget Council and the Council of Education Ministers. However, for the purpose of this Chapter, the discussion will only be directed at the Budget Council.

Thornhill and Cloete (2014:47) affirm that the Minister of Finance and the Members of the Executive Council (MECs) responsible for finance in the nine provinces constitute the Budget Council. The Minister of Finance becomes the chairperson of the Budget Council meetings. Van Niekerk (2015:847) states that the “Budget Council and Budget Forum” are established in terms of the Intergovernmental Fiscal Relation Act (97 of 1997). However, Vyas-Doorgapersad (2018:230) presents that the members of the Financial and Fiscal Commission serve as the advisory body to the Finance Minister and the Budget Council. Further, it is argued that members of the Commission are allowed to attend the Budget Council, utilising their permanent observer status. The Financial and Fiscal Commission is informed by the Financial and Fiscal Commission Act (99 of 1997) and Section 220 of the Constitution (1996) to make recommendations on budget matters. Apart from the attendance of MECs, Section 5(1)d of the

Intergovernmental Fiscal Relations Act (97 of 1997) permits each province to send one representative to the Budget Council meeting. Accordingly, the function of the Budget Council is to facilitate cooperation and consultation in the budget process. The Budget Council furthermore makes recommendations to the Cabinet on matters of the division of revenue.

Besdziek and Holtzhausen (2013:120) and Thornhill and Cloete (2014:47) argue that intergovernmental fiscal relations are always concerned with the budget process. It therefore means that the Budget Council subscribes to the norms and standards outlined by Section 214 of the Constitution (1996). These norms and standards include but are not limited to the following:

- To promote effective usage of resources,
- To encourage financial autonomy at provincial level,
- To advocate for transparency, stability and predictability in the budget process,
- To give provinces certainty of revenue, and
- To promote inter-provincial equity.

The Constitution (1996) compels the Budget Council and the Financial and Fiscal Commission to adhere to certain factors during the process of the division of revenue. The factors include:

- The need to ensure that provinces and municipalities are capable to deliver basic services and to perform the responsibilities allocated to them;
- To ensure fiscal viability and efficiency in the operations of the provinces and municipalities;
- To ensure the development and other applicable needs of the provinces and municipalities;
- To address the economic imbalances within and among the provinces;

- To ensure that the provinces and municipalities meet their legislative obligations;
- To ensure that there is stability, consistency and predictable allocations of revenue; and
- To ensure the capacity to respond to emergencies and matters that need temporary arrangements or immediate attention.

3.6.2 Provincial Level

(a) Provincial Intergovernmental Forum (P-IGF)

According to Kahn *et al.* (2016:116), the Provincial Intergovernmental Forums are established in accordance with Section 16 of the Local Government: Intergovernmental Relations Framework Act (13 of 2005). One of these Provincial Intergovernmental Forums, namely the Premier's Intergovernmental Forum, is a replica of the President Coordinating Council. Accordingly, the Provincial Intergovernmental Forum (PIF) shared the same objectives with the President Coordinating Committee (PCC). However, the main objectives of the Premier's Intergovernmental Forum (PIF) are restricted to the province. However, the decisions taken by this forum are not binding in nature. The compliance of the decisions made in this forum depends on the trust relationship of the stakeholders. These Premier's Intergovernmental Forums are scheduled to take place once every three months (quarterly). The Premier's Intergovernmental Forums are constituted by:

- the Premier of the province,
- the MEC responsible for Local Government,
- any designated MEC appointed by the Premier,
- Executive Mayors of the metropolitans and district municipalities in the province,
- the Administrator appointed in terms of Section 139 of the Constitution,
- any municipal councillor designated by the individual municipality in the province, and

- the Premier has the prerogative to invite any person not mentioned (Kahn *et al.*, 2016:116).

In terms of Section 18 and 20 of the Local Government: Intergovernmental Relations Framework Act (13 of 2005) and supported by Kahn *et al.* (2016:117), the Premier's Intergovernmental Forums are to consult on matters of mutual interest. These matters of mutual interest include, but are not limited to, the following:

- The implementation of the national policy and legislation affecting municipalities,
- The consideration of the matters arising from the President's Coordinating Council and other national intergovernmental forums, which affect municipalities,
- The development, drafting and implementation of the national policy and legislation, which impact on municipalities,
- The development of provincial policy and legislation emanating from the national intergovernmental forums,
- The coordination of the provincial and municipal development planning and facilitation of the coherent plans for the province,
- The coordination of the province and municipalities on strategic and performance plans and the scheduling of the priorities thereof,
- The consideration of reports from the Provincial and the District Intergovernmental Forums on matters of mutual interest, and
- The presentation of reports on an annual basis to the National Intergovernmental Forums on the progress of implementing the national policies in the provinces and municipalities.

3.6.3 Local Level

(a) Local Government Budget Forum

According to Edwards (2008:71-72), the Local Government Budget Forum takes effect when organised local government meets with the other spheres of government to consult on financial matters. The Local Government Budget Forum serves as the advisory body on financial issues. Edwards (2008:72) asserts that Municipal Intergovernmental Forums also refer to the district's intergovernmental relations. Hence, the study chose to demonstrate intergovernmental relations (IGR) in districts, in the form of an example below.

(b) District Municipalities

According to Section 24 of the Local Government: Intergovernmental Relations Framework Act (13 of 2005), there is provision for the establishment of District intergovernmental Forums. Accordingly, the District Municipalities are bound to create District Intergovernmental Forums with the intention to realise the goal of cooperative government. These District Intergovernmental Forums are expected to promote IGR in districts. It should be mentioned here that these forums are consultative in nature.

Section 25 of the Local Government: Intergovernmental Relations Framework Act (13 of 2005) spells out the composition of the District Intergovernmental Forums. According to the Local Government: Intergovernmental Relations Framework Act (13 of 2005), these forums are to be constituted by:

- the mayor of the District Municipality,
- the mayors of the local municipality in that particular district, and
- if the Municipality does not have a mayor it may be represented by a designated Councillor, and
- the administrator, in case of municipalities that were placed under intervention in terms of Section 139 of the Constitution (1996).

In line with the above argument, the North West Province was constituted by four District Municipalities. They are (a) Ngaka Modiri Molema District Municipality (NMMDM), (b) Dr Kenneth Kaunda District Municipality (KKDM), (c) Bojanala District Municipality (BDM), and (d) Dr Ruth Segomotsi Mompati District Municipality (RSMDM). For the purpose of this exercise, Tswaing Local Municipality (TLM) and its District (Ngaka Modiri Molema) was used as an example of the intergovernmental forums. It is imperative that the study outlines the role of the District intergovernmental relations before discussing the dynamics and the relations of Tswaing Local Municipality and Ngaka Modiri Molema District Municipality. In accordance with Section 26 of the Local Government: Intergovernmental Relations Framework Act (13 of 2005), the District Municipality and the Local Municipality are to discuss and to consult on issues of common interests, including the following:

- Draft national and provincial policy and legislation relating to matters affecting local government interests in the district;
- The implementation of national and provincial policy and legislation with respect to such matters in the district;
- Matters arising in the Premier's Intergovernmental Forum affecting the district;
- Mutual support in terms of Section 88 of the Local Government: Municipal Structures Act (Act No. 117 of 1998);
- The provision of services in the district;
- Coherent planning and development in the district;
- The co-ordination and alignment of the strategic and performance plans and priorities, objectives and strategies of the municipalities in the district; and

- Any other matters of strategic importance, which affect the interests of the municipalities in the district.

Five local municipalities form Ngaka Modiri Molema District Molema (NMMDM). The municipalities are (i) Tswaing Local Municipality, (ii) Ratlou Local Municipality, (iii) Ditsobotla Local Municipality, (iv) Mafikeng Local Municipality, and (v) Ramotshere Moiloa Local Municipality. In its agenda for the Council sitting on 1 December 2015, which was scheduled to adopt the Budget and the Integrated Development Plan of 2015/2016, Tswaing Local Municipality included the district intergovernmental structure for noting and/or adoption. Tswaing Local Municipality confirmed that it uses these intergovernmental structures to promote participation and cooperation with all its stakeholders.

Table 18: Planning and IGR Consultative Structures

Consultative Structure	Composition	Function
Mayors Forum	Mayors, with municipal managers providing technical support	Give political directives
Speakers Forum	Speakers of the District together with the speakers of local municipalities	Champion public participation
Municipal Managers Forum	District municipal manager and the counterparts from local municipalities	Give advice to political structures and is accountable to administration
Technical Cluster Forums	Directors of departments and directors of sector departments	Advises municipal managers on issues affecting their departments
IDP Forum	Directors for planning in the district and municipalities	Run the processes of IDP Review

Source: TLM Integrated Development Plan (2015:34)

In terms of the table above, Tswaing Local Municipality through its agenda (1 December 2015) pledged its commitment to compliance to Section 27(1) of the Municipal System Act (32 of 2000). In terms of the Local Government: Municipal Systems Act (32 of 2000), TLM declared that it had taken into consideration the framework of the District in developing its Integrated Development Plan. The consideration was done solely to align, integrate, coordinate and support the district

programme in the spirit of intergovernmental relations in the Ngaka Modiri Molema District Municipality.

3.7 Intergovernmental Relations Legislation

The study seeks to discuss IGR accountability with specific reference to the (i) Local Government: Intergovernmental Relations Framework Act (13 of 2005), (ii) Intergovernmental Fiscal Relations Act (97 of 1997), and (iii) Municipal Financial Management Act (56 of 2003). These three pieces of legislation have significant relevance to intergovernmental relations' accountability. Thus, the three selected pieces of legislation were selected for this study because they are rooted in the intergovernmental relations system of government. Given the fact that they are the cornerstone and the framework of intergovernmental relations, the study sought to make them more user friendly for the intended beneficiaries.

3.7.1 Local Government: Intergovernmental Relations Framework Act (2005)

The Local Government: Intergovernmental Relations Framework Act (13 of 2005) seeks to “establish a framework for the national government, provincial governments and local governments to promote and facilitate intergovernmental relations; to provide for mechanisms and procedures to facilitate the settlement of intergovernmental disputes; and to provide for matters connected therewith”. Thus, the Act sought to promote IGR by setting guidelines for the establishment of intergovernmental structures. These intergovernmental structures are at (i) national level (Part 2, Sections 9-15), (ii) provincial level (Part 3, Sections 16-23), and (iii) local level (Part 4, Sections 24-29).

In line with the above argument, Nealer (2018:203) and Van Niekerk (2015:841) confirm that the Local Government: Intergovernmental Relations Framework Act (13 of 2005) exists with the ambit of cooperative government to allow the three spheres of government and state organs the space to facilitate proper coordination and the implementation of intergovernmental legislation and policies. The argument by Nealer (2018:203) was advanced by Tau (2015:804), who further went on to explain the roles

of the intergovernmental structures (instruments). Tau (2015:804) is of the view that the Act (13 of 2005) creates a platform:

- for the performance of service delivery, and to initiate corrective measures where a shortfall of performance is detected, and
- to consider the reports from the intergovernmental forums, which deal with issues affecting the performance of the three spheres of government.

According to Van der Waldt (2018:19) and Van Niekerk (2015:841), Section 41(2) of the Constitution (1996) provides for the establishment of an institution and structures, which will facilitate IGR. Hence, the formation of the Local Government: Intergovernmental Relations Framework Act (13 of 2005), which was established to promote and facilitate IGR. This facilitation is built within the framework of the President's Coordinating Council and other governmental forums from the three spheres of government. Hence, Van der Waldt (2018:135) and Tau (2015:804) agree that the Local Government: Intergovernmental Relations Framework Act (13 of 2005) provides for greater stability, certainty and predictability in the governance of IGR. Malan (2015:65) and Tau (2015:804) argue that Section 41(2) of the Constitution (1996) provides for (i) the establishment of the structures and institutions that promote IGR, and (ii) the development of the mechanisms and procedures to facilitate the settlement of intergovernmental disputes (Van der Waldt, 2018:19-20; Malan, 2015:65; Tau, 2015:804).

Malan (2015:65) and Picard and Mogale (2015:172) agree with Besdzik and Holtzhausen (2013:126) that the Local Government: Intergovernmental Relations Framework Act (13 of 2005) seeks to ensure the mutual consultation and coordination of the policy, legislation and programmes within the three spheres of government. Malan (2015:65) further asserts that the Act permits all three spheres of government to create and implement their own dispute resolution mechanisms in line with the national legislation. Malan (2015:65), Picard and Mogale (2015:172), and Besdzik and Holtzhausen (2013:126) agree on the desired outcomes for the Local

Government: Intergovernmental Relations Framework Act (13 of 2005) to be the following:

- Effective provision of service,
- Realisation of national priorities,
- Coherent government,
- Legislation, and
- Monitoring implementation of policy and legislation.

Despite the discussion on the Local Government: Intergovernmental Relations Framework Act (13 of 2005), as presented in pages 178-180 of this study, Kahn *et al.* (2016:163) and Van Niekerk (2015:848) adopt a cautionary approach. Kahn *et al.* (2016:163) argue that the Local Government: Intergovernmental Relations Framework Act (13 of 2005) is problematic. According to Kahn *et al.* (2016:163), the Act sought to provide “focus, clarity and certainty” concerning the key aspects of IGR within the legislative organ of the state, the administrative cluster, or the cluster associated with the Cabinet. The Act is thus limited in the role of resolving IGR practices. The fact remains that the success of implementing this Act depends solely on the successful functioning of the three spheres of government. Therefore, it means that the Act cannot determine its own successful destiny, but it is dependent upon (i) how the spheres of government share the information, (ii) how the spheres of government address their developmental agenda, and (iii) how they coordinate their activities (Kahn *et al.*, 2016:163). Hence, Van Niekerk (2015:848) adopted the cautionary approach, in that:

- The Local Government: Intergovernmental Relations Framework Act (13 of 2005) is not mandatory and it provides no recourse for non-compliance,
- Intergovernmental relations forums are consultative in nature; therefore, their decisions are not binding,

- The facilitation of the Local Government: Intergovernmental Relations Framework Act (13 of 2005) does not provide solutions to the inter-metropolitan municipal forums, and
- The Local Government: Intergovernmental Relations Framework Act (13 of 2005) does not cover IGR at the sector developmental forums; as a result, these forums have no legal standing.

3.7.2 Intergovernmental Fiscal Relations Act (97 of 1997)

The discussion on IGR, as provided by this study, is primarily focussed on the functioning and the processes of the three spheres of government. The Constitution is the cornerstone by permitting legislation, which supports the IGR system within cooperative governance. However, Kahn *et al.* (2016:128) explain that there are other mechanisms of sharing the revenue and other resources to harmonise service delivery. Hence, this Chapter of the study seeks to advance the specific discussion on the Intergovernmental Fiscal Relations Act (97 of 1997). It is for the same reasons that Kahn *et al.* (2016:128) argue that intergovernmental fiscal relations are “the responsibility for expenditure and powers to raise revenue allocated to different spheres of government”.

Accordingly, the Intergovernmental Fiscal Relations Act (97 of 1997) is meant “to promote cooperation between the national, provincial and local spheres of government on fiscal, budgetary and financial matters; to prescribe a process for the determination of an equitable sharing and allocation of revenue raised nationally; and to provide for matters in connection therewith”. Hence, Tau (2015:805) confirms that the Act is committed to promote cooperation on fiscal, budgetary and financial matters within the three spheres of government. Accordingly, Thornhill and Cloete (2014:86) see the Act as augmenting legislation to the Constitution; further confirming the argument by Tau (2015:805) that the Act brings about cooperation between the three spheres of government.

Six directives will inform the discussion on the Intergovernmental Fiscal Relations Act (97 of 1997) in the form of terms of reference. These directives are (i) the constitutional responsibilities, (ii) inherent tensions, (iii) provincial intergovernmental fiscal relations, (iv) policy options for improving intergovernmental fiscal relations, (v) intergovernmental fiscal relations at local government level, and (vi) policy options for improving local government fiscal relations. These six terms of reference will be analysed in accordance with the Constitution.

(a) Constitutional Responsibilities

The Constitution (Act 108 of 1996) provides for financial matters in Chapter 13. Sections 214 and 227 of the Constitution support the objectives of the Intergovernmental Fiscal Relations Act (97 of 1997). These objectives are (i) the commitment to transparent and accountable financial management in the public sector, and (ii) the protection of provinces and municipalities by securing the share of revenue raised. The national government was given the supervisory role and the overall control over the fiscal policy. The Constitution further restricts the provincial taxing power, which leaves the provinces dependent upon the equitable share. The restriction of taxing power over the provinces was regulated in Section 228(2), whereby it:

- May not be exercised in a way that materially and unreasonably prejudices national economic policies, economic activities across provincial boundaries, or the national mobility of goods, services, capital or labour,
- Must be regulated in terms of the Act of Parliament, which may be enacted only after any recommendations of the Financial and Fiscal Commission have been considered.

Chapter 13 of the Constitution (1996) provides for two main purposes, and these objectives may be summarised as follows:

- The commitment to transparent and accountable financial management, and
- The protection of provinces and local government by means of securing them an equitable share generated nationally, whilst at the same time, the national government being responsible for the supervising role and the overall control (i.e. supervision over the provincial and local government and the overall control over the allocation of the equitable share).

(b) Inherent Tensions

The inherent tensions in this regard was discussed from the background of the lack of an oversight role within IGR. In line with Section 154 of the Constitution (1996), the supervision is to exist between the national and the provincial government. The same relations of a supervisory role are expected to exist between the provincial and the local government. This supervision does not compromise the autonomy of each sphere of government. Each sphere of government has been assigned concurrent responsibilities and functions. It is for these reasons that the discussion on the inherent tensions will be centralised on the asymmetry in assigning powers and functions.

The inherent tensions with regards to the asymmetry in the assigning of powers and functions are discussed in accordance with Section 44(1)(a)(iii) of the Constitution. This proves that the National Assembly was afforded powers over the other spheres of government. However, these powers do not include the power to amend the Constitution. Similarly, in terms of Section 104(1)(c) of the Constitution, a province is afforded the same legislative powers over a municipality. Despite these powers being afforded to the National Assembly and the province respectively, Section 41(1)(h) of the Constitution states that in the spirit of cooperate governance all the spheres of government must operate with mutual trust and good faith. This emphasis on cooperation in good faith is seconded by Van Niekerk (2015:842) in stating that “all organs of the state must cooperate with each other in mutual faith and good trust by promoting friendly relations, assisting and supporting each other, informing and consulting one another on matters of mutual interest ...”. Emanating from this

argument, it becomes apparent that the responsibilities of a particular sphere be shifted to another sphere of government.

(c) Provincial Intergovernmental Fiscal Relations

As the Constitution gives provinces lesser power to raise their own revenue, they depend on the national government for their budgets. However, the Constitution indicates that each province is entitled to an equitable share. As the result of this entitlement, substantial funds are transferred between the provinces and local government, and due to the service delivery challenges, there is a good possibility that the funds could overlap. In an attempt to curb this, the Department of Co-operative Governance and Traditional Affairs is tasked with the responsibility to co-ordinate, develop and support the lower spheres, as stated in Section 214 of the Constitution.

(d) Policy Options for Improving Intergovernmental Fiscal Relations

In terms of improving intergovernmental fiscal relations, systems need to be put in place in order to monitor the efficiencies and capacities of the provinces. There should be an agreement entered into between the national and the provincial government concerning the arrangements of cash flow. Hence, Alam (2008:1) argues, “The decentralisation of administrative responsibilities and service delivery to lower tiers of government without a corresponding reorganisation of finances is likely to be counter-productive”.

(e) Intergovernmental Fiscal Relations: Support to the Lower Spheres

In accordance with Section 156(1), 155(7) and 125(3) of the Constitution (Act 108 of 1996), the national sphere of government was expected to assist, support and develop the capacity of the provinces and municipalities. The support to the lower spheres by the national level could assist the province and the municipality to attain self-dependence and interrelated governance. Section 40(2) of the Constitution stated that all spheres of government are equal and bound to respect the principles of Chapter 3. However, the national government was expected to provide (i) the legislative

framework for the local government, (ii) the framework for municipal capacity building and support, (iii) municipal finances, and (d) monitoring and oversight.

(f) Policy Options for Improving Government Fiscal Relations

There must be procedures for consultation in between governments (national, provincial and local) prior to the completion of budgets. The existing pieces of legislation, the Intergovernmental Fiscal Relations Act (97 of 1997), the Local Government: Intergovernmental Relations Framework Act (13 of 2005), the Local Government: Municipal Finance Management Act (56 of 2003), and the Division of Revenue Act (3 of 2016), are designed to provide the framework for budgeting processes within all three spheres of government. These Acts level the playing field and arrange for financial transfers from national revenues to the provincial and local spheres of government (Kanyane, 2016:98-99).

3.7.3 Local Government: Municipal Finance Management Act (56 of 2003)

The financial affairs in South Africa are managed and controlled by the National Treasury as the arm for the distribution of the national finances, headed by the Minister of Finance. According to Thornhill and Cloete (2014:108-109), Section 216(1) of the Constitution (1996) provides for the establishment of the National Treasury to “ensure proper expenditure control in each of the three spheres of government”. Hence, the enactment of the Municipal Financial Management Act in 2003 by the Parliament. Thus, it is said that the National Treasury is the principal institution, which plays a supervisory role over the financial matters within the three spheres of government (Thornhill & Cloete, 2014:108-109).

According to Vyas-Doorgapersad (2018:227-229), the Parliament passed two Acts to regulate the financial budgetary matters of the three spheres of government. The two Acts are (i) the Municipal Financial Management Act (56 of 2003), and (ii) the Public Finance Management Act (1 of 1999). Vyas-Doorgapersad (2018:227-229) argues that the Municipal Financial Management Act (56 of 2003) governs the finances of the local government (municipalities). On the other hand, Makoti and Odeku (2018:108) see the Municipal Financial Management Act (56 of 2003) as providing for the

cooperation between state organs. Hence, the call for Section 34(1) of the same Act to build the financial capacity of municipalities by the national and provincial governments. Having identified the objectives of the Municipal Financial Management Act (56 of 2003), as being to manage the government revenue and the cooperation between the organs of the state, Vyas-Doorgapersad (2018:227-229) supported by Picard and Mogale (2015:196) defined these objectives in five-fold as follows:

- To regulate the finances of municipalities,
- To outline the standards for efficient revenue management,
- To define the responsibilities with regards to municipal finance management,
- To determine the financial management framework for municipal entities,
- To design the municipal borrowing framework.

Given the above argument, Fourie (2015:275) provides that the actual objective of the Municipal Financial Management Act (56 of 2005) is to ensure sound financial management and systems in municipalities. Hence, Botha (2015:216) confirms that the audit reports by the Auditor-General in municipalities are based on the analysis of the Municipal Financial Management Act (56 of 2003). Similarly, the audits for provincial and national governments are conducted, based on the Public Finance Management Act, 1 of 1999. According to Fourie (2015:275), the Municipal Financial Management Act (56 of 2003) includes strong measures for the financial systems, which need to be extended to the other institutions within the three spheres of government. The National Treasury, inclusive of the norms and standards, sponsors these prescriptions of the Municipal Financial Management Act (56 of 2003). Thus, Fourie (2015:275) asserts that the norms and standards of the Municipal Financial Management Act (56 of 2003) need to be extended to the Auditor-General to use as the basis to audit the national and provincial spheres of government.

3.8 Constitutional Effect (Framework)

3.8.1 Cooperative Governance: Chapter 3 of the Constitution

According to Kahn *et al.* (2016:32) and Mathenjwa (2014:179-180), Chapter 3 of the Constitution (1996), under the heading “co-operative government”, confirms

intergovernmental governance. The details of co-operative government are spelt out in Section 40 and 41 of the Constitution. Accordingly, Section 40(1) declared that the Republic of South Africa was constituted in the formation of national, provincial and local spheres. The Section further outlines that these three spheres of government, which are distinctive, interdependent and interrelated. It is the intentions of Section 40(2) that the three spheres of government must observe the entire principles of Chapter 3 of the Constitution.

In accordance with the argument above, Section 41 sought to supplement Section 40 by thoroughly explaining how the three spheres of government ought to relate and function. Hence, Section 41 states that the principles of IGR, as determined by Section 40, need to be adhered to by all organs of the state. As a result, Section 41(1) of the Constitution (1996) states that all organs of the state must:

- Preserve peace, national unity and the indivisibility of the Republic,
- Secure the well-being of the citizens,
- Provide effective, transparent, accountable and coherent government in South Africa,
- Be loyal to the Constitution, the country and its citizens,
- Respect the constitutional status, institutions, powers and functions of government in the other spheres,
- Not assume any power outside those provided by the Constitution,
- Not exercise their power and/or perform functions in a manner encroaching on the geographical, functional or institutional integrity of government in another sphere,

- Co-operate with the other spheres in mutual trust and good faith by (i) fostering relations, (ii) supporting one another, (iii) informing and consulting on matters of common interests, (iv) co-ordinating their actions with one another, (v) adhering to the agreed procedures, and (vi) avoiding legal actions against one another.

In accordance with Section 41(2) of the Constitution, the “Act of Parliament” was given recognition to (i) establish structures and institutions to promote intergovernmental relations (IGR), and (ii) provide mechanisms, which will facilitate the settlement of IGR disputes. On the other hand, Section 41(3) emphasises that in the case of any dispute within the governance of intergovernmental relations (IGR), the parties must exhaust all the available mechanisms and procedures before approaching the courts. In the same vein, Section 41(4) supplements Section 41(3) that before the court hears any intergovernmental dispute it must satisfy itself that the parties have exhausted all the internal avenues and mechanisms.

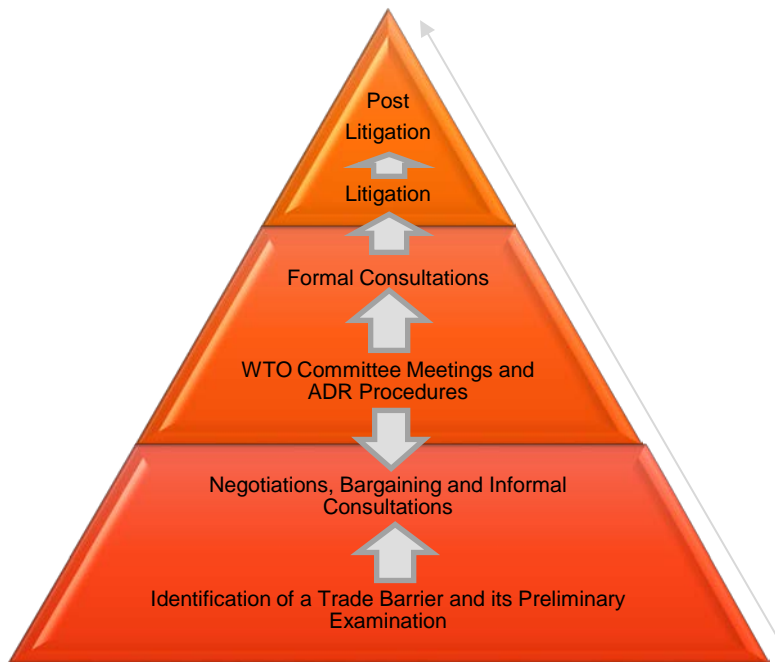
Kanyane (2016:93-94) adds to the abovementioned provisions of the Constitution by stating that the spheres of governance under cooperative governance need to operate with integrity, good faith and mutual trust to avoid disputes. The said sections of the Constitution compel the governance of IGR under the banner of cooperative government to “collaborate with, rather than compete against, each other”. Similarly, Malan (2015:64) acknowledges that intergovernmental relations (IGR) and cooperative government is complex; thus, challenges are expected. Kanyane (2016:93-94) and Malan (2015:64) concurred that the governance of IGR has a duty to manage these complex assignments and disputes amicably. Kanyane (2016:93-94) argues that these disputes among the spheres need to be avoided by promoting cooperative decision-making in the service delivery programmes.

3.8.2 Intergovernmental Disputes

The Constitution is explicit in its effort to ensure fewer intergovernmental disputes. The fact that Section 41(1)(h) stipulates that all three spheres of government ought to cooperate with one another in mutual and good faith is a clear indication of discouraging disputes. Furthermore, Section 41(1)(h)(vi) of the Constitution attempts

to avoid unnecessary litigation amongst the three spheres of government. Hence, Section 41(3) emphasises that each organ of the state in an intergovernmental dispute “... must make every effort to settle the dispute by means of mechanisms and procedures provided for that purposes and must exhaust all other remedies before it approaches a court to resolve the dispute” (Kahn *et al.*, 2016:160-161).

Figure 14: International Trade Conflicts (Proposed Life Cycle)



Source: Bahri (2018:211)

Figure 14 above on international trade conflicts might not be the perfect match for the dispute mechanisms, as provided by the Constitution, nor the Local Government: Intergovernmental Relations Framework Act (13 of 2005). But it seeks to indicate that in any form of a dispute within IGR and international states, there must be mechanisms in place to defuse such a dispute. Therefore, Figure 14 indicates that the dispute might start small, with no costs implications, but end up with numerous litigations. The simplified hierarchical Figure, which could also be utilised in South Africa’s local intergovernmental dispute resolution, suggests the process as follows:

- Identification of a problem or barrier,
- Negotiating or bargaining through consultative engagements,
- Setting of the committee meetings and the alternative disputes mechanisms,

- Institution of the formal consultations,
- Formal approach for the litigation process (Constitutional Court), and
- Adjudication of the Constitutional Court (CC), which binds the parties.

However, despite the study having pondered the mechanisms of intergovernmental dispute resolution, it is important for this Chapter to align the analysis with the context of the Constitution (1996). Therefore, it is imperative to discuss the disputes and the settlements, in line with the Constitution, by determining or defining who the organs of the state are. The finding will assist the course of the study, by providing an ease of reference, as the constitutional definition is not definitive in providing for dispute settlement mechanisms. Despite the explanation being provided by the Constitution, there is still uncertainty as to which statutory organisations qualify as organs of the state. Section 41(1)(h) of the Constitution indicates that all spheres of government and all organs of the state within each sphere have to cooperate with one another in mutual trust and good faith (Besdziek & Holtzhausen, 2013:108). Such cooperation needs to coincide with the definition of an organ of the state, as provided by Section 239 of the Constitution, which spells out that it is the following:

- Any department of state or administration in the national, provincial or local sphere of government, or
- Any other functionary or institution: (i) exercising a power or performing in terms of the Constitution, or (ii) exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer.

Kahn *et al.* (2016:59) state that in 2005, Cooperative Governance and Traditional Affairs published a practice guide, which intended to provide the guidelines to prevent, and settle intergovernmental disputes. The practice guide (Cogta, 2005) provides a number of steps that can be taken to deal with the dispute(s):

- Determine the nature of the dispute,
- Negotiate the differences and disputes amongst the spheres of government,
- Declare the dispute,
- Convene the meeting to settle the dispute,
- Define the dispute and identify existing dispute resolution mechanisms,
- Appoint facilitators,
- Participate in good faith in the dispute resolution process,
- Request assistance from the relevant MEC or Minister,
- Implement and monitor the agreement concluded, and/or go to court

3.9 Intergovernmental Disputes Settlement

It is against this background that Kahn *et al.* (2016:161) argue in support of Section 41(2) of the Constitution, wherein it sees the need for the establishment of the structures and institutions that promote IGR. Kahn *et al.* (2014:161) present that there are four mechanisms provided in an attempt to end and/or settle disputes. These four dispute resolution mechanisms, as informed by Section 41(2) of the Constitution, are discussed below:

3.9.1 Peer Arbitration

According to Kahn *et al.* (2016:161), peer arbitration occurs when the organs of the state at the same level, which provide similar services, arbitrate amongst themselves. This may occur as a result of a dispute between the national government and the provincial government over a matter falling within the list of either Schedule 4 or 5 of the Constitution. The Constitution provides that in disputes of such a nature, Section 125(4) must apply, in that it must be referred to the National Council of Provinces within 30 days. In this regard, the National Council of Provinces will preside as the arbitrator (Kahn *et al.*, 2016:161).

3.9.2 Automatic Third-Party Review

In this instance, the dispute between the organs of the state is brought to another body for a final and binding decision. This form of dispute resolution manifests when the province intervenes in a municipality in terms of Section 139 of the Constitution. The qualification process in this regard is confirmed by Section 139(2)(a), whereby it is demanded that when the provincial executive intervenes, the notice of 14 days after the intervention be submitted to the cabinet member for local government, and the provincial legislature and the National Council of Provinces (NCOP). Thus, this Act detached the Cooperative Governance and Traditional Affairs minister from involvement in the dispute. The detachment of the minister in this regard places him/her in the position of an arbiter (Kanyane, 2016:103-104; Kahn *et al.*, 2016:161).

3.9.3 Automatic Peer Review

Kahn *et al.* (2016:161-162) and Kanyane (2016:103-104) state that the automatic peer review mechanism presents itself when the national government intervenes in the administration of a province. In this instance, where the provincial government fails to fulfill its executive obligations in accordance with the Constitution or any other legislation, the national government may intervene in terms of Section 100 of the Constitution and assume the responsibility of the province. In the automatic peer review mechanism, the National Council of Province plays a supervisory role to the National Assembly. In this case, the National Council of Provinces is placed in a good position to be an arbiter in a dispute of this nature (Kahn *et al.*, 2016:161-162; Kanyane, 2016:103-104).

3.9.4 Judicial Supervision

Section 167(4) of the Constitution states that disputes between the organs of state at all levels of government need to be decided by the Constitutional Court. However, according to Kahn *et al.* (2016:162) and Kanyane (2016:103-104), judicial relief is only necessary once the other political dispute resolution mechanisms fail. In such an instance, the Constitutional Court enjoys the sole jurisdiction and remains the final arbiter for the dispute.

A classic example of judicial supervision may be drawn from the argument by Thornhill and Cloete (2014:118) and Makoti and Odeku (2018:99), whereby the Western Cape Provincial Legislature invoked Section 139 (intervention) over the Overberg District Municipality for failing to approve its budget before the beginning of the financial year. Overberg District Municipality disregarded the other dispute mechanisms and approached the court for judicial supervision. The court, through Judge Bonzalek, LJ, ruled in favour of the District Municipality arguing that the provincial intervention was invalid (Thornhill & Cloete, 2014:118; Makoti & Odeku, 2018:99).

3.10 Constitutional Intervention

The Constitution provides for intervention by the senior sphere of government in the junior sphere of government. The intervention of the national government in the provincial government is regulated by Section 100 of the Constitution. Similarly, the intervention by the provincial legislature in a municipality is also provided for by Section 139 of the Constitution. Despite the Constitution providing an allowance for the national and provincial governments to intervene in the provincial and local governments, Makoti and Odeku (2018:104-106) opine that the Local Government: Intergovernmental Relations Framework Act (13 of 2005) failed to provide dispute resolution mechanisms for disputes arising from these interventions.

According to Besdziek and Holtzhausen (2011:108), the intervention of one sphere into the other (i.e. at all levels) always has an impact on the autonomy of the intervened sphere of government. Therefore, all interventions, regardless of the level of the sphere, need to be undertaken as a last resort. Hence, these interventions, be it through Section 100 or Section 139, must be restricted to a process of implementing corrective measures and enhancing good governance. However, the intervention in the other sphere of government may only be necessary once governance processes have lapsed or the monitoring mechanisms of the affected sphere experience shortcomings. The intervention may be necessary when the support systems need to be capacitated to remedy the shortcomings (Besdziek & Holtzhausen, 2011:108).

3.10.1 Intervention in Provincial Affairs

National government intervention in the provincial government is provided for in Section 100(3) of the Constitution. Hence, Kahn *et al.* (2016:156) and Steytler (2013:448) argue that the national government has the power to monitor and supervise the provinces, in accordance with Section 100 of the Constitution. However, the intervention may only occur when the province cannot be seen fulfilling the executive obligations of the Constitution or legislation. That is the reason why Besdziek and Holtzhausen (2013:108) insist that the intervention cannot be invoked arbitrarily, as the courts have designed the process and requirements.

Besdziek and Holtzhausen (2013:108) and Kahn *et al.* (2016:157) further agree that a specific procedure needs to be observed ahead of the invocation of Section 100 by the national government in the provincial government. The procedure may include, but is not restricted to the following:

- **Notice of intent to intervene** - the notice is informed by Section 100(2) of the Constitution. Kahn *et al.* (2016:157) and Besdziek and Holtzhausen (2013:108) state that (i) a written notice of intervention be sent to the National Council of Provinces within 14 days after the intervention began, (ii) the intervention must cease if the National Council of Provinces disapproves such intervention within 180 days, and (iii) the National Council of Provinces is bound to review and monitor the intervention programme and report back on the progress to the national executive (Kahn *et al.*, 2016:157; Besdziek & Holtzhausen, 2013:108).
- **Assumption of responsibility** - the Constitution provides for the assumption of responsibility in Section 100(1)(b). Besdziek and Holtzhausen (2013:107) argue that the national intervention must only take place when the province has failed in its constitutional obligations and thus has failed (i) to maintain national standards or minimum standards for services, (ii) to maintain economic unity, (iii) to maintain national security, and (iv) to prevent the prejudicing of other provinces (Besdziek & Holtzhausen, 2013:107).

In 2018, the national intervention in the affairs of a province was ordered by President Cyril Ramaphosa. He appointed an *ad hoc* committee under the leadership of Charl de Beer to take control of the administration in the North West Province. The *ad hoc* committee consulted with local stakeholders (i.e. communities, the provincial administration and the inter-ministerial task team) to familiarise themselves with developments in the Province. The decision to intervene in North West was influenced by the growing irregular expenditure reported by the Auditor-General. The financial reports indicated that the irregular expenditure of the provincial legislature had increased from R8,6 billion in 2013 to R15,3 billion in 2017, and this information was confirmed by the Auditor-General. The President could not turn a blind eye to these issues, which compromised accountability and service delivery to the communities of North West (*The Star*, 31 October 2018:25).

3.10.2 Intervention in Municipal Affairs

According to Kahn *et al.* (2016:59), the provincial legislature is compelled to intervene in the management of a municipality when it is in a dire financial situation. The financial crisis must be serious and the municipality must persistently be in breach of its obligation to render quality services or financial commitments. The member of the executive council (MEC) must conduct an investigation (i) to determine the seriousness of the financial problems, (ii) to determine whether the situation will be remedied by means of a financial recovery plan, and then (iii) the MEC must meet with the municipality to discuss the implementation of the financial recovery plan. If the municipality fails to implement the plan, the MEC may invoke Section 139(1) of the Constitution. However, Mathenjwa (2014:194), and Makoti and Odeku (2018:105), insist that in any invocation of Section 100 or Section 139 of the Constitution (1996), the National Council of Provinces must be informed in writing. The same note by the MEC must be sent to the identified municipality, which indicates the intention to invoke Section 139 of the Constitution. The written notice should indicate:

- The extent to which the municipality has failed to fulfill the executive obligation and which remedial action was expected to be met, which is rooted in Section 139(1)(a).

- The need to assume the responsibility for that obligation, which is informed by Section 139(1)(b).
- The need to dissolve the municipal council and to temporarily appoint an administrator, as confined by Section 139(1)(c) of the Constitution.

An intervention in a municipality by the provincial legislature, in terms of Section 139(4) of the Constitution, demands that the municipality involved approves the budget or the necessary revenue-raising measures. The Section further states that should the municipality fail to approve the budget or revenue-raising measures, the provincial government should intervene, and such intervention must be influenced by Section 139(4) of the Constitution and Section 26 of Local Government: Municipal Finance Management Act (56 of 2003). The two sections stipulate that the provincial executive must ensure that the budget or the revenue-raising measures are approved, and dissolve the Municipal Council, and do the following:

- Appoint an administrator until a newly elected Municipal Council has been declared elected, and
- Approve a temporary budget or revenue-raising measures to provide for the continued functioning of the municipality.

The next table seeks to demonstrate what the better part of this study has emphasised regarding the three spheres of government being distinctive, interdependent and interrelated. Furthermore, the study, having projected that the spheres of government are autonomous, the study is of the view that drastic measures had to be taken in the Utrecht Municipality and the Mbombela Municipality to curb the continued non-compliance to the Local Government: Municipal Finance Management Act (56 of 2003).

The failure to comply with the prescriptions of the Local Government: Municipal Finance Management Act (MFMA), as discussed above, resulted in negative audits in these two municipalities and proved that the municipalities could not improve on their

own. Non-compliance of this nature constitutes a serious compromise to the principles of constitutional accountability. Therefore, the intervention by the provincial legislature became appropriate to rescue the financial operations by means of deploying the interventionist, who should be skilled and experienced, in the municipalities. The Section 139 interventionist should be a senior manager – to put systems in place, and to impart experience and knowledge to the municipalities. The intervention team should also be given strict terms of reference. The table below illustrates the interventions, which took place in the two municipalities, which were intended to improve the management systems of the two municipalities.

Table 19: Section 139 Interventions (Constitution, 108 of 1996)

Municipality	Executive Obligation cited by Provincial Government	Intervention Steps	Comments
<p>Utrecht (eMadlengeni) Local Municipality (KwaZulu-Natal)</p>	<ul style="list-style-type: none"> ▪ In September 2006, the Department of Local Government and Traditional Affairs received reports of maladministration, fraud and corruption in the Municipality ▪ Investigations were undertaken in this regard. ▪ The report implicated Mayor Khoza (who was also the Speaker) and four senior council employees in maladministration, fraud and corruption, and ▪ Lack of undertaking the legislative obligation by the Municipality to invoke the required disciplinary measures, as per legislation. 	<ul style="list-style-type: none"> ▪ An investigation in terms of Section 106 of the Municipal System Act, 32 of 2000 ▪ A directive in terms of Section 139(1)(a) ▪ Assumption of executive responsibility in terms of Section 139(1)(b), in relation to taking the disciplinary actions required ▪ The Council was not dissolved. ▪ The notification carried the suspension of Mayor Khoza, the Municipal Manager, VM Khubeka, and an employee of the Municipality 	<p>On 14 May 2007, the Provincial Executive Council passed the report on to the Municipality for it to effect its own disciplinary actions within 21 days. The matter was not addressed by the Municipal Council. After 90 days of inaction, this was seen as complicity by those implicated in the report, and the Provincial Executive Council, after extensive deliberation, decided to intervene. On 22 August 2007, the Provincial Executive resolved that:</p> <ul style="list-style-type: none"> ▪ The Executive Council appoint a special committee to investigate and make findings on allegations against the Mayor and other Councillors on mismanagement, maladministration, fraud and corruption in the Municipality. ▪ The Executive Council appoint a special committee against municipal employees on breaches of the code of conduct for Municipal Staff Members and all applicable legislation arising from there. ▪ The Mayor and the Municipal Manager and other employees be suspended pending the investigation, and ▪ The appointment of an Acting Municipal Manager was to be made.

<p>Mbombela Local Municipality (Mpumalanga)</p>	<ul style="list-style-type: none"> ▪ The Municipality is functioning with a high number of vacant funded posts. ▪ The Council has overcommitted itself in terms of the available budget for the construction of the 2010 stadium in contravention of the Municipal Finance Management Act. ▪ There is only an LED official in the Municipality with the implication of not being able to fulfil Section 152(1)(c) of the Constitution. ▪ The Municipality does not have a proper financial management system. ▪ The Municipality received qualified audits in the previous two financial years. 	<ul style="list-style-type: none"> ▪ An investigation in terms of Section 106 of the Local Government: Municipal Systems Act, 32 of 2000 ▪ A directive in terms of Section 139(1)(a). ▪ Assumption of executive responsibility in terms of Section 139(1)(b). 	<p>The MEC had on 26 February 2007 instituted an investigation. The report on the investigation was submitted to the Provincial Executive Council, which resolved that there would be intervention and support to the Municipality. However, the Municipality, despite receiving the recovery plan in October 2007, failed, by December 2007, to table this formally in Council or carry out the actions required. The Provincial Executive Council then decided to invoke an intervention in terms of Section 139(1)(b) of the Constitution. The Municipal Council responded by 15 January 2008 by supporting the intervention by the Provincial Executive Council.</p>
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Source: Kahn *et al.* (2016:64-65)

As shown in the table above, the Section 139 intervention in the Utrecht Municipality and the Mbombela Municipality were invoked for different reasons, to ensure financial stability and compliance. Furthermore, the table illustrates that despite the provincial and local government being “distinctive” from each other, they were still “interdependent” and “interrelated” to each other in delivering good and accountable governance. Therefore, the intervention in Utrecht Municipality and Mbombela Municipality by the provincial governments was meant to promote accountability and uphold the Constitution, and was not interference in the municipalities’ affairs. An intervention may occur for various reasons. Hence, the mandate of the provincial legislature to the municipalities is drawn and interpreted by the study from the table above (under the column titled: Executive Obligation cited by Provincial Government) to produce the simplified terms of reference, as follows:

Table 20: Terms of Reference: Provincial Intervention in Municipalities

Terms of Reference for Section 139 intervention in Utrecht and Mbombela	
Utrecht Municipality	Mbombela Municipality
<ul style="list-style-type: none"> ▪ Investigate the reports of fraud, maladministration and corruption in the Municipality ▪ Investigate the involvement of the Mayor and four other senior officials of the Municipality ▪ Investigate the lack of compliance to the applicable legislation and to invoke disciplinary measures, where necessary 	<ul style="list-style-type: none"> ▪ Investigate the high number of vacant positions, which are funded ▪ Investigate the over-commitment of the budget for the construction of a stadium (2010) ▪ Investigate the absence of an adequate financial management system and the qualified audits by the Auditor-General for two consecutive years

Source: Own Construction

3.10.3 North West Intervention in Tswaing Municipality

The intervention in Tswaing Local Municipality (TLM) by the Bokone-Bophirima (North West) Provincial Legislature was done in terms of Section 139(1)(b) of the Constitution (1996). As the intervention justifies an oversight, the study sees the intervention in Tswaing Local Municipality as the mechanism to resuscitate the Municipality by the provincial government. Therefore, the study includes this discussion to demonstrate the measures of taking responsibility through the principles of applying oversight by

the Provincial Legislature. However, the intervention must be construed in line with the argument by Mathenjwa (2014:194) that the intervention should be restricted to preventing a decline and collapse of the government structures.

(a) Background of the Intervention

The MEC for Local Government and Human Settlement in the North West made a submission to the Provincial Executive Council (EXCO) to invoke Section 139(1)(b) of the Constitution in Tswaing Local Municipality. The Municipality was experiencing challenges of (i) serious maladministration, (ii) poor governance with regards to the application of internal controls, and (iii) poor financial administration, which negatively impacted on service delivery. On 29 April 2015, the Provincial Executive Council resolved to place Tswaing Local Municipality under Section 139(1)(b) of the Constitution. This resulted into the appointment of an administrator by the North West Provincial Executive Committee. The administrator was appointed with a team of experts to assist in stabilising Tswaing Local Municipality. The team included experts from the fields of finance, corporate services and legal services, and was appointed for a period, not exceeding 12 months. Hence, the North West Provincial Executive Committee provided the administrative team with the following terms of reference:

- Improving service delivery in Tswaing, prioritising water and sanitation services, which included the facilitation of new projects, unblocking old projects, the maintenance of infrastructure, cleansing, etc.
- Stabilising and improving administration within the Municipality.
- Improving the financial controls in the Municipality, expenditure management, procurement processes, as well as addressing the Auditor-General's reports (Municipal Financial Management Act compliance).
- Analysing and implementing past and current investigations, commissions of inquiry, and forensic audits, which should include taking decisive action against implicated individuals.

- Attending to labour matters in the Municipality, which include outstanding disciplinary cases, labour disputes functionality of the Local Labour Forum, and instilling a culture of work and discipline among employees.
- Facilitating and improving governance matters within the Council, namely, the Council oversight role and relations between the Council and administration.
- Investigating all awarded contracts to establish the validity and legitimacy thereof, and terminating those that are not legitimate in terms of applicable regulations.
- Investigating and taking appropriate action on any transgressions and contraventions to applicable legislation and regulations.

The Bokone-Bophirima Provincial EXCO complied with the provisions of Section 139(1)(a) of the Constitution in ensuring that the then Minister for Cooperative Governance and Traditional Affairs, and the North West Provincial Legislature and the National Council of Provinces approved the intervention within the prescribed timeframes. Hence, the National Council of Provinces paid its visit to the Municipality within the first three months (19 August 2015) of the administration team to establish the progress. Apart from the visit by the National Council of Provinces, the administration team was expected to report on a monthly basis to the MEC responsible for Local Government and Human Settlement in the North West Province.

On the other hand, the chairperson of the Portfolio Committee for Local Government and Human Settlement scheduled monthly meetings to monitor the progress of the administration team. Apart from the role of the Portfolio Committee, the chairperson of the Provincial Public Accounts Committee also ensured that the administration team was held accountable to remedy the previous and then non-compliant findings by the Auditor-General. Accordingly, the chairperson of the Provincial Public Accounts Committee also scheduled quarterly meetings with the administration team to demand the progress report and the measures to remedy the wrongs of the past.

Given the above background it can safely be concluded that the constitutional measures to promote oversight were in place to ensure the interconnectedness and interrelatedness of the South African three spheres of government, as argued by Kahn *et al.* (2016:260). The involvement of the National Council of Provinces on 19 August 2015 to determine the progress of the administration team represented the interests of the national government. Similarly, the interests of the provincial government were represented by the MEC, the Portfolio Committee and the Provincial Public Accounts Committee. The involvement of the three spheres of government in the intervention at Tswaing Local Municipality justifies that the system of government in South Africa is indeed interdependent and interrelated, as argued by Tau (2015:801) and Van der Waldt (2018:18).

(b) Success and Failures of the Intervention

It is imperative to narrate the state of liquidity of Tswaing Local Municipality before determining the success and/or progress made by the intervention. Despite the success of the intervention in Tswaing Local Municipality, the Municipality was bankrupt with a low average bill of R5 million. However, the Municipality was only collecting 30% of its revenue. The challenges of the Municipality to honour its financial obligations were exacerbated by the following stumbling blocks (i) low revenue collection, (ii) aged infrastructure, which demanded high maintenance, (iii) too many creditors owing huge sums of money, (iv) a high salary wage bill of more than 58%, and (v) high telephone bills. However, the intention of including the table below is to illustrate the successes and failures of the intervention team at the Tswaing Local Municipality.

The decision to invoke Section 139(1)(b) of the Constitution at Tswaing Local Municipality resulted from the diagnosis, as advanced by the study in the paragraph above. Therefore, the administration had to deal with those challenges in the manner, as articulated by Latib (2016:212), whereby “the challenge for feasibility and delivery success is to appreciate what is practical and possible in shaping an educational or training type intervention”. Hence, an intervention of this nature is perceived to be an appropriate oversight by Madue (2014:864) because it enhances accountability within the governance of IGR. The involvement of the other distinct organs of the state in this

intervention pledged legal supervision by the executive, as argued by Madue (2014:864).

On the other hand, it must also be indicated that the intervention could not register much progress on the programmes, as they would have demanded significant capital, which the Municipality did not have as it was seriously cash-strapped. The challenges were related to the following:

- Investigations on the previous and current projects were conducted and serious irregularities were found in regard to incomplete projects, and projects which were not up to standard.
- The Municipality owed Eskom R43 million for bulk resources and R1,1 million for small accounts, and R4,7 million for the statutory deductions not paid over despite being deducted from employees.

The Municipality's wage bill increased, which stood at 58%, as a result of overstaffing.

1 Table 21: Intervention Progress (TLM)

PROBLEM STATEMENT	PROJECTS	ACTION TAKEN	RESOURCES REQUIRED	PROGRESS TO DATE
Legal and Labour Matters	<ul style="list-style-type: none"> Misconduct disciplinary inquiry for Municipal Manager and the Director: Corporate Services 	<ul style="list-style-type: none"> In the process of recovering money from the pension funds (MM and Director) Informed the Council of the developments and implemented sanctions 	<ul style="list-style-type: none"> Funding (legal fees) 	<ul style="list-style-type: none"> Dismissal of the Director and confirmed dismissal of the Municipal Manager by the High Court
	<ul style="list-style-type: none"> Arbitrations of HR Manager and the Chief Clerk (finance) 	<ul style="list-style-type: none"> Finalised the disputes 	None	<ul style="list-style-type: none"> HR Manager's claim was dismissed The Chief Clerk withdrawn his matter
	<ul style="list-style-type: none"> Disciplinary investigations (10) Grievances attended (53) 	<ul style="list-style-type: none"> Trained presiding officers and initiators Resolved grievances Code of conduct signed by officials and Cllrs 	<ul style="list-style-type: none"> Reputable institution for training of presiding officers and initiators 	Code of Conduct, grievances and disciplinary inquiries finalised
	<ul style="list-style-type: none"> Three Directors' appointments reversed Settlement of former CFO paid 	<ul style="list-style-type: none"> Withdrawn the previous settlement agreements Drafted the settlement agreement for the former CFO 	<ul style="list-style-type: none"> Legal fees for the three reversed appointments for Directors 	Former CFO settled the matter, former Director Community Services still negotiating and to file legal suit against former Director: Technical
Public Involvement	<ul style="list-style-type: none"> Public participation 	<ul style="list-style-type: none"> Completed the roster for all the Wards Drafted public participation policy 	<ul style="list-style-type: none"> Communication Manager Public participation funds Customer Care line and training 	<ul style="list-style-type: none"> Successful public participation (IDP) Public participation policy adopted
Leave Management	<ul style="list-style-type: none"> Attendance Registers Leave template Leave Policy 	<ul style="list-style-type: none"> Completed attendance registers and leave template Drafted leave policy 	<ul style="list-style-type: none"> Workshop on new systems Funds 	<ul style="list-style-type: none"> Finalise attendance registers and leave forms Leave policy adopted
Organisational Structure	<ul style="list-style-type: none"> Development of organisational structure 	<ul style="list-style-type: none"> Consulted Local Labour Forum (LLF) Consulted Finance Department for budgeting 	<ul style="list-style-type: none"> Assistance from SALGA 	<ul style="list-style-type: none"> New structure developed and adopted by the Council
Policies	<ul style="list-style-type: none"> Update outdated policies Developing Finance Policies 	<ul style="list-style-type: none"> Drafted financial and HR related policies Consulted LLF Trained related stakeholders 	<ul style="list-style-type: none"> Funds 	<ul style="list-style-type: none"> Nine policies adopted by the Council and implemented
Billing/Revenue	<ul style="list-style-type: none"> Inaccurate and/or Incomplete billing 	<ul style="list-style-type: none"> Audited all meters for completeness and functionality (theft) Audited properties for accurate zoning 	None	Appointed Service Provider

PROBLEM STATEMENT	PROJECTS	ACTION TAKEN	RESOURCES REQUIRED	PROGRESS TO DATE
		<ul style="list-style-type: none"> ✓ Reviewed validity and accuracy of the information received from meter readers ✓ Legal action for reported non-compliance 		
Tariff	<ul style="list-style-type: none"> • Unsustainable tariff 	<ul style="list-style-type: none"> ✓ Revised tariff for 2016/17 financial year through the NERSA application process to bring them in line with the Eskom tariff ✓ Reviewed the water tariff ✓ Reviewed tariff deed for communities 	None	Negotiated with NERSA
Debt recovery	<ul style="list-style-type: none"> • Debtors Ledger 	<ul style="list-style-type: none"> ✓ Conducted data cleansing of the debtors book ✓ Determined the exact amount collectable ✓ Written off the irrecoverable debt ✓ Reviewed credit control and debt collection strategies and policies ✓ Monitored the debt collection team ✓ Reviewed and updated the indigent register ✓ Resolved outstanding accounts queries 	Staff (shortage of skilled personnel)	Appointed Service Provider
Telephone Costs	<ul style="list-style-type: none"> • Managing, controlling and regulating escalating telephone costs 	<ul style="list-style-type: none"> ✓ Drafted the telephone use policy ✓ Evaluated the use (official or private) ✓ Introduced the PIN system ✓ Assessed Telkom account 	Funds	Council adopted the telephone policy, also appointed Service Provider
Supply Chain Management (SCM)	Non-compliant to the Supply Chain Management (SCM) regulations	<ul style="list-style-type: none"> ✓ Reviewed SCM structure and policy ✓ Reviewed bid committee system ✓ Trained bid committees on SCM regulations ✓ Trained Cllrs and officials on SCM policy 	None	Adopted SCM structure and policy

2 Source: Own Construction

3.11 Institutional Arrangements

According to Mofolo (2016:234) and Kanyane (2016:93-94), the Constitution permits the operation of intergovernmental relations (IGR), which is built within cooperative governance, as entrenched in Chapter 3. The intergovernmental (IG) functions are in the form of the three spheres, and they are bound by the Constitution (1996) to be distinctive, interdependent and interrelated. As the result thereof, some functions are allocated across all spheres of government. The classical example of the functions allocated across the spheres include water services, disaster management, and agriculture; accordingly, some services like water supply are best suited in the lower sphere of local government for the purposes of implementation and close monitoring of the projects. According to Kahn *et al.* (2016:75), intergovernmental relations (IGR) is still evolving in South Africa, and therefore, it is important to implement the institutional arrangements to motivate the necessity of IGR.

3.11.1 Legislative Intergovernmental Institutional Arrangements

Legislative intergovernmental institutional arrangements refer to the constitutional power and applicable legislation giving effect to cooperative governance and IGR. This includes the regulation of the Parliament, the National Council of Provinces and the Provincial Legislature. Van der Waldt (2018:100) and Kahn *et al.* (2016:110-113) argue that the National Council of Provinces is a critical body, which serves as an instrument to ensure the existence of IGR.

3.11.2 Executive Intergovernmental Institutional Arrangements

Executive intergovernmental institutional arrangements promote IGR through bringing together the executive officials; thus, the provincial MECs and the national Ministers. The meetings of these senior officials from different spheres, who subscribe to the governmental line and lateral responsibility, embody the operation of IGR. However, there are other meetings of a similar nature (executive and legislative intergovernmental structures), which are targeted at improving the evolving IGR. It is for these reasons that Draai (2010:135) argues that the Constitution needs the maintenance of cooperative and intergovernmental government. The maintenance in

this regard, and confirmed by Picard and Mogale (2015:172), is the establishment of committees including: (i) the Committee of Ministers and Members of Executive Councils (MinMEC), (ii) the Intergovernmental Forum, (iii) the Provincial Intergovernmental Forums, (iv) the Cabinet Clusters, (v) the President's Co-ordinating Council, (vi) the Budget Council, and (vii) the Municipal Budget Forum. These intergovernmental structural committees were discussed in pages 170-178 above.

3.11.3 Administrative Intergovernmental Institutional Arrangements

According to Kahn *et al.* (2016:113-114), administrative intergovernmental relations result from the meeting between officials and administrative structures, for example, the Technical Intergovernmental Committee. The Committee enjoys an extended mandate to discuss and debate issues outside its province. The Technical Intergovernmental Committee was allowed to discuss and debate issues beyond its mandate only because it has to provide a technical, administrative and advisory role to the Executive Intergovernmental Structures (i.e. MinMEC and the Intergovernmental Forum).

3.11.4 Advisory Intergovernmental Institutional Arrangements

All the structures of intergovernmental relations need to be functional in order to sustain and maintain the principles of cooperative governance and intergovernmental relations success. These structures depend on the advisory intergovernmental institution for support and advice. The Advisory Intergovernmental Institutional Arrangements committee are seen to be fully functional as it plays an oversight role to the other intergovernmental relations structures (Kahn, 2016:110).

3.12 Constitutional Accountability and Oversight

Apart from investigating governance and intergovernmental relations, the study also prioritised “accountability” as a major subject. As a result, constitutional accountability for this Chapter, which has set its focus on the “constitutional framework”. Therefore, it is appropriate to discuss the whole Chapter 9 Institutions as the means for the constitutional accountability and the oversight for the governance of IGR. The analysis

of the Auditor-General in pages 288-289 and the Public Protector in pages 289-290 respectively is not complete, if the other state institutions are ignored. Therefore, this Chapter will analyse the constitutional accountability and the constitutional oversight with specific reference to the rest of the state institutions, as they are all meant to instill accountability while at the same time promoting democracy in South Africa. To provide more clarity on the topic, this section of the Chapter will demonstrate the importance of the Chapter 9 Institutions in Tables 22, 23 and 24 in pages 202-204 respectively. Hence, the full discussion is provided in pages 204-213 of this Chapter.

According to De Vos (2012:160), and confirmed by Calland and Pienaar (2016:67), Section 181 of the Constitution (1996) established the state institutions, which are commonly known as Chapter 9 Institutions. Calland and Pienaar (2016:67) and De Vos (2016:162-163) argue that Section 181(2) of the Constitution confirm that these Chapter 9 Institutions are designed to be (i) independent, and (ii) impartial to exercise their powers and functions without fear, favour or prejudice. According to De Vos (2012:161-161), these Chapter 9 Institutions are set to (i) instill the credibility of the state in the eyes of the citizenry, (ii) ensure that democracy and human rights values flourish, (iii) ensure respect for the rule of law, and (iv) contribute towards building an accountable and transparent government. Hence, Calland and Pienaar (2016:68) argue that, in accordance with Section 181(4) of the Constitution, “no person or organ of state may interfere with the functioning of these institutions”. Calland and Pienaar (2016:67) and Mubangizi (2012:309) confirm that the Chapter 9 Institutions, which enjoys the constitutional mandate are:

- The Public Protector (PP)
- The South African Human Rights Commission (SAHRC)
- The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities (CRL)
- The Commission for Gender Equality (CGE)
- The Auditor-General (A-G)
- The Independent Electoral Commission (IEC)

According to Thornhill and Cloete (2014:40), of the six Chapter 9 Institutions, as listed above, two are distinct in nature when compared to the others – the Public Protector and the Auditor-General. Calland and Pienaar (2016:68) agree with Thornhill and Cloete (2014:40) in saying that the Public Protector and the Auditor-General are the only two to be headed by an individual, compared to a Commission in the other instances.

Table 22: Commissions’ Leadership

Leadership	Commissions
Office-Bearers	<ul style="list-style-type: none"> ▪ Public Protector (PP) ▪ Auditor-General (A-G)
Commission	<ul style="list-style-type: none"> ▪ South African Human Rights Commission ▪ Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities ▪ Independent Electoral Commission ▪ Commission for Gender Equality

Source: Thornhill and Cloete (2014:40)

According to De Vos (2012:166), the Chapter 9 Institutions are organs of the state in terms of the definition as provided by Section 239 of the Constitution. The author (*ibid.*) further argues that although they are classified as organs of the state by Section 239, they cannot be termed to be part of the government departments. Accordingly, Section 239 of the Constitution (1996) defines state institutions as:

- (a) Any department of state or administration in the national, provincial or local sphere of government, or
- (b) Any other functionary or institution - (i) exercising a power or performing a function in terms of the Constitution or Provincial Constitution, or (ii) exercising a public power or performing a public function in terms of any legislation.

According to De Vos (2012:166), despite Section 239 of the Constitution having provided the definition of “organ of the state” and “state institutions” forming part thereof, the Constitutional Court, which is the highest court in the country, ruled that these institutions (Chapter 9) cannot be termed to be the government departments, whereby the Cabinet exercises authority. The Constitutional Court made this ruling that the state institutions (Chapter 9) cannot be regarded as government departments in the matter between the Independent Electoral Commission v Langeberg Municipality (Reference 2001(9) BCLR 883 (CC)).

According to Calland and Pienaar (2016:75), Section 181 of the Constitution applies to all Chapter 9 Institutions. However, they may be all Chapter 9 Institutions, but they carry different mandates and powers. The mandates differ in terms of the order powers, which are guided by the binding authority. Accordingly, some of these Chapter 9 Institutions have outcomes, which are binding in nature, while the others may only provide recommendations that are advisory. For the purposes of illustrating the powers, functions and the binding nature of these institutions, the study adopts the table of core powers, as outlined below, by Calland and Pienaar (2016:75):

Table 23: Core Powers of State Institutions

Institution	Power
Public Protector	“Takes appropriate remedial actions” (Constitution, Chapter 9) (binding order power)
SAHRC	“Takes steps to secure appropriate redress where human rights have been violated” (Constitution, Chapter 9) (recommendatory power)
Cultural Commission	“Advise and report on issues concerning ...” (Constitution, Chapter 9) (advisory power)
Gender Commission	“Advise and report on issues concerning ...” (Constitution, Chapter 9) (advisory power)

Source: Calland and Pienaar (2016:75)

According to De Vos (2012:169), the new democratic South Africa designed the Chapter 9 Institutions as the watchdog over the legislative and the executive branches of government. These state institutions provide an oversight role over the organs of state, apart from the judiciary. Hence, these institutions may only hold the legislative and executive branches to account. Accordingly, the study views these institutions as

augmenting the accountability function of the Legislature and the Executive. However, it must be indicated that the oversight by these Chapter 9 Institutions cuts across the three spheres of government and formations of intergovernmental relations.

Table 24: Distinction between State Institutions

Office	State Institution	Tenure	Removal from Office
Office-Bearers	<ul style="list-style-type: none"> ▪ PP ▪ A-G 	<p>The term of office for the Public Protector is a seven year non-renewal term (s183).</p> <p>The term of office for the Auditor-General is limited to a fixed non-renewable term of five to ten years (s189).</p>	<p>The Public Protector, Auditor-General or the member of a Commission established in terms of Chapter 9 may be removed from office (s194(1)) on the grounds of:</p> <ul style="list-style-type: none"> ▪ misconduct, incapacity and incompetence ▪ a finding effected by a Committee of the National Assembly ▪ adoption of a resolution by the National Assembly to remove a member from office
Commissions	<ul style="list-style-type: none"> ▪ SAHRC ▪ CRL ▪ CGE ▪ IEC 	<p>The term of office for these Commissions is not defined by the Constitution. However, their functions and accountability are clearly outlined by the Constitution.</p>	

Source: Own Construction

3.12.1 Public Protector

According to Calland and Pienaar (2016:75), Section 181 of the Constitution (1996) provides for the generic establishment of the office of the Public Protector, while Section 193 and Section 194 for the appointment and the removal of the Public Protector from office. Calland and Pienaar (2016:81) and Mubangizi (2012:310) state that the Public Protector is mandated by Section 181(3) of the Constitution to (i) investigate any conduct by any public administrator in any sphere of government, (ii) report on that conduct, and (ii) take the appropriate remedial action against the perpetrators. Mubangizi (2012:311) adds that the Public Protector has the power to

investigate any institution of government at any sphere, except for the judicial functioning of the courts. Accordingly, Calland and Pienaar (2016:81) urged all the organs of state to respect the findings and recommendations of the Public Protector.

Mubangizi (2012:310) further argues that Section 182 of the Constitution (1996) accommodates other legislation, such as the Public Protector Act (23 of 1994) and the Public Protector Amendment Act. Accordingly, Section 1A(2) of the Public Protector Act (23 of 1994) dictates that the appointment of the Public Protector is effected in accordance with Section 193(4) of the Constitution. However, such appointment is to be made in accordance with the recommendations of the National Assembly. Similarly, Section 1A(3) of the Public Protector Act spells out the requirements for the appointment of the Public Protector, while Section 6 of the same Act determines how matters for investigation by the Public Protector need to be reported.

3.12.2 South African Human Rights Commission

The South African Human Rights Commission is an independent institution established in terms of Section 181(1)(b) of the Constitution to support the constitutional democracy in South Africa. The Commission projects its support to the democracy principles by means of promoting, protecting and monitoring the attainment of freedom rights for every citizen's human rights, without fear, favour or prejudice. Hence, Brand (2015:214) sees the South African Human Rights Commission as the watchdog for the implementation of the "Bill of Rights", as detailed in Chapter 2 of the Constitution. According to Section 184(1) of the Constitution (1996) and Section 2 of the South African Human Rights Commission Act (40 of 2013), the main objectives of the Commission are:

- to promote respect for human rights and a human rights culture,
- to promote the protection, development and attainment of human rights, and
- to monitor and assess the observance of human rights in South Africa.

Section 13(1) of the South African Human Rights Commission Act (40 of 2013) further broadened and expanded the powers and functions of the Commission, as compared to those offered by Section 184(1) of the Constitution. In terms of Section 13(1) of the Commissions' Act, organs of state may be subpoenaed to appear before the Commission as and when required. According to Brand (2015:214), the South African Human Rights Commission has the right to hold the organs of state to account on issues involving Chapter 2 of the Constitution. Accordingly, the Commission is the watchdog for compliance and delivery of citizens' basic needs (i.e. housing, healthcare, food, water, social security, education and the environment). However, Calland and Pienaar (2016:69) see the SAHRC as an institution, which created a platform for the "new culture of non-racism and non-sexism" in South Africa. The authors (*ibid.*) assert that the Commission may be credited for the success of driving out the forces of formal racial and gender inequality in the country.

For the purpose of accountability, Section 18(1) of the South African Human Rights Commission Act (40 of 2013) states that the Commission is expected to report its activities and programmes to the National Assembly at least annually. The Chief Executive Officer of the Commission, as appointed in accordance with Section 19(1) of the Act, is regarded as the accounting officer of the Commission. Therefore, the Chief Executive Officer of the Commission is expected to account on behalf of the Commission, in accordance with Section 20 of the same Act.

3.12.3 Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities

According to Brand (2015:214-215), the Commission on the Promotion and Protection of the Rights of Cultural, Religious and Linguistics Communities was established in accordance with Section 181(1)(c) of the Constitution. Subsequent to that, the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities Act (19 of 2002) was established. According to Brand (2015:214-215), the mission statement of the Commission is to:

- promote respect for the rights of cultural, religious, and linguistic communities, and
- promote and develop peace, friendship, humanity, tolerance and national unity among cultural, religious and linguistic communities.

In the attempt to achieve these objectives as presented above, the Commission designed the mission statement guided by the following principles, in order to ensure the achievement of its objectives. Hence, the mission statement is restricted but not limited to the following:

- acting as the channel of communication between the state and communities,
- monitoring the compliance by the state and civil society in accordance with its mandate,
- mediating in inter-community conflict situations and further facilitating harmonious co-existence,
- facilitating the development of programmes that foster sensitivity, respect and understanding for cultural, religious and linguistic diversity, and
- lobbying government departments and legislative authorities in order to identify and recommend, amend, repeal or enact legislation, which supports those rights respectively.

Similarly, in line with the mission state as discussed above, the sole purpose and the intention of the government with the Commission, as determined by Section 185 of the Constitution (1996), is to:

- heal the divisions of the past,
- establish a non-racial and non-sexist society based on democratic values, social justice and fundamental human rights,
- promote equality,
- promote respect for, and the protection of the rights of cultural, religious and linguistic communities, and
- promote unity in diversity.

Section 3 of the Commission's Act (19 of 2002) dictates that the Commission needs to be (i) independent, (ii) a juristic person, and (iii) impartial, and must exercise its powers and perform its functions without fear, favour or prejudice. As stated by Section 185(4) of the Constitution, the additional powers and functions are prescribed by the Commission's Act (19 of 2002). As a result, those powers and functions are clearly inscribed in Section 5(1) of the Commission's Act (19 of 2002).

In terms of Section 13(1) of the Commission's Act (19 of 2002), the term of office for the Commission is five years. Section 13(2) of the same Act states that the Chairperson and other members of the Commission are appointed for one term of office. However, they may be re-appointed for one extra term. On the other hand, Section 17(1) declares that the National Assembly may remove any member of the Commission from office if he/she is found guilty of misconduct, incompetence, or in accordance with Section 194(2)(b) of the Constitution. Furthermore, Section 17(2) also provides the President with the powers to remove a member of the Commission from the office (i) through suspension, or (ii) upon adoption of a resolution by the National Assembly for the member's removal.

3.12.4 The Commission for Gender Equality

The Commission for Gender Equality (CGE) is informed by Section 181(1)(d) of the Constitution. According to Brand (2015:215), Section 187(1) of the Constitution further provides that the Commission needs (i) to promote respect for gender equality, and (ii) to advise as well as make recommendations to Parliament on any matters relating to gender equality and/or the status of women. Hence, Section 187(2) of the Constitution dictates that the Commission has "... the power to monitor, investigate, research, educate, lobby, advise and report on issues concerning gender equality". Section 187(3) established the Commission on Gender Equality Act (39 of 1996), and the same Act outlined the Commission's powers and functions in Section 11(1). Like any other Chapter 9 Institution, Section 10(1)(a) of the Commission on Gender Equality Act states that the Commission must be independent.

Despite the Constitution being silent on the (i) term of office, (ii) removal from office, and (iii) the activities, the Commission's Act (39 of 1996) makes pronouncements on the three items. Section 3(4) of the Commission on Gender Equality Act (39 of 1996), as designed in terms of Section 187(3) of the Constitution, provides that the term of office for members may not exceed five years. In the same way, Section 5 provides that the President may appoint or remove any member from office if the request is made by the National Assembly or the National Council of Provinces by means of a resolution. Similarly, to the other Chapter 9 Institutions, the Commission is expected to submit a report at least once every year to the President, who will table it in Parliament in terms of Section 15(2) of the Commission on Gender Equality Act (39 of 1996).

According to Brand (2015:215), the Commission for Gender Equality has the full right to fight against the placement of women in the underserved second spot, as opposed to the favoured male counterparts. The basis of this Commission is established by Section 9(3) of the Constitution. Accordingly, Section 9(3) states, "the state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth". According to Sithole (2016:128), the Commission is doing "fairly well" in its

gender-transformation mission, but its efforts are overshadowed by the continued gender-based violence across the country.

3.12.5 The Auditor-General South Africa

According to Doorgapersad (2018:230), the Auditor-General is appointed by the Parliament. However, the appointment of the Auditor-General is to be made in accordance with the recommendations of the National Assembly. Thornhill and Cloete (2014:128) insist that the appointed Auditor-General must be registered in terms of the Public Accountants and Auditors Act (80 of 1991). Apart from that, the Auditor-General must be confined to operate in accordance with the Public Audit Act (25 of 2004). Furthermore, Thornhill and Cloete (2014:128) concur with Section 188(1) of the Constitution that the Auditor-General must audit and report on the accounts, financial statements and financial management of:

- national and provincial state departments and their administrations,
- municipalities, and
- other institutions or accounting entities as required by the national or provincial legislations.

Thornhill and Cloete (2014:128) and Brand (2015:216) confirm that once the Auditor-General has completed an audit and reports on the accounts and financial management, such must be submitted to the legislature with direct interest in it. The completed audits must be made public for public scrutiny in terms of Section 188(3) of the Constitution (Thornhill & Cloete, 2014:128; Brand, 2015:216).

According to Brand (2015:215-216), despite the Auditor-General enjoying the constitutional mandates in accordance with Section 188(1), the functioning thereof is regulated by the Public Audit Act (25 of 2004). Furthermore, apart from the Auditor-General being accountable to the National Assembly, he/she remains responsible to conduct the audits for financial statements and accounts, and the financial management of Parliament, as well as of all the provincial legislatures. Irrespective of the Auditor-General having to conduct the audits within the three spheres of

government, Brand (2015:216) argues that Section 3 of the Public Audit Act (25 of 2004) compels the Auditor-General:

- to be impartial,
- to exercise the functions of office without fear, favour or prejudice, and
- to be accountable to the National Assembly.

Thornhill and Cloete (2014:128) state that the Auditor-General South Africa has the constitutional mandate as the Supreme Audit Institution of South Africa to strengthen the country's democracy. These measures may be applied by enabling the oversight, accountability and good governance in the public sector through credible auditing; thus, instilling public confidence. Moreover, in terms of Section 189 of the Constitution, the term of office for the Auditor-General must be "a fixed, non-renewable term of between five and ten years" (Thornhill & Cloete, 2014:128).

3.12.6 Independent Electoral Commission

The Independent Electoral Commission was established in terms of Section 181(1)(f), with the summarised functions of the Commission endorsed in Section 190(1) of the Constitution (1996). Section 190(2) of the Constitution permits that the Independent Electoral Commission be legislated to regulate and prescribe its powers and functions. Hence, the enactment of the Electoral Commission Act (51 of 1996). According to Brand (2015:216) and Picard and Mogale (2015:168), the Independent Electoral Commission enjoys the constitutional mandate to:

- manage all the elections of national, provincial and municipal legislative bodies,
- ensure that the elections are free and fair,
- declare the results of the elections within the prescribed period.

In terms of Section 5(1) of Electoral Commission Act (51 of 1996), which was established in accordance with Section 190(2) of the Constitution, the powers and functions of the Commission includes but are not limited to:

- manage elections,
- ensure the elections are free and fair,
- promote conditions which are conducive to free and fair elections,
- promote sound knowledge on the democratic electoral process,
- maintain voters' rolls by means of registration,
- maintain the registration of the political parties,
- establish the relations and co-operation with political parties,
- promote research into electoral matters,
- develop electoral expertise and technology in all spheres of government,
- review electoral legislation and make recommendations thereon,
- promote voter registration,
- promote cooperation with persons, institutions, governments and administrations for the success of the Commission's objectives,
- demarcate wards at the local government level,
- declare the outcome of the elections for national, provincial and municipalities within seven days of such elections,
- adjudicate disputes arising from the election process,
- appoint public administration to conduct elections, when necessary.

According to Brand (2015:216-217), the five members of the Commission are appointed by the President on the recommendations of the National Assembly. Among the five members appointed by the President, one must be the judge. The members will serve a term of seven years in office in terms of Section 7(1) of the Electoral Commission Act (51 of 1996). Brand (2015:217) further states that the President appoints the chairperson and the deputy chairperson of the Commission out of the five members appointed. According to Picard and Mogale (2015:168), the Commission must function impartially without fear, favour or prejudice in order to fulfil the mechanisms of accountability to the National Assembly.

3.12.7 Independent Authority to Regulate Broadcasting

Apart from the six state institutions supporting constitutional democracy established in terms of Section 181 of the Constitution, Section 192 provides for the establishment

of legislation to regulate an independent broadcasting authority in the public interest. The independent broadcasting authority will ensure fairness and a diversity of views of the broader society in the country. As the result, Section 192 led to the establishment of the Independent Communications Authority of South Africa Act (13 of 2000). As Section 192 of the Constitution dictated, the Independent Communications Authority of South Africa Act sought to regulate both the telecommunications and broadcasting sectors in the public interest.

The establishment of the Independent Commission Authority of South Africa Act (13 of 2000) on 1 July 2000 collapsed all previous Broadcasting Acts into the single and new Commission, the Independent Commission Authority of South Africa (ICASA). The functions of all the previous broadcasting formations were transferred and/or incorporated into the newly Independent Commission Authority of South Africa, which was established under the auspices of Section 192 of the Constitution. Therefore, the institution became the single united independent regulatory body for the South African government with all its intentions focused on:

- regulating the broadcasting sector to the advantage and interest of the public, and
- promoting fairness as well as a diversity of views, which represented the broader South African government.

In terms of Section 5 of the Independent Commission Authority of South African Act (13 of 2000), the Commission and/or the Council consists of seven councillors. Like all Commissions established under Section 181 of the Constitution, the seven councillors appointed in terms of Section 5 of the Independent Commission Authority of South Africa Act are appointed by the President, based on the recommendations of the National Assembly. However, the President must appoint one of the seven councillors as the chairperson of the Commission. Section 7(1) of the Independent Commission Authority of South African Act (13 of 2000) restricts the term of office of the chairperson to five years, and Section 7(2)(b) of the same Act limits the term of office of the ordinary councillors to four years.

3.13 Conclusion

The Constitution provided for the six Commissions established under Section 181. It further gave the Commissions the power to legislate their respective Act to govern themselves. The legislation needed to regulate their respective powers and functions. However, the legislation is meant to supplement the Constitution. The Public Protector and the Auditor-General are different in that they are headed by the office bearers and are appointed by the President on the recommendations of the National Assembly (NA), while the other Commissions are led by the committees. Hence, these committees, with the chairpersons, are appointed by the President on the recommendation of the National Assembly (NA).

The Chapter prioritised the Public Protector (PP) and Auditor-General (AG) in its investigation on the Chapter 9 Institutions. The two institutions were prioritised for their unique characteristics, which differs from the other four institutions. Calland and Pienaar (2016:68) state that these two institutions are the only ones headed by individuals, as opposed to a collective leadership. The significance of these state institutions is that they were all empowered by the Constitution to enact their own legislation. This supplementary legislation spells out the powers and functions of each Commission, as mandated by the Constitution.

Table 25: Commissions' Supplementary Legislation

	Commission (Section 181, Constitution)	Supplementary Legislation
1	Public Protector	Public Protector Act (23 of 1994)
2	South African Human Rights Commission	South African Human Rights Commission Act (40 of 2013)
3	Commission for the Promotion of the Rights of Cultural, Religious and Linguistic Communities	Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities Act (19 of 2002)
4	Commission for Gender Equality	Commission on Gender Equality Act (39 of 1996)
5	Auditor-General South Africa	Public Audit Act (25 of 2004)
6	Independent Electoral Commission	Electoral Commission Act (51 of 1996)
7	Commission of Independent Authority to Regulate Broadcasting	Independent Communications Authority of South Africa Act (13 of 2000)

Source: Own Construction

The Constitution provided that these state institutions aim to support constitutional democracy. Accordingly, Thornhill and Cloete (2014:39) argue that these state institutions are the governing principles of the three spheres of government. On the other hand, De Vos (2012:161) and Zybrands (2011:144) regard these state institutions as the watchdogs, which support the consolidation of constitutional democracy. Hence, Thornhill and Cloete (2014:40) argued that no person or organ of the state may interfere with the functioning of these institutions as they are directly accountable to the National Assembly. De Vos (2012:165) asserted that some of the Chapter 9 Institutions "... must be seen as complementary to Parliament's own oversight function and thus require a lesser degree of independence". De Vos (2012) sustained the argument by citing the American case of *US v Jordan* (49 F3d 152, 5th Cir 1995) 156, in which it is stated that these Commissions together with Parliament act as watchdog bodies over the government and organs of state

This Chapter intended to analyse and provide the theoretical perspective on intergovernmental relations in South Africa; this was done within the context of accountable governance. The Chapter further explored the support of the Constitution (1996) towards co-operative governance and intergovernmental relations. This support was imprinted in Chapter 3, Sections 40 and 41 of the Constitution. The analysis of the Constitution, with specific reference to this Chapter of the study, was not done in isolation to the applicable legislation relevant to **intergovernmental relations** (i.e. the Local Government: Intergovernmental Relations Framework Act, the Intergovernmental Fiscal Relations Act, the Municipal Financial Management Act, and the Division of Revenue Act). This legislation was linked to the Constitution on issues that impact on **intergovernmental relations** and/or any other matters related thereto. Therefore, the study analysed the indicated legislation to determine the depth and functioning of intergovernmental relations:

- **The Local Government: Intergovernmental Relations Framework Act (13 of 2005):** the study established that this piece of legislation provides properly coordinated facilitation for the settlement of disputes and related matters within intergovernmental relations.

- **The Local Government: Intergovernmental Fiscal Relations Act (97 of 1997):** the Chapter demonstrated that this legislation promoted co-operation among the spheres of government on fiscal, budgetary and financial matters. The legislation further determines the equitable share and allocates the generated revenue.
- **The Local Government: Municipal Finance Management Act (56 of 2003):** the study determined that this legislation is an administrative tool, which regulates in detail the fiscal powers and functions within intergovernmental relations in accordance with Section 229(1) of the Constitution.
- **The Local Government: Division of Revenue Act (3 of 2016):** this Chapter concluded that this Act is an anchor within the circles of intergovernmental relations, given its nature of raising the revenue, and its subsequent responsibility of sharing and distributing the revenue amongst the spheres of government. Hence, this supplemented Section 214(1) of the Constitution.

In this Chapter, the study successfully managed to outline the distinction **between co-operative governance and intergovernmental relations**. Furthermore, the study uncovered the functions that affect intergovernmental governance due to the complexities and interdependencies of the spheres of government. These complexities are outlined in an effort to simplify the operations of intergovernmental relations. Hence, the study chose to put more emphasis and/or to include the division of revenue in this debate because the phenomenon leads to many disputes within intergovernmental governance. Similarly, the Chapter discussed the objectives of IGR, which was coined the refinery of accountability in governance.

In the end, the Chapter explored, in relation to **Section 40 of the Constitution**, the distinctiveness, interdependency and interrelatedness of the spheres of governance. This discussion led to the incorporation and navigation into the institutional arrangements, which provided profound stability to the governance of IGR. Lastly, one of the factors the Chapter considered was the functioning of the intergovernmental structures. The discussion focused on the key intergovernmental structures and

devised improvements to strengthen the intergovernmental governance system in South Africa.

In conclusion, the attention needs to be drawn to the fact that the research topic addresses “accountability within the governance of intergovernmental relations in South Africa”. Therefore, it is important that this Chapter provided and reflected on the broader conceptual framework of intergovernmental relations (IGR) in South Africa. As the result, they needed to be done in accordance with:

- the constitutional grounding and support of IGR in South Africa,
- the relations and functionality of the three spheres of government,
- the effect and impact of IGR on delivering good governance in South Africa,
- the accountability of each sphere, as well as the accountability of those assigned to the positions of responsibility within the governance of IGR.

The study had to map out and demonstrate the operations of intergovernmental relations (IGR) since the inception of constitutional democracy with the change of regime in 1994.

The Chapter on the **constitutional framework**, as discussed in this Chapter, provided the founding principles of a democratic South Africa. As a constitution applauded by many, the Chapter considered the Constitution as the main pillar and basis for transparent governance, democratic values, a stable justice system, and the respect for human rights. Furthermore, the Chapter pronounced the supreme powers of the Constitution, human dignity and equality, as well as non-racial and non-sexist principles.

On the other hand, the Chapter analysed Chapter 3 of the Constitution in a more simplified manner to give a broader conceptualisation of **cooperative governance**. The broadened concepts on the subject matter of cooperative governance focused on (i) the functioning of the three spheres of government (national, provincial, and local), (ii) the other dimension is derived from the three concepts of the autonomy of the spheres of government, with reference to distinctiveness, interdependency and

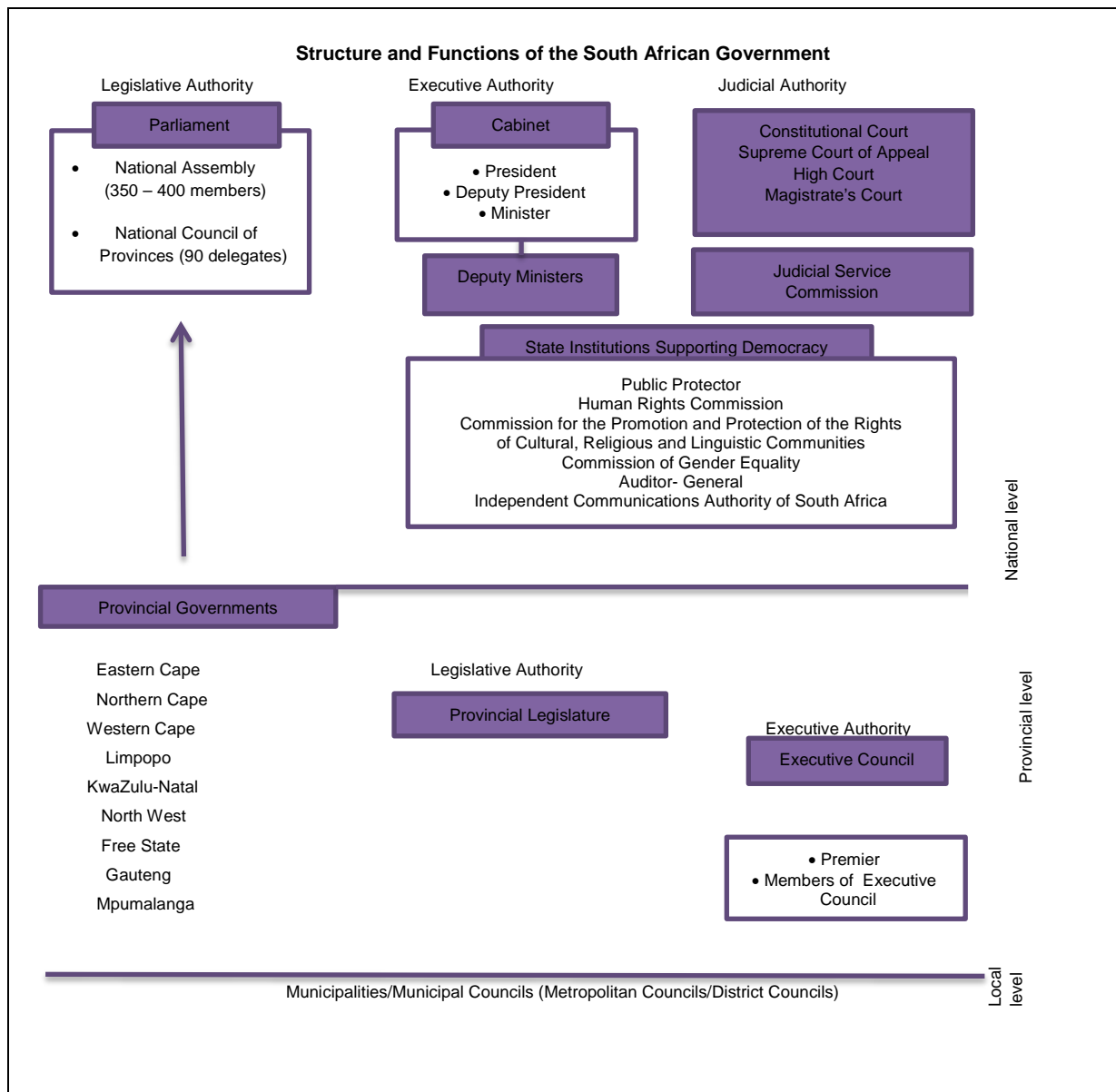
interrelatedness, and lastly (iii) the Chapter covered the operations of the three branches of the state (the executive, legislative and judiciary).

This Chapter further discussed and analysed the distinction between governance, intergovernmental relations and cooperative governance. The distinction between the three concepts was inferred in reference to Section 40 and 41 of the Constitution. However, it must be noted that not only Chapter 3 of the Constitution can direct the difference between governance, **intergovernmental relations** and **cooperative governance**, but also Chapter 5, 6 and 7 of the Constitution. Accordingly, this Chapter of the study provided a more detailed discussion on accountability and the functioning of intergovernmental relations. The Chapter further provided for the various mechanisms of resolving disputes amongst the state functionaries.

Moreover, the Chapter emphasised accountability and answerability to the community by means of the public functioning of the government through the establishment of the state institutions. The seven state institutions, which were identified, were established to ensure a government, which is accountable to the citizenry to sustain the democracy in South Africa. The Chapter can be further simplified by the Figure below, which depicts the summarised version of the relationship of the structures and functions of the state. The Figure demonstrates the following relationships:

- Branches of government: (i) the Parliament, which is constituted by the National Assembly and the National Council of Provinces, (ii) the Executive, which is formed by the President, Deputy President and the Ministers, (iii) the Judiciary, which is constituted by the different courts, namely, the Constitutional Court, the Supreme Court of Appeal, the High Courts and the Magistrate's Courts.
- The Chapter 9 Institutions, with regards to their appointments and functions, term of office and removal from office, and accounting channels.
- Spheres of government (national, provincial and municipalities) with their respective authoritative functions.

Figure 15: Structures and Functions of the South African Government



Source: Burger (2012:258)

Furthermore, the Chapter outlined the interventions of the higher sphere in the junior sphere. These sorts of interventions are performed for specific purposes, without an actual breach to the elements of distinctiveness, interdependency and interrelatedness of each independent sphere of government. The next Chapter will critically analyse the accountability of governance within intergovernmental relations in South Africa in the national, provincial and local spheres.

CHAPTER FOUR

INTERGOVERNMENTAL RELATIONS FROM INTERNATIONAL PERSPECTIVE

4.1 Introduction

The previous Chapter dealt with the governance of intergovernmental relations within the context of South Africa. The focus was on its functionality and accountability with regard to the support, as entrenched in the Constitution (1996). The Chapter further gave meaning to the constitutional framework and the related policy dimensions. Furthermore, Chapter 3, themed “Intergovernmental relations: conceptual framework”, was analysed within the confined definition of intergovernmental relations. This definition of intergovernmental relations, as provided by Kahn *et al.* (2016:5), stated, “IGR refers to the way in which the different spheres of a governing hierarchy relate to each other”.

This Chapter intended to analyse the governance of intergovernmental relations, with specific reference to the international perspective. Hence, the discussions will automatically draw a clearer picture and demonstrate the difference in practicing accountability within the governance of intergovernmental relations locally and abroad. This Chapter needed to analyse intergovernmental relations from an international perspective, with a cautionary approach adopted by Holzer and Wayenberg (2011:213), in that the relationships involved in these systems are “complex, confusing and messy”. Laffin and Weissert (2011:3) and Niklasson (2011:146) supplement this statement by Holzer and Wayenberg (2011:213), by stating that in the United States of America (USA) and Europe the intergovernmental relations systems are becoming complex and messy.

The complexities, as raised above, bring about change in the political system because they influence the problems that confront the thinking and actions of those assigned to develop policies (Laffin & Weissert, 2011:3). It is for these reasons that this Chapter pays more attention to the Federal Republic of Germany, the USA, Australia, Canada, Uganda and Tanzania, as examples of governance intergovernmental relations from an international perspective. However, it must be indicated that the discussion in this Chapter intended to strictly confine itself to qualitative research methodology; hence,

this approach will be employed with due care not to be trapped in a comparative analysis.

Apart from diagnosing intergovernmental relations (IGR) from an international perspective with reference to Germany, the USA, Australia, Canada, Uganda and Tanzania, as outlined in the above paragraph, the study further considered to diagnose the governance system in Uganda and the United Republic of Tanzania. Accordingly, the Chapter sought to use references from Germany, the USA, Australia and Canada to analyse their Constitutions through the comparison to the Constitution of South Africa. The basis for the comparison will be their application of the Legislative, Executive and Judiciary as the means of governance system. On the other hand, the Chapter intended to use the framework of accountability, governance and IGR as the basis for the discussion in comparing South Africa to Uganda and the United Republic of Tanzania. The slight difference in the approach is to ensure a comprehensive comparison to both countries from abroad and the internal African states towards developing an informed model of accountability within the governance of IGR.

The study noted, that the discussion on the governance of intergovernmental relations (IGR) from an international perspective utilised certain terminology, such as federalism and regionalism. In this Chapter, the terminology refer to nothing else but the governance of intergovernmental relations (IGR) as commonly known and used in South Africa. It was not the intention of the study to provide a comparative analysis in this regard, but demonstrated the origins of the intergovernmental system and its evolution embraced by the new democratic dispensation in South Africa.

The study aimed to investigate accountability within the governance of intergovernmental relations (IGR) in South Africa. It did not intend to focus entirely on the formation of federalism and/or IGR. Hence, it was of importance to discuss IGR nationally and internationally, as accountability becomes an integral Figure and the centre of attraction in this Chapter in order to distinguish between (i) the origins and formation of IGR in federal states, (ii) the functioning of IGR, multilevel governance or federalism, (iii) governance in these various systems of IGR, and (iv) accountability.

In order to determine the performance with regard to accountability within the governance of IGR in South Africa, and/or to improve the systems, there must be a mirror reflection of the other countries, which practice a similar system of governance. The situation might not be the same, but accountability measures ought to be a key determining factor to establish the success of governance in the functioning of intergovernmental relations (IGR). It is for these reasons that, the study was to use six countries as reference, in this Chapter to develop a properly researched document. The document intended to guide the users tasked with the responsibility of driving answerable governance of intergovernmental system in South Africa.

4.2 Distinction between Unitary and Federal States

Some countries are divided into areas, zones, regions, provinces or states, and when a country is governed by one constitution for all its territories, it is a unitary state. Shah (2013:93) confirms that there are 28 countries governed as federal states and 20 countries governed through decentralised unitary formations. However, in an instance where two sets of government exist and one overlaps the other, while the other is only responsible for a particular area, then such a government is deemed a federal state. A federal government has a constitution and a capital city, and in the respective areas, regions or provinces, there are capital cities and constitutions.

Kahn *et al.* (2016:31) outline the fundamental differences between a federal and unitary state as follows:

- The supreme sovereign power in a unitary state is more flexible than in a federal state with regards to the allocation of functions, the operations of the governmental bodies, and the alterations of geographical boundaries;
- It is easier for a unitary state to set uniform policies, while the authority of a federal state is bound by a constitution or the policies thereof;

- A federal state was protected against the centralisation of powers and operates in accordance with a constitution; thus, it promotes democracy and IGR. On the other hand, a unitary government provides for less protection of the centralisation of authority.

Despite having discussed the differences between a unitary state and a federal state above, the study finds it proper to provide suitable definitions of the said concepts. Defining these governance concepts (unitary and federal), the study will make it easier for the user and beneficiaries to accurately interpret the intentions of the investigation in order to develop a better understanding of the subject matter. Accordingly, the definitions of these governance concepts will assist in guiding the investigation, which seeks to distinguish between a unitary state and a federal state. Hereunder, find the definitions of these conceptual governance systems, as they will feature in pages 224-227 of this study:

- **Unitary government:** according to Malan (2015:54), this refers to a state wherein the authority is centralised to the national government, while the other spheres of government are regarded as the subordinates. Kahn *et al.* (2016:30) state that in a unitary form of government, the authority is in the hands of the national government, with the lower levels having no autonomous power.
- **Federal government:** Kahn *et al.* (2016:28) define the federal system as a centralised authority, which is decentralised to the lower spheres of government. Malan (2015:54) asserts that in a federal system the power is divided among the junior spheres of government, in accordance with the constitution of such a government.

In line with the definition of the concepts, as provided above, a discussion followed with the intention to distinguish between a unitary state and a federal state:

4.2.1 Unitary States

According to Watts (2013:20) and Gupta (2009:13), in a unitary political state, the absolute powers are at a central point; this refers to the authority and the implementation of the constitution. Shah (2013:94) asserts that governance, in countries using a unitary formation, practices centralised decision-making. This system places more focus on national security, law and order, uniformity and equal access to the citizenry. According to Gupta (2009:14), who concurred with Shah (2013:94), a unitary state has a single government are divided into provinces (regions) primarily for administrative purposes. However, the centrality of power and control rested with the national government. In this environment, the governance autonomy between the national and provincial governments do not exist. Therefore, the sovereignty is vested in a unitary constitution.

Shah (2013:94) further argues that a decentralised unitary state tends to duplicate the levels of legislative and executive organs. This incurs unnecessary costs at the lower spheres. These unitary formations, to a greater degree, collect revenue through the collection of tax. The only exception in this regard, according to Shah (2013:94), is the Scandinavian countries, where their provincial governments generate their own revenue.

4.2.2 Federal States

In line with the definition for federal government, as advanced in pages 222-223 above, Watts (2013:20) sees federalism as a decentralised system in which the administration, legislation and/or financial competencies rest in the respective constituent regions or provinces. In the same vein, Watts (2013:20) and Braun (2010:168) state that the orders in a federal system are determined from two or more governments. Accordingly, this system of government based its functions on the collaborative governance of self-rule, which gave rise to the autonomous powers to the constituent regions or provinces.

Shah (2013:95) and Gupta (2009:15) agree that the federal form of government involves multiple order structures. This implies that the areas or provinces of the mother state (national) are independent. Therefore, it means some instructions or orders are independent and some based on the shared decision-making process. This further indicated that in the federal system, there is always an element of “separateness” and “togetherness”, endorsed in the central constitution. Gupta (2009:15) further simplified it by stating that in a federal state there “... is division of sovereignty, legislative and administrative powers between the federal authority and the integrated states”.

Geys and Konrad (2010:32) argue that countries differ in their implementation of federalism; this resulted from the allocation of tasks, rights and duties across the other spheres of government. Some countries are composed of two layers (the central and local), whilst others are composed of three layers (the central, regional and local). These countries are not static in nature, but change with time (Geys & Konrad, 2010:32).

Shah (2013:95) broadens the debate on federalism, which stated that it conformed to one or two models, namely, dual federalism or cooperative federalism. In these models, there are some overlapping of responsibilities and functions. These functions gave birth to the competition of service the citizenry; thereby, constituting the third model of “competitive federalism”. As in South Africa, dual federalism and/or intergovernmental relations are compacted in all the spheres of government (national, provincial and local). Dual federalism is a system that provided assistance to the provinces due to its closeness and its quick response to the public (Shah, 2013:95).

Table 26: Comparison between Unitary and Federal States

Unitary States	Federal States
<ul style="list-style-type: none"> ▪ A unitary state implies a state within which all authority is concentrated within a central/national government and where the other levels are seen as subordinate to the central/national government (Mahler, 1995:30). ▪ Although authority may be delegated in a unitary state, the final decision-making remains with the central/national government (Fox & Meyer, 1995:132). ▪ The subnational governments in a unitary state may make and implement policy, but that they do under the watchful eye of the central/national government (Hague & Harrop, 1987:176). ▪ When a state is labelled as being unitary, it implies that the sovereignty (constitutional authority) is vested in the central/national government; however, not all decisions are necessarily taken at the centre, neither are all funds raised or spent at the central/national level. 	<ul style="list-style-type: none"> ▪ In federal systems of government, power is constitutionally divided between a central/national government and governments of the constituent states/provinces (Fox & Meyer, 1995:49). ▪ The federal system of government refers to a system of legal and administrative relationships between the units of government (IGR), which have real authority and jurisdictional autonomy. Federalism allows for both the expression of regional goals and a coordinated expression of national goals (Mahler, 1995:31). ▪ A constitution is federal if the two levels of government rule in the same land and people. Each level has at least one area of action in which it is autonomous and there is some guarantee (even though merely in a statement in the constitution) of each government in its own sphere (Riker, 1964:11).

Source: Malan (2015:58)

The definition of “federal government” by Kahn *et al.* (2016:28-29) was summarised in the Table 26 above, wherein it is argued that it is a government with the authority that is decentralised among the provinces. The study referenced to the governance as practiced in Germany, the USA and Australia. Hence, this study discussed these examples in full in this Chapter. Kahn *et al.* (2016:28-29) advances the view that there are five principles, which inform provincial and federal governments, namely:

- (i) The federation consists of identifiable geographical areas informed by independent provinces with demarcated boundaries,

- (ii) These individual provinces are supposed to be independent in their own right; thus, they cannot be subordinate to another province,
- (iii) Each provincial government is expected to appoint an executive body to carry out the functions for its jurisdictional government,
- (iv) The united geographical area for all the demarcated provincial governments, with their executive bodies, ought to constitute one federal state, and
- (v) The federal government has limited supervisory authority over the joint constituent governments.

4.3 Origins of Intergovernmental Relations and Federal States

According to Erk (2008:3) and Hampsher-Monk (2010:30), federalism was derived from the word “foedus” which means “compact”. When federalism was brought into the picture of governance, then it is presented as a compact between two or more political groups. Furthermore, governance under federalism declares to work together with the provinces in the form of association or shared sovereignty. The federal system was the tool used to unite Germany. However, the German Federal government used the system as an option against the unitary state. Therefore, many countries adopted the federal governance system from that background since the Second World War. Post the World War II many countries embraced the federal (intergovernmental) system governance as form with potential to manage diverse societies. It does so, by means of combating the remote, non-democratic and ineffective central government (Erk, 2008:2-3). Furthermore, according to Erk (2008:3), these theories of federalism enjoy the comparative lowest common denominator of political power. Accordingly, this denominator of political power divides the authority among two or more spheres of governments.

Given the above background, Burgess and Gagnon (2010:9) argue that the concepts of federalism and democracy are interrelated and inseparable. At times, it becomes practically impossible to classify federalism in terms of its quality of providing a liberal

democracy with regard to its institutions and processes. Accordingly, the authors (Burgess and Gagnon, 2010:9) further argue that it would not be sufficient to determine the success of the federal system by virtue of studying the constitutions of the countries involved.

This study happens to agree with Burgess and Gagnon (2010:9-10), that a country may have a federal constitution, but only to find that in practice such a country has the characteristics of a unitary state. Similarly, a country with a non-federal constitution in practice resembled the traits of a federal government. In an attempt to justify their argument, Burgess and Gagnon (2010:10) presented that the Constitutions of (i) the Russian Federation, (ii) the Federation of Malaysia, and (iii) the Federal Republic of Nigeria set classical examples of a federal state. However, the practice dictates otherwise because their governance systems resemble strong authoritarian practice. On the other hand, these authors (*ibid.*) argue that Spain and South Africa operate in the form of liberal democratic federations.

According to Hooghe and Marks (2010:17,) the argument is that the intergovernmental relations emerged from a centralised authority, which resulted from ever-growing communities. Thus, the decentralisation of authority became more pertinent. Hooghe and Marks (2010:17) further present that a survey conducted on decentralised authority and IGR showed that 63 out of 75 developing countries were converting to the use of this system.

Accordingly, Hooghe and Marks (2010:17) confirm that the diffusion of states into a multi-level government has proved that IGR or multi-level governance is more cumbersome due to functionality, overlapping and competition for jurisdiction. Furthermore, the dispersion of IGR and multi-level governance across multiple jurisdictions is more efficient than central state monopoly (Hooghe & Marks, 2010:17).

Burgess and Gagnon (2010:11) argue that the significant characteristics of federal arrangements include a strong predisposition to democracy. This predisposition constitutes an indispensable precondition of federation, and further demonstrates the foundation of a federal democracy. Burgess and Gagnon (2010:11) confirm that there is extensive discussion on federalism or a federal democracy. Experts like Wheare, Livingston, Riker, Friedrich, Duchacek and Elazar championed these debates on the subject matter of federalism and federal democracy. The discussions and debates

presented that the refined determinants of liberal democracy for a federal state influenced by:

- A written and supreme constitution based upon 'unity and diversity', which are formally entrenched by the combination of "self-rule" and "shared rule".
- A constitutional culture in which the citizens of the federation freely perceive and accept the norms and rules of interpretation, as well as the institutions, processes and practices of government.
- A constitutional political system, as a two-level system of political norms and rules, which distinguishes between higher level authority, which is superior in legal or moral force and lower level authority, which is subject to legal or moral restrictions. These levels of authorities imposed by the higher constitutional norms include the ability to create 'ordinary' norms and rules, as well as the ability to settle constitutional conflicts when they arise.
- A constitutional government, based upon the recognition of constitutional and ordinary political rules, places binding legal and/or moral limits upon government officials, so that no group can have all of the authority to resolve conflicts. The rule of law means that government itself is subject to the law and cannot govern in an arbitrary way.
- The existence of multi-level political party competition, based upon parties with internal democratic structures and candidates elected by an open accountable legitimate means.
- The existence of electoral systems that guarantee regular elections by secret ballot and which are free from corruption, intimidation and bribery.
- The existence of an organised political party opposition that has the freedom to criticise, or the right to challenge, and the ability to replace the existing

government through the efforts of peaceful and legitimate democratic means.

- The existence of a free media uncontrolled by the government.

4.4 Patterns of International Constitutions

As indicated in the introduction of this Chapter, this study seeks to analyse the constitutions of four selected countries, to analyse and determine the implementation and functioning of intergovernmental relations or federalism in the respective countries. However, the analysis of these constitutions were centralised to the discussions based on how the legislative, executive and judicial powers are afforded.

It will be proper to start with laying down the basic principles of various constitutions in order to create a common understanding for this Chapter. There are various forms of constitutions, differing from one country to the other. However, the commonality of these constitutions by Alexander (2011:1) indicated that a Constitution is the fundamental and/or the supreme law of that specific land or country. On the other hand, Gupta (2009:5) saw the constitution of any state as the political document, which is sacrosanct for that particular state. Zuckert and Valenzuela (2011:72) came close to Gupta's definition of a Constitution, in that it refers to a document written to give the courts the ground to adjudicate.

According to Gupta (2009:9-13), there are four patterns of constitutions. They are (i) Monarchical or Republican Constitutions, (ii) Democratic Constitutions, (iii) Religion-oriented Constitutions, and (iv) Marxist Constitutions:

4.4.1 Monarchical or Republican Constitutions

Gupta (2009:9) argues that these constitutional formations emerged as the leftovers or the continuity of the ancient and medieval period of kingdoms. These forms of constitutions are still visible in some countries in Europe and Asia (i.e. countries such as England, Nepal, Saudi Arabia and Thailand). However, since the end of the First

World War (1914-1918), the majority of European countries have gradually developed from monarchical states to republican states.

4.4.2 Democratic Constitution

This concept of a democratic Constitution is defined by Burgess and Gagnon (2010:14), and supported by Gupta (2009:10) in that they are founded by four binding principles. These principles are (i) federalism, (ii) democracy, (iii) constitutionalism and the rule of law, and (iv) the protection of minority rights. Hence, these binding principles are of equal value, and none of them dominates the others. Section 58 (198) of the Canadian Supreme Court confirms the argument on the equal value of the binding principles. Furthermore, Burgess and Gagnon (2010:14) and Gupta (2009:10) concur that democracy enhances unity and diversity, as the citizenry are governed through proper consultation.

4.4.3 Religion-Orientated Constitutions

Religious-orientated constitutions are religiously based, and their patterns became more popular after the adoption of the Universal Declaration of Human Rights in 1948. The manifestations of these constitutions are derived from the two Covenants of Economy and Civil Rights in 1966. However, Gupta (2009:12) advocates for a different viewpoint, that religion is a divine matter and it needs to be embraced by the people. The author (*ibid.*) rejects that religion, as a divine matter, should not be endorsed in the Constitution to govern the governed.

According to Banks and Smolla (2010:1188), the amendment of the USA's Constitution by the Supreme Court ruling (by Justice Black) that Madison is against the establishment of a religiously based Constitution was unbecoming. Banks and Smolla (2010:1188) argue that the amendments were interpreted as the building of "a wall of separation between church and state". In the same ruling, there was a dissenting view from four judges (Justice Rutledge, Justice Frankfurter, Justice Jackson and Justice Burton). They argued that Madison and Jefferson were misconstrued. As such, the incorrect interpretation resulted in a wrong judgement and subsequent amendment to the Constitution.

4.4.4 Marxist-informed Constitutions

The patterns of Marxist-informed Constitutions are advanced in Communist states, and they manifested from the 1936 Constitution of the United Soviet Socialist Republics (USSR). The Marxist Constitution does not provide a clear distinction between (i) the Communist party as the organisation, (ii) the state constitution, and (iii) the law. Because of no visible separation of the three, the Communist party is seen acting in unison with the state, on behalf of the citizens (Gupta, 2009:12-13).

4.5 CONSTITUTIONAL ANALYSIS OF FEDERAL REPUBLIC OF GERMANY

The German Parliamentary Council promulgated its Constitution popularly known as the Basic Law for the Federal Republic of Germany, on 23 May 1949. The Unification Treaty amended the same Basic Law on 31 August 1990. The United Treaty collapsed West and East Germany into one united Federal Republic of Germany. The federal statute further amended the same Constitution on 23 September 1990, which gave birth to the Federal Law Gazette II. According to Benz and Broschek (2013:223-225), the unification of the other five Lander into the new Germany brought complications and economic disparities to the system. Therefore, the conflict over the competencies of the Landers increased. The unification of the German Federal System also created tremendous pressure on governance and gave birth to triangular interests (i.e. the federal state, the rich and the poor).

According to Leonardy (1999), the functions of IGR, as outlined in the form of three layers of the federal system sketched out as follows:

- Mutual consultation and cooperation in all fields, but in particular in overlapping fields of competence on the level of the “whole state” or “*Gesamtstaat*”,
- The coordination and preparation of voting, and finally voting itself on the legislation on the level of the “federal state”, and

- The coordination was not only centralised to the preparation of the legislation (as a primary factor), but also on matters of administration on the third level.

In an effort to evaluate the functions, as indicates above, the traditional categories of “vertical and horizontal” IGR are inadequate for the accurate description of the German system. The application of the triangle (national, provincial and local) would be more appropriate and relevant. A vertical line from the apex of the triangle of the baseline will depict the “*Gesamtstaat*”, the triangle as a whole, the “federal state”, and the horizontal baseline, which indicates the coordination between the Lander on the third level (Leonardy, 1999). However, it would be proper for the study and in particular this Chapter to demonstrate the political, geographic, social and economic indicators of the Federal Republic of Germany before (1949-1990) and after (1990-) the unification, as follows:

Table 27: Political, Geographic, Social and Economic Indicators

	Federal Republic of Germany (1949-1990)	Federal Republic of Germany (since 1990)
Capital	Bonn	Berlin
Number and type of constituent units	Ten Lander: Bayern, Hessen, Saarland, Baden-Wurtemberg, Rheinland-Pfalz, Nordrhein-Westfalen, Niedersachsen, Schleswig-Holstein, Bremen, Hamburg, (Berlin with special status)	Sixteen Lander: Bayern, Hessen, Saarland, Baden-Wurtemberg, Rheinland-Pfalz, Berlin, Nordrhein-Westfalen, Niedersachsen, Schleswig-Holstein, Bremen, Hamburg, Mecklenburg-Vorpommern, Thüringen, Sachsen-Anhalt, Brandenburg, Sachsen
Territorial size	248 621 km	357 112 km
Population	61 715 100 (1988)	82 002 000 (2008)
Population by constituent unit as a percentage of the total population (data for 1988 and 2008)	Bayern (17,9), Hessen (9,0), Saarland (1,7), Baden-Wurtemberg (15,3), Niedersachsen (11,6), Hamburg (2,6), Bremen (1,1), Schleswig-Holstein (4,2), Rheinland-Pfalz (5,9), Nordrhein-Westfalen (27,3), Berlin (3,4)	Bayern (15,3), Hessen (7,4), Saarland (1,3), Baden-Wurtemberg (13,1), Niedersachsen (9,7), Hamburg (2,2), Bremen (0,8), Schleswig-Holstein (3,5), Rheinland-Pfalz (4,9), Nordrhein-Westfalen (21,9), Berlin (4,2), Sachsen (5,1), Mecklenburg-Vorpommern (2,0), Sachsen-Anhalt (2,9), Thüringen (2,8), Brandenburg (3,1)
Major political parties and attitudes towards federalism	Christlich Demokratisch Union (CDU) - moderately federalist, ChristlichSoziale Union (CSU) – federalist, runs for elections only in Bavaria, Sozialdemokratisch Partei Deutschlands (SPD) - centrist, Freie Demokratisch	Christlich Demokratisch Union (CDU) - moderately federalist, ChristlichSoziale Union (CSU) - federalist, runs for elections only in Bavaria, Sozialdemokratisch Partei Deutschlands (SPD) - moderately federalist, Freie Demokratisch Partei

	Partei (FDP) - moderately federalist, Die Grunen – centrist	(FDP) - federalist (advocate of competitive federalism), Bundnis 90/Die Grunen- moderately federalism (advocate of subsidiarity), Partei des Demokratische Sozialismus (PDS, until 2007), Die Linke (since 2007) – centrist
Religious characteristics	Catholic: 42,9 / Protestant: 41,6 / Muslim: 2,7 / Non-denominational: 11,4 / Other: 1,2	Catholic: 31,1 / Protestant: 31,0 / Muslim: 3,9 / Non-denominational: 32,3 / Other: 1,7
Linguistic characteristics	Official language (German), small territorially concentrated linguistic minorities in Schleswig-Holstein (Danish and Frisian) and Niedersachsen (Frisian)	Official language (German), small territorially concentrated linguistic minorities in Schleswig-Holstein (Danish and Frisian) and Niedersachsen (Frisian), Brandenburg and Sachsen (Sorbian)
GDP per capita	20 658 (1990)	30 564 (2010)

Source: Benz and Broschek (2013:226)

According to Deutschland.de (n.d.), the development of the Constitution for the Federal Republic of Germany was initiated during the divided era of West Germany and East Germany. As a result, the president of West Germany introduced the initiatives. These initiatives were done with the intention to unite both countries in one Federal Republic of Germany. Hence, the president of West Germany was reluctant to call the Constitution on its real name, but rather called it the “Basic Law”. The then president of Germany feared risking the efforts of unity between West Germany and East Germany. It was believed that once East Germans heard the use of the word “Constitution”, they became uncomfortable. Hence, the German Constitution is still known as the “Basic Law” (*ibid.*).

The dissolution of the Communist bloc in the 1980s paved the way for the unification of Germany. The dream was officially realised on 3 October 1990 to form a single united state of the Federal Republic of Germany. This saw the merging of the 11 states, which were located in the former West Germany, and the five states, which were originally in East Germany (Encyclopaedia Britannica, n.d.). These states were previously divided as follows:

Table 28: States of the then Divided Germany (West and East Germany)

West Germany	East Germany
<ul style="list-style-type: none">• Bayern• Baden-Württemberg• Hessen• Saarland• Rheinland-Pfalz• Nordrhein-Westfalen• Niedersachsen• Bremen• Hamburg• Schleswig-Holstein• Berlin	<ul style="list-style-type: none">• Thüringen• Sachsen• Sachsen-Anhalt• Brandenburg• Mecklenburg-Vorpommern

Source: Own Construction

According to Brand (2015:164-165), there are commonalities between the German Basic Law and the South African Constitution. Section 2 of the South African Constitution confirms its supremacy, while the German Basic Law pronounces its supremacy in Article 1, which dictates that, the “Federal law shall take precedence over Land Law” (*ibid.*). Apart from the supremacy of the Constitution of the two countries, Section 1 of the South African Constitution inherited Article 1 of the German Basic Law; accordingly, Brand (2015:164-165) summarises the two prescriptions of law from the Constitutions as follows:

Table 29: Commonalities of two Constitutions (Germany and SA)

German Basic Law Article 1, paragraph 1-3	South African Constitution Section 1(a)-(d)
<ul style="list-style-type: none"> • To respect and protect human dignity • To acknowledge human rights equality to promote peace and justice • The basic right to directly bind the legislature, the executive and the judiciary 	<ul style="list-style-type: none"> • To promote and respect human dignity to achieve equality in order to advance freedom • To promote non-racialism and non-sexism • To promote a democratic government, to ensure accountability, responsiveness and openness
German Basic Law Article 3	South African Constitution Section 9
<ul style="list-style-type: none"> • All persons to be equal before the law • To promote and implement equal rights for men and women to eliminate unfair advantages • To rid discrimination in relations to sex, parentage, race, language, faith or religious or political opinions, homeland and origin 	<ul style="list-style-type: none"> • Equal before the law and the right for equal protection and benefits • To promote the achievement of equality • The right not to be discriminated against on the grounds of race, gender, marital status, sex, pregnancy, ethnic or social origin, colour, age, disability, religion, belief, culture, language and birth

Source: Own Construction

Apart from Article 3, the Basic Law further provides for the basic principles of the state order in Article 20, whereby it pronounces its status of the Federal Republic of Germany as "... a democratic and social Federal state". This pronouncement by the Basic Law clarifies the argument of Benz and Broschek (2013:223) that Germany is a unitary state, but not a federal state. The Basic Law further recognises the independence of the three branches of the state in Article 20(2) and 20(3). The significant factor of the three branches of the state in Article 20(3) is that the legislation is subject to the constitutional order, whilst the law binds the executive and the judiciary.

4.5.1 Governance of the Federal Republic of Germany

The government of Germany was constituted by the (i) Federal Government, (ii) the Bundesrat (Upper House of Parliament), (iii) the Bundestag (Lower House of Parliament), and (iv) the committees formed by these houses. Accordingly, 16 Landers (Provinces), as specified above in Tables 15 and 16, inform the Federal Republic of Germany. Apart from the Landers, like in South Africa, there are also municipalities. According to Article 28, Paragraph 2 of the Basic Law, the municipalities are guaranteed the autonomy to regulate their own affairs within the prescripts of the law. Their autonomy was further extended to financial management, collection of revenue, and the determination of rates and taxes. Hence, this formation of government constitutes the federal intergovernmental system.

The German federal government has the Federal Court of Audit (FCA), which are the supreme federal authority and an independent public body. The Court expresses itself on accountability measures and oversight of the executive. Apart from the Federal Court of Audit, Article 17 of the Basic Law demands complete respect for the powers deployed to the Office of the Ombud to ensure governance accountability. The Ombud has absolute powers to deal with all the written complaints against the executive and the legislative to strengthen accountability by the elected. Accordingly, politicians are offered a platform through various media (public television and radio stations) to interact with members of the public as the vehicle of being accountable and transparent to the public (SGI, n.d.).

4.5.2 The Legislature

The legislative powers of the Lander are regulated in Article 70 and 71 of the Basic Law. According to Article 70(1) of the German Basic Law, the Lander has the legislative powers of the Federation, and as the result, Article 70(2) further stipulates that the division of competence between the Federation and the Lander is determined by means of exclusive and concurrent legislative powers. Furthermore, the Lander, in accordance with Article 71, has the exclusive powers to legislate but this may only occur when the Federal Law so explicitly permits (the Basic Law).

The Basic Law regulates the legislative powers of the Federation in terms of Article 72. The Federation may legislate, whereupon a federal rule is established. A Federation rule exists when the (i) matter cannot be handled by an individual, (ii) legislation of the Land is likely to or has the potential to affect the other Lander or when legislating the particular rule, and (iii) the maintenance of legal or economic uniformity, as necessitated by the territory of the Land (the Basic Law).

Accordingly, Article 77 of the Basic Law, as amended on 15 November 1968, declares that the Bundestag must adopt the Federal laws. The process demands that the President of the Bundestag, before the adoption (the Basic Law), transmit these Federal laws to the Bundesrat.

4.5.3 The Executive

The executive is constituted by the Federal Government and the two houses of parliament, namely (i) the lower house of parliament (the Bundestag), and (ii) the upper house of parliament (the Bundesrat), which are enshrined in Chapter III and IV of the Basic Law respectively.

(a) The Lower House of Parliament (the Bundestag)

Article 39 of the Basic Law (as amended on 23 August 1976) dictated that the Bundestag was elected for a four-year term of office and is to convene within 30 days of its election. Despite the Bundestag determining the sitting of the meetings, the President of the Bundestag may convene the meeting earlier than its scheduled time provided (i) he/she attains a one-third majority of the members, or (ii) due to the call by the Federal President, or (iii) if the Federal Chancellor so permits. In case the Bundestag was dissolved, for whatever reason, then the new election must be held within 60 days. In accordance with Article 40, the Bundestag elects the President, Vice-President and Secretaries.

The members of the Bundesrat (the Federal Government) or the representatives commissioned by those two institutions may attend all the proceedings or sittings of the Bundestag and its committees at any given time. Furthermore, the Bundestag

and/or its committee may insist that the member of the Federal Government be present in their meetings in accordance with Article 43 of the German Constitution.

(b) The Upper House of Parliament (the Bundesrat)

The Bundesrat is composed of the Lander governments. According to Article 51(2), which was amended on 31 August 1990 by the Unification Treaty, it is required that each Land has at least three seats. However, the same article further dictates that a (i) Lander with more than two million constituencies will be entitled to four seats, and (ii) Lander with more than seven million constituencies will be allocated six seats (Gress, 2010:185). All these seats, as indicated, have full voting powers and each Land will cast their vote in a block by the members present. In accordance with Article 50, the Lander is permitted to participate in the Bundesrat in furtherance of the legislation and administration of the Federation.

The Bundesrat elects the President, and the President convenes the Bundesrat. The President may only convene a meeting ahead of schedule, if two of the Lander or the Federal Government so demands. The meetings of the Bundesrat are open to the public. However, members of the public are excluded in some circumstances. In the Bundesrat, the majority of votes take the decisions or resolutions. The Bundesrat draws its own set of rules and procedures. The Lander may second representatives from their own ranks to serve in the committees of the Bundesrat (the Basic Law).

(c) Federal Government

The Federal Government was made of the Federal Chancellor and the Federal Ministers (Article 62). The Federal Chancellor is elected by the majority vote of the *Bundestag*, or by the recommendation of the Federal President. The Federal Ministers are appointed by the Federal President in consultation with the Federal Chancellor according to Article 64. The powers of the Federal Government, as contemplated in Article 115(c) of the Basic Law, emphasise the protection of human dignity, which the basic rights bind in the Legislative, Executive and Judiciary, in accordance with the Article 1(3) of the German Constitution. It is for these reasons that Gress (2010:185)

sees the federal government as a “combination of self-rule and shared-rule” within a sovereign state.

4.5.4 The Judiciary

The Judiciary of the Federal Republic of Germany is vested in the hands of the judges, who exercise their powers in accordance with (i) the Federal Constitutional Courts, (ii) the Supreme Federal Courts, (iii) the Federal Courts, and (iv) the Courts of the Lander. These courts function in accordance with the directives or supervision of the Basic Law, as expressed in Article 92. The judges are expected to be independent and subject to the law, as stated in Article 97(1) of the Basic Law. Article 97(2) states that the judges are appointed permanently on a full-time basis, and they may be moved from one court to another.

In its Federal Constitutional Court, as spelt out in Article 93, the judges are to decide on the following:

1. On the interpretation of the Basic Law in the event of disputes concerning the extent of the rights and duties of a supreme Federal organ or of other parties concerned who have been endowed with independent rights by the Basic Law or rules of procedure of a supreme Federal organ;
2. The differences of opinion or doubts on the formal and material compatibility of Federal or Land Law with the Basic Law, or on the compatibility of Land Law with other Federal law, at the request of the Federal Government, of a Land government or one-third of the Bundestag members;
3. The differences of opinion on the rights and duties of the Federation and the Lander between different Lander, particularly in the execution of Federal law by the Lander and in the exercise of Federal supervision;

4. On the disputes of public law between the Federation and the Lander or within a Land, unless recourse to another court exists, 4(a) on complaints of unconstitutionality, which may be entered by any person who one of his basic rights or one of his rights under paragraph 4 of Article 20 or under Articles 33, 38, 101, 103, or 104 has been violated by public authority, and 4(b) on complaints of unconstitutionality entered by communes or associations of communes on the ground that their right to self-government under Article 28 has been violated by a statute other than a Land statute to complaint to the respective Land Constitutional Court;
5. Article 93(2) further dictated that the Federal Constitutional Court shall also act in such cases as are otherwise assigned to it by Federal law. This argument that the cooperation between the Lander was a daily operation in the Federal Republic of Germany and thus intensified intergovernmental relations (Erk, 2008:72).

4.6 CONSTITUTIONAL ANALYSIS OF THE UNITED STATES OF AMERICA

Kincaid (2010:119) and Erk (2008:89) argue that the United States of America (USA) is one of the oldest Republics, which continued to change its democracy for the past 234 years with the intention to enhance federalism. Tushnet (2009:1) concurs with Kincaid (2010:119) and Erk (2008:89) that “the written United States Constitution is old, short and difficult to amend”. Erk (2008:89) further denoted the difference between ‘republic’ and ‘democracy’, and that the differences are used by the founders of the USA Constitution to refer (i) the republic as “the elected government representative”, and (ii) the democracy as the government, which contests for power while it includes and/or encourages public participation and inclusiveness based on equality.

According to Alexander (2011:1), the Constitution of the USA is the fundamental law of the country and the supreme legal document, which governs the non-constitutional laws in the USA. It is for the same reason that Kahn *et al.* (2016:4), Kincaid (2010:124) and Tushnet (2009:43) argued that the US Constitution puts its weight behind the

separation of powers by entrenching and spelling out the three branches of the state in the first three articles as follows:

- The legislature (the structure of the Congress, which is considered the key branch of the state),
- The executive (which is viewed to be the second democratic branch), and
- The judiciary (which regulated the courts and considered the least democratic of the three branches of the state).

The conclusion of Tushnet's (2009:77) discussion on the national legislative branch of the USA, supplementary to the study, seems to agree that the US Constitution creates the "legislative branch". This happens because the Constitution indicators outline how the US Congress functions. The study and Tushnet (2009:77) concur that the US written Constitution alone does not provide conclusive information about the Congress, without the courts' interpretation. Hence, the study further agrees with the argument by Tushnet (2009:77) that despite the fact that political parties were not mentioned in the written Constitution of the US, political parties do play a predominant role in defining the Congress.

It is appropriate for the ease of reference that the study explains the combinational use of the words "the government" and "the Congress" to mean the same thing when discussing the US Constitution (Tushnet, 2009:79). The study used the same principle when discussing the Constitution of the Federal Republic of Germany, whereby its Constitution is referred to as "the Basic Law". The use of this terminology happens to enjoy a different meaning within the context of the South African literature; hence, it is important to understand the difference in use.

4.6.1 Governance in the United States of America

Krotoszynski Jr. (2012:237) and Tushnet (2009:43) confirmed that the USA is a federal system and the national government was constituted of three branches of the state –

(i) the legislature, (ii) the executive, and (iii) the judiciary. The implementation of the principle of the three branches of the state is commonly known as the “separation of powers”, was simplified by Gupta (2009:37) and Krotoszynski Jr (2012:237) that the law cannot be made by the legislature for it to implement. Hence, Krotoszynski Jr (2012:237) insisted that Constitution commanded a strong form of legislative/executive separation of powers.

According to Epstein (2011:310), the adoption of the separate branches of the state in the US Constitution provides for adequate checks and balances (separation of powers) of governance. Accordingly, the president was allowed by the Constitution to block legislation by veto; however, the Congress may override such decision by means of a two-thirds majority vote. Epstein (2011:310) confirmed that the division of power has influence in reducing the concentrated political power whereby the presidential system is likely to rule beyond its mandated powers.

Part I and II of the American Freedom of Information Act (FOIA) places more emphasis on the combination of “transparency, technology and public accountability”. It focusses on accountability and transparency within the jurisdiction of the administrative law to improve public accountability. Hence, Jennifer Shkabatur from the Ash Center for Democratic Governance and Innovation argues in favour of the former President of the US, Barack Obama, who signed the Open Government Memorandum on his first day in office. The Memorandum declared his commitment to create “an unprecedented level of openness in government”. Furthermore, the Memorandum demanded the promotion of public accountability and the provision of information to the citizens of the US. On the other hand, Part III of the Freedom of Information Act encourages transparency across all agencies of government by means of releasing the information to the public about its decision-making processes and performance (Yale Law and Policy Review, n.d.).

Central to accountability and transparency, the Plan International as the government agency (an NGO) pledged its commitment to accountability and ethical practices (Plan USA, n.d.). Similarly, the United States Agency for International Development (USAID) states that the rule of law is critical to the practices of accountability and democracy, and as such needed observation at all costs. The Agency argued that accountability,

transparency and democracy need to be conducted along the lines of (i) free and fair processes, (ii) human rights, (iii) civil society, (iv) public confidence, and (v) safety and security (USAID, n.d.).

4.6.2 The Legislature

According to Kincaid (2010:125) and Tushnet (2009:43), the US Constitution created a bicameral legislature. This legislature also endorsed in Article I, Section 1 in that the Congress (known as the national legislative branch of the USA) consisted of a Senate and the House of Representatives. The members of the House of Representatives, who are known as Congressmen and Congresswomen, serve a two-year term, while the Senators serve a six-year term. However, members of both Houses are eligible for re-election with no restrictions. Article I of the Constitution, which regulates the legislative branch, consisting of ten sections. These sections are discussed below as follows:

(a) Section 1: Legislative Powers

In terms of Article I, Section 1 of the US Constitution, all the legislative powers are vested in the hands of the Congress. The Congress consists of a bicameral legislature, composed of the Senate and the House of Representatives.

(b) Section 2: Composition of the House of Representatives

In accordance to Article I, Section 2 of the US's Constitution, the House of Representatives is composed of members elected bi-annually by various states. The US Constitution is similar to that of Germany, in that in order to be eligible to be elected to serve in the House of Representatives, one needs to be 25 years and older. The term is restricted to ten years. The number of the Representatives were limited to one per every 30 000 citizens. However, given the fact that some states have a large number of citizens, certain states were restricted to the following number of representations:

- The state of New Hampshire (3)
- Massachusetts (8)
- Rhode Island and Providence Plantations (1)
- Connecticut (5)
- New York (6)
- New Jersey (4)
- Pennsylvania (8)
- Delaware (1)
- Maryland (6)
- Virginia (10)
- North Carolina (5)
- South Carolina (5)
- Georgia (3)

Furthermore, Article I (Section 2) of the US Constitution dictates that the House of the Representatives will choose the Speaker and other related officers, and do impeachments. The House of Representatives will have the executive powers to authorise special elections in the case of vacancies.

(c) Section 3: Composition of Senators

According to the US Constitution, the Senate will be composed of two Senators, chosen by the legislature of each state. The Senators will have a six-year term in office, with only one vote. To be elected as a Senator, one must have been a US citizen for at least nine years and be 30 years of age. The President of the USA will be the President of the Senate. The President will have no voting right, except in the case of a tie. The Senate will have the sole power of impeachment (USA Constitution, Article I, Section 3).

(d) Section 4: Term of Office (the House of Representatives and Senators)

According to the Article I, Section 4 of the US Constitution, the time, place and method of electing Senators and Representatives were prescribed by the legislatures of each

state. However, the Congress has veto powers to change the regulations, but not places of electing the Senators. The Congress amended and modified Article I, Section 4 in 1933 to read as follows:

- The term of office for the President and Vice President shall end at noon of the 20th day of January, while the terms of Senators and Representatives shall end at noon of the 3rd day of January,
- The Congress shall sit annually on 3 January, unless the law dictates otherwise.

(e) Section 5: Rules

According to Article I, Section 5 of the US Constitution, each House will be the judge of its own elections, returns and qualifications of its members. Each House will determine its rules of proceedings and the disciplinary measures for the various Houses.

(f) Section 6: Compensation

No Senator or Representative will assume other employment within the US while still serving his/her term of office. Furthermore, no person holding any office within the US will be a member of each House during the observance of such office (USA Constitution, Article I, Section 6).

(g) Section 7: Revenue

According to Article I, Section 7 of the US Constitution, the bill to generate revenue is developed by the House of Representatives. However, the Senate may propose, concur with, or amend those bills. The Order, Resolution or Vote by the House of Representatives and the Senate are presented to the President of the USA. However, the rules and limitations prescribed in the Case of a Bill before the President can make a declaration, but two-thirds of both the House of Representatives and the Senate must consent to the prescribed limitations.

(h) Section 8: Taxes and Welfare

The Congress will have absolute powers to lay and collect taxes, duties, imposts and excises to pay for the defence and the general welfare of the US. The Congress will be responsible to pass exclusive legislation and to make all laws, which are necessary and proper for execution in accordance with the Constitution of the US. The Constitution is regarded the guiding pillars in the furtherance of the duties of the government and any other department or personnel thereof (US Constitution, Article I, Section 8).

(i) Section 9: Presents

There will be no money drawn from the Treasury without following the proper prescriptions of the US laws. In drawing money from the Treasury, there must be a regular statement and account of receipts and expenditures published from time to time. On the other hand, no personnel are permitted to accept presents, emolument, office or title without the consent of the Congress (US Constitution, Article I, Section 9).

(j) Section 10: Restriction of the States

According to Article I, Section 10 of the US Constitution, no state is permitted to enter into any treaty, alliance or grant letters of Marque and reprisal, coin money, emit bills of credit, pass any bill of attainder, ex post facto law or law impairing the obligation of contracts or grant any title of nobility.

No state, except if consented by the Congress, shall lay any imposts or duties on imports or exports. The laws for the produce of all duties and imposts are for the use of the Treasury of the US. These laws ought to be reviewed and be controlled by the Congress.

No state shall, without the consent of the Congress, lay any duty tonnage, keep troops or ships of war during the time of peace. Furthermore, no state was permitted to enter into agreement with another state or foreign power to engage in war unless invaded and yet consented by the Congress (US Constitution, Article I, Section 10).

4.6.3 The Executive

The executive powers of the USA are vested in the hands of the President. The President is believed to be the executive and/or the manager, who is expected to implement the programmes adopted by the US Congress. According to Tushnet (2009:79), the process of adopting the programmes is outlined in the ten sections of Article I of the Constitution and it professes the national legislative competencies. Accordingly, the executive branch is contained in four sections under Article II of the US Constitution, as follows:

(a) Section 1: Powers

According to Article II, Section 1 of the US Constitution, the executive powers of the USA remain the responsibility of the President, who shall hold office for four years and the same goes for the Vice-President.

(b) Section 2: Filling of Vacancies

The President has the power to fill the vacancies that may occur during the recess of the Senate (USA Constitution, Article II, Section 2).

(c) Section 3: Information Sharing

In terms of the US Constitution, Article II, Section 3, the President is expected to provide the Congress with the information of the state of the Union from time to time and to make appropriate recommendations, where necessary.

(d) Section 4: Impeachment

The Constitution allowed that the President, Vice-President and other civil officers be impeached from the office of the US in case of involvement in acts of treason, bribery and/or high crimes and lesser crimes (US Constitution, Article II, Section 4).

4.6.4 The Judiciary

The judicial powers of the US are vested in the one supreme court and if the Congress so wishes, it may from time to time mandate the inferior court to assume such responsibility. According to Tushnet (2009:123), the US Supreme Court enjoys the discretionary authority to preside over matters of national law with regard to the decisions made by the Congress.

Epstein (2011:314) cautions that in the US there are discussions that divide the judicial power into three categories. These categories are divided along (i) the purpose and the organisation, (ii) the selection of the judges, and (iii) the power of judicial review. The answers of these three questions, through the discussions and debates, solely depend on the identification and the use of judicial power as an independent branch of the state.

Hence, Kincaid (2010:129-130) argues that there are only three distinct and important democratic provisions in Article III. They are (i) the checks on the abuse of power by the executive and judicial behaviour, (ii) the trials for federal crimes be heard and decided by the juries, and (iii) that the trials be heard in the state where the offence is committed. Kincaid (2010:129-130) advances the debate that there are three legs of judiciary power within the US Constitution, and provided the following distinction between the three:

(a) Section 1: Supreme Court

According to Article III, Section 1 of the US Constitution the judicial power rests in the hands of one Supreme Court, and such powers may be deferred to the inferior courts if mandated by the Congress.

(b) Section 2: Jurisdictions

The judicial power is extended to all cases resulting under the auspices of the US Constitution; that is, cases within the boundaries of (i) Law and Equity, (ii) Law of the United States, (iii) the concluded Treaties, and (iv) cases affecting the Ambassadors, Ministers and Consuls. In cases involving Ambassadors, Ministers, Consuls and those for which the State is the party to, the Supreme Court will need the original jurisdiction. The trials of crime, except in cases of impeachment, are to be heard at the places of their occurrence (US Constitution, Article III, Section 2).

(c) Section 3: Treason

According to the US Constitution, Article III (Section 3), matters of treason against the US are restricted to the jurisdiction of the Congress, which will enjoy all the powers to determine and declare the punishment. However, no person shall be convicted of treason unless there are two witnesses to the same act and/or confession in an open court.

4.7 CONSTITUTIONAL ANALYSIS OF AUSTRALIA

The Australian Constitution was considered the birth certificate of the Australian nation, because it contains the basic rules of the Australian government. The Australian Constitution is regarded the fundamental and supreme law of Australia in terms of Section 4. Similarly, the South African Constitution pronounces its supremacy in Section 2. Accordingly, Section 4 of the Australian Constitution confirms that it binds every citizen to the Commonwealth Parliament and the Parliament of the six States. The Commonwealth Parliament and the Parliament of the six States are permitted to pass laws. However, those laws are not to be inconsistent or in contradiction with the Constitution.

4.7.1 Governance in Australia

According to Saunders (2013:389) and Erk (2008:92), Federal Australia is closer to Germany and Austria and thus shares the ethno-linguistic homogeneity created on the 1st January 1901. Its formation was the result of the constitutional convention held in 1890, with the sole purpose of uniting the seven antipodean colonies of the British Crown. Federal Australia was then termed to be the Commonwealth of Australia since 1901. Under the Australian federal system, the power is shared between the central government and the regional government (Saunders, 2013:389; Erk, 2008:92).

Saunders (2013:390) further argues that despite the challenges experienced by the federal governance systems then, Federal Australia continued to grow from strength to strength. Hence, Erk (2008:93-94) confirms that the Commonwealth governments, by means of agreement with the states, were able to pass parallel legislation and establish joint authorities. To the Australians, federalism is not an issue, but the major concern is that the Australian Commonwealth was the intermediary layer of the administration and the implementation of national policies. The then growth population in Australia, as anticipated by Saunders (2013:390), was reflected below:

Table 30: Population of Australian States and Territories

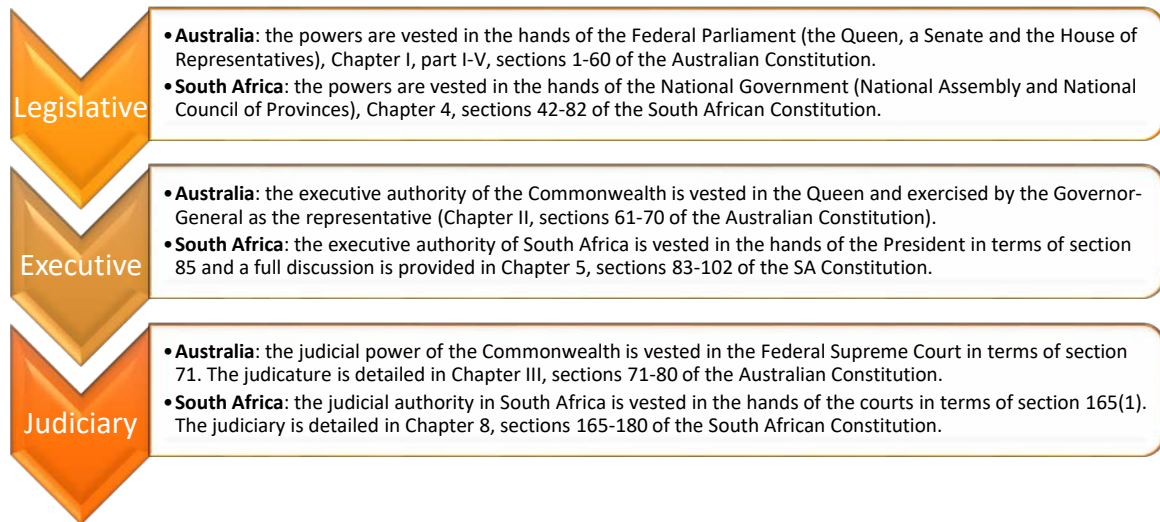
	NSW	Qld	SA	Tas	Vic	WA	ACT	NT
Population ('000)	7,317.5	4,599.4	1,659.8	511.0	5,640.9	2,366.9	366.9	231.2
Population as total %	32	20	7	2	25	10	2	1

Source: Saunders (2013:390)

Saunders (2013:390) indicated that the Australian Constitution has huge respect for its imprint of the separation of powers. Hence, Chapters 1, 2 and 3 of the Australian Constitution are demarcated to demonstrate the functions of the legislature, executive and judiciary, respectively, as the means of the separation of powers. Chapter 1 of the Australian Constitution is dedicated to the legislative functions, Chapter 2 to the executive, and Chapter 3 deals with the judiciary. Equally, the South African

Constitution also expresses itself on respect for the separation of powers in Chapters 4, 5 and 7. Accordingly, Chapter 4 of the South African Constitution addresses the legislative function, Chapter 5 deals with the executive, whilst the judiciary dealt with in Chapter 7.

Figure 16: Separation of Powers (Australia and South Africa)



Source: Own Construction

The Australian government has various statutory bodies designed to instill accountability. These committees are not only accountable through ministers. The Parliament is allowed to convene the se accounting committees to account at any given time. Accordingly, the purpose of relevance and the mandates of these committees ought to be reviewed and amended from time to time. The classical example in this regard will be the committee on public funds under Article 50, which dictates that “its expectation that officers, including agency heads, will appear before committees in fulfilment of their accountability obligations, whenever their presence is requested by committees” (Parliament of Australia, n.d.). Accordingly, this system is of a similar nature to the committees in the South African intergovernmental government. The South African government has in place the (i) Standing Committee on Public Accounts (national), (ii) the Provincial Public Accounts Committee (Province), and (iii) the Municipal Public Accounts Committee (MPAC). These committees are compelled to be competent and independent to compel anyone, regardless of his/her position to account before his/her respective body. The full discussion on these South African committees were provided under “Accountability

within the circles of intergovernmental governance”, with specific reference to pages 305-311 of this study.

4.7.2 The Legislature

In terms of Section 1 of the Australian Constitution, the legislative powers of the Commonwealth Constitution are vested in the management of the Federal Parliament, which is similar to South Africa. Section 43(a) of the South African Constitution confirms that the legislative power in South Africa is vested in the Parliament. Section 44 of the South African Constitution stated that the national government was constituted by:

- (a) South Africa: the national government is constituted by the the National Assembly (NA) and the National Council of Provinces (NCOP),
- (b) Australia: the Federal Parliament is consisted of the Queen, the Senate, and the House of Representatives. The Australian Federal Parliament is known as the “Parliament of the Commonwealth”.

- **The Queen**

In terms of Section 2 of the Australian Constitution, the Queen appoints the Governor-General. The Governor-General then becomes the representative of the Queen within the Commonwealth. However, the powers of the Governor-General remain the absolute discretionary powers of the Queen.

- **The Senate**

Hence, Part II and Item 7 of the Constitution present that the Senate is composed of senators elected from each State and he/she enjoys voting rights in the Parliament of the State. The name of the senator elected is to be certified by the Governor of the State to the Governor General. The President must be a Senator elected by the other senators. The President ceases to be the President, if he/she ceases to be a Senator.

- **The House of Representatives**

According to Part III, Item 26 of the Constitution, the members directly elected by the members of the Commonwealth constitute the House of the Representatives, and the number of elected members will be twice the number of senators. The representation within the Parliament is constituted as follows:

- New South Wales (26)
- Victoria (23)
- Queensland (9)
- South Australia (7)
- Western Australia (5)
- Tasmania (5)

The Parliament of the Commonwealth provides the Parliament of the States to make its own laws. The Parliament in accordance with the Constitution will make laws for peace, order, and good governance of the Commonwealth with regards to (i) the seat of government in the Commonwealth, (ii) matters relating to the department of public service, and (iii) all the matters dictated by the Constitution to be the exclusive power of the Parliament. Furthermore, the same Parliament of the States is expected to elect the members of the House of Representatives, and thereafter the House of Representatives will elect the Speaker.

4.7.3 The Executive

The executive functions of Australia are discussed in detail in Chapter II, Sections 61-70 of the Australian Constitution. In Section 61, the Australian Constitution dictates that the executive powers of the Commonwealth are vested in the Queen, exercised by the Governor-General as the Queen's representative. Similarly, the authority of the South African executive is vested in the hands of the President, in terms of Section 85 of the South African Constitution. In the same vein, the executive powers of the Queen extend to the execution of the Constitution and the application of the laws of the Commonwealth. The Federal Executive Council is formed to advise the Governor

General in the government of the Commonwealth. The Governor General appoints officers to administer departments of state of the Commonwealth. These officers are the members of the Federal Executive Council and are the Queen's Ministers of State for the Commonwealth.

Furthermore, in line with the above, Saunders (2013:391) argued that the accountability of the social welfare programmes were divided between the Commonwealth and the States. These welfare programmes are driven in the form of intergovernmental cooperatives schemes. The Australian federal system projects accountability within the governance of IGR, which brings the individual states closer to the central government.

4.7.4 The Judiciary

Chapter III, Item 71 of the Australian Constitution presents that the judicial power of the Commonwealth is vested in a Federal Supreme Court, commonly known as the High Court of Australia. This is the same in South Africa – the judiciary is vested in the hands of the courts, in accordance with Section 165(1) of the South African Constitution. Furthermore, the High Court in Australia consists of a Chief Justice and other justices, which are not meant to be fewer than two in as far as the Parliament stipulates. Saunders (2013:391) confirms that the independent courts administer the common law in a manner absorbed by the colonies at the time of settlement upon attaining independence from Britain.

According to Clark, Cho, Hoyle and Hynes (2010:29), the High Court of Australia consists of seven justices. The High Court further hears the appeals from the State Supreme Court. The Federal Court has original jurisdiction in all other federal matters. The states and territories have their own court system that consists of various administrative tribunals, inferior courts, a court of general jurisdiction, and a court of appeal (Clark *et al.*, 2010:29). Saunders (2013:391) argues that these courts remain the final arbiter on the interpretation of the Constitution and they strive to enforce the Australian common law, which is distinctive in all respects.

4.8 CONSTITUTIONAL ANALYSIS OF CANADA

Section 1 of the Constitution of Canada known as the Canadian Charter of Rights and Freedoms, guarantees the rights and freedoms, as prescribed by the law. It has further adopted the principles of a free and democratic society. Section 52(1) stipulates that the Constitution is the supreme law of Canada, and any other law inconsistent with the Constitution is deemed to have no effect or force. According to Section 52(2), the Canadian Constitution is constituted by:

- (a) Canada Act of 1982
- (b) Orders as reflected in the schedule
- (c) Amendments to Canada (1982) and the Orders (schedule)

4.8.1 Governance in Canada

According to Gillen (2014:25-27) and Bickerton and Gagnon (2013:172), Canada is the second largest country in the world, spanning 9 984 670 square kilometres. Its division of power is set in the two levels of government in terms of Sections 91 and 92 of the Constitution. However, it must be stated that the federal government may be restricted to legislate certain powers assigned to the provinces, in accordance with Section 92. Similarly, the provinces are not be permitted to legislate on certain matters assigned to the federal government in terms of Section 91 of the Constitution. Accordingly, section 91 stated that:

“either of the two levels of government may, however, enact legislation that in its ‘pith and substance’ deals with a matter that is within one or more of its powers but which has an ancillary aspect relating to the powers of the other level of government or which incidentally affects matters that fall within the jurisdiction of the other level of government”.

The above section indicated the overlap of legislation between the provincial and the federal government, which is bound to create conflict and tension. Regardless of the level of government, all the legislation made by either the federal government or the

province should not contradict the Canadian Charter of Right and Freedoms, adopted in 1982 (Gillen, 2014:25-27).

According to Bickerton and Gagnon (2013:177), despite the challenges between the provinces and the federal government, the Constitution supports provincial control over the resources and the division of power. Hence, the resources are stretched across the four provinces. The provinces as demarcated by Section 5 and confirmed by Section 22 of the Canadian Constitution. Section 22 of the Constitution states that the Constitution of the Senate Canada confirms four provinces. Therefore, the Constitution of Canada and the Constitution of the Senate Canada confirm the following provinces:

- Ontario
- Quebec
- New Brunswick
- Nova Scotia

The Canadian federal government acknowledged that in this formation of intergovernmental system there is a high risk for “problems and failures” due to the lack of accountability. Therefore, the Canadian government designed the Guiding Document with the aim of maintaining public confidence and trust through an accountable governance informed by values and ethics in the public sector. This Guide clearly defines the responsibilities and accountability of ministers, secretaries of state and deputy ministers to curb the overlapping of functions. It further maps out the management accountability framework, which includes a code of values for the values and ethics of the public service. Central to the Guide was to hold the entire system of government to account. Like in South Africa, apart from the Guiding Document, the Canadian Council established a Public Accounts Committee with the powers to summons every government official (public servant) to account (The Office of the A-G of Canada, n.d.).

4.8.2 Districts

The provinces of Canada are divided into districts, like the municipal governments in South Africa. However, the municipalities in South Africa enjoy a wide range of powers in the delivery of services to the citizenry. On the other hand, the Canadian districts operate with delegated authority, despite taking the form of federal and provincial governments (Gillen, 2014:28). Apart from the similarities in municipal operations, the argument by Bickerton and Gagnon (2013:173) that upon the arrival of the colonialists in Canada, the aboriginal peoples were ignored, similar to South African history. It is for these reasons that Section four of the Canadian Charter of Rights and Freedoms expresses itself on affirmative action in favour of the aboriginal citizens of Canada.

4.8.3 The Legislature

According to Chapter IV, Section 17 of the Canadian Constitution, there shall be only one Parliament for Canada. The Parliament of Canada shall consist of the Queen, an Upper House (Senate), and the House of Commons.

- **The Queen**

The Queen appoints the Governor General, who then acts on behalf of her in accordance with Section 14 of the Constitution. In terms of Section 10 of the Canadian Constitution, the administrator, who is responsible for leading the government of Canada, acts on behalf of the Queen.

- **The Senate**

In terms of Section 21 of the Canadian Constitution, the Senate is to be constituted by 105 senators, in which each province has to be equally represented. Furthermore, the qualifications and the removal of a senator is defined in Sections 24-27 of the Canadian Constitution.

- **The House of Commons**

According to Section 37 of the Canadian Constitution, the House of Commons shall consist of 308 members in total. The Governor General, who acts as the proxy for the Queen, convenes the meetings of the House of Commons from time to time.

4.8.4 The Executive

The executive powers of the Canadian government are discussed in Chapter III, Sections 9-16 of the Canadian Constitution. Section 9 of the Canadian Constitution dictates, “the Executive Government and Authority of and over Canada is hereby declared to continue and be vested in the Queen”. However, Section 11 of the Constitution determined that the Council be formed to advise the government of Canada. The members of the Council shall be chosen, appointed and/or be removed by the Governor General.

Krotoszynski Jr (2012:245) argues that the Constitution of Canada makes mention of the legislative, executive and judiciary, but does not distinctly provide a clear separation of powers. Despite the Constitution Act not separating the legislative, executive and judiciary functions, they are captured in an indistinct fashion to define their unique functions. According to the author (*ibid.*), it will be a difficult task to distinguish between the legislative and the executive. In accordance with Section 31 of the Canadian Charter of Rights and Freedoms, the legislative powers, which are not spelt out, are strictly not extended, as it reads “nothing in this Charter extends the legislative powers of anybody or authority” (Krotoszynski Jr, 2012:245). According to Watts (2010:332), this was accentuated by the manner in which appointments are made, namely, through the means of being directly and/or indirectly elected into the legislature or state executive of the federal government. These systems weaken the federal chambers. Hence, Watts (2010:333) argues that certain programmes within intergovernmental relations, which are incompatible with democracy, have dominated the executive in the federal state. This was argued with specific reference to Australia, Germany and Canada. The same argument was touted by Hampsher-Monk (2010:34), who states that the executive and legislative branch of Canada should be answerable to the weakening federal stature of governance.

However, Gagnon (2010:238) argues that executive federalism, on its own, has assisted the political elites in managing contentious issues. Its success, as is in South Africa, includes (i) the existence of strong autonomous provinces, (ii) a Westminster-style parliamentary system, (iii) a party system that is confederal in nature and insists on party discipline, (iv) a political culture, which embraces the top-down approach of politics, and (v) strong intergovernmental governments, which promote interaction (Gagnon, 2010:238).

4.8.5 The Judiciary

According to Gillen (2014:28-29) and Krotoszynski Jr (2012:245), the Canadian courts may interpret and apply the legislation, as designed by the provincial or federal governments. Apart from interpreting and applying the legislation, the courts may also develop laws, which are not consistent with the valid legislation by the province or federal state. The Canadian court structure is unitary in nature. However, the court structure in Canada differs from one province to the other. The superior courts in the provinces have extended jurisdiction to determine provincial, as well as federal matters. The Supreme Court of Canada may also hear matters from the provincial courts of appeal (Gillen, 2014:28-29; Krotoszynski Jr, 2012:245).

Jackson and Greene (2012:611) argue that the judicial discourse in Canada is marked by an interesting consensus on the interpretive methodology. Accordingly, the disagreements in most cases concentrate on the differences of justice evaluations. The evaluations of the statute and the matter at hand is conducted by means of a three step test of (i) rationality, (ii) minimal impairment, and (iii) proportionality; hence, the absence of disagreements (Jackson & Greene, 2012:611).

4.8.6 Evolution of the Government System in Canada

Bickerton and Gagnon (2013:172) argued that governance system in Canada is constituted by three aboriginal inhabitants. These aboriginals are the colonising English, and the French speakers. Erk (2008:44) argued that under compelling circumstances, where tensions that needed interventions exist, the Canadian federal governance tends to bypass its Constitution and resolve what needs to be resolved. It

does so in the manner of reflecting its constituent linguistic and/or cultural communities. Both Bickerton and Gagnon (2013:173) and Erk (2008:44) agree that there are continued tensions in the governance of Canada, but there are ways and means of dealing with the tensions outside the Constitution of the country.

In line with the above, the classical example would be the clash of the federal government with the state of Quebec with regard to the federal incursions into the provincial jurisdiction, which was perceived as a threat to Quebec's social and cultural autonomy. Quebec state resisted the federal state incursions because they felt that it intended to advance the interests of the British Canadians against the French-speaking Canadians (Bickerton & Gagnon, 2013:175; Erk, 2008:49).

According to Bickerton and Gagnon (2013:173), Canada has enjoyed a much stronger economy than before, despite the fact that there was a serious depression in the 1930s. At that time, the government lacked (i) income security, (ii) the means of effective inter-regional redistribution, and (iii) mechanisms of fiscal stabilisation. However, the social policy and fiscal regime, as developed by the federal and provincial governments, addressed the major concerns of (i) fiscal stabilisation, (ii) national social programmes, and (iii) horizontal re-distribution between regions, in order to improve economic governance in Canada (Bickerton & Gagnon, 2013:173).

The argument, as presented above, with reference to the evolution of the Canadian Constitution (Charter of Rights and Freedoms) may be summarised by Table 20 below. The table illustrates the evolution of the constitutional system in Canada, as presented and argued by Bickerton and Gagnon (2013:174):

Table 31: Evolution of the Constitutional System in Canada since 1867

1867	Adoption of the British North America Act (BNA Act)	Canada's Constitution until 1982; this was an act of the British Parliament
1931	Statutes of Westminster	Brings an end to Canada's colonial status
1949	Abolition of appeals to the judicial Committee of the Privy Council (London)	Since 1949, the final court of appeal in Canada has been the Supreme Court of Canada
1980	First referendum on Quebec sovereignty	The issue at stake was the negotiation of an equal partnership
1982	Patriation of the Constitution, Constitution Act, 1982 entrenches a Charter of Rights and Freedoms and an amendment formula	By patriating the Constitution from Britain, Canada took the last step towards its complete sovereignty. Nine provinces supported the Constitution Act, 1982, excluding Quebec. Quebec rejected the agreement, which did not recognise Quebec's conventional veto over constitutional change
1987-90	The Meech Lake Accord (a failed accord)	This initiative was taken in order to bring Quebec back into the Canadian constitutional fold. It included a provision to recognise Quebec's distinct society within the Constitution. After three years of debate, two provinces withdrew their approval, leading to the demise of the proposed agreement
1992	Charlottetown Accord (a failed accord)	A second attempt to get Quebec's acceptance of the new Canadian Constitution. The complex agreement dealt with a wider range of issues than Meech Lake, including the division of powers, federal spending power, the recognition of aboriginal governments and Quebec's distinctiveness. It was rejected in a national referendum by citizens of six provinces and one territory, including Quebec
1995	Second referendum on Quebec sovereignty	The central issue was about the negotiation of a partnership between Quebec and the rest of Canada, which would replace the existing federal arrangement, failing which the Quebec government could then seek to establish its own state. The proposal was narrowly defeated

Source: Bickerton and Gagnon (2013:174)

In line with the above, Caine (2013:174), Bickerton and Gagnon (2013:177) and Erk (2008:53) argue in agreement that the federal government decided to call for a referendum on the question of determining the sovereignty and economic association of Canada. The majority vote was to give the federal government a mandate to discuss sovereignty association. However, Quebec did not want a large-scale transformation, but supported the move towards more self-rule rights (Caine, 2013:174; Bickerton & Gagnon, 2013:17; Erk, 2008:53).

4.9 INTERGOVERNMENTAL SYSTEM AND ACCOUNTABILITY IN UGANDA

4.9.1 Governance System in Uganda

Kahn *et al.* (2011:193-194) argue that, like many other countries in Africa, Uganda was governed by traditional leaders from the clans of Buganda, Bonyoro, Toro and Ankole. This continued until the Berlin Conference of 1884 to 1885, which gave the British government the right to protectorate Uganda. This British proclamation over Uganda led to the new demarcation of distinct regions in the country. Hence, these demarcations were not in line with the nationalities and tribes of Uganda. Therefore, the gap of disparities widened amongst many nationalities and tribes in the country (Kahn *et al.*, 2011:193-194).

In 1962, Uganda received its independence from Great Britain. As a result, Uganda drafted its Constitution. According to Kahn *et al.* (2011:194-195), the Constitution was “federalist”. It is said to be federalist because it gave powers to the sub-centres, to the kingdom assemblies and the district councils. It is argued that the intergovernmental relations between the central government and the local administrators collapsed before 1966. This led to the reform of the Constitution in 1967. The reformed Constitution excluded the powers of the executive branch from the precedence of the courts in terms of Article 24(3) of the Constitution of Uganda (Kahn *et al.*, 194-195).

4.9.2 Governance Relations in Uganda

According to Article (ii) of the general objectives of the Ugandan Constitution, governance was informed by democratic principles, which seek to empower and encourage active participation. The democratic principles also advance the principles

of the decentralisation and devolution of the governmental functions and powers to the regions to manage their own affairs. Furthermore, the democratic principles support the diversity of the regional government. The same principles are expected to bring about synergy in the management of political and civic association within the internal organisations and practices. Article (ii) further provides autonomy to the civic organisations to advance their objectives. As a result, these democratic principles, as advanced in Article (ii) of the Constitution, offers a sense of the controlled intergovernmental relations of Uganda, without mentioning it.

According to Chapter II, Section 5 of the Uganda Constitution, Uganda is a sovereign state, which consists of districts. Likewise, Chapter one, Section 1 of the South African Constitution states, “the Republic of South Africa is one, sovereign, democratic state ...”. The similarities between the countries were broadened by the formation of districts and provinces, which are endorsed in the respective constitutions. Accordingly, Section 5(2) of the Ugandan Constitution states that Uganda is constituted by districts, while Section 103(1) of the South African Constitution confirms demarcated provinces.

(a) National: Ministry of Local Government

As the result of the view and belief that autonomous powers in Uganda are granted to the local authorities, the ministry of local government introduced stringent legislation. The public and political parties saw the legislation as undemocratic. In terms of the new legislation, the powers of local authorities were centralised in the hands of the central government, administered by the ministry of local government. The local authorities were compelled to seek permission for every administrative decision to be made. This limitation of autonomy of the local authorities by the central government turned the locals into the extended ministry of local government, and thus led to the degeneration of the capacity in local government (Kahn *et al.*, 2011:196). Hence, the change in legislation, which disempowered the local authority, seems to justify the argument by Gloppen and Kanyangolo (2012:43) that the stakes are high for politicians to overstay their welcome in retaining their political positions.

(b) Regional Government

According to Article II (iii) of the Uganda Constitution, “the state shall be guided by the principle of decentralisation and devolution of governmental functions and powers to the people at the appropriate levels where they can best manage and direct their own affairs”. In the same vein, Article II (vi) states that civil organisations in Uganda are offered to retain their autonomy in pursuit of the objectives set by the democratic principles. On the other hand, Section 40 of the South African Constitution stipulates that the national, provincial and local governments are distinctive, interdependent and interrelated; this indicates that they are not entirely autonomous like the Ugandan system. These sections of both constitutions confirm the existence of the governance of intergovernmental relations in Uganda and South Africa. However, the confirmation of intergovernmental relations is not expressed as such in the Uganda Constitution, as Section 41 of the South African Constitution explains it.

In 1986, when the National Resistance Movement (NRM) won the elections, Uganda was demarcated into ten regions. However, the Ugandan Constitution, nor any Act of Parliament, legally pronounced these regions. Regionalism in Uganda divided the society in two, some in favour of and some opposed to regionalism. Those who argued against regionalism believed it would bring back the era of ethnicity and/or weaken the administrative capacity. Furthermore, the same group of citizens who were opposed to regionalism was of view that the regions would bring about added administrative costs for the Ugandan government. On the other hand, those in support of regionalism were of the view that the establishment of the regions would improve the economies of scale in Uganda (Kahn *et al.*, 2011:196-197).

(c) Traditional Leaders

Since precolonial rule in Uganda, the governance in the local councils was vested in the hands of the chieftaincy, who were remunerated for their services. They were allocated a specific budget to render services to the community. However, the biggest challenge with traditional governance in Uganda was the lack of accountability. The lack of accountability compromised the checks and balances because of the abuse of power for personal gain in Uganda (Kahn *et al.*, 2011:197-198). In an effort to stabilise

the relationship between the state and traditional leaders, as well as accountability, South Africa established the Houses of Traditional Leaders in terms of Section 16 of the Traditional Leadership and Governance Framework Act. The system shares similarities with the Ugandan system.

4.9.3 Accountability and Public Participation

In support of the above submission, Article (xxvi) of the Ugandan Constitution confirms the commitment to accountability by public officials. The Article states that every official deployed in a position of leadership and responsibility needs to be answerable to the people of Uganda. According to Section 3 of Article (iii) of the Constitution, it is the responsibility of every citizen to “expose, combat and eradicate corruption and abuse or misuse of power by those holding political and other public offices”. The Constitution also states that there must be legal measures in place to ensure compliance (Article xxvi, Section i-iii of the Constitution).

Apart from accountability, Article I (i) of the Constitution also makes an allowance for democratic principles, which empower and encourage active participation by the citizenry. It further indicated that active participation in Uganda was exercised across all levels of governance of intergovernmental relations. Hence, Chapter one, Section 1(4), of the Ugandan Constitution states that the people will be afforded an opportunity to express their will and consent on the governance of Uganda. It is presented that the participation of the people of Uganda includes the holding of periodic free and fair elections to elect government representatives. Section 1(4) of the Uganda Constituted is similar to Section 59 of the South African Constitution, which states that the National Assembly must host public participation by the legislative authority.

4.9.4 The Legislature

The legislature of the Republic of Uganda is explicitly outlined in Chapter 6 of the Constitution. To mention the key comparable factors for the purpose of this study, the Ugandan Constitution is comprised of the establishment, composition and functions of the Parliament. However, according to Section 91(1) of the Constitution, the power of the Parliament to make laws “shall be exercised through bills passed by Parliament

and assented to by the President”. As a result, it can be conclusively stated that the three arms of government, namely, the legislative, the executive, and the judiciary (State House Uganda, n.d), democratically inform the government of Uganda.

4.9.5 The Executive

According to Section 99(1) of the Constitution of Uganda, the powers of the executive branch are vested in the President of Uganda. Accordingly, in terms of Section 98(1) of the Constitution, the President acts as the head of state and Commander-in-Chief of the armed forces. The President is responsible for implementing and enforcing legislation. Furthermore, the President has the executive power to appoint the Cabinet. Therefore, in terms of Section 99(2) of the Constitution, the President is responsible to execute and maintain the Constitution and all laws of the country (Sections 98-99 of the Constitution of the Republic of Uganda).

4.9.6 The Judiciary

The judiciary of the Republic of Uganda is the third arm of government designed under the doctrine of the separation of powers. This arm of government was headed by the Lord Chief Justice and deputised by the Deputy Chief Justice. The judiciary was constituted by various courts, which are free of influence and independent from the other arms of government. The mission statement of the judiciary commits and subscribes to “an independent, competent, trusted and accountable judiciary that administers justice to all” (State House Uganda, n.d.). The judiciary is duty bound to:

- administer justice by resolving disputes between citizens and between the state and citizens,
- interpret the Constitution and the laws of Uganda,
- promote the rule of law in Uganda and contribute to the maintenance of order within the society,

- protect and advance the human rights of individuals and groups,
- ensure the enforcement of law and order of Uganda,
- manage the enrolment and license of advocates, and
- hold custody of the enacted laws (*ibid.*).

Apart from the above paragraph, Gloppen and Kanyongolo (2012:43) argue that in Uganda the courts have other important programmes of accountability. These programmes are aimed at deepening and understanding the means of democratic accountability. Among the other democratic programmes, the judiciary is useful for (i) the establishment of electoral rules, (ii) drawing constituent boundaries, (iii) the registration of voters and candidates, and (iv) the resolution of disputes during and after the election process. Hence, Uganda has always been involved in election processes, since its independence. When compared to some parts of Africa, Uganda has held competitive elections over many years (Gloppen & Kanyongolo, 2012:43).

4.10 INTERGOVERNMENTAL SYSTEM AND ACCOUNTABILITY IN TANZANIA

4.10.1 Governance Systems in Tanzania

In accordance with Chapter 1, Section 2(1) of the Constitution, the United Republic of Tanzania is constituted by Mainland Tanzania and Tanzania Zanzibar, as well as the territorial waters. The United Republic of Tanzania was declared a democratic and socialist state, which subscribes to multi-party democracy in terms of Section 3(1) of the Constitution. According to Part II, Section 6 “the government” refers to the Government of the United Republic and the Revolutionary Government of Zanzibar, the local government authorities, and any person assigned to exercise the authority on behalf of the government.

Section 4 of the Tanzanian Constitution provides for the location of the state authority in the United Republic of Tanzania. The location of the state authority is dispensed across the three organs of government. In terms of Section 4(1) of the Constitution in the United Republic, the state authority is controlled “by the two organs vested with executive powers, two organs vested with judicial powers and two organs vested with legislative and supervisory powers over the conduct of public affairs”.

4.10.2 Accountability and Public Participation

In terms of Section 8(1) of the United Republic of Tanzania, the state adheres to the principles of democracy and social justice informed by accountability to the citizenry and public participation in all affairs of the government. The other means of accountability may be drawn from the Client Service Charter by the Treasury Registrar, which was established to instill oversight of governance of the United Republic of Tanzania. According to Mafuru (2015:4-5), Item 2.3(vi) of the Client Service Charter of Tanzania states that there must be teamwork and sound participatory management to promote a “citizen-centred service with stakeholders across division, unit and governmental boundaries”. Thus, the Charter was developed to improve service delivery.

According to the Tanzania Government Portal (n.d.), the President of the United Republic of Tanzania declared the need to tackle corruption and improve governance. The tackling of corruption is perceived a mechanism to promote strong leadership with the capacity to advance the objectives of clean governance, promote efficiency, transparency, and accountability in the public and private sectors, the effective enforcement of anti-corruption measures, to build the capacity of watchdogs and oversight institutions, and effective political leadership in the fight against corruption. The President (Tanzania Government Portal, n.d.) further stated that the objectives of accountable and clean governance had to be informed by the following strategies:

- Focus and prioritise sectors and areas prone to corruption,

- Strengthen enforcement, sanctions, supervision and incentives for fighting corruption,
- Strengthen citizens' participation to enhance the demand side of accountability,
- Strengthen public awareness on ethics and the fight against corruption through Information, Education and Communication measures,
- Strengthen the partnership and synergies with government, civil society organisations, parliament, the judiciary, political parties, the media, the private sector and development partners in enhancing integrity,
- Strengthen the administration and dispensation of justice systems,
- Build and/or strengthen the capacity of watchdog and oversight institutions, integrity committees and coordinating bodies in the parliament, judiciary and among non-state actors,
- Promote the use of technology in service delivery, and
- Promote transparency and accountability in public and private undertakings.

4.10.3 The Legislature

According to Chapter 3, Part I, Section 62(1) of the Constitution, the Parliament of the United Republic of Uganda was to be formed by the President and National Assembly. In terms of Section 33(2) of the Constitution, the President shall be “the head of state, the head of government and the commander-in-chief of the armed forces”. The National Assembly is to be constituted by designated members of Parliament, as prescribed by the Section 66 of the Constitution of the United Republic. The legislative authority is vested in the hands of the President, in terms of Section 63(1) of the Constitution of Tanzania, for the purposes of discharging the functions of the National

Assembly. However, the legislative authority with regard to Union matters and Mainland Tanzania are vested in the Parliament, while the legislative power of Tanzania Zanzibar, excluding Union matters, is vested in the House of Representatives. The term of office for the Parliament is restricted to five years.

According to Chapter 4, Section 97 (1) of the Constitution, the National Assembly shall exercise the legislative authority through the process of the debating and passing of Bills. However, a Bill will have to be assented by the President to become a law. Therefore, it means that for a Bill to become a law in the United Republic of Tanzania, it has to be passed by the National Assembly and subsequently be assented by the President. The process of developing a Bill by the National Assembly and the assenting of a Bill by the President has to be made within the prescriptions of the Constitution of the United Republic of Tanzania (Chapter 4, Section 97(1)).

4.10.4 The Executive

According to Section 53(2) of the Constitution of the United Republic, the executive authority is vested in the President of Tanzania. However, the Prime Minister, who is accountable to the President in terms of Section 53(1), will supervise the day-to-day functions. The executive functions of the government of the United Republic are dispensed by the government officers on behalf of the President, according to Section 35(1) of the Constitution. In terms of Section 36(1), the President has the absolute power to establish or abolish any office of government of the United Republic.

4.10.5 The Judiciary

Apart from the discussion, as presented in pages 270-271 (the Legislature) and page 271 (the Executive) above, there is also a need to detail the judicial arm of the United Republic. In accordance with Section 4(2) of the United Republic, the powers of the Government of the United Republic and the Revolutionary Government of Tanzania Zanzibar are vested in the executive authority. Similarly, the legislative authority and the supervision of the public affairs are vested in the Parliament of the United Republic and the House of Representative and the House of Representatives of Zanzibar. Furthermore, Section 4(2) of the Constitution named the judiciary system as the third

leg of the branch of government. As the result, the judiciary of the United Republic Tanzania and the judiciary of Tanzania Zanzibar is vested in the judicial authority of the Constitution (Section 4(2)).

4.11 Conclusion

This section of the Chapter provided the introduction. It further drew a distinction between unitary states and federal states, in pages 222-223 above. Apart from highlighting the differences between the systems of government, the two concepts (unitary and federal) were discussed in pages 224-227 respectively. These discussions were done to lay a proper foundation for the ensuing discussion on the comparison of IGR from an international perspective. The selected countries were discussed to determine the implementation of intergovernmental relations system. Furthermore, the study will use the assembled data to improve accountability, governance and intergovernmental relations in South Africa.

More importantly, the study discussed the patterns of **international constitutions** as used by the constitution of each selected country as the terms of reference for the purpose of comparison; hence, the discussion on the origins of IGR and the patterns of international constitutions in pages 229 and 230 respectively. Accordingly, the patterns of international Constitutions as discussed in page 230 provided four distinct constitutions deriving from diverse backgrounds. The sole purpose of discussing these constitutional patterns is to prepare and develop the understanding of the user to adjust to the flow investigation of the rest of the Chapter. The above analysis on the origins of intergovernmental relations (IGR) and constitutional patterns meant to lay a foundation for the discussion on the selected countries.

The above section of the Chapter focused on the **Federal Republic of Germany**. It discussed the powers and functions of the legislative, executive and judiciary, as expressed by the German Constitution. It all started with the division of power between the federation and the Lander, as prescribed by Article 70 and 71 of the Basic Law. The autonomy and the powers of the Landers, under the formation of the Federal State of Germany, confirm the intergovernmental governance system. Accordingly, Article 70 paragraph 1 of the Basic Law gives the Lander the right to make its own laws in

line with the German Constitution. Similarly, Section 40, Subsection 1 and 2 of the South African Constitution provides the same rights as Article 70, Paragraph 1 of the Basic Law. The Chapter further explored Article 72 of the Basic Law and concluded that the Lander has the power to legislate, as long as it is done in line with the guidance of the Basic Law.

Like in **South Africa**, there is a federal government in **Germany**, which corresponds with the South African national government. The Executive of the German Federal Government was informed by the constitution of two houses, namely, the Bundestag and the Bundesrat. This German Federal Government is similar to the South African national government, which is formed by the National Assembly and the National Council of Provinces. These systematic characteristics by the two countries resemble similarities of the governance system. Similar to South Africa, Article 92 of the Basic Law dictated that the judiciary in Germany is vested in the hands of the courts. The same sentiments are dictated in Section 165(1) of the South African Constitution.

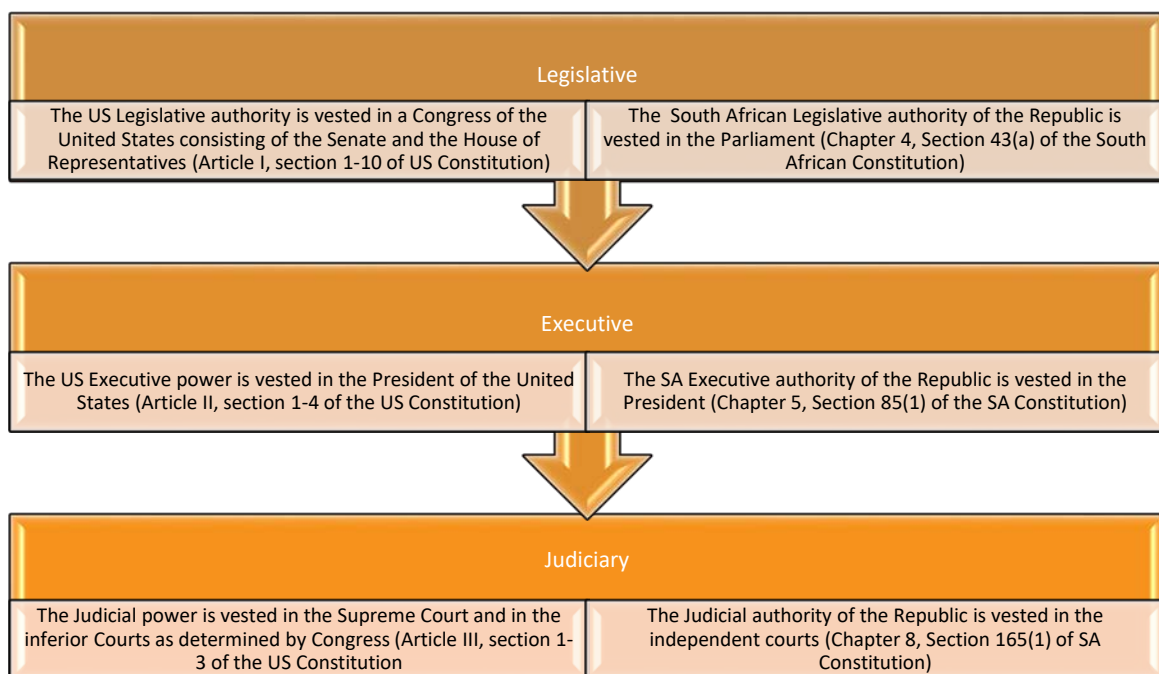
Apart from the similarities, as demonstrated above, the discussion on the governance of the Federal of Republic of Germany as presented in page 237 further draws the common picture of accountability between the two countries. The German Office of the Ombud (Article 17 of the Basic Law) is a replica of the South African Office of the Public Protector (s182 of South African Constitution). These offices share a similar responsibility to impose accountability on government functionaries. The Germans enjoy a stronger accountability arm with their **Federal Court of Audit (FCA)**, which has supreme powers and independency from the branches of government. On the other hand, South Africa has the **Auditor-General (AG)** with no direct powers to prosecute, but with the extended mandate to lay charges against the perpetrators in the lapse of accountability.

The discussion on the constitutional analysis in terms of this Chapter was based on accountability, governance and intergovernmental relations. The reference to the discussion is informed by analysing the nature of governance and the effect of the separation of powers (i.e. legislation, executive and judiciary). Like the **South African Constitution**, the **United States Constitution** fully expressed itself on respect for the separation of powers. In its own nature, the principles of the separation of powers

strengthen the checks and balances (accountability). Accordingly, the US Constitution discussed in detail the legislative function in Article I, the executive in Article II, and the judiciary in Article III.

Despite the two countries, the USA and South Africa, having a similar system, they do not operate in the same manner. In South Africa, the Constitution supplements the Chapter 9 Institutions as the main centre of accountability. The full discussion of these state institutions are provided in pages 200-213. Despite, having discussed the state institutions, the key institutions for accountability and oversight are the Public Protector and the Auditor-General, in as far as their powers and functions are concerned. Furthermore, the Constitution does not limit the Chapter 9 Institution to a specific sphere of government, but they are given free rein to conduct their oversight accountability across the national, provincial and local spheres of government. However, the Figure below projects the differences between the two countries is far as constitutional support and the functioning of the branches of government (separation of powers) are concerned.

Figure 17: Comparison of the Separation of Powers (USA and SA)



Source: Own Construction

However, it must be noted that in as far as the practice of accountability and transparency in USA is concerned, as outlined in pages 242-244, and these principles are not restricted to governance alone but stretch to governmental agencies. Hence, the open declaration and commitment by the then President Obama. Following in the footsteps of Obama, the two agencies, namely, the. United States Agency for International Development (USAID) and Plan International (USA) openly pledged their support to the public for openness and transparency in all their functions and finances.

There are many similarities in the system of governance between **South Africa** and **Australia**. The application of the separation of powers of the two countries is carried out in a similar manner, which promotes intergovernmental relations. Their Constitutions clearly demarcate the possibility of interference of one branch of government by the other (i.e. legislative, executive and judiciary). However, there are different systems recorded by the Constitutions of the two countries. It must be indicated that different systems have less impact on intergovernmental relations when compared to the similarities.

Hence, the previous Figure (Figure 8) emphasised the similarities, with the specific references to the Constitutions of Australia and South Africa. Given those similarities, it would be appropriate to demonstrate the technical differences, with less impact on intergovernmental relations, in the table below:

Table 32: Different Constitutional Intergovernmental System (Australia and SA)

	Australia	South Africa
1	Item 3 (covering clauses) of the Constitution declares a state the Federal Commonwealth	Section 1 of the Constitution declares South Africa as one, sovereign and democratic.
2	IGR governance is vested in the central and regional governments (Section 6 of the Constitution)	IGR governance is vested in the national, provincial and local governments (Section 40 of the Constitution).
3	The Federal Parliament consists of the Queen, a Senate and the House of Representatives (Chapter 1, Part I, Section 1 of the Constitution)	The national government consists of the National Assembly and the National Council of Provinces (Section 42(1) of the Constitution).

Source: Own Construction

Australia and South Africa recognise the importance of accountability in a similar fashion. Apart from the accountability mechanisms in the Constitutions of the respective countries, accountability extended to independent committees. The Australian government aligned the **accountability committees** to the policies and legislation, whilst the South African government disintegrated similar **accountability committees** in across its three spheres of government. Similarly, the spheres these committees share replicate the mandates and responsibilities, in line with the adopted rules and regulations aimed at strengthening the measures for accountability and good governance (e.g. Scopa, PPAC and MPAC).

Canada has similar formations to **South Africa** of the three spheres of governments. The Canadian governance system was demarcated as (i) the Federal Parliament (Parliament), (ii) the Regional Government (Provinces), and (iii) Districts (Municipalities). South Africa, like Germany, the USA and Australia, anchored the strength of its intergovernmental governance system in the separation of powers and accountability. The separation of powers are expressed distinctly in the Constitutions of South Africa, Germany, the USA and Australia. However, the same cannot be said about Canada because the terms legislative, executive and judicature are used in the Canadian Constitution. However, the use to that effect cannot be interpreted as providing any support to the intergovernmental relations, for they are not rooted within the framework accountability. Instead, accountability by the Canadian government is expressed within the Guiding Document and legislation. However, not expressed in a similar fashion in the Constitution.

On the other hand, the operations of the local sphere of both governments need comparison. The spheres of government in South Africa are **distinct, interdependent and interrelated** in terms of Section 40(1) of the Constitution. Hence, South African municipalities operate independently guided by a series of legislation, and are perceived as the important sphere of government by Biyela, Nzimakwe, Mthuli and Khambule (2018:222). While **Canadian districts** operate with delegated powers from the Federal Parliament, Krotoszynski Jr (2012:245) asserted that Canada is a federal state with unitary features in the form of an intergovernmental system. As discussed in page 258 above, the Canadian government was constituted from the Federal Parliament, four States and the Districts. However, unlike South Africa, their

intergovernmental system strictly restricts the Districts to function with delegated powers from the states and the Federal Parliament.

The study confirmed that Uganda was proclaimed a British protectorate ahead of attaining its independence in 1962. Upon becoming independent, Uganda drafted its Constitution, which permitted sub-centres and district councils. However, the system of sub-centres and districts collapsed in 1966 because of the suspected excessive powers of the traditional leaders. The collapse of the system introduced in 1962 led to a new system informed by the democratic principles in Uganda. The system encouraged public participation, which was the same system that was adopted by the democratic South Africa post-1994. Similarly, the democratic South Africa demarcated itself into provinces and incorporated the role of traditional leaders through the development of the Traditional Leadership and Governance Framework Act (41 of 2003).

The Constitution of the **United Republic** was born from the merging of Mainland **Tanzania** and **Tanzania Zanzibar**. In terms of Section 2(1) of the Constitution of the United Republic, the combination of the two government systems included its territorial waters. Section 8(1) of the Constitution of the United Republic sees public participation as the best mechanism for the governance system for Tanzania. Public participation is perceived to be crucial in influencing decisions and institutions affecting the lives of communities. The Constitutions of **South Africa** (Section 59) and **Uganda** (Section 2) share the same view.

This conclusion summarised the analysis conducted while investigating the implementation of intergovernmental (IG) system in relation to **Germany**, the **United States of America** (USA), **Australia** and **Canada**, as the first part of the discussion. The second part of the summary focuses on a summary of the governance systems of **Uganda** and the **United Republic of Tanzania**, compared to **South Africa**. Apart from providing a conceptual analysis of both sets of discussion, the study also provides a comparison of the implementation of intergovernmental (IG) system in South Africa and the countries identified in the first set. The comparison of South Africa with the second set of countries from a similar continent will deliver a summary on the use of their intergovernmental governance systems.

This Chapter determined the demarcations of the countries into areas, zones, regions, provinces and states respectively. The distinction of classification varies from one country to another. The constitutions of each country dictated its classification of their individual country into their respective constitution. These demarcations of the countries provide options for the political leadership to determine their respective form of governance. The demarcations of the countries influence the formation of unitary or federal states as the option in determining the nature of government by the political leadership.

Table 33: Comparison of Accountability, Governance and IGR System

	Accountability	Governance	IGR System
Germany	The government established the Federal Court of Audit to prosecute those who are lax with the measures of accountability.	The governance system is informed by the democratic systems backed by strongly designed independent branches of government.	The intergovernmental system is constituted of the federal government, Landers and independent municipalities.
USA	The government enacted the Freedom of Information Act to promote and improve transparency and public accountability.	The governance system is deeply rooted in its Constitution, which is strictly championed by the strongly demarcated checks and balances.	The intergovernmental system is informed by the federal government and the states.
Australia	The state designed various statutory bodies to instill accountability, for example, Article 50 on public accounts ensures the accountable use of public funds.	The governance system is informed by democratic principles and the Constitution, and has sound branches of government.	The intergovernmental system of Australia comprises the federal government (Commonwealth) and the eight states.
Canada	The state designed a Guiding Document with the defined roles for the sectaries of the state, ministers and deputies for accountability purposes.	Governance is directed by the Canadian Charter of Rights. It has adopted the principles of a free and democratic society.	The intergovernmental system is a combination of the federal government, four provinces and districts.

Source: Own Construction

The above table brought about the summarised version of how the four countries practiced their respective intergovernmental system. The table respectively outlined the functioning of each country with regard to its individual operation towards “accountability, governance and intergovernmental governance”.

Despite the fact that these four countries governed using an intergovernmental system and/or federal system, the concepts and the practice in the implementation process was not necessarily the same. The common factors, as drawn from this Chapter, created a background that indicated that the use of intergovernmental relations (IGR) and federalism fits in the model of the democratic system. This argument by the study concurred with Robertson (2012:177) who stated that federalism in the USA is the future and is there to stay. On the other hand, Robertson (2012:177) further argued that the Obama administration modified the intergovernmental system into the crux of federal politics in the USA.

Constitutions are associated with the means of describing and determining a system of governance. This is argued because if these constitutions are accepted, they became became useful in describing how to choose governments, and further provided what the government ought to deliver. In the same breath, the constitutions of these six countries, as discussed in this Chapter, provide protection and respect to the three branches of the state. However, some constitutions, particularly the Federal Republic of Germany, like the South African Constitution, provide more constitutional protection to their IGR as a system of governance. Apart from the comparison of Germany and South Africa, the constitutions of the six countries, as discussed, enjoyed similarities of their national government permitting the lower governments to own constitutions and exercise full rights over the three branches of the state.

Table 34: Comparative Analysis: Germany, the USA, Australia and Canada

	Germany	United States of America	Australia	Canada
Legislative	The legislative powers rest with the Lander. The division of competence between the Federation and the Lander is determined by concurrent legislative powers. The Federation rule exists only when possible encroachment of the law between the Federation and the Land, or an individual Land, is incapacitated to handle a matter.	The legislative powers are vested in the hands of the Congress of the US, which is composed of the Senate and the House of Representatives. Each member of the House is restricted to two terms.	Its legislative powers are vested in the Federal Parliament. The Federal Parliament (or Parliament of the Commonwealth) is formed by the Queen, the Senate and the House of Representatives. The Queen may appoint the Governor General, who may be the Queen's representative. The Senate elects the President.	There is no distinct separation of powers between the Legislative and the Executive. The legislative powers are not spelt out in the Constitution. It is argued that this system of operation weakens the stature of governance.
Executive	The Executive is composed of the Bundestag and the Bundesrat. The president of the Bundestag convenes the sitting and the meeting. The members of the Bundesrat may be present and be elected into the committees. Similarly, Article 43 of the German Basic Law permits the members of the Bundestag to be present during the meeting of the Bundesrat.	The executive powers of the US are vested in the President, who is expected to implement the decisions and programmes adopted by the US Congress.	The executive powers are vested in the hands of the Queen or the representatives. The Queen is also advised by the Federal Executive Council. The Queen appoints the officers, who may be the Federal Executive Council members. These officers then become the Queen's ministers of State.	The executive government and the authority of Canada is vested in the hands of the Queen in accordance with Section 9 of the Constitution.
Judiciary	The judicial system of Germany in the hands of the courts. The judges interpret the law guided by the Basic Law. They also handle the disputes between the federal states and the Lander.	The judicial powers of the USA are vested with the Supreme Court or any other court, as mandated by Congress. The Supreme Court has jurisdiction over all matters, except matters of treason, which is the competence of the Congress.	The judicial powers of the Commonwealth are in hands of the Federal Supreme Court (High Court of Australia). The High Court is constituted by the Chief Justice with two or more other justices. The jurisdiction of the Supreme Court is restricted to federal matters. The courts are considered the final arbiter of the interpretation of the Constitution.	The judicial powers are rested in the Canadian courts to interpret the legislation and Constitutions. The courts may develop laws, which are in conflict with the legislation of the provinces or federal state. The courts' structures differ from one court to the other. The courts are mandated by the Constitution to evaluate matters on the basis of rationality, minimal impairment and proportionality.

Source: Own Construction

This Chapter focussed on the analysis of the constitutions of the four foreign countries outside the African continent (the **Federal Republic of Germany**, the **United States of America**, **Australia** and **Canada**). The intention was to investigate the impact and the use of intergovernmental relations from an international perspective with specific reference to the four identified countries. The study used the three branches of government, as prescribed by their respective Constitutions, as the means of instrument and the terms of reference to analyse the application of intergovernmental relations in the four identified international countries. Hence, the outcome of the investigation was used to benchmark with **South African accountability** and its intergovernmental system, as advanced in the two tables above.

As outlined in the introduction of this Chapter (in pages 220-222) guided the comparison of intergovernmental relations (an international perspective) by the reference to **accountability**, **governance** and **intergovernmental relations**. Accordingly, the table below depicts the investigation through the analysis of the Constitutions of the two countries. The commonalities of **Uganda**, **Tanzania** and **South Africa** reflected into their respective constitutions. The Constitutions of these three countries supported their respective their principles of accountability by the sound involvement of the public in the efforts to run good governance. They all proclaim a democratic and sovereign state governed in the form of decentralised regions, provinces and government (Tanzania). Lastly, these countries subjected themselves to intergovernmental relations, even though the **Ugandan** and **Tanzanian Constitutions** are explained in their Constitution like in **South African Constitution**. There may be no mention of intergovernmental relations in the Constitutions of Uganda and Tanzania, but their systems are almost similar to the practice applied by the South African government.

Table 35: Comparison of Uganda and Tanzania (Accountability, Governance and IGR)

	Uganda	United Republic of Tanzania
Accountability and Participation	Article xxvi of the Constitution commits public officials and politicians to be answerable to the citizenry. Article III, Section 3 also encourages the public to promote accountability by exposing all efforts of corruption and abuse of power by politicians and public officers.	Section 8(1) of the Constitution demands accountability through public participation of the citizenry in all forms of government. The Tanzania Government Portal (n.d.) confirms the President's commitment to building watchdog and oversight institutions for clean, accountable and transparent governance.
Governance	Governance is informed by democratic principles, which empower and encourage active participation (Article II of the general objectives of the Constitution).	Governance of the United Republic is dispensed by the Union of Mainland Tanzania and the Revolutionary Government of Zanzibar, in terms of Section 4(2) of the United Republic Constitution.
Intergovernmental Relations	According to Chapter 2, Section 5(2) of the Constitution, Uganda is one sovereign state, which is constituted by districts. Furthermore, Article II(iii) states that Uganda is decentralised, with the districts to manage their own affairs.	According to Section 3(1) of the United Republic Constitution, the state is declared democratic and socialist, which subscribes to multi-party democracy. The multi-party democracy comprises of the Government of United Republic and the Revolutionary Government of Zanzibar, in terms of Section 6 of the Constitution.

Source: Own Construction

The above table illustrated the distinction between the governance systems of Uganda and the United Republic of Tanzania, in comparison to their use of the system compared to South Africa. The study used the determining matrix of “accountability, governance and intergovernmental relations (IGR) to gauge the implementation and practices. The study further referenced the distinctions of the three countries from the narratives of their respective Constitutions.

Table 36: Comparison of Uganda and Tanzania (Checks)

	Uganda	United Republic of Tanzania
Legislative	In terms of Section 91(1) of the Constitution, the Parliament make bills to be assented by the President.	In terms of Section 63(1) of the Constitution, the legislative authority is vested in the President, but the Union matters are in the hands of the Parliament.
Executive	The powers of the Executive is vested in the President. In terms of Section 98(1), the President acts as head of state and commander-in-chief of the army. The President appoints Cabinet and in terms of Sections 98 and 99 is expected to execute and maintain the Constitution.	In terms of Section 52(2) of the Constitution, the executive powers rest with the President, but the day-to-day functions are supervised by the Prime Minister, who is accountable to the President in terms of Section 53(1).
Judiciary	The Judiciary is headed by the Lord Chief Justice and his/her prime duties are to administer justice, interpret the laws, promote the rule of law, protect human rights, enforce law, manage the licenses of advocates, and keep custody of the enacted laws.	The judicial system of the United Republic is headed by the Chief Justice under the strict guidance of Section 42(2) of the Constitution

Source: Own Construction

This Chapter discussed six international countries with reference to their respective Constitutions and the independence of their branches of government. The selection of these countries referred to their application and practice to their respective intergovernmental governance system and the constitutional support to the system. The study restricted the measuring matrix of the three countries to the application of the intergovernmental system, the independence of the branches of government, and their constitutional framework. Thus, the researcher designed four tables (33, 34, 35, and 36) to simplify the comparative measures to the South African government. Accordingly, Table 33 reflected the use of accountability, governance and IGR within the four indicated countries. Table 34 provided a summary of the branches of

government (legislative, executive and judiciary) of Germany, the USA, Australia and Canada, as outlined in the table on page 188 of this Chapter. Despite the Chapter having discussed the similar aspects of the independence of the branches of government and the constitutional framework of Uganda and Tanzania, Table 35 based its comparative analysis on accountability (participation), governance and IGR in Uganda and Tanzania. In simple terms and for the purposes of these comparisons, the study based the Constitutions at the centre as the main frame of reference for the selected countries. Lastly, Table 36 reflected the checks and balances in relation to the legislative, the executive and the judiciary in Uganda and Tanzania, respectively.

This Chapter analysed **intergovernmental (IG) systems** from an **international perspective** in line with the concepts of accountability, governance and intergovernmental relations, and further illustrated this in Tables 20 and 22, respectively. Furthermore, the Chapter compared the constitutions of the selected countries in terms of providing distinctions on the functioning of the branches of government. At the end, the operational **comparisons of six countries** were analysed against the use of accountability, governance and intergovernmental system in South Africa.

Hence, it becomes appropriate and necessary to discuss and provide a critical analysis of governance accountability in the **next Chapter**. The anticipated investigation will unfold with specific reference to (i) **institutional** accountability, (ii) **constitutional** accountability, (iii) **public servants'** accountability, (iv) **intergovernmental** accountability, (v) **state-owned enterprises'** accountability, and (vi) **oversight and legislative** accountability. In the effort to synchronise the relations between these two Chapters, the next Chapter will also focus on the support offered by the Constitution to the broader theme of "accountability within the governance of intergovernmental relations".

CHAPTER FIVE

THE CRITICAL ANALYSIS OF GOVERNANCE ACCOUNTABILITY

5.1 Introduction

The previous chapter critically analysed the intergovernmental relations (IGR) from the international perspective. The basis of the analysis was informed by the implementation of the accountability, governance and the intergovernmental relations from the six selected foreign countries. The analysis were conducted in the form of the operational comparison insofar as the branches of government in concerned as opposed to the use of the similar system in South Africa.

Accordingly, Chapter 5 planned to deepen the investigation to the critical view of the governance system with the foundation already inherited from Chapter 4. The Chapter intended to do so by extending the debate of the relations in terms of the compliance to the Constitution and the users. The chapter intended to use the chapter nine institutions as the measuring stick to gauge the means of respect to the Constitution. Apart, from that was interested in diagnosing the performance of the economy with regard to the self-sustainability and the financial stability of the state-owned enterprises (SOEs). Lastly, the chapter intended to deepen its scope the measures of control through the mechanisms of the strengthened oversight within the premise of government and to extend the same to the public sectors at all levels. These measures referred to the capacitated Scopa, PPAC and the MPAC in the three spheres of governments.

5.2 Institutional Accountability

The Institutional accountability was discussed in Chapter 3, and in this section, the focus will be centred on key factors of the Auditor-General and the Public Protector within a broader debate. These two accountability institutions will be discussed with regard to their constitutional power to keep check on the state, as articulated by Grootes (2013:107-108). Grootes (*ibid.*) presents that the (i) Auditor-General (AG) is responsible to “report on the finances of government at all levels, has the power to

audit any taxpayer funded organisations”, and (ii) Public Protector (PP) is seen as an effective “public ombudsman, with power to investigate any government entity”. Calland and Pienaar (2016:68) identify the embedded significance of the Auditor-General and the Public Protector, whereby they mention, “It is notable also that, among the Chapter nines, only the PP and the AG are headed by an individual as opposed to a collective”. Hence, the two components attracted attention to their nature of inserting accountability, when compared to the other state institutions, as discussed in detail in Chapter 3, in pages 204-213. Accordingly, Calland and Pienaar (2016:69-70) argue that the Auditor-General and the Public Protector treaded cautiously with the birth of the democratic state in 1994, but as time went on, there was a high demand for more power to instil accountability and do away with the manifestations of corruption in the public sector.

5.2.1 Auditor-General South Africa

According to Brand (2015:215-216), the functions of the Auditor-General South Africa are regulated by the Public Audit Act (25 of 2004). The Public Audit Act, which is mandated by the Constitution, states that the Auditor-General must conduct audits and report on the accounts and financial management of the three spheres of governments. It is for these reasons that Thornhill *et al.* (2014:118) states that the Auditor-General is the key actor in ensuring proper control mechanisms of accountability. Khalo (2018:230) and Hatchard (2014:72) argue that the Auditor-General must have full autonomy in terms of personnel and the budget. Furthermore, it is also argued by Brand (2015:215-216) that despite the Auditor-General having to report to the National Assembly for the sake of proper accountability, the functions of the Auditor-General are constitutionally protected. Hence, Nyamori and Nyamori (2015:282) argue that the relationship between the Auditor-General and the Parliament is important for accountability purposes. Therefore, the Auditor-General South Africa was expected by law to be:

- Impartial;
- Functioning without fear, favour or prejudice; and
- Accountable to the National Assembly.

According to Khalo (2018:230), the functions of the Auditor-General are to be regarded as “ex post facto financial control” because the Auditor-General has the power to investigate financial transactions and their historical occurrences. The investigations of this nature by the office of the Auditor-General are conducted with the intention to ensure legality, regularity, efficiency and effectiveness. Having mentioned the responsibility to investigate financial matters, Khalo (2018:230) further argues that the Constitution allocates the office of the Auditor-General the powers to audit and report on the accounts, financial statements and financial management of:

- national and provincial state departments and administration,
- municipalities, and
- any institution or accounting entity funded by the National Revenue Fund, or the Provincial Revenue Fund, or by a municipality.

5.2.2 Public Protector

While addressing the Women Indaba in Durban in March 2017, Adv. Busisiwe Mkhwebane, the Public Protector, made three clear statements – that her office will (i) not investigate court decisions, (ii) be accessible to all persons and communities, and (iii) make her reports accessible to the public, except in exceptional circumstances. Apart from having discussed the functions of the Public Protector in detail, as stated in Section 182(2) of the Constitution, in the previous Chapter, it was indicated that the Public Protector’s functions were not conclusive. Hence, some of the powers of the Public Protector are spelt out in other legislation, which are adopted by the National Assembly. The Public Protector indicated that these pieces of legislation extend her constitutional powers and entrench the principles of good governance. Accordingly, as alluded to in this paragraph, some of the legislation which give effect to certain powers for the Public Protector, as listed by CIGFARO (2017:8-9), are as follows:

- **The Public Protector Act:** This Act empowers the Public Protector to investigate, conciliate, negotiate and advise in any form of a dispute, and to rectify any formation of maladministration. Furthermore, the Public Protector is mandated to investigate the abuse of power and state resources, as well as the conduct and act of corruption.
- **The Violations of Executive Ethics Code:** to investigate any reports on the breach of the ethics code.
- **The Prevention and Combating of Corrupt Activities Act:** it provides the Public Protector with the power to investigate corrupt activities.
- **The Protected Disclosures Act:** it gives the Public Protector the right to receive information and protect the identity of whistle-blowers.
- **The National Protection of Housing Measures Act:** the office of the Public Protector may review the decisions of the National Home Builders Registration Council.

Adv. Mkhwebane, during a routine visit to the North West province (*The New Age*, 24 March 2017:1), appealed to all stakeholders to cooperate and work with her office. She further stated that her office is open to all and accessible to all sectors of societies in all communities. Moreover, Adv. Mkhwebane confirmed thousands of cases filed with her office – cases that needed urgent attention. These reported cases were received from various sectors, including municipalities, government departments, Eskom and the Office of the Premier in the North West province.

5.3 Constitutional Accountability

An analysis of the Constitution was conducted in Chapter 3 of this study, with reference to Chapter 3 (Sections 40 and 41 of the Constitution). It is important for this Chapter to note that the South African Constitution is considered as the supreme law of the country; therefore, it is relevant for it to express itself on the measures of

accountability. Despite having discussed accountability in line with the state institutions, the in-depth analysis of the Auditor-General and the Public Protector, as part of the state institutions, were dealt in-depth in pages 287-290 of this study. Hence, the special focus on constitutional accountability and oversight, as outlined in the introductory section in pages 36-45 and 200-204 of this study respectively.

5.3.1 Constitutional Values

As Alexander (2011:1) argued earlier in this study, and as the study concurs, despite different types of constitutions, there is one commonality – that the constitution is the supreme law of that specific country. This applies to the six countries discussed in Chapter 4 of this study (i.e. Germany, USA, Australia, Canada, Uganda and Tanzania). The reference may be drawn from the discussion about Australia in Chapter 4, page 261 and Canada on page 269. Kahn *et al.* (2016:31) also confirm that the Constitution of South Africa is the supreme law of the country and as the result it needs to be upheld at all times. Given this background, Section 1(d) of the Constitution advocates for regular elections as a means “to ensure accountability, responsiveness and openness”. Therefore, the value factor of accountability, as entrenched in Section 1(d) of the Constitution, confirms the existence of constitutional accountability.

5.3.2 Principles of Intergovernmental Relations

According to Tau (2015:804), the principles of intergovernmental relations (IGR) and cooperative governance are strengthened by the constitutional mandate in terms of Section 41(2) of the Constitution, to establish structures and institutions supporting intergovernmental accountability. Hence, the establishment of the Local Government: Intergovernmental Relations Framework Act (2005) as the means to entrench constitutional accountability. The advanced discussions were presented on Chapter 2, in pages 36-45. On the other hand, the call in Section 41(1)(c) of the Constitution refers to “effective, transparent, accountable and coherent” governance. The pronouncement of Section 41(1)(c) cements the commitment of the Constitution to the principles of accountable governance in South Africa.

5.3.3 Interventions into Lower Spheres of Governments

The study introduced the principle of intervention in the other spheres of government in Chapter 1, in pages 5-8. The study went further to detail the functions of each sphere of government in the form of Schedule 4 and 5 of the Constitution. Despite the assertion by Kahn *et al.* (2016:154-160) in Chapter 3, in page 110, which created the impression that the intervention in terms of Section 100 and 139 neutralises the autonomy of the other spheres, the study is of view that these interventions form part of constitutional accountability. Intervention in the other spheres does not occur willy-nilly, but rather takes place only when the affected spheres do not perform their functions properly, as dictated in Section 100(1) and Section 139(1) respectively. The two sections read as follows:

- **Section 100(1):** "when a province cannot or does not fulfil an executive obligation in terms of the Constitution or legislation, the national executive may intervene by taking any appropriate steps to ensure fulfilment of that obligation".
- **Section 139(1):** "when a municipality cannot or does not fulfil an executive obligation in terms of the Constitution or legislation, the relevant provincial executive may intervene by taking any appropriate steps to ensure fulfilment of that obligation".

The two sections of the Constitution outlined above clearly indicate the force of constitutional accountability to enforce the performance of and the compliance to the allocated and mandatory obligations, as thoroughly discussed in Chapter 3, see pages 186-187 and 187-192 of the study. As Section 1(d), as discussed above in page 292, calls for accountability, Sections 100 and 139 of the Constitution demand assistance in the junior sphere. This form of assistance constitutes constitutional accountability and oversight by the overseeing intervening sphere.

5.3.4 Patterns of Constitutions

The study identified four types of constitutions, which form the foundations of many countries worldwide. The constitutions, as discussed in page 230, are (i) Monarchical or Republican Constitutions, (ii) Democratic Constitutions, (iii) Religion-orientated Constitutions, and (iv) Marxist-informed Constitutions. According to Burgess and Gagnon (2010:14), the South African Constitution is considered a Democratic Constitution (see page 231). Despite, the origin of the South African Constitution directly linked to the democratic formations Banks and Smolla (2010:1188) argue that almost all the constitutions have the manifestations of the religious orientation.

5.4 Public Officials

5.4.1 Deficiencies and Incapacities

According to Kahn *et al.* (2016:202-203), accountability within the government of intergovernmental relations, as a form of a people-orientated organisation, demands better service across the different spheres of government. This service to communities is required to strengthen and enhance cooperative governance across the spheres of government. Accordingly, there is a need to improve public officials' capacity regarding (i) allocated responsibilities and tasks, (ii) the management of performances and accountability, and (iii) maintaining high levels of ethical standards and values. It must be noted that the organisational, managerial and people factors are likely to impact on the functionality of IGR if public servants are not well trained to render quality service (Kahn *et al.*, 2016:202-203). Kahn *et al.* (2016:202-203) present the following people factors as part of the determinants that affect cooperative governance. These impacting determinants are inclusive of-

- a shortage of skills,
- weak leadership,
- low levels of trust relationships,
- high levels of negative perceptions,
- weak relations between officials,
- narrow self-interest,

- low levels of commitment, and
- a lack of knowledge and understanding about the systems of cooperative governance.

Herbst and Mills (2015:xv) argue that the above-mentioned human factors are the products of cadre deployment and high levels of incapacity. It is further argued that the same human factors kill the confidence of ordinary citizens. The authors (*ibid.*) are further of the view that the increased crime rate, bloated civil service structures, and the high rate of service delivery protests in various municipalities are the result of human factor problems. Moreover, it is said that a classical example of the challenges of electricity supply experienced by the state-owned electricity utility, Eskom, were caused by skills shortages and the abuse of the supply chain. The skill shortage at Eskom, as presented, manifested from the poor selection of executives and board members. It is also said that there is hope that the country will pull through this crisis if it can invest its efforts in the development of public officials (Herbst *et al.*, 2015:xv).

According to Amtaika (2013:7), the lack of accountability by public officials exaggerated the gaps within the national legislation, which has created red tape in its operations. Amtaika (2013:7) further argued that the lack of accountability among public officials is “complicated by the lack of clarity on the respective roles and responsibilities of the national, provincial and local spheres, as set out in schedule 4 and 5 of the Constitution” (*ibid.*). Despite the lack of clarity and gaps within the Constitution, the challenges of accountability range from a lack of integrated planning, inefficient delivery, a lack of capacity, underspending on projects, wasteful expenditure and corruption. Conversely, Cohen, Eimicke and Heikkila (2013:xii) assert that effective public management is influenced by motivated employees, resources and budgets to work with policymakers and the public.

The lack of skills and incorrect deployments are not the only reasons for the South African government failing to account. *The New Age* (8 May 2017:4) identified the problem of the vacancies of Directors-General in various state departments. The Director-General is the most senior accounting staff member in the administration of South African intergovernmental governance. It would therefore be of critical

importance to note that in the absence of these accounting officers the (i) principles of good governance, (ii) service delivery programmes, and (iii) the implementation of the National Development Plan are at stake, if not compromised. Furthermore, *The New Age* (8 May 2017:4) highlighted these affected state departments, which are supposed to be championing the programmes of Vision 2030 of the National Development Plan. They are below summarised in accordance with the department and the duration of the vacancy:

Table 37: Government Vacancy List for Directors-General

	Name of Department	Vacant Position	Duration of the Vacancy
1	Arts and Culture	Director-General	24 months
2	Communications	Director-General	34 months
3	Cooperative Governance and Traditional Affairs	Director-General	10 months
4	International Affairs and Cooperation	Director-General	9 months
5	Military Veterans	Director-General	24 months
6	Mineral Resources	Director-General	13 months
7	Planning, Monitoring, and Evaluation	Director-General	18 months
8	Economic Development	Director-General	23 months
9	Transport	Director-General	10 months
10	Communication and Information Systems	Director-General	19 months

Source: Own Construction

The above table indicates ten national departments that have operated with no senior managers (i.e. Director-Generals) for periods exceeding two years. To be precise, the vacancies for these senior positions ranged between 9 and 34 months. The absence of senior managers means that these departments were left at the mercy of junior personnel in an acting capacity for long periods. This results in major decisions not being made due to the uncertainty of the limited capacities of the acting personnel. Table 37 confirms the serious negative hurdles to implementing the National Development Plan.

According to Thornhill and Cloete (2014:94), it was reported by the Auditor-General that some municipalities could not utilise their allocated financial resources. Moreover, some municipalities were unable to recover revenue from consumers for services rendered. The same report by the Auditor-General reflected huge amounts of

unauthorised expenditure and fraudulent activities in some state departments. Hence, the study chose to adopt the submission by Koenig-Archibugi (2012:218) that in a democratic dispensation accountability is critical because it assists the citizenry to control those who hold public office.

Apart from administrative public officials, political public officials are also affected by the instability and continuing changes in government departments. The change of leadership in the ministry of finance within the period of five years is a classic example. According to Tito Mboweni, the Minister of Finance, as reported in *Mail & Guardian* (1 November 2018:27) these changes and inconsistencies are the sole reason for the growing government debt. According to a report in *Mail & Guardian* (1 November 2018:30), the departmental budgets are presented by different ministers, but despite these ministers being deployed by the same political organisation, the African National Congress, the order of priority may differ in terms of strategic preferences in growing the economy and creating employment. Apart from the preferences of growing the economy and creating employment, the expenditure and revenue may also be affected by the inconsistent political deployment in the critical Department of Finance (*Mail & Guardian*, 1 November 2018:30), as reflected below:

Table 38: South African Budgets (2013-2018)

Year	Minister	Growth Forecasts	Unemployment	Expenditure vs Revenue
2013	Pravin Gordhan	3,5%	Unemployment is high and many households are over-indebted.	Revenue, R907 bn vs R1042 bn expenditure
2014	Nhlanhla Nene	3%	Economic growth of around 5% a year needed to reduce unemployment and poverty decisively.	Revenue, R1012 bn vs R1147 bn expenditure
2015	Nhlanhla Nene	1,5%	Unemployment not highlighted in this year	Revenue, R1091 bn vs R1228 bn expenditure
2016	Pravin Gordhan	0,5%	Employment in decline	Revenue, R1220 bn vs R1373 bn expenditure
2017	Malusi Gigaba	0,7%	Creating employment and dramatically rolling back the tide of unemployment remains the most urgent priority.	Revenue, R1298 bn vs R1445 bn expenditure
2018	Tito Mboweni	0,7%	Unemployment is unacceptably high. Poor services and corruption have hit the poor the hardest.	Revenue, R1360 bn vs R1549 bn expenditure

Source: *Mail & Guardian* (1 November 2018:30)

5.4.2 Governance Distress

According to Amtaika (2013:302), governance within intergovernmental relations in the three government spheres has experienced continued distress because of the tensions between public servants and politicians. A classic example was drawn from the functioning of a municipality. The administration of the municipality is left in the hands of the Municipal Manager, who is regarded as the Accounting Officer, and as such the accounting officer is expected to meet certain qualification requirements before his/her employment. At the same time, the Accounting Officer is accountable to the Council, which is formed by elected Councillors who do not have any qualifications nor experience, but were elected into office. The same Council is expected to play an oversight role over the administration through observing various legislation. It is argued that discord between the public officials and public servants is rife, emanating from these grounds (Amtaika, 2013:302). The study concurs with Van der Waldt (2004:378) that regardless of the situation, the municipal management is expected to steer the ship in an accountable manner. However, from a practical point of view, the management under these circumstances proves to be mission impossible in regards to the Auditor-General.

The incapacities of public servants cannot be restricted to the public sector – the private sector is also affected. This is confirmed by *Sunday Times* (28 June 2015:19), which reported that load shedding by Eskom resulted from (i) poor planning, (ii) lack of maintenance, and (iii) poor management. The report further recommended a public-private partnership, in which the state would remain the main shareholder. The public-private partnership programme might save the taxpayer money, through the National Treasury, and Eskom could become financially sustainable of its own accord (*Sunday Times*, 28 June 2015:19). *City Press* (25 June 2017:2) published a similar report on another state-owned enterprise, PetroSA. The report stated that the gross incompetence at PetroSA led to the failure of the Ikhwezi project, to the value of R14,5 billion. The reasons for the failure were diagnosed as (i) the change of the construction company on four occasions, (ii) the failure to put the project out on tender, (iii) the high number of acting personnel in senior positions in both PetroSA and the Central Energy Fund, and (iv) the general incompetence of officials. The report further classified the

collapse of the Ikhwezi project as the “biggest corporate loss” for PetroSA, saying that such a loss sent disturbing signals to financiers (*City Press*, 25 June 2017:2).

5.4.3 Public Administration

Thornhill and Cloete (2014:142-143) argue that each country practices its separate system of municipal authorities. In some countries, municipal authorities are independent, while in other countries they are more of an agent for the national government. Most democratic countries adopted the system whereby the national government prescribes legislation, rules and regulations. A relationship of this nature provides municipalities with the option to recruit from the pool of both national and local prospective recruits. It is for this reason that Thornhill and Cloete (2014:94) argue that there are accountability measures in place to circumvent the challenges within the circles of local government. The accounting measures introduced in South Africa include the annual audit by the Auditor-General.

According to Hendriks (2017:312), the public sector is responsible for the larger part of society and, as the result, accountability became its primary objective and precondition to conduct government business. Therefore, accountability becomes a crucial factor in promoting the democratic system and intergovernmental relations by monitoring and controlling government conduct in the three spheres of government. Furthermore, in the process of monitoring and controlling the behaviour of government through the means of accountability, the concentration of power through the enhancement of learning capacity and effectiveness on the public administration should not be compromised (Hendriks, 2017:312). Hendriks (2017:312) states that accountability within the governance of intergovernmental relations in the public sector is characterised by three main features. These main accountability features are information, justification, and punishment or compensation. These accountability features within the functioning of the public sector may be simplified as follows:

- **Information:** the regulation of periodic information flow between politicians and the public, which might also be conducted by means of public institutions at all levels.

- **Justification:** the provision of unquestionable and justifiable reasons for whatever decisions are made by the leadership or public officials in the case of the public administration.
- **Punishment/Compensation:** the applicable steps or measures taken by the appointed accounting institutions or state institutions for the transgressions and/or alternatively the rewards for work well done by the superiors (Hendriks, 2017:312).

In line with the above, Hendriks (2017:312) argues that the three features are inseparable in the sense that, in the first instance, the information should not be stuck with one component. The information on the policy matters of government needs to be cascaded across all government sectors to ensure successful implementation. Secondly, the directive issued for compliance needs to be justifiable to equate and/or warrant auctioning by all levels of government (both politically and administratively), and lastly, there must be rewards for good performance; while on the other hand, there must be punishment for ill directives as fair recourse for accountability and good governance.

5.4.4 Capacitation of Public Officials

Cloete (2019:6) argues that the capacitation of public administrators in South Africa is enshrined in the Constitution (1996). The author (*ibid.*) presents that the Constitution provides for the capacitation across the three spheres of government, the organs of the state and the public entities. The Constitution permits the development of the legislation and policy in line with “career-development practices to maximise human potential”. Accordingly, apart from the representivity of all citizens, the public administrators in three spheres of government are expected to have the necessary skills, expertise, education and competence. According to Cloete (2019:20), the outcomes of the capacity-based National Skills Development Plan (NSDP) may be drawn from the table below:

Table 39: Outcomes of the NSDP

Principles	Goals
Outcome One: Identify and increase production of occupational demand	The goal of determining occupations in high demand is to improve the responsiveness of the post-school education and training system to the needs of the economy and to the broader developmental objectives of the country.
Outcome Two: Linking education and the workplace	The goal is to improve the relationship between education, training and the workplace and to ensure that students are adequately prepared for the world of work.
Outcome Three: Improving the level of skills in the South African workforce	The goal is to increase the number of workers participating in various learning programmes from 37% in 2016 to a minimum of 80% by 2030. This will address the challenge of low productivity in the workplace, slow transformation of the labour market, and a lack of mobility of the workforce.
Outcome Four: Increase access to occupationally directed programmes	It is recognised that South Africa’s intermediate skills base is too low to support the country’s socio-economic development goals. The goal is to ensure 30 000 artisans are trained annually to address this problem.
Outcome Five: Support the growth of the public college system	The goal is to increase institutional support to TVET Colleges, which are regarded as a critical pillar for social and economic development to address the low qualifications profile of South Africans. StatsSA estimates that more than 18 million people above 20 years have educational levels below the National Senior Certificates.
Outcome Six: Skills development support for entrepreneurship and cooperative development	The goal is to increase support for entrepreneurial activities and the establishment of new enterprises and cooperatives.
Outcome Seven: Encourage and support work-initiated training	The goal is to ensure that worker-initiated education and training are encouraged to contribute to a workforce that is better able to understand the challenges facing the economic sectors in which they operate.
Outcome Eight: Support career development services	The goal is to ensure that career development services are provided that will contribute to the larger goal of assisting the people to embrace and fulfil their potential. Career development must be accessible, especially in rural areas and for targeted beneficiaries of the NSDP, and prioritisation of both sectoral and government priorities.

Source: Cloete (2019:20)

Table 39 demonstrates eight demarcated outcomes for the development and capacitation of public officials, in accordance with the National Skills Development Plan. The targets of these outcomes are linked to the National Development Plan, as the national policy document in as far as education is concerned.

In line with the above, Ijeoma et al. (2013:163-166) state that the capacitation of public officials depends solely on skills development and training, as envisaged by Chapter 10 (Section 195) of the Constitution. The authors (*ibid.*) further argue that training and development improve the quality of life of people if it is done in accordance with Section 68 of the Local Government: Municipal Systems Act (32 of 2000). Accordingly, the Local Government: Municipal Systems Act states that:

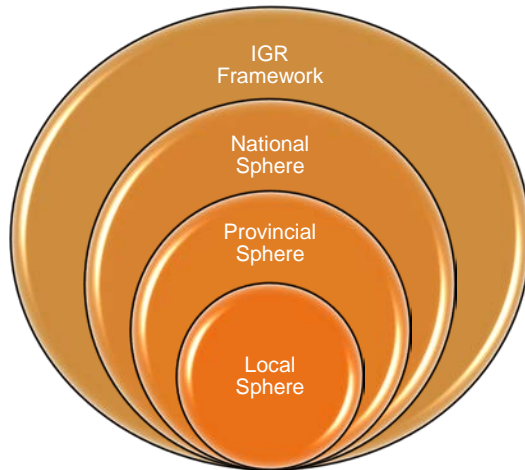
- the municipality must develop its resource capacity in order to perform its functions economically, effectively, efficiently, and in an accountable manner,
- the municipality must make provision in its budget for a room for the development and implementation of its training interventions,
- the municipality, without the sound financial muscle for training, may apply to the Local Government Sector Education and Training Authority (LGSeta) for training interventions, and
- the training interventions are to be aligned with (a) the Local Government: Municipal Systems Act, 32 of 2000, (b) the Skills Development Act, 81 of 1998, (c) the Skills Development Levies Act, 28 of 1999 and (d) the Basic Conditions of Employment Act, 75 of 1997 (Ijeoma *et al.*, 2013:163-166).

5.5 Accountability within the Circles of Intergovernmental Relations

It is imperative for the study to reflect on intergovernmental relations' accountability to offer the full complement of governance accountability, in accordance with the topic of this Chapter. This will assist in developing a better understanding on "accountability

within the governance of intergovernmental relations”. According to Siddle and Koelble (2012:51-53), IGR is fragmented as the result of clientelism, capacity and financial constraints. Therefore, the nature of intergovernmental relations (IGR) in South Africa has to be discussed in the context of Chapter 3 of the Constitution.

Figure 18: IGR Framework (South Africa)



Source: Own Construction

Figure 18 depicts an inclusive IGR framework, which operates from the centralised power of being distinctive, interdependent and interrelated, as advanced in Chapter 3 of the Constitution. Hence, governance accountability cannot be seen divorced from IGR accountability. As a result, for the purposes of this Chapter, the discussion will depart from the single integrated framework of IGR, as reflected in the Figure above.

However, **it had be indicated** that this discussion shall not be presented at length as the details were already provided in Chapter 3. This item provided the scenario of (i) the Standing Committee of Public Accounts (the national sphere), (ii) the Provincial Public Accounts Committee (the provincial sphere), and (iii) the Municipal Public Accounts Committee (the local sphere). These key public accounts committees advance oversight and accountability within IGR in South Africa. It is for the same reasons, as presented above, that the Development Assistance Committee (2014:21) affirms that “accountability systems” are the core functions of good governance. As a result, the focus should not be narrowed to the single sphere, which enjoys the wider control of the finances in the three spheres of IGR. The Development Assistance Committee further argues against one-sidedness, but in support of the

interrelatedness of the spheres, and “instead to look more closely at the linkages among actors and how these can be strengthened over time”. Hence, the Chapter identified and discussed the public accounts committees as a means of strengthening IGR accountability at national (Scopa), provincial (PPAC), and local level (MPAC) (Development Assistance Committee, 2014:21).

5.5.1 Intergovernmental Accountability as Oversight

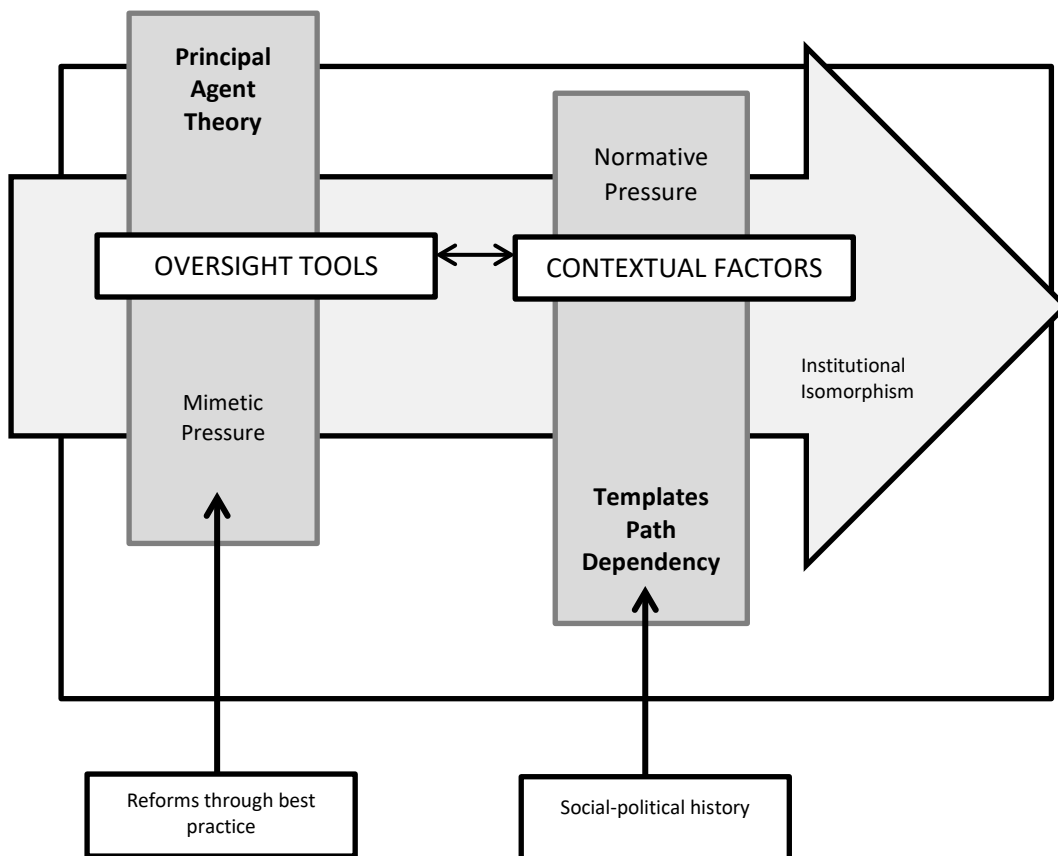
The study in this section seeks to provide a deeper understanding of the concept “oversight”, which is closely related to and inseparable from accountability. According to Madue (2014:863-864), oversight is more concerned about ensuring the checks and balances in the exercise of power. The author (*ibid.*) further indicated, “The oversight function consists of supervision of the implementation of government policies in ministries and departments which the legislature has made laws for”. Oversight is also construed to be an instrument, which is designed to hold the elected and those deployed in the governance arena accountable (Madue, 2014:863-864). According to Kahn *et al.* (2016:269-270), there is a dire need to maintain improved oversight to ensure maximum adherence to legislation for the purpose of ensuring professionalism within the civil service. Hence, oversight ensures “more stability in the state machinery for administration and accountability” within the circle of good governance. Furthermore, the authors (*ibid.*) argue that in terms of Section 114(2) and Section 133(2) of the Constitution, intergovernmental relations (IGR) applies to all spheres of government. Therefore, all the executive and legislative functionaries in all spheres ought to be thoroughly oversight-compliant to ensure the following:

- that the delivery of services to the citizenry is faster through the support of appropriate legislation,
- that oversight is always part of service delivery programmes, which are aimed at reinforcing the relations of both the legislation and the executive, and

- that oversight is used as a tool to build the interrelationships between the legislature and the executive, as well as the administration, the provincial legislature and the executive councils (Kahn *et al.*, 2016:269-270).

According to Pelizzo and Stapenhurst (2014:100), it is critically important for citizens to hold the government accountable in order to eliminate the self-invested interests by elected officials. This would indicate a citizenry who care for good governance, as the political elite has the tendency to neglect the electorate. It is imperative for the citizenry to ensure that the government was held accountable for its actions, decisions, implementation of policies, and expenditure (Pelizzo & Stapenhurst, 2014:100).

Figure 19: Conceptual Framework for Accountability



Source: Pelizzo and Stapenhurst (2014:83)

In line with Figure 19, which represents the road of transformation from legislative oversight to reduced corruption, there is a demand for the design of deserving oversight tools. These oversight tools ought to be transformed into the contextual factors to be understood by all participants or role players in order to promote

accountability and ultimately reduce corruption. Hence, the Figure above suggests that strong and effective legislative oversight results in reduced corruption, which creates a palatable space for accountability. Thus, Kanyane (2016:102) suggests a new dimension of strengthening oversight by means of coalitions. The author (*ibid.*) is of the view that coalitions have the potential to interpose IGR in the three spheres of government. Kanyane further (2016:2012) argues, "... such coalitions could bring about a robust legislature, oversight, governance and accountability in the local, provincial and national spheres of government". Kanyane (2016:102) also makes reference to the 2016 local government elections, which gave birth to coalitions in municipalities, which resulted in those municipalities assuming stronger oversight roles and improved accountability.

5.5.2 Standing Committee on Public Accounts

In line with the above argument in pages 303-304 on the measures for good governance and accountability through oversight by Kahn *et al.* (2016:269-270), Hendricks (2017:323) concurred that the national government needed to have its own internal control mechanism to enforce effective oversight. The appointment of the Standing Committee on Public Accounts (Scopa) by the National Assembly may be identified as a clear indicative factor. The author (*ibid.*) insists, "It is important for Scopa to strengthen its oversight function by being allowed to report without fear or favour". Scopa may be seen as reactive rather than proactive by virtue of its nature to review quarterly reports instead of guiding the accounting officers on how to improve their accounting principles. However, the Committee was given the full mandate to effect changes to its operation for full functionality and accountability. According to Hendricks (2017:323), the Committee needs to ensure that:

- its activities are more proactive than reactive in dealing with received documents,
- it reconciles the activities of the departments with their expenditure and further records the deviations for accounting purposes,

- it tracks down departmental performance, as well as the performance of the accounting officers in line with the applicable policies, and
- it makes the necessary follow-ups to the set standards of performance to improve the actual performance in every department.

In a separate incident, which supplements the above arguments by Kahn *et al.* (2016:269-270) and Hendricks (2017:323), Scopa showed its muscles as an oversight champion for the national government by subpoenaing senior officials of the South African Police Services (SAPS). These officials were expected to account by answering questions on the findings of the Auditor-General, which reported their conflict of interest by doing business with SAPS. The Auditor-General condemns such activity, and Scopa concurs that such acts breach the principles of accountability; thus, they constitute corrupt activities (*The New Age*, 14 June 2017:4).

Hoque and Thiagarajah (2015:4-7) argue that in general Scopa is designed to examine governmental accounts in an effort to play an oversight role. This was done by using the two primary elements of legislative oversight, which are (i) the mechanisms of oversight, and (ii) the effectiveness of oversight. In the same vein, Scopa was considered an effective oversight tool because:

- parliamentarians do not engage in serious oversight measures,
- public accounts committees provide meagre information on the re-election of Members of Parliament (MPs), and
- newly elected MPs are apprehensive to scrutinise for the fear of ruffling feathers within their political parties (Hoque & Thiagarajah, 2015:4-7).

The argument above by Hoque and Thiagarajah (2015:4-7) is supported by Hoque and Ananda (2015:36), who state that the public accounts committee ought to monitor the performance and accountability of the government's spending and its entities. It is further argued that the public accounts committee be constituted proportionally across

all the political parties represented within the Parliament to ensure inclusivity (Hogue & Ananda, 2015:36).

5.5.3 Provincial Public Accounts Committee

The New Age (19 April 2017:10) reported that the Chairperson of the Provincial Public Accounts Committee (PPAC), Mahlakeng Mahlakeng, made an urgent appeal for financial management assistance to the Ditsobotla Local Municipality and Lekwa-Teemane Local Municipality. The Chairperson appealed to the Provincial Department of Finance, Economy and Enterprise Development, and Local Government and Human Settlement to assist these two municipalities with regard to developing a sustainable financial recovery plan. Mahlakeng conceded that in the two municipalities, salaries, and South African Revenue Services and other applicable statutory deductions on behalf of the employees had not been paid for months and this constituted a serious offence. Furthermore, the chairperson insisted that if the situation was left unattended, Vision 2030 would not realistically be achieved because “there is no political and administrative leadership in either municipality” (*The New Age*, 19 April 2017:10).

Given the regression of municipalities on their audit outcomes by the Auditor-General for the 2015/2016 financial year, the Chairperson of the Provincial Public Accounts Committee subpoenaed two Members of the Executive Council (MEC) to account to him. The Auditor-General, Kimi Makwetu, stated that municipalities had regressed to the point where only four municipalities had attained unqualified audit reports. Furthermore, the Auditor-General indicated that there was irregular expenditure amounting to R7.4 billion experienced in the said financial year as a result of non-compliance to Supply Chain Management policies. Hence, the MEC for Local Government and Human Settlement and the MEC for Finance, Economy and Enterprise Development were subpoenaed to account on the regression and to discuss the measures planned to counteract this trend (*The New Age*, 7 July 2017:1).

5.5.4 Municipal Public Accounts Committee

Khalo (2018:234) defines the Municipal Public Accounts Committee (MPAC) as the other mechanisms, which perform the functions of the auditing committee in municipalities. Hence, the Municipal Public Accounts Committee complements the audit committee. A Municipal Public Accounts Committee was established in accordance with Section 79 of the Local Government: Municipal Structures Act (117 of 1998). Khalo (*ibid.*) asserts that the functions of the Municipal Public Accounts Committee are similar to those of Scopa. Apart from the functions of the Municipal Public Accounts Committee being to play an oversight role over the executive of a municipality, the body has the power to interrogate the actions of the administration. Furthermore, Khalo (2018:234) argues that the functions of the Municipal Public Accounts Committee are not restricted, but included the following prescriptions of the Municipal Financial Management Act (MFMA) (56 of 2003):

- unforeseen and unavoidable expenditure (Section 29),
- unauthorised, irregular or fruitless and wasteful expenditure (Section 32),
- mayoral quarterly reports on the implementation of budgets (Section 52(d)),
- monthly budget statements (Section 71),
- mid-year budget and performance assessment (Section 72),
- mid-year budget and performance assessment of municipal entities (Section 88),
- disclosures concerning councillors, directors and officials (Section 124),
- submission and auditing of annual financial statements (Section 126),
- submission of the annual report (Section 127),
- oversight report on the annual report (129),
- issues raised by the Auditor-General in audit reports (Section 131),
- audit committee (Section 166), and
- disciplinary action instituted in terms of the MFMA.

In line with the above argument presented by Khalo (2018:234), the study seeks to discuss the Municipal Public Accounts Committee by means of providing a relevant and practical example as the Committee is the internal control functionary, which

champions oversight over municipal councils. Thus, the functioning of the Municipal Public Accounts Committee, which is appointed by a council, represents horizontal accountability. The Committee conducts checks and balances with the intention to hold officials and politicians in the local sphere of government accountable. Hence, the study found it appropriate to demonstrate the Municipal Public Accounts Committee oversight argument by including the Municipal Public Accounts Committee programme of the Dr Ruth Segomotsi Mompati District Municipality. The Dr RS Mompati District Municipality incorporates five local municipalities (i.e. Greater Taung, Kagisano-Molopo, Naledi, Mamusa and Lekwa-Teemane). The Municipal Public Accounts Committee programme reflects the oversight for the first quarter of the new financial year (2017/2018).

Table 40: MPAC Oversight Programme

Activities/Meetings	List of Items to be Reviewed	Date	Venue	Time
July 2017				
MPAC Support Staff (Provincial Forum)	<ul style="list-style-type: none"> ▪ To provide feedback and update the LG and HS and AGSA ▪ To share best practices 	Per Invitation	Province	09:00
Chairperson and Support Staff (Provincial Forum)	<ul style="list-style-type: none"> ▪ To provide feedback and update the Provincial Public Accounts Committee (PPAC) ▪ To share best practices 	Per Invitation	Province	09:00
Ordinary MPAC Meeting	<ul style="list-style-type: none"> ▪ Review Section 71 report (Monthly Budget Statements) ▪ Review Supply Chain Management (SCM) monthly reports ▪ Review any other reports referred to MPAC by Council ▪ Adopt MPAC Work Plan and Schedule of Meetings 	7 July 2017	Council Chamber	08:30
August 2017				
Ordinary Meetings MPAC	<ul style="list-style-type: none"> ▪ To review Section 52(d) reports for the quarter ended April - June 2017 ▪ To review Section 71 reports (on a monthly basis) ▪ To review Supply Chain Management (SCM) monthly reports ▪ To write and send reminder letters to the points to where compliance is lacking ▪ To investigate in accordance with Section 32 of the MFMA (UIF) ▪ To review any other reports referred to MPAC by the Council 	18 August 2017	Council Chamber	10:00
Chairperson Internal Activities	<p>Interact with all stakeholders, i.e. (i) creating a platform for all relevant stakeholders to work together in improving audit outcomes, and (ii) improving the oversight on governance, financial control systems and the sustainable quality of financial statements</p> <ul style="list-style-type: none"> ▪ Attending the Audit Committee Meetings ▪ Drafting Annual Financial Statements (AFS) ▪ Drafting Annual Performance Reports ▪ Ensuring compliance to the Internal Audit Charter 	Quarterly basis	Council Chamber	08:00

	<ul style="list-style-type: none"> ▪ Meeting with the Audit Committee Charter ▪ Adhering to Risk-Based Internal Audit Plans ▪ Applying Internal Audit Methodology 			
Chairperson and Support Staff (District Forum)	<ul style="list-style-type: none"> ▪ To assist each other in terms of Section 88 of the Local Government: Municipal Structures Act (MSA) ▪ To discuss any other matters the Forum may deem relevant to discuss 	28-29 August 2017	Greater Taung Local LM	08:00
September 2017				
Ordinary Meetings MPAC	<ul style="list-style-type: none"> ▪ To review Section 71 reports (on a monthly basis) ▪ To review Supply Chain Management (SCM) monthly reports ▪ To review any other reports referred to MPAC by the Council 	18 September 2017	Mayoral Boardroom	09:00
MPAC Support Staff (Provincial Forum)	<ul style="list-style-type: none"> ▪ To provide feedback and update the LG and HS and AGSA ▪ To share best practices 	Per Invitation	Province	09:00
Chairperson and Support Staff (Provincial Forum)	<ul style="list-style-type: none"> ▪ To provide feedback and update the Provincial Public Accounts Committee (PPAC) ▪ To share best practices 	Per Invitation	Province	09:00
Chairperson and Support Staff (District Forum)	<ul style="list-style-type: none"> ▪ To assist each other in terms of Section 88 of Local Government: Municipal Structures Act (MSA) ▪ To discuss any other matters the Forum may deem relevant to discuss 	26-27 September 2017	Kagisano-Molopo	09:00

Source: Dr RS Mompoti District Municipality (MPAC Agenda, 2017:87)

5.5.5 Intergovernmental Structures

According to Van Niekerk (2015:846), intergovernmental structures are sought to integrate intergovernmental governance in efforts to strengthen the principles of good governance. These intergovernmental structures are somewhat related and legislated in the replica form, in the three spheres of government as discussed in detail in pages 170-178 of this study. These intergovernmental structures, which are found in replica forms in the national and provincial governments and in municipalities, usually conform to the same frame of reference. Picard and Mogale (2015:172) assert that the purpose of intergovernmental structures, as a product of the Constitution, is to ensure coherence in the functioning of good governance. Thus, the intergovernmental structures confirm the distinctiveness, interdependence and interrelatedness of South African intergovernmental governance (Van Niekerk, 2015:846; Picard & Mogale, 2015:172).

5.6 Accountability within South African Economic Environment

5.6.1 Political Economy

It is imperative for the study to provide a definition of the term “political economy” as it is not discussed anywhere else in this research, whilst equally it is of critical importance when dealing with governance in South Africa. Therefore, the context of defining political economy derives from the meaning provided by Schoeman (2011:215), who refers to the organisation of the production, distribution and consumption of the South African wealth by the society. The simplified version of the same definition would be “who gains what and who loses what at what costs, as well as the manner of the gains and losses are accumulated”.

In the same vein, Christiano (2010:11) supports the definition of “political economy” by Schoeman (2011:215) and Mungiu-Pippidi (2015:205-206). Christiano (2010:11) and Mungiu-Pippidi (2015:205-206) further submit the argument that society needs to embrace the equal advancement of interests, and in this context, the interest refers to the wealth of the country. The equal advancement of wealth will provide a fair solution to the current political economic challenges in South Africa. It is also advocated that the principle of advancing equal opportunities needs to be applied to all members of

society. Hence, Christiano (2010:215) advances a solution to the political economic challenges by stating "... we could try to do this by trying to make everyone equally happy or in some other direct way. Any given principle of equality of advancement of interests, this is a legitimate aim to pursue".

According to Schoeman (2011:223-223), the distribution of wealth in South Africa has been skewed since the apartheid era; hence, the imbalances of the economy. These imbalances of the economy has attributed to the inequalities and poverty within the South African society. Therefore, the adoption of the dual political economy by the new regime post-1994 did not improve the situation, as the distribution of wealth still benefitted the white minority. As the result of these conditions, the country is divided along the lines of the rich and the absolute poor. There are various factors perpetuating these conditions, which need to be arrested as a matter of urgency. They are inclusive of (i) high levels of unemployment against the rate of growing population, and (ii) the reduced active participation in the economy by the youth and the elderly places a huge burden on the government (Schoeman, 2011:222-223).

The then Minister of Finance, Malusi Gigaba (*The New Age*, 19 June 2017:16), confirmed the imbalances of the economy in the country and the need for radical economic transformation. Botha (2015:96), who confirms the need for economic change, shares the sentiments of Gigaba. Furthermore, Gigaba cautioned, "Pulling down the rich doesn't lift the poor", as economic transformation is about enacting new policies to improve the standard of living for the poor. Hence, the imbalances of the political economy in South Africa, because of the continued growth of poverty and the high levels of unemployment, will be demonstrated in the next table. The table illustrates the conditions of the four provinces as of 2004, but there has been no significant change since then; hence, its relevance to demonstrate the current political economy.

Table 41: Poverty in South Africa

*Province (Selected)	**Percentage of Poor	Percentage Unemployed
Gauteng	42%	45%
Western Cape	32%	17%
Limpopo	77%	+45%
Eastern Cape	72%	+45%

*of individuals in South Africa, 57% live below the poverty line, and 95% of the poor are black South Africans

**People living below the poverty line

Source: Schoeman (2011:223)

The above table reflects the *status quo* as and when the National Planning Commission (NPC) was mandated by the then Presidency to develop the National Development Plan (NDP). Thus, the table confirms the challenge with regard to the escalating poverty and unemployment rate. Despite the inception of the NDP on 15 August 2012, both Balkaran (2017:115) and Biyela *et al.* (2018:222) confirm that the challenges of poverty and unemployment remain a burning issue.

The Star (31 October 2018:6) reported that on 30 October 2018 Statistics South Africa (StatsSA) announced an increased unemployment rate of 0,3%, to reach 27,5% between July and September 2018. The report further confirmed the contrasting information recorded by the Quarterly Labour Force Survey for the third quarter of 2018. According to the Quarterly Labour Force Survey:

- the number of employed persons increased by 92 000 to reach 16,4 million,
- the number of unemployed persons increased by 127 000 to reach 6,2 million, and
- the absorption rate into the labour market remained stagnant at 43,1%,

Similarly, StatsSA stated that the increased employment rate was experienced within the informal sector, whilst the formal sector, private households and agriculture recorded a declined rate of employment, and it is further noted that:

- job seekers declined by 131 000 persons, and
- the number of persons not economically active increased by 65 000,

StatsSA also presented that the largest employment increases were recorded in Limpopo (41 000), Gauteng (22 000) and Mpumalanga (20 000). On the other hand, the Free State and the Eastern Cape recorded employment losses (*The Star*, 31 October 2018:6).

5.6.2 Businesses

According to Sathekge (2017:19), there has been growth in domestic business due to the improved economic indicators. The Business Confidence Index by the South African Chamber of Commerce and Industry for June 2017 went up by 1.7 index points, to 94.9 index points. However, the Business Confidence Index was 0.2 index points less when compared to the Business Confidence Index of June 2016. The fluctuations of the Business Confidence Index are influenced by reckless comments on the economic policy, which threatens investors and business confidence. In order to boost the confidence of investors and businesses, they ought to be addressed with due care.

The then South African President, Jacob Zuma, was upbeat during his attendance and participation at the G20 Summit in Hamburg, Germany in 2107. The President indicated that the leadership of the Summit would pay attention to the world economy, trade and investment, employment, strengthening international relations, financial markets, and international tax cooperation. Fresh from the African National Congress's Fifth National Policy Conference at Nasrec, the then President was confident that the participation of the country would be guided by the following pillars (African National Congress, Fifth National Policy Conference document, 2017:84-85):

- Promoting world peace and a fair global economic guide,
- Promoting Africa's sustainable development through the means of global partnerships and the transformation of international institutions (e.g. the

International Monetary Fund, the World Bank, and the United Nations Security Council), and

- Promoting cooperation with other international countries.

In line and consistent with the above programme of the former president (Jacob Zuma), the office of the present president (Cyril Ramaphosa) in 2018 outlined the series of meetings with one of the global economic force of G20 (Germany). President Ramaphosa committed to resuscitate the economy of the country. As part of participating in the G20, the president undertook to engage (i) the heads of state and governments, (ii) the Africa Conference, and (iii) the G20 Investment Summit (*The Star*, 31 October 2018:25). The series of these meetings lined up for the President, accompanied by the Minister of Finance, Tito Mboweni, were as follows:

- meeting with the German Chancellor, Angela Merkel,
- a dinner hosted by the German president, Frank-Walter Steinmeier,
- address a business breakfast hosted by Professor Heinz-Walter Grobe, who is the Chairperson of the sub-Saharan Africa Initiative of German Business and the Chairperson of the Management Board of Braun Melsungen,
- meet the G20 Investment Summit in his capacity as the Co-chairperson of the Africa-G20 Advisory Group,
- attend the German Direct Investment in Africa meeting, which was organised under the theme “A New Era of German-African Business Relations”,
- participate on the Compact with Africa, and
- attend the working dinner hosted by Chancellor Merkel in honour of all heads of state/government and the chairpersons of international organisations.

5.7 Accountability of State-Owned Enterprises

The state is accountable to its parastatals (state-owned enterprises). According to Grootes (2013:114), the state has more than 700 of these state-owned enterprises (SOEs). These businesses (SOEs) are partially or wholly owned by the state. However, they render a variety of services to the public on behalf of the government, for example, (i) Eskom as the electricity utility supplies electricity to the nation, (ii) the South African Broadcasting Corporation (SABC) is the country's public broadcaster, and (iii) South African Airways (SAA) renders air transport services. The government expects these businesses to operate on their own under the guidance of national government policies. Furthermore, these organisations are also expected to generate revenue to fund their activities, and not necessarily depend on the state (Grootes, 2013:114). The study adopts the following table by Grootes (2013:117) to demonstrate the functions and performance of the four parastatals:

Table 42: Functions and Performance of the Parastatals (SOEs)

Blackouts, Bailouts and Payouts: SA Parastatals			
PARASTATAL (SOE)	WHAT THEY DO	IN THE NEWS FOR	INTERESTING STATS
Eskom	National electricity utility	Blackouts, and enormous electricity price hikes since its disastrous 2008	R50 billion - estimated cost to the economy of 2008 electricity crisis
SAA	National airline	Bailouts – by government to keep the airline running	R16.8 billion - government bailouts to SAA since 2004
SABC	National broadcaster	Payouts – to executives who leave the broadcaster, usually under a cloud	More than R25 million – the amount paid out in golden handshakes since 2010
Denel	National arms manufacturer	Being the country's best-run SOE	R157 million – the value of Denel's Airbus A400 contract

Source: Grootes (2013:117)

The table above seeks to draw attention to the accountability of the four selected SOEs. It further projects the lack of commitment to ensure that these institutions are better run with the financial allocations to them. In this regard, Grootes (2013:117) argues that despite Eskom being heavily funded with taxpayers' money by the state,

the country experienced continued blackouts (load shedding). Apart from Eskom, South African Airways was allocated a huge amount of money as a bailout for its financial crisis due to mismanagement and the lack of accountability. Equally, the South African Broadcasting Corporation continued to lose revenue because of poor administrative decisions and unsound accountability measures. This clearly indicates that these SOEs are not properly administered.

According to *Sunday Times* (18 June 2017:9), the chief executive officer of Business Leadership South Africa, Bonang Mohale, urged the government to fast-track the signing of the Financial Intelligence Centre Amendment Act (FICA). Mohale was of the view that the gazetting of FICA would assist in giving the government a stronger tool to clean up the governance in the SOEs, particularly in Eskom and South African Airways. He further made a strong appeal to the then Minister of Finance, Malusi Gigaba, that there must be sound relations between the state and the business sector in order to grow the economy of the country (*Sunday Times*, 18 June 2017:9). Gigaba conceded to the argument by Mohale (*Sunday Times*, 18 June 2017:9) that the governance of state-owned enterprises (SOEs) in South Africa (particularly, Eskom and South African Airways) needed to be “rejuvenated and recapitalised properly” in order to become profitable. Gigaba further encouraged the South African Broadcasting Corporation (SABC) to distance itself from the political arena so as to focus on the broadcasting business, and it should start by filling the existing vacancies of senior managers (*Sunday Times*, 18 June 2017:9). The cautionary stance by Gigaba was taken to a next level by the current Finance Minister Tito Mboweni that SOEs need to be reformed or privatised (*Mail & Guardian*, 1 November 2018:27).

5.7.1 Electricity Utility (Eskom)

Grootes (2013:115) presents that Eskom as an SOE is placed under the guidance of the Ministry of Public Enterprise. As such, the government is directly responsible for appointing the board members and subsequently, the board will appoint the chief executive officer (CEO). The CEO is responsible for the entire administration of Eskom, and is accountable to the board. The board, in turn, is accountable to the Minister of Public Enterprise and the National Assembly (Grootes, 2013:115).

Apart from the management crisis at Eskom, there was also blackouts and labour unrest, which embattled the power utility. The continuing blackouts were a major concern for the SAPS management in terms of the forthcoming general elections on 8 May 2019. Hence, police management appeared before the Portfolio Committee on Police to present their plan on the state of readiness for the elections given the blackouts, because Eskom confessed that it did not have enough generators for all the voting stations. The Deputy National Police Commissioner, Lieutenant-General Sehlahle Masemola, confirmed their readiness despite the threats of load shedding by Eskom. The threat was acknowledged by the Minister of Public Enterprise, Pravin Gordhan, when he said, “We understand their frustrations. We don’t have a magic wand that can enable us to say load shedding is over. It is going to be a huge struggle to actually overcome this crisis” (*The Star*, 20 March 2019:1).

Kurt Knoop and Johann Louis Klopper, who were appointed in February 2018 to resuscitate the troubled Eskom, confirmed that they had secured R1 billion funding on behalf of the institution. This deal enabled Eskom to seal the agreement with the Gupta-linked Optimum Coal Mine to supply the electricity entity with coal. According to Knoop, the former agreement expired in December 2018; hence, the new agreement, which was concluded as Eskom battled intermittent power cuts nationally. This agreement was concluded amid Optimum Coal Mine having featured at numerous occasions in the Zondo Commission on the allegations into state capture inquiry. Optimum first featured at the Commission when the former Eskom “rescuer”, Piers Marsden, indicated that (i) Eskom was advised to terminate the contract with the Mine, (ii) Eskom wanted the agreement with Optimum to continue, (iii) Eskom defaulted on two months’ payments to the Mine, and as the result (iv) the Mine experienced cash flow problems. However, Knoop and Klopper found it fitting to conclude the coal supply deal with Optimum Coal Mine (*The Star*, 20 March 2019:17).

Despite *The New Age* (7 July 2017:19) having reported on 7 July 2017 that Medupi power station was being upgraded with the installation of 48 000 megawatts, the fruits had not been reaped yet. Accordingly, *The Star* (20 March 2019) reported that the Minister of Public Enterprise, Pravin Gordhan, was dismayed by the fact that Medupi power station had not yet been upgraded to 48 000 megawatts, as reported by *The New Age* (7 July 2017:19). Gordhan stated that regardless of the upgrading claims,

the Medupi power station remained at 28 000 megawatts; hence, the continuing challenges of load shedding and blackouts (*The Star*, 20 March 2019:1).

Having noted the relapse of accountability in Eskom as an SOE, President Cyril Ramaphosa sought to divide the power utility into three divisions in order to improve the control, management and accountability. The three entities were generation, transmission, and distribution. However, the opposition parties did not share the sentiments on the unbundling of the entity (SABC News, 14 February 2019). Despite, Knoop and Klopper being contracted as the rescuers of the power utility, *Sunday Times* (21 April 2019:1) reported that Finance Minister Tito Mboweni intended to employ the former Absa CEO, Maria Ramos, to drive the project of unbundling Eskom.

5.7.2 South African Broadcasting Corporation (SABC)

President Ramaphosa appointed a newly reconstituted SABC Board in April 2019. The President disbanded the interim board and replaced them with permanent members for the full term under the chairmanship of Bongumusa Makhathini. He said, “The new board members join the organisation at a critical period when they are most needed to take the organisation forward. We believe that they will provide the necessary guidance and leadership, ensuring that good governance continues to be upheld at the public broadcaster” (SABC News, 23 April 2019). Makhathini also pledged to restore good governance and accountability as the national broadcaster. The chairperson further committed to fast track the finalisation of all the pending editorial policies and ensure that the policies were compliant to the rules and regulations of the Independent Commission Authority of South Africa. However, SABC 2 news on 24 April 2019 reported that the chief operating officer, Chris Maroleng, had been dismissed for misconduct. However, Maroleng stated in an interview on Lesedi FM that his dismissal was unfair and that he would take appropriate legal route to seek remedy for his dismissal.

The appointment of a new board for the SABC could not hide the institution’s financial problems. The SABC, like other SOEs identified above in pages 317-318, was in a dire financial situation. In August 2019, The Board chairperson pleaded with Parliament for R3 billion to address the SABC’s financial woes. Makhathini argued that

the institution would not be able to meet its day-to-day obligations without the bailout (IOL, 28 August 2019).

In January 2019, the Communications Minister, Stella Ndabeni-Abrahams, announced that the National Treasury agreed to bail out the South African Broadcasting Corporation (SABC) from its interim financial crisis. However, the Minister confirmed that the bailout would not be the initial request of R6,8 billion.

5.7.3 South African Airways (SAA)

According to Herbst and Mills (2015:84-87), South African Airways (SAA) celebrated its 80 years as a state-owned enterprise on 1 February 2014. SAA broke a number of aviation records as the business that could sustain its existence without funding from government, even beyond the post-apartheid era. Herbst and Mills (2015:84-85) recorded some of SAAs aviation records for the period 1953 to 1963, and the nature of the records will be reflected fully in the table below. The table will also demonstrate SAA's massive funding by government:

Table 43: SAA's Records and Funding

SAA Funding Records			
No.	Aviation Created Records		Year
1	The first airliner outside the UK to put the De Havilland Comet into regular service		1953
2	Introduction of the Douglas DC-7 between Johannesburg and London		1950
3	SAA became the loss leader in the international market with the cheapest first class fares		1963
Funding from Government			
No.	Funded Amount	Reason for Funding	Year
1	R1,3 billion (loan), R5 billion (two year guarantee) and R500 million (bank facility)	Bailout (loan, guarantee and bank facility)	2012
2	R1,3 billion	Long-Term Turnaround Strategy	2014
3	R6,488 billion	New Guarantee	2015
Bailouts for Parastatals (State-Owned Enterprises) in 2018			
No.	Bailout for Aviation (SAA and SA Express) in 2018		Bailout Amount
1	South African Airways (SAA)		R5 billion
2	South African Express (SA Express)		R1,2 billion

Source: Herbst and Mills (2015)

The table above seeks to draw the attention to the history of bailouts to SAA. Hence, the historiography reflects the two operations of the institution drawn from the era of apartheid and democratic South Africa. In a ten year period (1953-1963), SAA created the record of (i) being the first outside the UK to own the De Havilland Comet, (ii) being the first to introduce the Douglas DC-7 (between Johannesburg and London), and (iii) becoming the loss leader among international leaders for cheap fares. On the other hand, SAA has broken the record of bankruptcy within a three-year period (2012-2015) with record bailouts. Despite, the allocated billions for bailouts the institution still experienced continued losses.

According to the then Finance Minister Malusi Gigaba (*Business Times*, 18 June 2017:1), a new Chairperson was appointed for the SAA board. Gigaba was hopeful that the appointment would bring change to the institution (*Business Times*, 18 June 2017:1). The present Minister of Finance, Tito Mboweni, has adopted a cautionary approach to the funding of SAA given the huge amounts of money invested in the institution. Mboweni's cautionary approach was informed by the money set aside to repay SAA's debt, although he declared that the same reserved bailout had strings attached to ensure accountability. In his medium-term budget policy statement (MTBPS), the Minister indicated that there is a need to impose "... written conditions on SAA before any part of the money is transferred. Parliament must stop any funding if these conditions are not met ...". Mboweni insisted, as part of the accountability measures, that SAA had to disclose its financial activities to (i) the Standing Committee on Finance (the National Assembly), and (ii) the Select Committee on Finance (the National Council of Provinces). Furthermore, the Minister confirmed the continuing discussions between his Ministry and the Department of Public Enterprise as the recipient of the SAA bailout grants. Mboweni appealed to the Department of Public Enterprise to study the government's aviation strategy, and concluded, "If we need to close the airline down, we should" (*Mail & Guardian*, 1 November 2018:30).

Earlier, *The Star* (31 October 2018:26) had also reported on the possibility of closing down the parastatals for non-performance or partnering with private partners for sustainability. The news report further confirmed the bailout information, as indicated in Table 45 above, in that SAA was allocated R5 billion, whilst its sister company, South African Express, was allocated R1,2 billion. *The Star* (31 October 2018:26) also

quoted Mboweni saying that “parastatals may be closed or private equity partners may be invited to buy into parastatals, including SA Airways, which received a R5bn lifeline to prevent a repay debt”.

5.8 Policy Accountability: the National Development Plan

According to Cloete (2011:78-79), the new democratic government chose to speed up the process of transformation. This radical social transformation, as brandished by the government through its National Development Plan (NDP) programme, had to prioritise service delivery by addressing the threesome of (i) unemployment, and (ii) poverty, and (iii) inequality. That was the reason why the President appointed the Minister as the head of the National Planning Commission (NPC) to integrate the national vision for South Africa. The national vision was to be comprehensive in including all challenges facing service delivery and which thus hindered the implementation of the radical transformation of the society. Hence, the policy was to include all factors of the social and economic sectors, as aligned to the principles of a developing state (Cloete, 2011:78-79).

Thus, the National Development Plan (NDP) is the blueprint, which was intended to guide those deployed as government officials to implement transformation in a coordinated manner to address the triple challenges of unemployment, poverty and inequality. In order to ensure the guided implementation of the NDP, the then Minister in the Presidency responsible for Planning, Monitoring and Evaluation, Jeff Radebe, who was also the chairperson of the National Planning Commission (NPC), was responsible to oversee the (i) implementation, (ii) intervention, (iii) progress, and (iv) challenges to achieve the objectives of the Vision 2030 (SA News, n.d.). The table below identifies the strategic priorities, made by government, through its NDP policy programme.

Table 44: Different Formulations of Strategic Government Priorities

Priority	Medium Term Strategic Framework (RSA-Presidency, 2009b:12)	Strategic Plan (RSA-Presidency, 2010:8)
1	Economic growth:	Speed up growth and transform the economy to create decent work and sustainable livelihoods.
2	Infrastructure:	Implement a massive programme to build economic and social infrastructure.
3	Rural development:	Implement the comprehensive rural development strategy linked to land and agrarian reform and food security.
4	Food security and land reform:	Improve agrarian reform and food production.
5	Education:	Strengthen the skills and human resource base.
6	Health:	Improve the health profile of all South Africans.
7	Cohesive and Sustainable Communities:	Build cohesive, caring and sustainable communities, and intensify the fight against crime and corruption.
8	Promotion of a better Africa and better world:	Pursue African advancement and enhanced international cooperation.
9	Sustainable:	Implement sustainable resource management and use.
10	Improvement of the public service:	Build a developmental state, including the improvement of public services and the strengthening of democratic institutions.

Source: Cloete (2011:79)

According to Manuel (2012:42-44), the NDP is not about just another policy or about a complex theoretical document or economics, but to measure improvements with regards to citizens' quality of life. It is about understanding and distinguishing between static and energised democracy. The measurement of the NDP took the form of six pillars: (i) the unity of all South Africans, (ii) the move to create active participatory citizenry, (iii) developing inclusive economic growth, (iv) enhancing and improving capacities and capabilities, (v) joining efforts to build a capable and developmental state, and (vi) developing quality leadership (Manuel, 2012:42-44).

The National Development Plan (NDP), as a national policy, seeks to change the imbalances relating to the inequalities, unemployment and poverty of the citizenry in South Africa. According to Meyer and Cloete (2011:222), a policy of this nature (in this case, the NDP) has to take place during the transition and after the implementation to

bring about the desired outcomes of economic change. The government designed the NDP in order to address the challenges of the unstable economy; thus, resulting in the high unemployment rate.

In the National Development Plan (NDP) document, Manuel (2011:401-403), as supported by Davids, Verwey, Bhagat and Onuoha (2016:257), states that the country has been plagued by corruption since the inception of the democratic governance. Manuel (*ibid.*) further argues that despite the perception that corruption started in 1994, it was there before the democratic dispensation. Manuel (2014) further confirmed that the government had measures in place to combat corruption. However, the success of the NDP as a project depended on the government strengthening its scope in promoting accountability and intensifying its mechanisms to fight corruption. In the efforts to combat corruption, the NDP document identified the following four key factors: (i) strengthening the multi-agency anti-corruption system, (ii) protecting whistle-blowers, (iii) centralisation of large tenders, and (iv) empowering those, who have the mandate to enforce compliance, to apply stricter measures (Manuel, 2011:401-403; Davids *et al.*, 2016:257).

In principle, the NDP, which is presented as the product of the National Planning Commission by Schwella (2015:258) and supported by Balkaran (2017:111), identified nine key deliverables that need to be attended to. These key deliverables are for the purposes of this Chapter treated as the cornerstone and/or yardstick of Vision 2030. Furthermore, Schwella (2015:144-145) and Taylor and Atkinson (2013:189-198) saw the nine key deliverables as diagnostic report and they summarised as follows:

- unemployment,
- education,
- infrastructure,
- spatial patterns (the exclusion of the development of the poor),
- unsustainable economy,
- the public health system,
- the public service sector,
- the manifestations of corruption, and

- inequality and a divided society.

Herbst *et al.* (2015:33) opine that the abovementioned challenges need to be addressed in an integrated manner in order to succeed in eradicating unemployment, inequality and poverty. However, the study will discuss the diagnosed challenges in twofold. In the first instance, the study will provide the background, intentions, and targets envisaged by Vision 2030. The second part will focus on the progress made since the inception of the NDP on 15 August 2012, as asserted by Ramoraka (2013:327).

In an exclusive interview with *Sunday Times* (25 June 2017:16), the then Deputy President, Cyril Ramaphosa, said that the NDP is a good policy document to change the lives of South Africans. However, he was deeply concerned that the implementation by the implementers did not equate to the worth of the document. The sentiments by Ramaphosa were shared by the then President, Jacob Zuma. A SABC journalist, Manelisi Dubase, reported on Morning Live on 12 September 2017 that the President was dissatisfied with the implementation of the NDP. According to Ramaphosa, the three identified reasons, which contributed towards the failure to implement the NDP, were:

- the deployment of the state resources in an improper manner,
- the lack of focused people with the keys to ignite the economy, which would ultimately improve the lives of South African communities, and
- the lack of a continued evaluation plan in order to determine the progress made.

This argument by Ramaphosa sustains this section of the study. The researcher is of the view that the success of implementing Vision 2030 was not solely dependent upon the pre-determined timeframe, but by the mid-point assessment and continuous evaluation, as stated by Ramaphosa (*Sunday Times*, 25 June 2017:16). The mid-point assessment or evaluation would assist the drivers of the NDP, deployed in

government, to refocus their energies in the right direction to achieve the set targeted goals of Vision 2030.

Having analysed the National Development Plan (NDP) from a broader perspective, as advanced above, Cloete (2019:16) customised the plan to the local government sphere. The author (*ibid.*) correctly identified the twin challenges of poverty and inequality as the critical factors in the municipal sphere. These two factors are seen as being influenced by race and gender, which are to be dealt with by a capable state. Hence, Cloete (2019:16-17) asserts that the NDP document has the capacity to support the growth path. The document also has the potential to "... create an efficient, effective and development-orientated local government".

5.8.1 Expectations of the National Development Plan

It is proper for the study to lay the foundation of the NDP by providing the background to its formation. According to Phutiagae (2018:161-162), Malikane (2016:172-173) and Herbst and Mills (2015:46), the NDP was preceded by equally well-structured and planned policy documents. However, all those policy documents failed to address the socio-economic factors of the country, particularly unemployment, poverty and inequality. The first policy document was the Reconstruction and Development Plan (RDP), which was introduced in 1994. The second policy document was the Growth, Employment and Redistribution (Gear) in 1996, and the third policy document, introduced in 2006, was the Accelerated and Shared Growth Initiative of South Africa (ASGISA). The fourth policy document, which preceded the NDP, was the National Growth Path (NGP). However, according to McGregor and Dekker (2017:10), the NGP did not enjoy good support. The failure to transform the economy using these policy documents led to the new dream of the NDP, which was introduced by the National Planning Committee headed by the former Minister of Finance, Trevor Manuel (Phutiagae, 2018:161-162; Malikane, 2016:172-173; Herbst and Mills, 2015:46).

According to Manuel (2011:1-2), the RDP laid down the measures of government to eradicate poverty and deprivation. It further built a united, non-racial and non-sexist South Africa, which resembled a good foundation for a democratic country. The implementation of the NDP was aimed at eliminating poverty and reducing inequality

by 2030, and this could not be achieved with a passive citizenry. It, therefore, demands and challenges all sectors of society to partake in order to realise the targets of the NDP (Manuel, 2011:1-2). The discussion on the expectations of the NDP is in accordance with the argument by Bierce (2013:77), which seeks to explore the means of accountability and realising the desired expectations from what has been learnt during the diagnostic stage.

The argument, as presented above on the National Development Plan (NDP) document, by Manuel (2011:1-2) influenced the introduction of accountability in the study through the policy document. Koliba *et al.* (2011:272) supported by Taylor and Atkinson (2013:186-187) agree that the challenges are not associated with the formulation of policy documents, but with the performance in implementing the plans. Therefore, there must be mechanisms of transformation in place to eradicate the challenges of unemployment, poverty and inequality, instead of substituting policy documents. Accordingly, the new strategy noticed the downfall of the previous documents as the result of one or more of the following:

- Inadequate training and technical know-how,
- Lack of resources,
- Different expectations, and
- Development of programmes that are not measurable.

Therefore, the lessons of the NDP propelled the study to map out the following key factors as constructed by Taylor and Atkinson (2013:186) and Malikane (2016:174). These NDP diagnostic challenges seek to identify the culture of accountability in all sectors of government across the three spheres of government. It further seeks to determine the capacities of ensuring good governance, which is free from corruption, but dedicated to improve the living conditions of the broader society. Hence, Balkaran (2017:108-109) argues that the replacement of one policy document by another is not a definite solution to the current challenges, but the need for “radical economic transformation”. Balkaran (2017:108) argues that only accountable governance will realise radical economic transformation because “South Africa is poorer today and its masses are yet to see real change, and many ordinary people want a new beginning”.

(a) Unemployment

Hammond and Luiz (2016:630), Manuel (2011:10), Herbst and Mills (2015:10) and Davids *et al.* (2016:257) concur that the National Development Plan (NDP) seeks to create 11 million jobs by 2030 and to promote labour friendly industries to absorb more job seekers. Ramoraka (2013:330) sees the absorption of such huge numbers of youth in the job market as a step that will reduce the high levels of crime in South Africa. Mello (2014:172) adds that the creation of jobs alone without training and developing the incumbents will not add any real value because “unskilled and unmotivated officials will tend to do only the bare minimum and the most basic tasks expected of them”. However, the fact remains, as argued by Davids *et al.* (2016:257), that the aim of the NDP to create more jobs will only materialise if the Plan is “effectively implemented”. The Plan will only be effectively implemented if stringent accountability measures are in place and are adhered to by all the drivers of the National Development Plan (NDP).

(b) Education

According to Manuel (2011:277-281), governance accountability will not be sustainable without building a professional education system – an education system that is developed from the level of pre-school (early childhood) up to the level of university. The Technical, Vocational, Education and Training (TVET) colleges are bound to increase the number of artisans and the universities to produce 5 000 PhD students per annum by 2030. However, a step in the right direction was recorded by the Government Digest (2017:10-11), which reported on the State of the Nation Address (SONA) in February 2017. It reflected improved education in the science sector. Then President Jacob Zuma pledged government support to host the Square Kilometre Array (SKA) telescope and the financial injection towards the construction of the MeerKAT telescope, which was informed by the local content (State of the Nation Address, February 2017; Government Digest, 2017:10-11).

Table 45: Upskilling of Labour Force (Summary)

No.	Employee Category	Description	Total Employees		Total Increase	Increase in Percentage
			1994	2014		
1	Skilled	Managers Professionals Technicians	1.8m	3.8m	2m	108%
2	Semi-Skilled	Clerks Sales Machine Operators Crafts Personnel Agricultural Personnel	4.2m	7m	2.8m	66%
3	Low Skilled	Elementary Domestic	2.9m	4.3m	1.4m	49%

Source: Own Construction

The table above makes a comparison of the situation regards to the level of skills competencies between 1994 and 2014. It further projects the differences in Figures to demonstrate the change for improvement. Furthermore, the table clearly proves that there was a significant growth during the period between 1994 and 2014.

(c) Infrastructure

According to *City Press* (23 October 2016:3), the Governor of the South African Reserve Bank, whilst addressing the annual general meeting of the South African Chamber of Commerce and Industry indicated that the government needs to address infrastructure gaps, labour, product market efficiency, productivity growth and institutional strength. The report further encouraged the public and private sectors to rally behind the government institutions in order to create a balance sheet of more than R600 billion in cash to help in the reduction of poverty and thus improve social cohesion. However, the success of achieving all these is dependent upon dedicated and qualified personnel (*City Press*, 23 October 2016:3).

(d) Poverty

The report in the *Sunday Times* (19 February 2017:6), ahead of the budget speech by the then Minister of Finance, Pravin Gordhan, emphasised the importance of preserving fiscal sovereignty and focusing on programmes that seeks to lower the

levels of poverty in South Africa. Thus, Gordhan was taking responsibility when he preserved fiscal sovereignty by rendering quality service delivery to the marginalised poor. Hammond and Luiz (2016:630), who posited that poverty exacerbates the tensions in society, shared the same sentiment. In the attempt to implement his decisions, Pravin Gordhan declined to fund a nuclear power station to maintain the balance between the overall levels of expenditure in favour of improving the quality of life of South Africans (*Sunday Times*, 19 February 2018:6).

(e) Economic Sustainability

Taylor and Atkinson (2013:186) opine that economy can only be built by supporting areas, which seek to boost the economy with high potential growth and employment. The agricultural sector was highlighted as the hub for growing a sustained economy and employment in South Africa. At the same time, the Department of Science and Technology considered the NDP as appealing for the enhanced investment in energy infrastructure to promote economic growth and development. The NDP envisaged to supply 20 000 MW of the additional 29 000 MW of electricity, which was anticipated by 2030. The success in achieving the targets is dependent upon strict measures of accountability in implementing these programmes (Department of Science and Technology, 2017:2).

In the joint sitting of the National Assembly and the National Council of Provinces, then President Jacob Zuma responded to questions in relations to his State of the Nation Address in February 2017. Zuma indicated that education was instrumental for the socio-economic transformation of the country. He further stated that he was not apologetic about radical economic transformation. Hence, there was no need to delay the implementation of radical economic transformation, because it enjoyed the backing of the Constitution. Furthermore, Zuma confirmed using the principles of Affirmative Action and Black Economic Empowerment as the key indicators to implement radical economic transformation. He added that the finalisation of the Expropriation Amendment Act, 45 of 1992 would fast track the process of radical economic transformation, if land was returned to its rightful owners (In Session, 2017:15).

(f) Health

In his speech during the 2017 State of the Nation Address, then President Zuma reiterated the government's commitment to implement the National Health Insurance in order to provide all citizens with universal health coverage. In response to the President's commitment to improving the health sector, *The New Age* (8 May 2017:1) reported that the then MEC for Health, Magome Masike, in the North West Province budgeted R630m for the renovation of old clinics and the erection of new clinics in the following places:

Table 46: Building (new) and Renovating (old) Clinics (R630m Budget)

Renovation (Old Clinics)	Erection (New Clinics)
1. Witrand hospital	1. Madikwe clinic
2. Bophelong psychiatric hospital	2. Jouberton CHC
3. Job Shimankana Tabane hospital	3. Mmakaunyana clinic
4. Excelsius Nursing College	4. Weltevrede clinic
5. JST hospital (Ward 10)	5. Mothibistad CHC
6. Mahikeng provincial hospital	6. Boitekong CHC
7. Potchefstroom hospital	7. Sekhing CHC
8. Marcus Zenzile clinic	8. Brits hospital
9. Steve Tshwete clinic	9. Delareyville bulk pharmacy

Source: Own Construction

According to a report in *Sowetan* (22 November 2016:11), there are good health laws in South Africa, which are fully resourced to be implemented. These laws (i) provide a wide scope of health care services, (ii) improve quality treatment, and (iii) support different kinds of health challenges. These laws enjoy the full protection of the Constitution(1996); hence, they have the capacity to protect, promote and enhance the dignity of all the citizens of South Africa (*Sowetan*, 22 November 2016:11).

(g) Public Service

According to Liff (2011:165), it is important to hold public servants and/or public officials accountable to their principles, as well as to communities. Therefore, it is of paramount importance to ensure that public officials are developed to capacity in order to deliver those tasks. Hall (2012:219) agrees with the argument of Liff (2011:165) that public servants face complex accountability expectations; thus, they need to be capacitated. It is also submitted that the activities of public servants, which take place through IGR, have the potential to increase the complexity. Furthermore, Hall (2011:219) argues that administrators and managers are accountable to elected officials and government institutions.

The Auditor-General of South Africa, Kimi Makwetu, pleaded with the Parliament that his powers as the Auditor-General be extended to include referring certain matters to the Hawks or Special Investigating Unit and/or before the Public Protector. According to the Auditor-General, some of the circumstances leading to the financial malpractices in the public sector cannot be left unattended. The call for the extension of the mandate by the Auditor-General, as reported by *City Press* (25 June 2017:6), supplements the argument by Hendriks (2017:312) that there is a need to punish wrongdoing or reward good performance in delivering good and accountable government (*City Press*, 25 June 2017:6).

In the same vein, the Governor of the South African Reserve Bank, whilst addressing the Annual General Meeting of the South African Chamber of Commerce and Industry insisted that government is responsible for developing infrastructure. The Governor argued that the government needs to address infrastructural gaps, market efficiency, productivity growth and institutional strength. The Governor further encouraged the public and private sectors to rally behind government institutions in attempts to strengthen the balance sheet. However, the Governor argued that it would not be easy to strengthen the government balance sheet with unqualified and less dedicated public officials. Hence, the incapacitated officials compromised the government accountability measures (*City Press*, 23 October 2016:3).

(h) Corruption

According to Chapter 14 of the NDP, the government seeks to achieve a zero-tolerance mark on corruption by 2030. According to Pearmain (2016:351), corruption is the major crisis in the country because it “diverts expenditure away from healthcare products and services into the pockets of the corrupt”. At the same time, the Minister of Health does not have direct access to deal with the situation. As a result, the policy document intends to rid corruption by (i) building a resilient anti-corruption system, (ii) strengthening accountability and responsibility in the public sector, (iii) creating a transparent, responsive and accountable public service, and (iv) strengthening the system and the rule of law.

(i) Inequality

According to Luiz (2016:215-216), economic growth in South Africa is hampered by high levels of inequality and unemployment. As a result, there is an inadequate provision of basic needs in the majority of families. On the other hand, Swift (2014:122) argues that it depends on the angle that the argument on economic inequality departs from but “... economic inequality is bad because - or to the extent that - it undermines fraternal relations between members of society”. The inequality in this regard presented questionable concepts of well-being, and to a lesser extent, it affected people’s self-respect.

In her interview with Abel Mputing during the 20th Anniversary of the Constitution and the establishment of the National Council of Provinces, Thoko Didiza, one of the House Chairpersons of the National Assembly, conceded that there are (i) class differences, and (ii) economic inequalities divided by means of colour, which are still deep-rooted amongst South Africans. She further stated that these divisions are the result of (i) untold injustices and (ii) a legacy of hatred (In Session, 2017:7). In his statement during the State of the Nation Address, the then President, Jacob Zuma, confirmed that South Africa is a developmental state. This means that South Africa is still in the process of building its economy on an equal footing in order to eradicate the imbalances of the past. Zuma presented that the economy, which was equally shared amongst the members of society, will address the triple challenges of poverty,

inequality and unemployment. He further encouraged all government officials within intergovernmental relations to own and be accountable to the implementation of the NDP, in accordance with its guidelines (In Session, 2017:8-9).

5.8.2 Gaps of the National Development Plan

The gaps of the National Development Plan (NDP) was discussed in line with the definition by Bierce (2013:76-77); who defined the term “gap” as “a difference between what you expected and what actually happened”. In this regard, the gaps within the NDP is argued from what the policy document sought to achieve and the progress made thus far, and/or challenges likely to impede on the realisation of the anticipated results. Furthermore, the study will align itself with the other part of the definition by the same author (Bierce, 2013:77), which states that gap refers to “serious, consequential, and complex deviations”.

This Chapter was of the view that the success and/or the failure to account on the implementation of the National Development Plan (Vision 2030) cannot wait until its target period of 2030. The policy document periodically needed assessment along the way to determine its actual progress in order to monitor the serious, consequential and complex deviations in terms of the implementation. Therefore, the argument correctly suggested that the Plan (NDP) might exist on paper. However, if the Plan (NDP) experiences serious deviations in the process then disaster ought to be expected. Hence, there is a need to have an in-between assessment (Bierce, 2013:76-77).

(a) Unemployment

As unemployment is labelled as one of the major concerns in the National Development Plan (NDP), the document intended to create a platform for more jobs by 2030. The third year of the NDP continued to experience major job losses, as Telkom retrenched 3000 jobs due to a turnaround strategy (*Business Day*, 30 April 2015:1). *The Star* (12 October 2016:4) reported on a StatsSA report, which stated that 36 per cent of the youth remains unemployed in South Africa, despite the 1,5 million jobs created. The then Deputy President, Cyril Ramaphosa, confirmed the created jobs as released by StatsSA, but cautioned that jobs could not be created by

government alone. The industries were also encouraged to join hands in creating job opportunities (*The Star*, 15 March 2017:6).

The above argument was substantiated by the then Finance Minister Pravin Gordhan during the 2017 budget speech. Gordhan reported that South Africa finds itself in a critical financial position, “between the rock and the hard place”. As the result, more developmental outcomes had to be achieved with the reduced budget due to (i) slow economic growth, (ii) a high unemployment rate, and (iii) a stressed business sector. Hence, the study concedes the difficulties of matching the expectations of the NDP to meet the desired outcome by 2030 (In Session, 2017:16).

According to *Sunday Times* (21 April 2019:2), the statistics to date indicate that South Africa is still reeling from youth unemployment. As such, StatsSA confirms that the percentage of unemployment youth in the country is higher than any other age group, regardless of education levels. The news report further classified the unemployment rate of the youth in percentages, as follows:

Table 47: Youth Unemployment

Unemployed Youth	
Youth Age Group	Youth Unemployment Percentage
18-24	52,2%
25-34	35,5%

Source: Own Construction

The youth, who form a huge section of the population in South Africa, are most affected in terms of unemployment. The percentages, as reflected in the table above, do not include the young people who have given up pursuing employment and have ultimately become a burden to their parents or siblings (*Sunday Times*, 21 April 2019:2). This argument on unemployment confirms a news report in *The Star* (31 October 2018:26) stating that the World Economic Forum had released a report, which said that the global workforce is bound to transform. Therefore, the sound accountability measures are needed to meet the responses of the Fourth Industrial Revolution (4IR). The Fourth Industrial Revolution identified four challenges, which

impede the drive from unemployment to a brighter future of employment. These challenges are to be met by the following accountable drivers:

- ubiquitous internet access,
- Intelligence Augmentation (IA),
- adoption of big data analysis, and
- cloud computing.

According to the companies surveyed by the World Economic Forum, mixed responses were received, which projected a dark future for the country and the NDP. Half of the companies surveyed expected to reduce their fulltime workforce by 2022. On the other hand, 38% of the surveyed companies were set to enhance productivity and expected automation to create new employment. However, South Africa is a somewhat doubtful beneficiary due to the unaccountability of drivers and sub-optimal education, which dominate the capacity level of the workforce. Hence, there is a dire need for accountability to acquire the set targets of the NDP in order to rely on multilingual and cultural skills (*The Star*, 31 October 2018:26).

(b) Education

According to *Sowetan* (22 November 2016:4), Thandi Modise, the Chairperson of the NCOP, was left speechless during the sitting of the NCOP in East London (the Buffalo City Metropolitan) to learn that some teachers could not construct a single sentence in English. Modise confirmed that she had shared her disappointment and experience of the visit to East London with the then President Jacob Zuma. Modise appealed to the President to intervene with capacity developmental programmes for the teachers. Modise was hopeful that the intervention by the President might spark confidence in the teaching fraternity. What should be noted here is that the educational targets for the NDP cannot be realised in the current state of affairs. The NDP seeks to do away with the substandard education offered to the poor majority in South Africa (*Sowetan*, 22 November 2016:4).

Since the election of the newly democratic government in 1994, minor changes were made to effect significant improvement to the South African education system. The slow pace of change is continuing, despite the government bankrolling and investing huge amounts of revenue in the education system, when compared to Denmark and Iceland. A report (*The Star*, 31 October 2018:26) indicated that the education departments of Denmark and Iceland spent 4,7% and 4,6% respectively of their gross domestic product, against the South African spending of 4,9% of its gross domestic product. The report further stipulates that the dents in the education system are the result of colonialism and the apartheid system, which affected the literacy rate and education levels in South Africa. Despite South Africa being a high spender in education, it still experience challenges with regards to (i) policy implementation, (ii) incompetence, (iii) management of funds, and (iv) corruption (*The Star*, 31 October 2018:26). Apart from the newly diagnostic challenges exposed in the report, the Democratic Alliance Member of Parliament, Cassim (2017:19) argued, “Our education is grappling with the problems of qualified educators who have to teach under crumbling infrastructure and lack of resources”.

(c) Infrastructure

According to Matete (2017:2), there are serious challenges in terms of skilled and trained human capital, despite the call by the NDP to focus the energies and resources of governments on producing more artisans. The failure to develop more skills, as the framework for the broad developmental picture, could put the country on a downward trajectory. He (*ibid.*) further argues that the skills development needs to be interpreted as the future investment in infrastructure. The building of infrastructure is dependent upon the ability to produce quality education and on the training of skilled engineers, artisans and technicians (Matete, 2017:2).

According to a media statement released by the Ministry of Public Works, the Department owns more than 90 000 state-owned buildings. Hence, the Department has prioritised approximately 3000 projects to construct, refurbish, rehabilitate, renew and maintain these government buildings at an estimated cost of R26 billion. The Department further rejected criticism that it had splurged its budget because of a lack of knowledge. It further argued that the Department has a vast mandate, which

includes the structural renovations and maintenance of parliamentary villages, the parliamentary precinct, the Union Buildings and ministerial houses. The Department further asserts that the reason why the Union Buildings, which were constructed in 1913, is still in good shape today because of accountability and a good infrastructural strategy. Thus, the departmental budget of R826 billion cannot be interpreted as a splurge, whilst at the same time acknowledging that such a huge budget demands strict control, monitoring and accountability (*Sunday Times*, 21 April 2019:14).

(d) The Exclusion of the Poor

According to Biyela *et al.* (2018:222-223), the effects of unemployment, poverty and inequality in South Africa remained the challenge that needed serious attention from the government. The dangers of the exclusion of the poor are the result of the dampened economy, which orchestrated the triple challenges of unemployment, poverty and inequality in the country across the three spheres of government. In this regard, (Biyela *et al.*, 2018:222-223) stated, “The presence of shacks, poor infrastructure, unemployment and homelessness all point to how ingrained poverty is”, which resulted from unequal pay, and which needed an accountable government to redress.

The then Minister of Finance, Pravin Gordhan, submitted that the imbalances in the society continued because of the legacy of colonialism and apartheid. He further argued that it would not be easy to do away with these legacies for as long as the allocation of the wealth in the country is still distributed in an unfair manner. The current distance of relations remains huge between the (i) labour and capital, (ii) rich and poor, and (iii) black and white. This gap in relationship formations indicate the pitfalls of what the NDP sought to achieve, and the current state of affairs (In Session, 2017:17).

(e) Unsustainable Economy

According to a news report (*Sunday Times*, 19 February 2017:6), the uncertainty in the economy may be attested to by the intended closure of the iron ore mine in Thabazimbi by Kumba. The management provided two conflicting reasons for its intended suspension, (i) the iron mine in Thabazimbi is not profitable, and (ii) the

closure is temporarily to complete the restructuring process. These conflicting reasons clearly signal the uncertainty of government policy (*Sunday Times*, 19 February 2017:6).

Biyela *et al.* (2018:223-224) are of the view that the strength of the economy in the country needs to be rooted in the three spheres of government. Apart from the fact that the economy may be built in the three spheres of intergovernmental relations, the authors (*ibid.*) see the need for cooperation in service delivery and economic development. Furthermore, the same authors argue that there is a strong link between IGR and local economic development that needs to be protected. It is further argued that despite local economic development being located in the local sphere, it fully contributes towards the economy of the country to make a significant mark to change the triple challenge of unemployment, poverty and inequality. However, it is also emphasised that the successful rewards of local economic development is dependent upon the initiators being accountable to the terms and conditions (Biyela *et al.*, 2018:223-224).

Mail & Guardian (1 November 2018:4) reported that the Finance Ministry showed confidence in the economic reforms outlined by the President to enhance growth. However, the Ministry indicated that the reforms needed policy clarity to lure investors to the country. It also cautioned that senior members in government and politicians should stop contradicting one another on issues affecting the country's economy. The Ministry identified two key factors to improve in order to attract foreign investors:

- **Visas (point of entries):** to offer a 10 year multiple-entry visitors visas for foreign investors to freely conduct their business, and
- **Electricity Supply:** to restructure Eskom in order for the power utility to be reliable and accountable to alleviate the fears of foreign investors (*Mail & Guardian*, 1 November 2018:4).

(f) Public health system

Sunday Times (9 February 2017: 16) reported that the shortage of skilled psychiatrists and trained mental healthcare nurses and health practitioners led to the deaths of the psychiatric patients in Gauteng. There was also a shortage of acute-care beds in hospitals, as well as inadequate medicine for chronic psychiatric patients. As a result, there were an increased number of patients who interrupted or stopped their medication without proper monitoring of the treatment. This situation caused the family members of psychiatric patients to experience extreme stress, and caused growing uncontrollable difficulties for the NGOs dealing with psychiatric patients from the streets. Hence, there must be increased awareness, funding and staffing for psychiatric patients in South Africa (*Sunday Times*, 19 February 2017: 16).

It is imperative to project the example of the commitment to improve the health system from the 2018 mid-term budget by the Minister of Finance, Tito Mboweni. In his medium-term budget statement, Mboweni committed the non-interest budget of more than 60% towards the Health Department and the Education Department jointly. This was done with the intent to improve the health conditions at schools in order to encourage schooling. The mid-term budget also sought to eradicate all pit latrines in schools. Furthermore, the budget provided for sanitary pads for schoolgirls who lived below the poverty line (*Mail & Guardian*, 1 November 2018:4).

(g) Public Service Sector

Turok (2017:6) argues that the intentions of the South African government to grow the economy through developing the public sector will not be easily realised, as anticipated by the NDP, because of state capture. He (*ibid.*) presents that the state capture is not about self-enrichment, as it is narrowly argued, it included the pollution of state-owned enterprises and agencies.

Thornhill and Cloete (2014:40-41) and Amtaika (2013:162-163) assert that despite the challenges experienced at all levels of government in the IGR system, as illustrated in 6.8.2 (a)-(f) above, the government has made tremendous strides to improve the quality of service to both the private and public sector. An improvement of this nature

is largely informed by the assurance of accountability in the spheres of government, whilst taking into cognisance the fact that the local government is considered the closest sphere to the communities. This recognition is given to the efforts of government through its adoption of a ten-point plan of the 2009 Local Government Turnaround Strategy. The Strategy committed itself to correct the ills within the management system and to build the administrative and technical skills in order to deliver quality service to the citizenry. Furthermore, the ten-point plan focused on improving the performance of the local government sphere (Thornhill & Cloete, 2014:40-41; Amtaika, 2013:162-163).

In an effort to assist the government regarding its challenges, which include the incapacities of incompetence and the lack of accountability in all spheres, 80 of the key businesses that affiliate to Business Leadership South Africa (BLSA) launched the “Business Believes in South Africa” campaign. These businesses declared their assistance to the government in preventing and defeating corruption, reaffirming honesty, respect for the rule of law, accountability, transparency, and repositioning South Africa as a leading country. A news report in *Business Times* (3 September 2017:10) and Schwella (2015:248-249) stated that the campaign could be seen as a contract with the South African government, which was informed by six pillars:

- Creating more jobs,
- Empowering senior black managers,
- Investing in the training and development of a skilled workforce to confront future challenges,
- Assisting the communities where the member businesses (BLSA) existed,
- Supporting small businesses and entrepreneurs,
- Fighting corruption and its formations.

(h) Manifestations of corruption

The study finds it appropriate to start this section by providing a definition of the concept “corruption” to ensure a common understanding. This approach suits the argument of Mungiu-Pippidi (2015:11) that the new formations of corruption have

deviated from the legal definition of the word towards the active activity. Therefore, the author (*ibid.*) defines corruption as behaviour or actions that deviate from the assigned responsibility in the public or private sector for the purposes of personal, family or private gain; it also encompasses the violation of the set rules by means of inserting influence. Mungiu-Pippidi (2015:11) considers this new definition more comprehensive as it includes the formations of corruption, more so than the legal definition that refers to “the abuse of public office for private gain”.

Accordingly, the office of the Public Protector was tasked by the Constitution to eradicate all manifestations of corruption. Hence, Adv. Thuli Madonsela was appointed in September 2009 as the Public Protector in terms of Section 182 of the Constitution to investigate all kinds of corruption. However, the same Public Protector did not report nor investigate her son for taking the official state vehicle allocated to her without permission. Apart from driving such vehicle without permission, her son was involved in an accident and the incident was not investigated nor reported, which constitutes corruption of duty (*The New Age*, 9 February 2017:1).

In line with the above, the Public Protector (PP) was called to account on the irregularity committed by her son, but she argued that the Auditor-General investigated the matter, and she was vindicated. This act constitutes corruption by the Public Protector because according to the functions of the Auditor-General, as stated by Brand (2015:212), the Auditor-General has no powers to investigate cases of this nature, only the police. Hence, Adv. Mkhwebane (the new Public Protector) deducted R500 000 from Madonsela’s pension package, which included the continued use of the state vehicle after the end of her contract. The reaction by the newly appointed Public Protector projected sound measures of accountability and assertiveness because Madonsela’s behaviour constituted dereliction of duty and the abuse of power (Brand, 2015:212).

The growing challenges of corruption, political influence and state capture led to the establishment of (i) the State Capture Commission and the (ii) Judge Mokgoro Commission. The evidence presented to these commissions revealed shocking corrupt activities by senior and well-known politicians in the government. The evidence presented before the Commissions included the following:

- the implication of the most senior members of parliament in the milking of African Global Operations (formerly Bosasa), by receiving unduly monthly grants in excess of R300 000,
- the irregular appointments of unfit personnel to the high office of the National Prosecuting Authority, for example, Nomgcobo Jiba and Lawrence Mrwebi,
- the interference with the investigation for the protection of prominent politicians from prosecution by senior members of the National Prosecuting Authority (*Sunday Times*, 21 April 2019:14).

(i) Inequality (divided society)

According to Luiz (2016:630), the growing tension in South Africa is because of inequality. It was argued that the growing tension and the continuing inequalities are not properly managed because of the lack of a social contract between business, government and labour. Hence, the incident of 15 August 2012, known as the Marikana Massacre, which is cited as a classic example of the lack of a social contract and the collapse of communication within the government sectors of the intergovernmental system.

5.8.3 Government Commitment to the National Development Plan

A report in *The New Age* (7 July 2017:18) stated that the government is committed to its national economic policy plan, the NDP. In terms of the same report, the Deputy Secretary General of the ANC, Jessie Duarte, made mention of some of the major investment projects since the adoption and the subsequent implementation of the NDP in 2012. She further distinguished between those completed, prioritised, and still under construction. Duarte further presented that the success of implementing these projects came through the formation of partnerships. She also said that the government would continue to collaborate with businesses in investing on the forthcoming projects to ensure that the targets of Vision 2030 were met and realised. The table below reflected

some of the National Development Plan (NDP) investment projects, as mentioned by Duarte (*The New Age*, 7 July 2017:18).

Table 48: Investments on NDP Projects

Developed Area	The Nature of Investment since 2012 (NDP)
Broadband Infraco	The construction of the undersea cable linking South Africa with Europe to provide broadband infrastructure, for example, the Square Kilometre Array
De Hoop Dam	Revamped the dam that supplies water to the local mining and other communities (with an average of 2.3 million people) in Greater Sekhukhune, Waterberg and Capricorn
Dwarsloop-Acornhoek	The construction of a steel pipeline to supply water to nine rural villages in Bushbuckridge Local Municipality
Ekurhuleni	The prioritisation for the development of the corridor to link Thembisa and Kempton Park
Mangaung	The airport development node under construction and the plan to construct 8 500 low cost houses in the inner city of Bloemfontein
Johannesburg	Construction of the corridor linking Soweto, Alexandra, Sandton and the CBD. 190 township development through partnerships completed, with 55 still under construction
Jouberton/Alabama	The Jouberton/Alabama hub is improved with NDP investment projects, which are inclusive of transport, health facilities and commercial investments estimated at R155m.
Tshwane	The Solomon Mahlangu node, which serves 500 000 people, revamped and the investments on public roads, parks and trading facilities at an estimated amount of R1bn.

Source: Own Construction

The table above includes massive nationwide projects, which are linked to the National Development Plan (NDP). Furthermore, these projects, with their respective budgets, were conducted through partnerships and joint ventures. According to Duarte, the projects are direct prospects to make the NDP meet its intended targets by 2030. Moreover, Duarte insisted that the projects must be seen through. Hence, the strong

measures of accountability and monitoring needed to be observed in the project drivers (*The New Age*, 7 July 2017:18).

In 2017, the Speaker of the National Assembly, Baleka Mbete, reminded the House that there was growing income disparity between the rich and the poor, which was influenced by the escalating refugee crisis. However, the National Speaker remained resolute to the commitment of the National Assembly to remove the huge income gap in order to create equal living standards. The creation of these equal living standards needed the guidance of the NDP as the national policy and the internationally accepted development goals. Mbete also emphasised the need to prioritise gender equality and women empowerment, as she was of the view that women empowerment enjoys a multiplier effect on growing the economy (In Session, 2017:5-6).

5.9 Intergovernmental Accountability and Vision 2030

5.9.1 Intergovernmental Accountability

It is important that ahead of unfolding the discussion on the relationship of IGR and the NDP to mention that IGR is debated at length in Chapter 3 of this study. Accordingly, Chapter 3 had its focus on IGR within the context of a South African perspective; thus, how it has been practiced since the dawn of democratic rule. Chapter 3 also discussed IGR from an international perspective. The discussion in the two Chapters was to compare the use of the IGR system in South Africa with the world, particularly with countries using the same system of IGR. Furthermore, the discussion in Chapter 3 sought to gauge the practice of IGR internationally for the purposes of improving intergovernmental systems and governance accountability in South Africa.

In line with the above, and in the context of this Chapter, the discussion will be based only on intergovernmental accountability in as far as item 6.1.2 is concerned. Hence, this Chapter focused on governance accountability. However, for the purposes of this study, governance accountability cannot be discussed in isolation to intergovernmental accountability. Hence, this Chapter sought to discuss intergovernmental accountability with reference to public accounts committees and oversight in the three spheres of government, as outlined in pages 352-354. Furthermore, intergovernmental accountability was dealt with within the national policy

framework of the NDP. As already mentioned in pages 352-354, the focus is on the oversight of public accounts committees, namely the Standing Committee on Public Accounts, the Provincial Public Accounts Committee, and the Municipal Public Accounts Committee.

5.9.2 Vision 2030 Perspectives

The triple threat of unemployment, poverty and inequality are not located in a single sphere of government, but across the three spheres in intergovernmental relations. Hence, Biyela *et al.* (2018:224) assert that the NDP is the policy document to be used as a creative mechanism to maintain relationships and coordination within intergovernmental relations. The maintenance of intergovernmental relationships and coordination will stimulate intergovernmental accountability and responsibility within the governance of intergovernmental relations (Biyela *et al.*, 2018:224).

Nzimakwe and Ntshakala (2015:830) argued that “although each sphere has different roles and responsibilities the Constitution recognises that the spheres cannot work independently of each other”. Therefore, in order to do away with the triple threats of unemployment, poverty and inequality, the three spheres of government have to “cooperate, negotiate and find ways of agreeing on administrative, political and financial issues”. Accordingly, the designed policy document (the NDP) was meant to be implemented simultaneously in the three spheres of government to address the socio-economic imbalances of the country (Nzimakwe & Ntshakala, 2015:830).

5.10 Conclusion

This Chapter investigated the four concepts of accountability mechanisms in the multi-layered government, as well as the SOEs, namely, political, fiscal, administrative and legal mechanisms. The study found that the four concepts departed from different angles of accountability. Hence, the study revealed that (i) the **political mechanism** needed to do more about governance accountability in relation to the oversight over administration officials and the strategic interventions in the areas of need. On the other hand, the study indicated that (ii) the **fiscal mechanism** addressed the stringent financial discipline with regard to compliance to the applicable legislation (i.e. the

Public Finance Management Act 1 of 1999 and the Local Government: Municipal Finance Management Act 56 of 2003), and that all these institutions are subject to the Auditor-General. It also found that in terms of (iii) the **administrative mechanism** there should be no interference in the administration by politicians, regardless of the position they hold. Furthermore, the study concluded that (iv) the **legal mechanism** puts more emphasis on the independence of the judiciary, and that no other branch of government must be allowed to hunt the other.

The study established that there is a serious challenge with governance accountability, and as the result, the citizens are dissatisfied. The study also noted that because of the same dissatisfaction, the citizens reacted violently through the means of service delivery protests. The Chapter further confirmed that accountability could not be restricted to government officials and politicians, but also needed to extend same accountability to citizens as well. Despite having discussed institutional accountability in the previous Chapter, this Chapter chose to broaden the research on the two key actors of accountability, namely the (i) **Auditor-General South Africa**, and the (ii) **Public Protector**. These key actors of accountability are significant for their distinct nature of their functions and the powers allocated to them. The Constitution (1996) afforded the Auditor-General (AG) the powers to audit all taxpayer-funded organisations, and allocated the Public Protector (PP) the status of the public ombudsman. As the result, it became important for this Chapter to deepen the mechanisms of accountability by discussing its impact through the involvement of the citizens, government officials, state institutions, public companies and politicians in this Chapter.

The Chapter diagnosed accountability within the context of IGR, with specific reference to the means of oversight, which is replicated in the three spheres of government. Hence, these public accounts committees are given similar powers and functions, which include the monitoring and reviewing of public accounts in the applicable sphere. The committees may subpoena all members of the executive to account on their departmental expenditure or overall financial performance. The relations of functionaries in this instance signify and intensify the formation of cooperative governance, as anticipated in Sections 40 and 41 of the Constitution.

In general, the study provided sufficient facts to substantiate evidence that oversight over three state-owned enterprises (SOEs) were conducted by internal institutions. Scopa through its Chairperson, Themba Godi, was equal to the task of holding the officials accountable. Equally so, the Provincial Public Accounts Committee in the provincial sphere also proved to be competent enough to hold provincial legislatures answerable to their actions. Various examples were provided including the interventions by the North-West chairperson of the Provincial Public Accounts Committee, Mahlakeng Mahlakeng, who ensured that the members of the executive council and the members of the provincial legislature accounted for every transaction. The Municipal Public Accounts Committee at the municipal level might not have been discussed at length, but the comprehensive programme for the first quarter of the new financial year by the Dr Ruth Mompoti District Municipality demonstrated the competencies with regard to advocating an oversight.

The overall performance of state-owned enterprises (SOEs) in the country was challenged by the incapacities and the continued replacement of senior management. However, the appointment of the new Minister of Finance, Tito Mboweni, brought hope with the changes made to the senior management of state-owned enterprises (SOEs). Furthermore, the Minister was reluctant to continue funding these parastatals (SOEs) when there were no indications of them improving their revenue.

This Chapter used the National Development Plan (NDP) as the diagnostic projective and predictive policy for 2030. The Chapter acknowledged that the document was researched to guide the government to the promised changes by 2030. The National Development Plan (NDP) diagnosed the nine indicators as the roadmap towards Vision 2030. However, the study found that all these indicators were central and anchored to addressing inequalities, unemployment and poverty in South Africa. It was revealed in the study that the government, through its various departments, has gone to tremendous lengths towards achieving the set targets of Vision 2030 (the NDP). The other findings reflected economic fluctuations, making the implementation almost impossible, particularly where there are no measures and mechanisms to control such trends.

Given the above discussion, the Chapter, through its analysis of the NDP, fitted well within the “goals and objectives model” of Roux and Cloete (2011:100). According to the model, the national policy must depart from identifying and defining the problem, and that is exactly what the study acknowledged from the NDP as a national policy document. Similarly, the Chapter provided the nine diagnostic points and further investigated the progress made in the first five years (2012-2017) of its implementation. This mid-term investigation on the progress made thus far was to determine the difference between what the government wanted to achieve and what has already been delivered, which is the same argument pursued by Bierce (2013:77). Hence, the study is of the view that despite the challenges experienced, significant progress has been made, which needs to be supplemented in the remaining 11 years of Vision 2030 (the NDP).

The discussion with reference to the **Standing Committee on Public Accounts** (Scopa), the **Provincial Public Accounts Committee** (PPAC) and the **Municipal Public Accounts Committee** (MPAC) justified intergovernmental accountability in the form of oversight in the governance of IGR. These public accounts committees have similar mandates in their respective spheres of government to realise the intentions of exercising intergovernmental accountability. The successful implementation of the National Development Plan (NDP) across the spheres of government needed strict oversight to succeed. Hence, the strong oversight on the utilisation of public funds by these public accounts committees were found to be the tool to implement the National Development Plan (NDP), which to rid the challenges of poverty in South Africa.

Table 49: Intergovernmental Accountability

Public Accounts Committees (PACs)	Sphere of Government	Jurisdiction of the Public Accounts Committee (PAC)
Standing Committee on Public Accounts (Scopa)	National	National Assembly (NA)
Provincial Public Accounts Committee (PPAC)	Provincial	Provincial Legislature
Municipal Public Accounts Committee (MPAC)	Local	Municipal Council

Source: Own Construction

The table above summarises the relations of **intergovernmental accountability** from the various levels (i.e. **oversights, spheres of government** and **functionary location**). That implied that Standing Committee on Public Accounts (Scopa), which was elected as the internal accounting bodies by the National Assembly to examine and make determinations on the financial accounts of the national government. Similarly, the Provincial Public Accounts Committee (PPAC) has jurisdiction over the provincial legislatures to make determinations on the financial accounts at the provincial level. On the other hand, the Municipal Public Accounts Committee (MPAC) performs similar functions at the local level. Table 41 below further confirmed the establishment of intergovernmental accountability within the governance system.

CHAPTER SIX

THE INTERPRETATIONS AND MEANING OF THE STUDY

6.1 Introduction

This Chapter sought to provide more clarity on the accountability within intergovernmental relations. The **interpretation** and **meaning** of accountability within intergovernmental relations (IGR). At the same time, the Chapter intended to use the key conceptual terms developed by the study. Therefore, these identified key concepts aimed to serve as this Chapter as a guide. Largely, the study agrees with Gaultney and Peach (2016:33), that once the results of the research are distributed, then the need to interpret such results becomes of critical importance to the user. The interpretation of the research is imperative to provide an accurate meaning of the study to the reader. Therefore, it is against this background that the study through this Chapter dictated the interpretation and meaning of the entire investigation.

In terms of the above discussion, this Chapter intended to not deviate from its original theme, as repeatedly stated, to ensure accurateness; thus, “Accountability within the governance of intergovernmental relations (IGR) in South Africa”. Hence, the key concepts developed from the previous Chapters deserve interpretation in order to deepen the understanding of this outcome-based research. In doing so, it would be much easier for the user to put in practice the findings and recommendations, which will be fully discussed in the next Chapter.

Thus, this Chapter is bound to produce a contribution to the study of accountability within the governance of intergovernmental relations. The contribution of the study goes hand-in-hand with what the research aimed to achieve in pages 33-35. The study sought to bring a paradigm shift in the body of knowledge concerning the new research outcomes. It must be borne in mind that the study needs to distinguish the new contribution, along the lines of developing a new model.

Moreover, the same contribution referred to above needed a direction to the improvement of accountability within the governance of intergovernmental relations in South Africa. However, the development of the new knowledge or model needs to be

consistent and/or aligned to both the (i) problem statement in terms of in pages 16-20), as well as the (ii) significance of the study in terms of pages 33-35. The consistency in providing the interpretation and meaning in this Chapter will be matched and assessed with the arguments presented by all the previous Chapters.

In line with the introduction of this Chapter, as presented above in this introductory part of Chapter, the study advanced an in-depth frame of reference and the outline for the entire investigation in page 20. Accordingly, the study conducted its investigation on the “accountability within the governance of intergovernmental relations” by analysing the Constitution, the legislation, the policies and the procedures. Furthermore, the literature review provided context to the study by utilising experts within the field of accountability, governance and intergovernmental relations.

This study, as dictated by its research question and objectives, demanded to know “how can the government develop the best accountable measures to improve the intergovernmental (IG) governance system and accountability in South Africa” as dictated in page 20. In replying to the research question, as outlined in page 20, the study found that the success of this research was dependent upon accessing the relevant information to advance an in-depth knowledge of accountability, governance and the proper functioning of intergovernmental relations system. The Chapter shared this information from the previous five Chapters of the study.

It is important to remember that the primary objective of the study detailed in chapter outline in pages 30-33 meant to keep the investigation focussed on the same set of objectives in order to achieve the desired outcomes. Amongst other key factors of the investigation, the study directed its energies and focus on the analysis of the Constitution and applicable legislation, as well as the NDP, as discussed in Chapter 3 and 5 respectively. Hence, the next Chapter will project an outlined outcome, which to guide the user in the form of an integrated governance model (IGM). This new IGM developed by the study, will be informed by the findings, conclusions and recommendations, and will be explored in Chapter 8 to minimise the possible risks, and identify the missing links and gaps within the research.

In line with the above submission, Chapter 7 observed the roadmap of Chapter Chapter 1 to remain intact. Therefore, the study uses Chapter 1 as the basis for the terms of reference in setting out its interpretations and meaning. Hence, the result, the problem statement as discussed in pages 16-20, and the aims and objectives under pages 21-25 remained the key to direct this Chapter, as well as the next Chapter to avoid repetition and confusion for the user. Thus, this Chapter will also develop the model in accordance with the outlined problem statement and the objectives of the study, as reflected in Chapter 1 under items 1.2 and 1.3 respectively. Similarly, the aims and objectives, as advanced in Chapter 7, stand to corroborate the integrated governance model (IGM) in accordance with the demand, as recorded in the problem statement in pages 16-20 of the study. The aims and objectives needed to inform the integrated governance model (IGM) as desired in pages 21-25 of this study.

6.2 Thematic Concepts

6.2.1 Accountability

In the introductory part of Chapter 1, the study acknowledged that there is a challenge of governance accountability in South Africa. This background on the dearth of governance accountability gave rise to the need for more investigation on the subject matter. May (2013:36) concurs with the study, that the lack of governance accountability and the dearth of enforcing answerable measures escalated transgressions to the principles of good governance. Hence, the perpetrators bloated the applicable and existing processes and procedures with the advanced developed transgressions to circumvent all formations of good governance.

The study noted the challenges associated with accountability in implementing the fundamental issues within the governance of intergovernmental relations in South Africa. Picard and Mogale (2015:249-253) concur that such loss in ensuring and implementing accountability mechanisms has led to a weak state in the democratic dispensation. Hence, the emergence of:

- Increased levels of corruption and patronage,
- Lowered capacity levels in the public sector,

- Limited government financial muscles,
- Loss of morals, values and ethics amongst the political elite,
- A capacity crisis in the public sector, and
- Continued violent demonstrations because of the lack of service delivery.

According to Picard and Mogale (2015:249-253), in line with the present study, state that efforts were made by former President Thabo Mbeki to assert control through the implementation of democratic centralism. This meant that Mbeki made central appointments across all levels of intergovernmental governance. However, the same system of Mbeki's democratic centralism seemed to have a different meaning in former President Jacob Zuma's administration. Hence, the statement, "the lack of understanding has gotten markedly worse during the Zuma years". These contrasting governance systems and versions compromise governance accountability and advance governance inconsistencies. Hence, Kovacs (2014:98) argues that there is a need for a sound governance model informed by the accountable measures in order to formalise the public administration.

According to Chapter 2 (see pages 55-57 and pages 92-100), the study established four forms of accountability, which are aligned to be responsive and responsible to the electorate. Therefore, the study adopted the key stakeholders of accountability by Koliba *et al.* (2011:242), who state that they need to be both responsive and responsible. The stakeholders' accountability referred to are the elected representatives, citizens, the courts, professionals, managers, consumers and collaborators. According to the study, these actors are bound to employ the four principal concepts of accountability in the respective constituencies. The same concepts are embraced by Pelizzo and Stapenhurst (2014:2-6) as accountability measures, which are horizontal, vertical, diagonal, and social accountabilities.

Apart from the four principal concepts of accountability, the study further explored the governance accountability mechanisms seen by Bruch, Slobodan, Nicholas & Muffet (2016:992) as the means to help and improve the rule of law. The improvement of the rule of law was effected for the purposes of instilling accountability through the efforts of holding public and private officials accountable. The governance accountability

mechanisms, referred to as political, fiscal, administrative and legal, were outlined in the objectives of the study in page 22-25 and the analysis in pages 43-45.

Hence, these governance accountability mechanisms provided guidance to the vague direction of accountability. The study provided that **political mechanisms** are an internal control within public servants to demystify unknown and conflicting functions of accountability to attain the desired standard of performance. Hence, the discussion on the subject matter presented in pages 101-102.

The **fiscal mechanisms** in the South African context were discussed in pages 102-104). Hence, the fiscal mechanisms were expressed from the perspective of the Constitution, as the country is a developmental state. The discussion was also meant to address the imbalances of the past. Creamer (2010:205-207) broadened the interpretation of the study by stating that the fiscal mechanisms are stretched to cover the public and private sector, as well as the state-owned enterprises (SOEs).

The study aligned the **administrative mechanisms** to the national policy, which was adopted in order to guide economic transformation. In this instance, the research identified the National Development Plan (NDP) as the national policy, which sought to eradicate the triple challenges of unemployment, poverty and inequality within South African society, as discussed in Chapter 2 (see page 104) of the study. It is for this reason that the study, Picard and Mogale (2015:197) & Hill and Hupe (2014:33) agree that administrative accountability mechanisms need to be present at all levels of government.

Lastly, the **legal mechanisms** are confined to the rule of law within the legislative frameworks. Hence, the study asserted that legal mechanisms broadened the need to respect the independency and cooperation within and amongst the three branches of government (executive, legislative and judiciary), as argued in Chapter 2 under pages 104-105 of the study.

6.2.2 Governance

The study further extended the discussion to good governance through the enhancement of the economy via various means of developing (i) small, medium and micro enterprises (SMMEs), (ii) partnerships and (iii) non-governmental organisations (NGOs)/non-profit organisations (NPOs). According to the debate, the SMMEs were established at all levels of government in order to assist in fighting the triple challenges of unemployment, poverty, and inequality. The study also found that the state provided support to emerging businesses from the previously disadvantaged society to ensure business sustainability, as clearly outlined in pages 58-64). In the same manner, the governance systems were established to strengthen the partnerships with local and international counterparts. The governance partnership relationships proved to be the pillar of building strong economic hubs in South Africa.

6.2.3 Intergovernmental Relations

(a) Institutional Arrangements and Intergovernmental Support

In accordance with the discussion in pages 158-170), the study found that the existence of intergovernmental forums presented another form of accountability, which supported the intensity within the three spheres of government. In this regard, all the leaders or managers employed at the level of IGR (i.e. national, provincial and local) need to be compelled to respect the IGR forums in order to ensure accountability.

The study further established that the institutional arrangements, as presented in pages 198-200, are an added advantage to strengthen the existing principles of accountability. These institutional arrangements were constructed with specific focus on the legislative, executive, administrative and legal mechanism framework of intergovernmental arrangements, as analysed in pages 101-105. Further, the study found that government enacted relevant legislations to promote and support intergovernmental relations (IGR) in South Africa. These legislations include the Local Government: Municipal Finance Management Act, the Public Finance Management Act and the Local Government: Intergovernmental Relations Framework Act.

(b) Intergovernmental Relations: International Perspective

The study provided the distinction between unitary and federal states as a particular system of government, as thoroughly discussed in pages 222-223). Hence, the analysis of the two concepts, as presented in pages 114-116, declared South Africa as a unitary state. This declaration is endorsed by Section 1 of the Constitution and reads, “the Republic of South Africa is one, sovereign, democratic state ...” as stated in the discussion in pages 260-270. Despite the analysis of the study having confirmed South Africa as a democratic state, the analysis of the study further declares that South Africa has the features of a federal state. Hence, the federal features of the state are found to emanate from Section 104(1)(a) of the Constitution, which provided the nine provinces with the right to create their own constitutions. South Africa’s intergovernmental system, as discussed in pages 220-222, is informed by the dual and cooperative government, as spelt out in sections 40 and 41 of Chapter 3 of the Constitution (1996). There is also the formation of federalism, known as “competitive federalism”, denoted by study as the third model of the federal state, as analysed in pages 224-227. Hence, the study found that intergovernmental relations, federalism and democracy are inseparable.

The study also drew the picture of the federal government for the purpose of its implementation from six countries (Germany, the United States of America, Australia, Canada, Uganda and Tanzania) to determine best practice, which might be utilised to improve South Africa’s intergovernmental system. The study used the comparison of South Africa’s unitary system against the federal state systems as the benchmark to determine best practice, as outlined in pages 241- 272). The study further referred to various sections of the Constitutions, which are used as the measuring instrument for the research. However, the study restricted its comparison to the implementation of IGR to (i) the spheres of government, (ii) the constitutionality, and (iii) the separation of powers, as discussed in Chapter 4 in page 230 of the study. The study did so by analysing the implementation of the intergovernmental system in a unitary South Africa, as compared to that of other international federal states (Germany, the United States of America, Australia, Canada, Uganda and Tanzania).

(c) Cooperative Governance and Intergovernmental Relations

The study confirmed in the discussion, as presented in pages 178-180, that South Africa has three spheres of government. Hence, the study argued that the principles of good governance have to be equally implemented and monitored in all spheres. Therefore, in order to ensure monitored implementation of intergovernmental relations the national government established (i) intergovernmental structures, (ii) state institutions (Chapter 9), and (iii) accountability mechanisms. The study further recognised quicker dispute resolution mechanisms, involving less costs. Thus, sound dispute resolution mechanisms, as intervention instruments, are provided by the study (as referenced by the Constitution).

(d) Independency of the Spheres of Government

The other factor uncovered by the study is that the national government enjoys more power over the provincial and local governments. This occurs despite Chapter 3, Section 40(1) of the Constitution (1996) having declared the three spheres of government to be distinctive, interdependent and interrelated (autonomous). As a result, the study concurred in page 151 and page 199 that the national government is the dominant sphere over the provincial and local government spheres. The visibility of the power of the national sphere was based on the allocation of the equitable share of revenue. The conditions for funding or allocations are drafted by the Division of Revenue Act and implemented and monitored by the National Treasury. Apart from the budget allocations, the study also found that the national government has the final say in terms of Section 100 and 139 interventions in the provincial and local governments, respectively. The full narration is in Chapter 3; hence, the provincial intervention in terms of Section 100 as discussed in pages 186-187. The intervention into the municipalities is also discussed in pages 187- 192, of the study. The need for approval by the national government on both interventions warrants the full control over the junior spheres of government (provincial and local). As a result, the study is in full agreement with Picard and Mogale (2015:198-200) and Malan (2015:68-69) that the provincial and local governments are subnational to the national government. The tortuous implementation of the Local Government: Municipal Finance Management Act (56 of 2003) and the Division of Revenue Act (3 of 2016) are clear indications of

them being sub-national (i.e. the junior sphere). These two pieces of legislation have put all the power in the hands of the national government. However, the study concedes that the management of the legislation is effected in a transparent manner, as it is open to public and media scrutiny.

6.3 Governance Accountability

The study discussed governance accountability at length in almost every Chapter, as the word “accountability” is central to the topic of investigation. However, the defined analyses of governance accountability were broadly explored in the previous Chapter. However, the findings of governance accountability in this Chapter will reflect the broader sense of public participation, partnership and networks to avoid narrowing the concept “accountability” in this section.

6.3.1 Public Participation

The study further explored various forms of public participation and the impact it has made on accountability within the governance of intergovernmental relations (IGR) (see pages 74-80). This discussion on public participation revealed that in a democratic dispensation, public participation becomes the crucial wheel for accountability in the delivery of good governance. Furthermore, the study established in pages 70-74 that public participation brought about (i) an informed society, (ii) the involvement of the society through the submission of inputs, (iii) the cooperation of stakeholders, and (iv) positive contributions in decision-making structures.

The study interpreted public participation as the cornerstone to delivering accountability and good governance within the system of intergovernmental system in South Africa. Apart from this investigation in Chapter 2 (see pages 74-80), the study provided the views of reputable authors who also emphasised the criticality of public participation in a democratic dispensation. Hence, public participation was perceived to be the driving force behind promoting accountability and good governance within the South African intergovernmental system, as analysed in pages 93-100). Academics who share the view on the importance of public participation include

Booyesen (2009:2) and Coetzee (2010:88-89), who agree that the success of democracy depends solely on effective public participation.

6.3.2 Partnerships

The study also established the need and the importance of the government collaborating with stakeholders for the purposes of accountability. Hence, the study adopted the argument by Gaventa (2006:xiv) – that research cannot be restricted to the partnership between the government and its partners only. The investigation broadened the partnerships to include their respective inner circle of partners. The discussion on the importance of governance partnerships was broadened to include the inner circle of (i) government and citizens, (ii) NGOs and members, (iii) elected government officials and the electorate, (iv) internal departments, and the (v) three spheres of government. Hence, the study established the critical need to strengthen partnerships and all their formation in order to promote governance accountability (see pages 36-45 and pages 135-146).

The other part of partnership demonstrated by the study involves the outputs of collaborating. The previous paragraph spelt out the broader forms of partnerships. It is equally important for this Chapter to reflect on what partnerships are expected to achieve. It is for this reason the study concluded that partnerships need to forge relations between parties, and partners need to generate resources to fund the efforts of rendering good governance, and share the risks and responsibilities of the joint operation. Hence, the study's views on sharing the risks and responsibilities are shared by Schuppert (2011:288) and Messner (2011:290). Similarly, Table 2 in page 66 of this study further demonstrated an in-depth and practical example of what is provided by public-private-partnerships, as elaborated on in pages 65-68.

6.3.3 Governance Network

The governance of intergovernmental relations in South Africa strengthened by governance networks, and this was indicated in pages 16-20). However, the full discussion on governance networks was presented in Chapter 2; it was discussed in two-fold, namely, locally and globally. The study investigated these governance

networks with its focus on the intended influence on accountability and the economy of South Africa. On the other hand, it also focussed on how the governance networks impact on the broader governance and accountability of the social investments plans of the country. Lastly, the focus was also drawn from the background of the governance networks as a source for accountability within the governance of IGR. Accordingly, these analyses were informed by the governance perspectives, which seek to forge the relations between the local and international governance networks (see pages 49-57). The analysis also sought to weigh the strength of the government's foreign markets. However, despite the governance networks being closely related to their networking system, they remain the easiest method to implement. It is worth noting that the governance networks, as discussed, cannot be implemented successfully if there are no stringent accountability measures in place (see pages 51-54).

6.4 Intergovernmental Accountability

Intergovernmental accountability is comprised of three key factors, which became the pillar of accountability and good governance, as presented in pages 199-200. The three factors included:

- The intergovernmental structures, which are set to synchronise the government activities in the three spheres of government,
- The oversight measures, which are intended to ensure compliance and adherence to the internal controls; these oversight bodies (Scopa, PPAC and MPAC) are located in their respective spheres of government (national, provincial and local), and
- The supporting legislation designed to support intergovernmental and cooperative government, as afforded by the Constitution.

6.4.1 Intergovernmental Structures

According to the study, the intergovernmental structures sought to strengthen intergovernmental relations in South Africa. Despite the study having discussed these intergovernmental structures in Chapter 3, they were thoroughly analysed in Chapter 6. Accordingly, Chapter 2 of the Local Government: Intergovernmental Relations Framework Act (13 of 2005) further provided for the (i) establishment, (ii) composition, (iii) roles, and (iv) meetings of these intergovernmental structures (see pages 170-173). Petlane and Gruzd (2011:32) substantiated that intergovernmental structures provided “checks and balances” for an accountable governance. The study found that the checks and balances are the means of ensuring accountability and transparency in the intergovernmental governance system. The enactment of the Local Government: Intergovernmental Relations Framework Act (13 of 2005), which was supposed to ensure the implementation of the intergovernmental structures, is still to bear the fruits of instilling accountability.

These intergovernmental structures in the provinces and municipalities constituted in a replica form of the national government has somewhat similar functions in the different spheres of government. However, apart from the study’s findings, Picard and Mogale (2015:195-196) confirm that coordinated intergovernmental structures are meant to inculcate accountability within the governance of IGR, informed by accountability and transparency.

Given the background, the intergovernmental structures, as dictated by the Local Government: Intergovernmental Relations Framework Act (13 of 2005), were found to have brought the synergy within and amongst the functioning of the three spheres of government as discussed in pages 158-159 and analysed in the Chapter 6 of the study. These intergovernmental structures at national, provincial and local government level are replicas, in accordance with Sections 9, 16, 21, 22, 24 and 29 of the Local Government: Intergovernmental Relations Framework Act (13 of 2005):

- The national structures constituted by: (i) the President Coordinating Council (PCC) and (ii) the National Intergovernmental Forums (NIF). The composition, functions and frequencies of the meetings for the President's Coordinating Council and National Intergovernmental Forum are spelt out in Sections 6, 7, 8 and Sections 9, 10, 11 of the Local Government: Intergovernmental Relations Framework Act (13 of 2005) as discussed in pages 159-165.
- Similarly, the provincial structures adopted the features of the national formation and in the name of the Premier's Intergovernmental Forum (PIF). The establishment, composition, function, meetings and the reporting for the purposes of accountability are stated in Sections 16, 17, 18, 19 and 20 of the Local Government: Intergovernmental Relations Framework Act (13 of 2005). Section 21 accords the Premier the powers to establish the other provincial structures (see in pages 165-166).
- In the same vein, the Municipal Intergovernmental Forums are designed to be coordinated at the district level, but are responsible for the Municipal Intergovernmental Forum activities in the respective localities within their jurisdiction. In the same manner, the establishment, composition, functions and meetings are regulated by Sections 24, 25, 26 and 27 of the Local Government: Intergovernmental Relations Framework Act, 13 of 2005 (see in pages 167-170).

Despite the existence of these intergovernmental structures in the spheres of government, and them being regulated by legislation, there are shortcomings of accountability in the delivery of service. In the main, the design of the intergovernmental structures, as outlined above, sought to strengthen accountability and governance. The failure to deliver accountable governance in this format of regulated intergovernmental formations is found to be rooted in the implementation of Chapter 2 of the Local Government: Intergovernmental Relations Framework Act (13 of 2005).

6.4.2 Oversight

The study further found that accountability within the sectors of government does not come naturally. As such, the accountability measures cannot be left in the hands of the Auditor-General alone. In between the annual financial audits by the Auditor-General, the oversight control measures at national, provincial and local governments need strengthening. The foundation of oversight was provided in pages 5-16) of the introductory Chapter. Chapter 5 provided the detailed discussion and analysis of the oversight refer pages 297-301. However, apart from the Auditor-General and the Public Protector, the study restricted the discussion on the oversight mechanisms to (i) the Standing Committee on Public Accounts, (ii) the Provincial Public Accounts Committee, and (iii) the Municipal Public Accounts Committee.

6.4.3 Supporting Legislation

The study committed to use the Constitution and the applicable legislation, among other identified sources, as discussed in page 21. These pieces of legislation are derived from the Constitution, and as such, they are not meant to contradict or conflict the Constitution, but to support it. Hence, the study identified the legislation, which supported intergovernmental relations (IGR), as tabled in pages 147-149 of the study. In a broader sense, some of this legislation supporting intergovernmental relations are further simplified in Table 10 in page 134 and Chapter 3, pages 149-150 (the Structures Act), pages 105-151 (the Systems Act) and page 152 (the Division of Revenue Act) on pages 151. Furthermore, apart from legislation supporting intergovernmental relations, the study provided the legislations which supported accountability and good governance, as discussed in Chapter 3, pages 170-173 (the Local Government: Intergovernmental Relations Framework Act), pages 173-177 (the Intergovernmental Fiscal Relations Act), and pages 171-178 (the Municipal Financial Management Act).

6.5 Constitutional Accountability

The study confirmed on pages 1 and 2 of Chapter 1 that the Constitution of South Africa, which was signed on 4 February 1997, advocates for equality, the promotion

of societal values, and the levelling of political platforms. However, the analysis of the Constitution was based on its Chapter 3 (Sections 40 and 41) and other Chapters and/or sections, which support accountability, governance, intergovernmental relations (IGR) and Chapter 9 Institutions. Hence, the study found in pages 111-116) that the Constitution earned respect for its pronouncements on the separation of powers, which is seen as the preferred means to promote the principles of accountability in intergovernmental governance.

Moreover, the study diagnosed the incoherent relationship, which clouds the networking system of cooperative governance in pages 12-16. On the other hand, the users further clouded the functioning of cooperative government and intergovernmental (IGR). Hence, the study found in page 134 that the relationship of the spheres of government, in as far as distinctiveness, interdependence and interrelatedness are concerned, ought to cooperate and work together. As such, the working together will reduce disputes among themselves and further provide solutions to manage complex assignments.

6.5.1 Cooperative Governance

The South African Constitution was regarded to be the cornerstone and the supreme law of the Republic; it further provides the basis for the foundation of transparency and democratic values. Accordingly, Chapter 3 of the same Constitution (1996) provided for cooperative government as enshrined in Sections 40 and 41 as outlined in pages 114-116 of the study. Hence, the study confirmed cooperative governance as the key pillar of South African intergovernmental relations (IGR). The discussion by the study on cooperative governance was confirmed by the Constitution (1996). The Constitution (1996) spelt out the principles of cooperative governance and IGR, in line with the argument presented in in pages 114-116 of the study.

6.5.2 Branches of Government

The study noted the relapse in respect of the separation of powers (*trias politica*) in pages 5-16). The influence of the branches of government over one another has the strong potential to relax and collapse the strong roots of both constitutional and

governance accountability. As a result, the study concurs with Kanyane (2016:99) that the doctrine of the separation of powers is the cornerstone of constitutional democracy and accountability. Hence, the study resolved in its finding that the executive, legislative and judiciary be the principals of the checks and balances for accountability in the governance of IGR and the same was illustrated in pages 92-100.

6.5.3 State Institutions

The state institutions are regulated in Chapter nine of the South African Constitution (1996). They are obligatory and thus enjoy the full support of the Constitution. Accordingly, these state institutions are afforded certain special powers to support the effect of the South African constitutional democracy, as discussed in pages 200-213 of the study. In line with Table 21 in page 197 as demonstrated under pages 204-205 of the study, the Auditor-General and the Public Protector were found to be different in terms of their formation and their inherent powers. Hence, the study further advanced the discussion on these two state institutions to project their significance in pages 288-289 (Auditor-General South Africa) and pages 289-290 (Public Protector). Hence, the study found the state institutions to be the main instrument to ensure accountability, as well as the checks and balances for good governance.

6.6 Public Officials

The study resolved that to have an accountable government, which is fully functioning to the benefit of society, and yet within the boundaries of the accountability measures, the public administration and/or officials must be considered the primary objective to conduct the business of government. Therefore, the administrative capacity and the skills levels of the administrators deployed within the three spheres of government have to be on par. The equal administrative capacity and skills will (i) strengthen the links of the information flow between the elected leaders (politicians) and the electorate, (ii) justify the administrative decisions made in the public sector, and (iii) be able to reward or punish any actions borne in the process of implementing the accountability measures (see in page 292).

Given the responsibilities of the public officials, as discussed in the above resolution, and the challenges of the deficiencies and incapacities as advocated in page 291, the study noted the importance of capacitating public officials to handle the day-to-day challenges of the community (see page 293). The capacitation of the public officials needed proper training and development to ensure the results of accountability and good governance. Hence, the study saw the need and the importance to:

- identify and increase the production of occupation in demand,
- link the training and development (education) to the workplace,
- improve the skills level in the workplace,
- increase access to workplace-directed programmes,
- support the growing efforts of public sector education,
- develop skills to support emerging entrepreneurs in cooperative governance (intergovernmental relations),
- support administrator-initiated training, and
- support the career pathing and development of administrators or officials.

6.7 State-Owned Enterprises

One of the key pillars identified by the National Development Plan (NDP) was to develop the state-owned enterprises (SOEs) for the advancement of the economic interests of the state as highlighted in pages 4-6. Hence, it was argued in pages 102-104 that the economy cannot be developed solely by the state, but by the joint efforts of government, and the public and private sectors. The joint efforts of government and the public and private sectors will be instrumental in eradicating the challenges of unemployment, poverty and inequalities by 2030. Hence, strong measures of accountability should be entrenched in the management and administrative functioning of state-owned enterprises (SOEs) in order to achieve the main aims of the National Development Plan (NDP) by 2030.

On the other hand, the study noted the possible collapse of SOEs because of the relapse of their financial and management systems. The collapse of the financial and management systems of these entities was the result of wrong appointments,

incompetence and corruption (refer to pages 301-303). This lack of competencies led the state-owned enterprises (SOEs) to rely on the continued financial bailouts from the state. The financial bailouts were recorded in the analyses in Chapter 5 (see Table 42 and Table 43 in pages 317 and 321 respectively).

6.8 National Policy

In page 29, the study outlined its plan to assemble the data, which included analysing government policies. It is from that specific mandate that the study embarked on analysing the National Development Plan (NDP) as the national policy document to eradicate the country's number one challenge of unemployment, poverty and the inequality of society. Accordingly, page 21 presented that the study would use the NDP as the reference to gauge the possibility (successes or pitfalls) of attaining the targets of the Plan by 2030. Hence, the study chose to use the National Development Plan (NDP) as the measuring instrument to determine the government's accountability to its Vision 2030. Hence, the resolutions aligned to the key challenges (unemployment, poverty and inequality). Corruption will be an added factor due to its prominence in the news.

6.8.1 Unemployment

According to Chapter 5 under pages 318-320, the National Development Plan (NDP) aimed to create 11 million jobs by 2030 to address the challenge of unemployment. Despite the Vision 2030 unemployment targets, the study observed the growing unemployment rate, particularly among the youth (see pages 320-321). The submission of the growing unemployment statistics are confirmed by StatsSa. The study found no accountability measures towards attaining the required employment targets by 2030, as major companies like Eskom continue to cut jobs (refer to pages 320-321). Confirming this finding of the study, President Cyril Ramaphosa, at a workers' rally on 1 May 2019, acknowledged that job creation remains the main problem in South Africa (SABC News, 2 May 2019).

6.8.2 Poverty

The National Development Plan (NDP) as the national policy document diagnosed the challenge of societal poverty, as reflected in pages 318-320. However, the advanced analysis on the subject matter of poverty, as dealt with in pages 320-321 led to the finding that the levels of poverty remain high. This is confirmed by Biyela *et al* (2018:222-223) and Tito Mboweni, the Finance Minister, in Table 41 in page 314 stated that the increasing number of shacks and the presence of homeless people are classic examples of poverty levels in South Africa.

6.8.3 Inequality

The National Development Plan (NDP) identified the imbalances in society because of class differences and economic inequalities; the same inequalities have led to the skewed allocation of basic services. As a result, the continuance became deep rooted in society, with the cracks being transferred to the South African democracy. These challenges were discussed in pages 318-320. Hence, the study resolved that an accountable intervention in the three spheres of government be implored with huge strides to eradicate inequalities in building one, united and equal society (refer to pages 320-321).

6.8.4 Corruption

The government through its National Development Plan (NDP) dreamt of zero tolerance to corruption by 2030. The government is of the view that the eradication of corruption, as illustrated in pages 318-320, will build an anti-corruption system, strengthen accountability, create transparency and promote the rule of law. However, the publicised incidents of corruption by senior officials of government, as advanced in pages 320-321 confirmed the total collapse of accountability and good governance in both the public and private sector. The revelations in the State Capture Commission and the outcomes of the Mokgoro Commission killed the prospects of bringing corruption rates down by 2030, as anticipated by the National Development Plan (NDP).

6.9 The Dictum of the Model

6.9.1 Foundations of Integrated Governance Model

This section forms the critical centre of the research because the study needs to produce its own unique identity. This projected identity of the study was detailed in pages 16-20 (the problem statement). Hence, the study committed itself to make a contribution, which would broaden the body of knowledge, through the development of an integrated governance model (IGM). Therefore, regarding the integrative governance model (IGM), the reference was made in pages 33-35, which projected that the model was needed to make the study significant. Hence, the study will not divert from the initial intention of enhancing the scientific knowledge of governance, and thus develop new perspectives on accountability and intergovernmental relations (IGR).

The study consistently discussed “accountability within the governance of intergovernmental relations”, with specific reference to accountability, governance and intergovernmental relations. The integration and the relations of the key concepts of accountability, governance and intergovernmental relations led to the development of the integrated governance model (IGM), as outlined in pages 12-16. The principles of accountability, governance and intergovernmental relations (IGR) are broadened in pages 220-222 of the study. However, the IGM will be informed by the strong roots of various formations, which are inclusive of a combination of sister models, such as (i) accountability (item 6.10), (ii) governance (item 6.11), and (iii) intergovernmental (item 6.12).

The outline of the Integrated Governance Model (IGM) was designed in a manner to match the view of Hill and Hupe (2014:121) that a “model” constructs precise assumptions about a certain set of parameters and variables. As expected by the study, the Model sought to present a thoroughly researched document to guide government officials to prevent lapses of accountability and good governance across the three spheres of government. Despite the allowance by Hill and Hupe (2014:121) on the use of the assumptions to explore and determine systematic consequences, the study restricted the creation of the model to the findings and outcomes.

6.9.2 Background of the Integrated Governance Model

The IGM is the inclusive, but not conclusive governance, model designed from the investigation on the theme “accountability within the governance of intergovernmental relations”. The investigation on the subject matter gave birth to (i) accountability, (ii) governance, and (iii) intergovernmental relations as the key conceptual terms for the integrated governance model (IGM), in line with the argument presented in page 16-20. The intense discussion on the subject matter led to the development of governance through networking, partnerships and participation. All these concepts are applied in efforts to construct accountable good governance within the three-sphered intergovernmental relations, guided by the Constitution and applicable legislation.

In essence, the modern constitutions of various democratic countries incorporate the principles of good governance and accountability in their national ethos. As the research dictated, this national ethos is inclusive of fundamental principles, such as accountability, transparency, responsiveness, integrity, equality, efficiency, the rule of law (justice), participation, and consensus. These ethos are discussed in detail in pages 36-45 and pages 121-125. The same ethos were benchmarked in pages 281-286. However, the study is of the view that an IGM cannot merely be a mentioning or imprinting of the national ethos in the Constitution. It needs to be understood that if a model, without proper understanding and sound mechanisms, is implemented, it is a futile exercise. Hence, Hatchard (2014:20) agrees with the study that good governance “... is more than simply putting constitutional limits to the power of the government”.

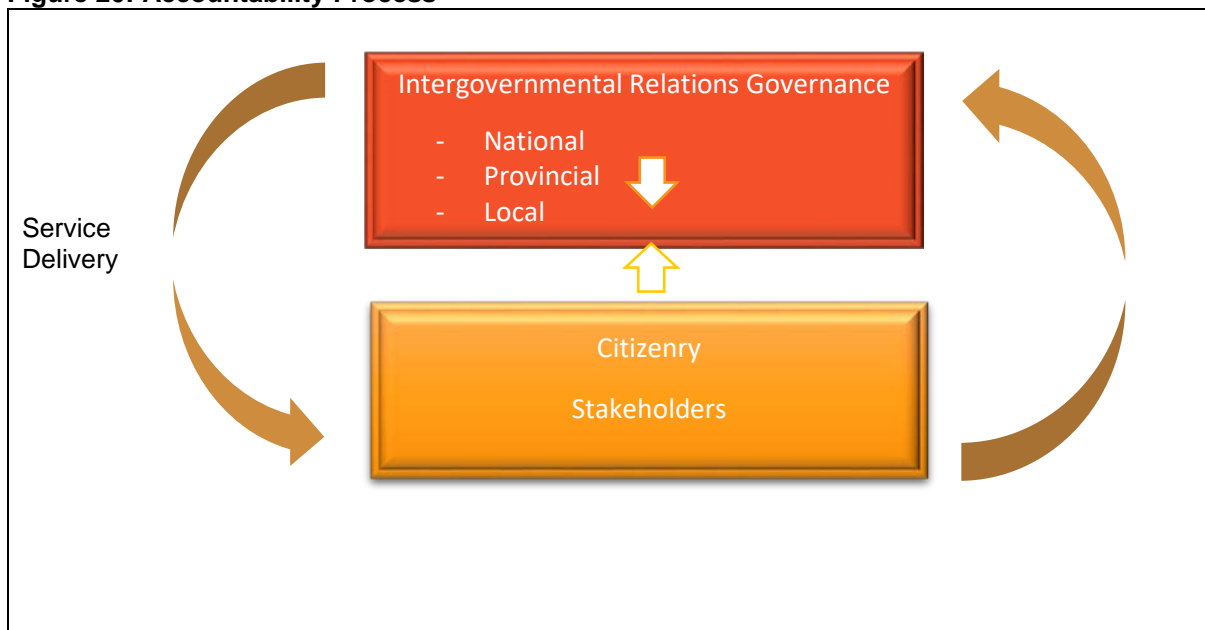
This newly developed IGM was designed by the study to provide a simplified guide to users who are deployed in all spheres of government. The Model does not only intend to embrace the existing principles of accountability and good governance, but also intends to put them into practice. In line with the study, Picard and Mogale (2015:253) concur that in the democratic South Africa, the biggest challenge lies with implementing governance reforms due to the lack of professionalism among administrators. In line with this, Picard and Mogale (2015:253) concur with the study that the efforts to turn these unprofessional habits around will not be an easy task and/or be achieved in the short term. However, the implementation of the IGM, as a

model, demands respect for (i) democratic governance principles, (ii) state institutions, and (iii) the rule of law in order to deliver participatory governance. Hatchard (2014:21) argues that the Model has to respect state institutions and the rule of law in order to function as a well-oiled piece of machinery to deliver transparent and accountable governance.

The manner in which the study outlined its IGM suited the definition provided by De Coning, Cloete and Wissink (2011:32). Their definition of a model ought to be seen as the simplification of the complex reality in order to explain the relation among variables or show a good cause of how things should occur. Therefore, the study acknowledged that there are challenges relating to accountability within the governance of IGR in South Africa, as recorded in pages 16-20 of the study. The determination for the acknowledgement of the triple concepts of (i) accountability, (ii) governance, and (iii) intergovernmental relations, used the basis of diagnostic investigation. Furthermore, the study assessed the use or implementation of IGR in South Africa, comparing it to countries of a similar nature. The IGM, created by the study, has built in the principles of participation and partnership.

6.10 Accountability Model

Figure 20: Accountability Process



Source: Own Construction

The Model encourages and further requires that every participant in the accountability process be actively involved within his or her confined areas of responsibility. The officials within all spheres of government need to ensure accountable governance through various mediums of service delivery programmes. The Model further requires that the efforts of rendering a service to the public have to be accountable, transparent and responsive. Equally so, the Model regards the public and the organised stakeholders as the key participants. Therefore, the members of the public and said organised stakeholders were expected to invest their availability in the governance integrative programmes.

Despite the study having provided a detailed discussion on accountability, it is equally important to lay a firm foundation by outlining a background on what defines accountability to develop a better understanding of the “governance accountability model”. The study concluded that accountability involved the interaction of two or more parties. Hence, it adopted the definition by Cammack (2012:258) and Van der Waldt (2004:45-46) that one party is answerable to the other. In practical terms, the study confirms the argument by Van der Waldt (2004:46) and Burnell (2012:274) that “public officials should be accountable for outputs, results and outcomes”.

The study asserts that the accountability part of the Model is the most critical and thus deserves to be systematic. The accountability model should be comprehensive and inclusive of (a) public and private officials, (b) political principals, (c) all levels of government, (d) citizens, and (e) partnerships. Accountability within governance is inclusive in this regard because it is a key requirement of projecting good governance to government institutions, public and civil societies, as outline below:

6.10.1 Administrative Factor

Hence, the study asserts that the administrators in the three spheres of government are obliged to provide the administrative functions in the spirit of delivering good and accountable governance. Apart from the administration being the administrative interface between the political principals and the officials, the administrators in public or private governance remains the key factor. It remains a challenge to ensure accountability and high moral and professional standards to guide their behaviour. In

agreement with the study, Wooldridge (2008:470) asserts that the administrative link must exist in all levels of government.

Section 195 of the Constitution projects the principles of good administration, governed by good values. These values and principles are to be effected by the (i) administrators in the three spheres of government, (ii) the organs of state and (iii) public enterprises. Ijeoma *et al.* (2013:166) concur that the accountability model (as in this study) meant to simplify these functions. Furthermore, Ijeoma *et al.* (2013:166) support the study by adding that "... having so many people coming from different cultures and environments in the work place means that there has to be a set of common values that guides the work and behaviour of everyone working in the organisation". Moreover, Brand (2015:180), in accordance with the study, confirmed that administrative functions must be effected in a fair manner, whereby the members of the public and all stakeholders are:

- informed of developments,
- provided with an opportunity to be heard,
- informed about their right to review, appeal and request reasons for each decision, and
- provided with a statement of the administrative actions. Hence, the study advocates that the public be taught about their democratic rights of accountability within the governance of intergovernmental relation. Such engagements with the public and stakeholders will ensure transparency and accountability at its best, as a form of the successful accountability model.

6.10.2 Policy Factor

The study used Vision 2030 (the NDP) and applicable legislation as the basis for the policy discussion, to determine its implementation and the in-depth progress since its inception in August 2012. Both the study and De Coning *et al.* (2011:33) agree that the analysis of the public policy is too broad for a focussed discussion. Therefore, the study chose to analyse the National Development Plan (NDP) with the intention to improve the "processes, contents and outcomes", with the combined descriptive and

prescriptive objectives. Dealing with the National Development Plan (NDP) as the national policy conformed to the argument by Cloete, de Coning & Rabie (2011:301-302) that the measures of ensuring the attainment of policy objectives need to be implemented.

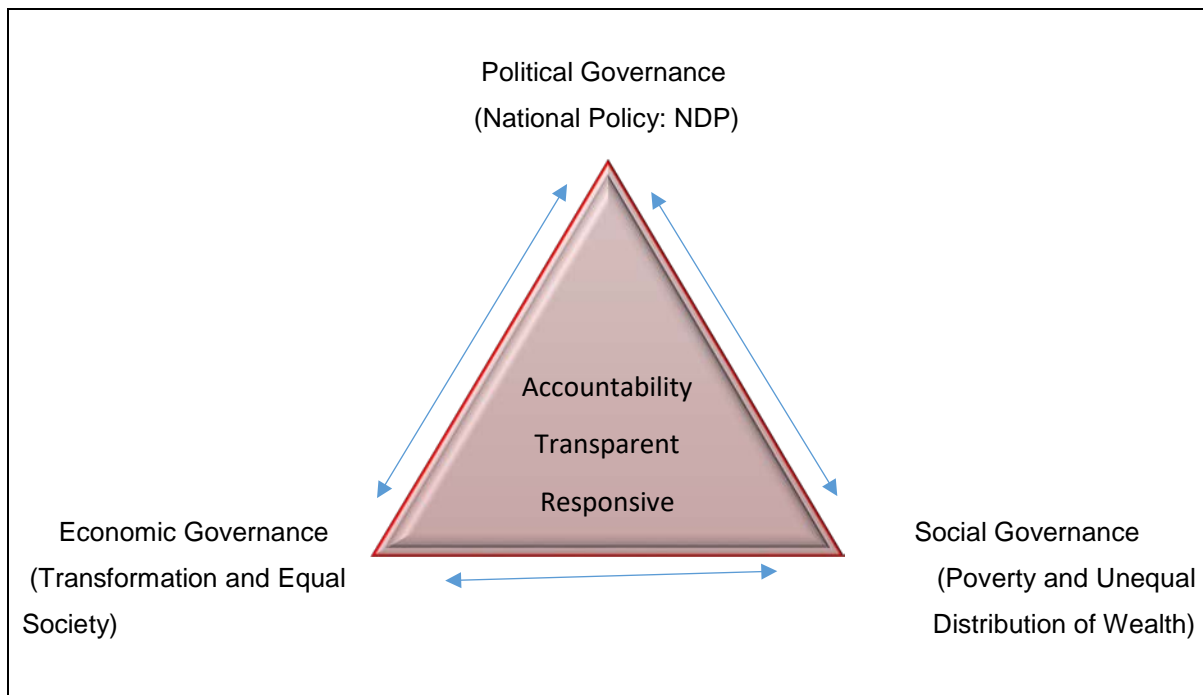
Furthermore, the study used the National Development Plan (NDP) as the dipstick of radical transformation, to eradicate the triple challenges of unemployment, poverty and inequality, in order to improve the outcomes through accountable means. The use of radical transformation to overturn the challenges of unemployment, poverty and inequality demands the combination of high levels of competency, commitment and financial capacity. Therefore, the success rate is dependent upon sound accountability measures built within the accountability model of this study. The compromise of the competency levels and a lack of commitment in the implementation of the policy will certainly downgrade the accountability measures. The lowering of competency and fostered commitment are the results of a lack of accountability.

6.10.3 Judiciary

In an environment where a sound judiciary system is to exist, it has to be independent. This judicial independence may only be realised when it functions independently from the other two politically inclined branches of government (i.e. the executive and the legislative). Bruch *et al.* (2016:988) confirm that in the accountability model, as presented by the study, independency is essential because "... all people and institutions are bound by the law, even the government". Hence, judicial independence was expected to produce and develop a transparent and accountable government. Thus, the study is in agreement with Koliba *et al.* (2011:226) that the actual accountability measures (structures) may only exist between those rendering accounts (the accouter) and those to whom the accounts should be rendered (the accountee).

6.11 Governance Model

Figure 21: Governance Process



Source: Own Construction

The integrated governance model (IGM) speaks to governance responsibility by means of ensuring the establishment of the national policy, which will be conducive to enhancing the interconnected triangle of the political, economic and social wing. The policy in this case, the National Development Plan (NDP), is intended to transform the economy of the country. It seeks to achieve this through employing radical economic transformation, which cuts across the unequal society to get rid of the challenges of unemployment, poverty and inequality within society. The National Development Plan (NDP) (see Figure 21 above) demonstrates the inter-connectedness of political, economic and social governance.

The study laid the foundation of the governance model from the traditions and institutions of exercising the authority in South Africa, with the narrative comparison to six international countries. The six countries, which the investigation referred to in [pages 373-381](#), are Germany, the USA, Australia, Canada, Uganda and Tanzania. It must be understood that governance means different things to different people and authors. Hence, the study has adopted the definition by Loffler (2009:216) and Cloete

(2011:66) that governance means more than government and is about the interaction between government and society (stakeholders) in all its levels. Despite governance being interpreted as an interaction process, the study broadened the definition to incorporate the process of decision-making and the process of implementing, or not implementing, those decisions, which are political, economic or social.

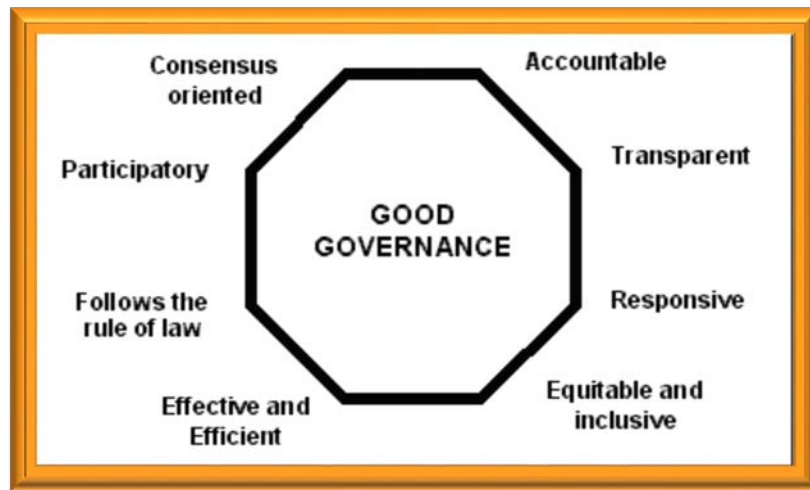
Accordingly, the study drew the synopsis of this model from the basis of political, economic and social governance, whilst being informed by the development of the NDP as the national policy. The study concurred with Ijeoma *et al.* (2013:183) that governance is a broad concept, encompassing three components, namely,

- **political governance**, whereby it encourages the cohesion within the society by means of its strong foundations of democratic principles which are enshrined in the Constitution,
- **economic governance**, whereby the government through its National Development Plan (NDP) seeks to transform and capacitate the society to equally share the economy of the country, and
- **social governance**, which advocates for the assurance of morals within the society to inculcate balances and equality to the unequal society, as diagnosed by the National Development Plan (NDP).

In its analysis, the study concluded that the governance model deals with the manner in which the service was rendered to the society, and how to improve the same. Then this integrated governance model (IGM) is designed to address what the study diagnosed as the pitfalls of intergovernmental system in its problem statement in pages 16-20. The same pitfalls were also identified and confirmed by Picard and Mogale (2015:249), in that South Africa experienced serious accountability challenges in delivering quality service to communities, despite suitable policies being put in place. Hence, the need for a renewed governance model, designed by the study, to include the relations of government and accountability. Hence, the previous Chapters, including this Chapter, dealt with all the ingredients of good governance, which

highlighted (i) consultation, (ii) public participation, (iii) respect to the rule of law, (iv) efficiency, (v) equality, (vi) responsiveness, (vii) transparency, and (viii) accountability. These ingredients of good governance, as discussed by the study, are also confirmed by Figure 22 below, which originated from the United Nations' Economic and Social Commission for Asia and the Pacific (UNESCAP, n.d.).

Figure 22: Characteristics of Good Governance

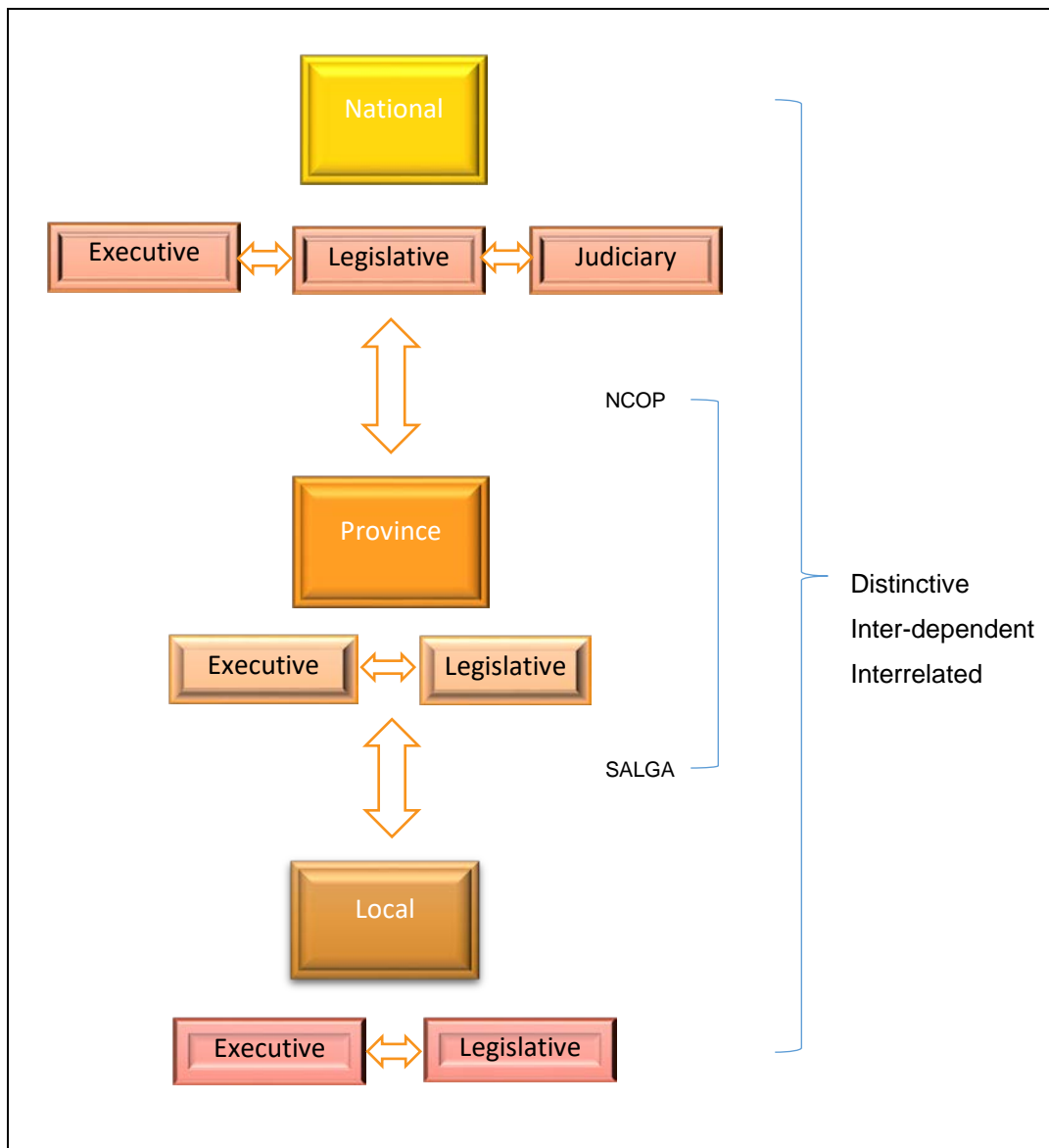


Source: UNESCAP, n.d.

Figure 22 above confirms that good governance is an integral part of the world, and not only the South African government. Apart from South Africa striving to align itself with the principles of good governance, the United Nations keeps on calling on its member states to subscribe to (i) accountability, (ii) transparency, (iii) responsiveness, (iv) equitability and inclusivity, (v) effectiveness and efficiency, (vi) respect for the rule of law, (vii) participation, and (viii) consensus orientation. As such, it is not South Africa alone, but the global world, which endorses the concepts of good governance as the way for the future. Therefore, the study aligned itself with the international standards in the development of the integrated governance model (IGM). This was done to incorporate the best practices of good governance.

6.12 Intergovernmental (IG) Model

Figure 23: The Intergovernmental Process



Source: Own Construction

Figure 23 above indicates the distinctiveness, interrelatedness and interdependence in the design and the application of legislation. It further outlines the representation of all the spheres in the national legislating structures of government. The structure also clearly spells out the autonomy of the three spheres of government within the unitary state formation. Hence, the Figure reflected the simplified structure, in which the intergovernmental (IG) model intensified the interrelatedness of the spheres of government in a unitary-cum-federal South Africa.

The investigation, provided by the study, projected two scenarios of IGR. The IG model within the context of South African governance as a unitary state was compared to the foreign system of IGR in federal formations. The study further focused on the implementation of the IGR system and the challenges and complexities thereof.

The National Assembly (NA) and its counterpart body, known as the National Council of Provinces (NCOP), conclude the sound legislation for all the spheres of government. However, these pieces of legislation are made to be observed by both the provincial and local government for accountability. The overpowering of another sphere occurs, regardless of the existing legislation and regulations to guard against unaccountable behaviour. The finances of both the provincial and local governments are controlled and monitored by the National Treasury. The National Treasury is located in the National Department of Finance for tighter financial control. A model of this nature largely does away with the system, which permitted one sphere to be the agency of another. In the South African context, the lesser role played by both the provincial and local governments, and the dominant role played by the national government, has an element of reducing the autonomy of the other spheres.

6.13 Integrated Governance Model (IGM)

Table 50: IG Model

Key Actors	Set Targets	What the Model seeks to achieve
Administrative and Political Officials: <ul style="list-style-type: none"> - Political Principals - Government Officials - Members of the public 	Answerability and Enforceability (Accountability)	<ul style="list-style-type: none"> - Outlined set of objectives - Quality service delivery - Circumvent future problems - Making sound decisions with regard to future programmes - Designing scientific methods to determine outcomes
Participation: <ul style="list-style-type: none"> - Citizenry - Stakeholder (NGO, Public and Private) 	Joint decision-making and compliance (Legislation and Constitution)	
Policy Dynamics: <ul style="list-style-type: none"> - Formulation (the NDP) - Implementation (Vision 2030) - Evaluation (Review) 	Reduction of unemployment, eradication of poverty, and developing an equal society	

Source: Own Construction

Table 50 above illustrated the comprehensive analytical model (the integrated governance model), as it developed the itemised key actors and the set of targets. Hence, the Table further produced the combined intended set of targets sought to be achieved. Table 50 also synchronised the data collected from the previous Chapters, to give proper meaning and interpretation in this Chapter. However, the Table demonstrates the development of the new model, which resembles uniqueness and the contribution of the study. Given the fact that the National Development Plan (NDP), as the policy, identified the challenges and the integrated governance model (IGM) provided how to achieve those set targets.

The integrated governance model (IGM), as developed by this study, has the following key focus areas:

- Accountability for all the actions and transactions,
- Engagements (participation) of the public and stakeholders,
- Evaluating and measuring the governance performance and results

Therefore, these identified focus areas will be used by the study as a guide to develop conceptual theories, and according to Schwella (2015:42), these theories have to be thoroughly analysed for the development of a sound model. These theories of “accountability, governance and intergovernmental relations”, as conceptualised by the study under the theme “accountability within governance of intergovernmental relations”, directly gave rise to the intergrated governance model (IGM). The study concurred with Schwella (2015:42) that models and theories cannot be complete and conclusive, but can certainly provide a simplified systematic guide to the implementation of the policy using an accountable model. It will be crucial for the government to use the properly researched model to strengthen the principles of accountability, governance and intergovernmental relations. The IGM, as a comprehensive model, includes the process of (i) assessment and planning, (ii) rebuilding governance frameworks, and (iii) developing humanitarian programmes. Furthermore, the Model sought to supplement, what is termed intrinsic ability in the form of capacity, as suggested by O’Toole and Meier (2011:184).

6.13.1 Accountability for Actions and Transactions

The integrated governance model (IGM) asserted that all role players involved in the public spectrum be equipped with the necessary resources and be backed by the necessary knowledge and skills for compliance and adherence to the applicable regulations. The resource-based needed for the implementation of accountability measures by the government officials be ascertained. Therefore, there must be stringent monitoring processes to control and manage the knowledge and skills base of all government administrators (i.e. entering, existing and exiting). Thus, there must be a periodic skills audit of government officials, and subsequent training interventions, where necessary.

In an environment where there is a shortfall of skills and knowledge to demonstrate the distinction of two accountability principles of (i) **answerability** (where the authority has to account), and (ii) **enforceability** (where the authority has to be held accountable), the government as an institution is bound to fail. It is for these reasons that the study agrees with Pelizzo and Stapenhurst (2014:2) that “accountability exists when there is a relationship where an individual or institution, and the performance of tasks or functions by the individual or institution, are subject to another’s oversight, direction or request ...”. As a result, such an individual or institution has to provide information or justification for their actions.

6.13.2 Engagements (Participation) of the Public and Stakeholders

This study places more emphasis on the public and stakeholder participation. Public participation ensures that members of the public and the relevant stakeholders be made part of decision-making, and be held accountable in the spheres of government. The involvement of the public will familiarise all participants of the existence of the IGM, and thus make it easier for a successful implementation. The government officials at all levels of governance need to ensure the engagements or consultation with the public and the stakeholders for joint decision-making through various forms of participation. The members of the public be learnt their rights in order for them to be able to express themselves freely on issues of accountability. In doing so,

accountability, which is transparent and responsive by means of consensus-orientated decisions, will be ensured.

Public participation was a compliance matter, which needed observation by all public officials. Reference in this regard may be made in accordance to Section 16(1)(a) of the Local Government: Municipal Systems Act (32 of 2000). The Act compels the local sphere to “encourage, and create conditions for the local community to participate in the affairs of the municipality”. The same public participation is enshrined in Section 195(1) of the Constitution. Therefore, public administrators are compelled to engage with the public and relevant stakeholders. It is for this reason that the study and Steele (2014:152) are of the view that non-governmental organisations (NGO), private and governmental partnerships are a common feature in developing countries.

6.13.3 Evaluating and Measuring of Governance Performance

It is imperative for the integrated governance model (IGM) to indicate that the “formulated policy” needed implementation. The study noted the difficulty in separating the “policy formulation and policy implementation”. This argument by the study as shared by the sentiments of Hill and Hupe (2014:57), in that “... it is very difficult to separate implementation from policy formation”. Once the policy has reached the implementation stage, it therefore means that the process needed evaluation by using four systematic processes of evaluation (Rabie & Cloete, 2011:198). These processes of evaluation will serve as the measuring stick for the implementers to determine the governance performance and the possible end results of the policy.

The research agrees with Ijeoma *et al.* (2013:235) that the successful evaluation and measurement of governance performance is dependent upon:

- Activities implemented under a specific policy achieved the outlined set of objectives,
- Efforts in place to judge the quality of the in-between or in-process programme,

- Information is continuously gathered to circumvent the future problems of the programme, as well as make sound decisions about the future of the programme,
- Design the scientific methods to determine the successful implementation and the outcomes of the programme.

6.13.4 The Use of the Integrated Governance Model

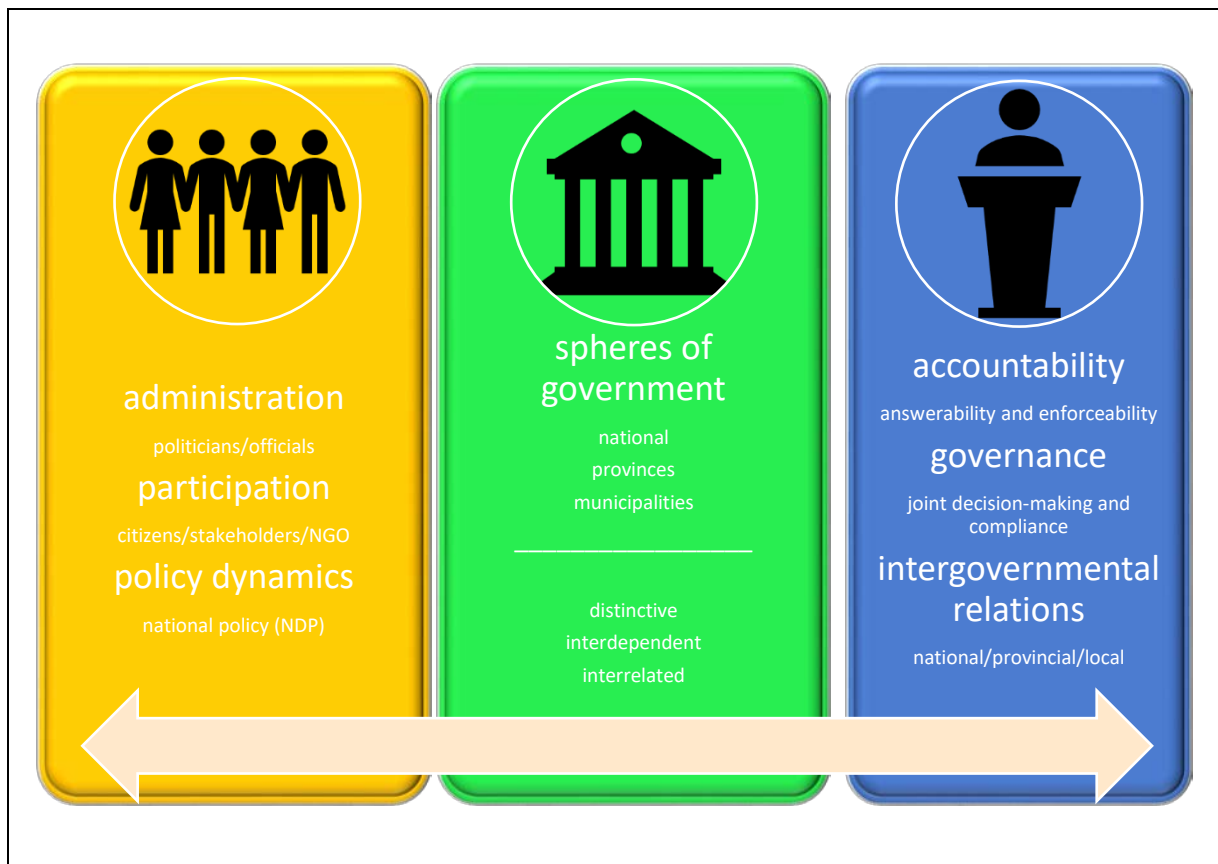
The study used the basis of the integrated governance model (IGM) to test the development of the in-between progress of Vision 2030 (the NDP), as discussed in the previous Chapter. In doing so, the research employed the following measuring mechanisms to determine the possible success and/or failure of the NDP by 2030:

- Establishment of criteria of merits,
- Set standard levels for the desired performance,
- Describe the performance in order to do the comparison with predetermined standards,
- Integrate the information into the judgement of merit or worth

The study discussed the above-mentioned process in the previous Chapter, with specific reference to Vision 2030. The National Development Plan (NDP) has had its criteria of merits and standards levels set. Therefore, the previous Chapter had to describe its performance in the implementation process to determine whether the set targets will be achievable by 2030. With the set standards of (i) reducing unemployment, (ii) eradicating poverty, and (iii) developing an equal society in 2030, it was therefore important for the study to test the proposal and strategy against political ownership and financial accountability.

6.13.5 Cognitive Model

Figure 24: Integrated Governance Model (IGM)



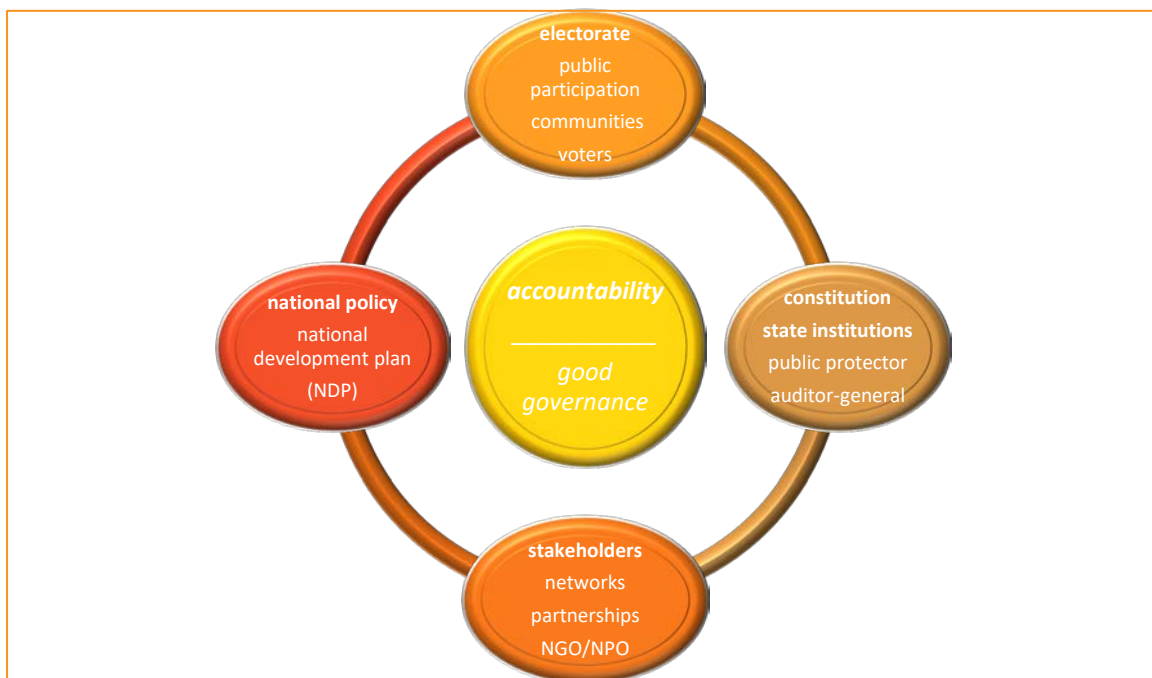
Source: Own Construction

Figure 24 above demonstrates and reflects the smooth transition within the IGM. The Model is composed of the three pillars of accountability and good governance, which constitutes the “integrated governance model”. The key concepts discussed in the integrated Governance Model (IGM) with reference to the Chapter are:

- the foundations of the integrated governance model (IGM) in page 371,
- the background of the integrated governance model (IGM) in page 372,
- the accountability model in pages 373-374,
- the governance model in pages 377-379, and
- the intergovernmental model in pages 380-381.

The above key indicators showed the interaction, relationship and the combination of accountability, governance and intergovernmental relations within the integrated governance model (IGM). The relationship broadened by the study to realise the relevance of the integrated governance model (IGM) to this study. As a result, the discussion of these interactions, relationships and combinations of accountability, governance and intergovernmental relations under items 7.9 to 7.12 set out the dictum for the informative integrated governance model (IGM).

Figure 25: Integrated Governance Accountability



Source: Own Construction

Figure 25 above places accountability at the centre of good governance. Accordingly, accountability and good governance cannot operate in isolation, but needed protection from the electorate, the Constitution, legislations, stakeholders, national policies and procedures. The study the integrated governance model (IGM) demanded that “accountability” imprinted as the epicentre of governance in every sphere of government in order to deliver accountable good governance. The investigation dictated that integrated governance model be surrounded by the accountability measures as demonstrated in Figure 25 above in order to deliver the good governance. These accountability measures as indicated needed to be simplified as follows:

- **Electorate:** the model encourages the citizens to be active participants to ensure the delivery of good governance,
- **Constitution (1996):** the Model recognises the Constitution as the cornerstone of the intergovernmental government and thus endorses accountability through the adoption of state institutions,
- **Stakeholders:** the model presents the involvement of the citizenry as the key to accountable governance, and
- **Legislation and National Policy (the NDP):** the Model concludes by cementing the design and implementation of sound national policies, which have the potential to deliver good governance.

6.13.6 Summarised Steps of the Integrated Governance Model

Table 51: Integrated Governance Model Summarised Steps

Define	Define goals, strategies and policies in all three spheres of government	The continued assessment of risks, opportunities and impacts, the Model demands that the government develops and refine goals and metrics, which are relevant to the governance operating context – thus, creating a roadmap to deliver on its programmes (national, provincial and local).
Commit	Leadership or officials to mainstream the goals, strategies and operations in line with the national policies	The leadership and government officials to openly declare their commitment to the community and stakeholders. The commitment is to be done as part of the day-to-day strategy of the government national policy under stringent and transparent intergovernmental governance oversight structures.
Implement	Implementation of government strategies and national policies	The government to establish and ensure ongoing adjustments to the core processes of networks, partnership, public participation and capacity building for the leadership and officials. This will ensure the successful implementation of government policies.

Assess	Assessment of the risks and opportunities across the three spheres of government	The need to assess the government risks and opportunities with regard to finances and its impact on operations and activities. The continued assessment will assist in refining the goals, strategies and policies of IGR.
Measure	Measure and monitor impacts and progress towards goals	The Model compels the government to adjust its performance management system to monitor progress and performance metrics against the goals and strategies to improve governance performance.
Communicate	Communicate the progress and strategies to the public and stakeholders	The government to communicate its strategies and progress to the leadership, officials and all levels of government for the intergovernmental implementation. The similar communication strategy to be extended to the public and stakeholders.

Source: Own Construction

The study is of the view that the challenges are not restricted to the delivery of good governance, but to the sound policies, as advanced and discussed throughout the entire investigation. Table 49 above illustrates the summary of the steps for the integrated governance model (IGM), which constitutes the model process. Thus, the Model is refined from the:

- **Definition:** which provides the defined goals, strategies and policies of government,
- **Commitment:** which urges the leaders and officials in the intergovernmental government to commit towards aligning their operations and activities to the goals and strategies of the government,
- **Implementation:** which ensures the successful implementation of the Model in promoting transparent, effective and good intergovernmental governance,
- **Assessment:** which assesses the financial risks and opportunities in accordance to the directives of the applicable legislation (e.g. MFMA, DoRA, etc.),

- **Measuring:** which is intended to measure the performance, implementation and capacity of the officials for possible adjustments, and
- **Communication:** which sought to promote adequate communication of the strategies within the intergovernmental governance and the engagement with the public and the stakeholders.

6.14 Conclusion

This Chapter provided for the interpretation and the meaning of accountability, governance and IGR. It also provided in detail the new Integrated Governance Model (IGM), which incorporated accountability and governance through participation and partnership. Hence, the Chapter distinctly defined **the interpretation** and **the meaning** of IGR relating to the implementation both locally and abroad. Thus, this Chapter developed the IGM, which forms the crux of the study the analysis of the previous Chapters. Thus, the integrated governance model (IGM) informed by the key conceptual terms of accountability, governance and intergovernmental relations. The IGM is central to accountability from those deployed in positions of power and the delivery of good governance in South African. Furthermore, it also prioritised the support of those assigned with the responsibility of accountability in terms of **development, implementation** and **oversight**.

The development of the **integrated governance model** (IGM) demonstrated a clear indication of the **scientific contribution** of the study. This contribution of the study in this model has put more emphasis on accountability through the build-up of the intergovernmental (IG) process model, as reflected in Figure 23 in page 380 of this Chapter. Figure 23 in page 380 depicted the background, which gave rise to the branches of government in the three-sphered South Africa. To that effect, the respect paid by the integrated governance model (IGM) to the branches of government provided the stringent process. The model is also determined to guide accountability, governance and intergovernmental relations in South Africa. Figure 23 also configured the relationship of the South African spheres of government.

Given the background depicted above, the integrated governance model (IGM) needed different or be interpreted not as a circulation of the previous models; rather than just another new, researched guide to instill accountability and good governance in all sectors of South Africa. This guide in the form of a model sought to provide guidance to (i) political principals, (ii) government officials, (iii) citizens, (iv) communities, and (v) stakeholders.

Ultimately, this Chapter referred to the inclusion of **public participation** and **partnerships** in the **integrated governance model** (IGM) in order to achieve maximum success. Table 50 in page 381 of this Chapter explicitly illustrated the relay of activities and the processes of the IGM to signify the importance of joint decision-making. Hence, joint decision-making, as vindicated by this Chapter in its demonstration of the integrated governance model (IGM), found to strengthen compliance to the South African Constitutional democracy. The **next Chapter**, which constitutes the final Chapter of the study, will provide the **findings, conclusions** and **recommendations**, deduced in a summarised manner from all the previous Chapters.

CHAPTER SEVEN

FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

7.1 Introduction

This Chapter will considered the investigation conducted throughout the analysis of the previous six Chapters in order to develop and provide meaningful findings, conclusion and recommendations for the study. By so doing, the investigation was guided by the data gathered from the entire study. Despite the study having identified (i) accountability, (ii) governance, and (iii) intergovernmental relations as the key conceptual terms for the research, there were conceptual terms developed in the process of data collection. These newly developed concepts, such as governance network, partnership and public participation, will receive attention in this Chapter because they brought about a new dimension to the integrated development model (IGM), designed by the study in the previous Chapter. Hence, these newly developed and critical concepts enjoyed full attention in the development of the findings, conclusions, and recommendations provided by this concluding Chapter.

The findings and recommendations in this regard referred to the broad spectrum of observations collected from the previous six Chapters. This enabled the study to provide factual and sound recommendations for the beneficiaries/users. Accordingly, the findings and conclusions are instrumental in the finalisation of the recommendations, to ensure accountability (answerability), governance (transparency), and an intergovernmental (cohesive) relationship amongst the (i) three spheres of government and (ii) independency of the three branches of government.

This Chapter emphasised what the study advanced in its problem statement, in Chapter 1, which declared that the investigation will (i) be fact-orientated, and (ii) be informed by the latest information. The said findings and recommendations provided for and interpreted in Chapter 7 needed to address the current challenges of accountability within the governance of intergovernmental relations South Africa. Accordingly, the study demanded that this research pronounces itself within the boundaries of the outlined challenges, as mapped out by its Chapter 1, to develop

befitting findings and conclusions, and appropriate recommendations. Some of the challenges identified in pages 16-20 referred to the following guidelines:

- The argument advocated by Mbeki (2009:64) and Ramphela (2012:112) that South Africa is regressing because of the lack of accountability.
- The government's inability to perform, comply and/or account, in line with the dictates by the state institutions, as submitted by Zybrands (2006:143) and supported by Mbeki (2009:64).
- The submission by Picard and Mogale (2015:169) that "... South Africa has progressive basic laws, but South Africa's politicians and administrators have been unable to implement them".
- The chronic poor financial management and lack of control and accountability systems of the government, as presented by Venter (2018:105).

This Chapter clearly addressed the set of statements converted into the objectives of the study as outlined under page 21, to provide interpretation and meaning. As indicated, the findings and recommendations of this study are influenced by the data collected from the previous Chapters. However, the researcher was not only sequential in the aims and objectives of the study, but further addressed the holistic problem statement, as discussed in Chapter 1.

7.2 Overview of the Study

Chapter 1: In the analysis, the Chapter identified the gap of accountability within the governance of IGR relations in South Africa. The Chapter diagnosed the challenges of rendering accountable good governance and sought to develop a guiding document in the form of a model. Hence, Chapter 1 projected and developed the set of aims and objective in pages 21-25. The Chapter further committed to produce the findings and recommendations in this Chapter (Chapter 7). The Chapter further outlined the process of the investigation in line with the argument presented by Bridges and Ho

(2010:286) that governance and accountability are inseparable. The outline of the study provided the reasons for the research (i.e. why the need for the study), the uniqueness of the study (i.e. how the study is different from previous investigations), and the contribution to the body of knowledge (i.e. what new ideas and solutions the study will provide to the world of science within the context of accountability, governance and intergovernmental relations).

Chapter 2: The study projected in pages 36-45 that good governance is encouraged by the means and efforts of accountability and transparency to the electorate by government officials. The same principles of good governance projected networking, partnership and public participation with the applicable stakeholders as the key factor of governance within the circle of intergovernmental systems (refer to pages 49-92). Hence, governance networks, partnerships and public participation are thoroughly conceptualised within the boundaries of good governance throughout this investigation. Furthermore, the same principles of good governance influenced by the prescriptions of accountability, transparency, partnership and participation, which augmented the realities of predictability and practicability in the delivery of good and accountable service to the public.

Accordingly, Chapter 2 endorsed accountability, transparency, partnership and participation as the prescriptive cornerstone of good governance. However, the discussion as presented above affirmed that those prescriptive principles of good and accountable governance cannot be isolated or work in isolation from the pillars of governance networks in order to reach the desired outcomes. These networks, as discussed in pages 49-57, manifested themselves in the form of providing (i) standard resources, (ii) private administration, and (iii) the basis for the end-to-end principle in support of accountability within the governance of intergovernmental relations (IGR). It is for the same reasons that the study referred to the argument by Messner (2011:283) and Slaughter (2010:349) that governance networks are considered the departure point for accountability; hence, they are inseparable.

Chapter 3: This Chapter diagnosed the Constitutional relationship towards cooperative governance, as demonstrated in the form of intergovernmental relations (IGR). The study outlined the basis of cooperative governance (refer to pages 121-

125) in line with Section 41(1) of the Constitution. The study also demonstrated the essence and the effect of the intergovernmental system from the planning by national institutions in pages 125-130 (e.g. the State of the Nation Address and the Budget Speech). Ordinarily, the planning of these national institutions cut across the national and provincial government and municipalities. The study further endorsed the IGR framework as distinctive (3.5.1), interdependent (3.5.2) and interrelated (3.5.3).

Apart from the national planning, which incorporated and determined the budget for both the provincial and local spheres, there are other structures that strengthened the accountability within the the intergovernmental governance system. These structures are coordinated under the banner of the President’s Coordinating Council, the Cabinet Clusters, MinMEC, the Intergovernmental Forum, and the Budget Council, as clearly outlined in pages 158-170. Hence, the study denoted that the provincial and local spheres structures adopted the national structures (refer to pages 159-170) to ensure coherence in publicising accountability in all spheres of government:

Table 52: Intergovernmental Structures

National	Provincial	Local
President’s Coordinating Council	Premier’s Coordinating Council	District Mayoral Committee
Intergovernmental Forum	Provincial Intergovernmental Forum	District Intergovernmental Forum
Budget Council	Provincial Budget Forum	Municipal Budget Forum

Source: Own Construction

Table 52 above has some similarities with Table 16 in page 158. Table 4 in page 72 provided for the general operations of the intergovernmental structures within the three spheres of government. Table 16 also provided the broader perspectives, without specifics or examples of the three spheres. On the other hand, Table 52, as presented above, was specifically designed to illustrate how the intergovernmental structures needed to relate to each other in order to positively influence the governance accountability within the three spheres of government.

Further, the study provided for the evolution and the birth of the South African Constitution, which gave rise to cooperative governance, implemented by means of intergovernmental relations (IGR) across the nine provinces. The in-depth analysis of cooperative governance and the clarification of the three spheres of government, as well as the allocation for the separation of powers, demarcated South Africa as a Constitutional democracy. The study went further to define the roles and the functions of the executive, the legislative and the judiciary in order to demystify the ambiguity and at the same time emphasise and strengthen the checks and balances as the means of accountability. As such, the study provided that the checks and balances may be strengthened by respecting the state institutions, as provided by the Chapter 9 Institutions of the Constitution (1996), as discussed in pages 200-206.

The study concluded by outlining the provision of dispute settlements in the intergovernmental relations of South Africa in pages 183-185. The study further highlighted state interventions in terms of the functioning of the junior spheres of government, in relation to Sections 139 and 100 of the Constitution. This intervention of one sphere in the other justified the increased level of democracy, as discussed in pages 183-185.

Chapter 4: The study drew the distinction between a unitary state and a federal state, further comparing them to unitary Constitutional South Africa. The comparison of the implementation of intergovernmental relations in South Africa was weighed against six international countries, i.e. Germany, the USA, Australia, Canada, Tanzania and Uganda. Thus, the study established that South Africa has a combination of the two governance systems, despite its declaration of being a unitary state. The South African unitary formation has a strong formation of the federal system if compared to the other international intergovernmental system. However, the study in pages 114-116), pages 116-121 and pages 152-157 confirmed that “South Africa is one, sovereign and democratic” country, similarly it endorsed the same summation of Section 1 of the Constitution, which is the supreme law of the country.

Chapter 5: This Chapter provided for a critical analysis of governance accountability. Previously, in pages 101-105, the study demonstrated the picture of governance accountability using various mechanisms (i.e. political, fiscal, administrative and legal).

Moreover, the study used the work of the Auditor-General (refer to pages 288-289) and the Public Protector (refer to pages 289-290) as examples to draw the distinction among the four accountability mechanisms. The study continued with its analysis in pages 92-100 to discuss the four forms of accountability (i.e. horizontal, vertical, diagonal and social/societal). The study used SOEs and SMMEs to illustrate the examples of the forms of accountability in pages 312-316.

Apart from the accountability mechanisms and the forms of accountability, the study discussed policy accountability with specific reference to the National Development Plan (NDP). The discussion of the National Development Plan (NDP) continued in pages 323-351. The study restricted the discussion in 5.8 and 5.9 to, the expectations of the implementation of the Plan as the national policy, the gaps within the implementation of the National Development Plan (NDP) between the inception stage and the targeted Vision 2030, and the commitment of the government towards the successful implementation of the National Development Plan (NDP). The study further made reference in pages 301-306 to governance accountability as an oversight at all levels of government, i.e. (i) national (the Standing Committee on Public Accounts), (ii) provincial (the Provincial Public Accounts Committee), and the (iii) local (the Municipal Public Accounts Committee).

Apart from discussing oversight within intergovernmental accountability as a means of intergovernmental relations (IGR) in pages 303-305, the Chapter expanded the concept of accountability to the context of the intergovernmental governance system. The discussion was limited within the parameters of cooperative governance, in terms of Chapter 3 of the Constitution (see pages 301-303). The discussion on intergovernmental accountability was broadened and strengthened by the debate on the intergovernmental structures, as advanced in page 312. Hence, the Chapter analysed all the aspects of “accountability within the governance of intergovernmental relations (IGR) in South Africa”, within the context of the key concepts of accountability, governance and intergovernmental relations.

Chapter 6: In this Chapter, the study provided for the interpretation and meaning of accountability within the governance of intergovernmental relations (IGR). As the concepts of accountability, governance and intergovernmental relations (IGR) are key

to this study, the research found it befitting for a further in-depth discussion on accountability to develop a contextual understanding of the entire study. Furthermore, in compliance to the research aims and objectives as outlined in pages 21-25, the study found the need to qualify its findings and recommendations in order for the research to be unique and significant contribution in accordance with pages 33-35. Hence, the study developed the unique integrated governance model (IGM) informed by the concepts of accountability, governance and intergovernmental relations, as defined in Chapter 1 to address the research question as dictated in page 20 of the study. The newly developed integrated governance model (IGM) by the study incorporated the best practice from international bodies, such as the United Nations (UNESCAP, n.d.).

7.3 Findings

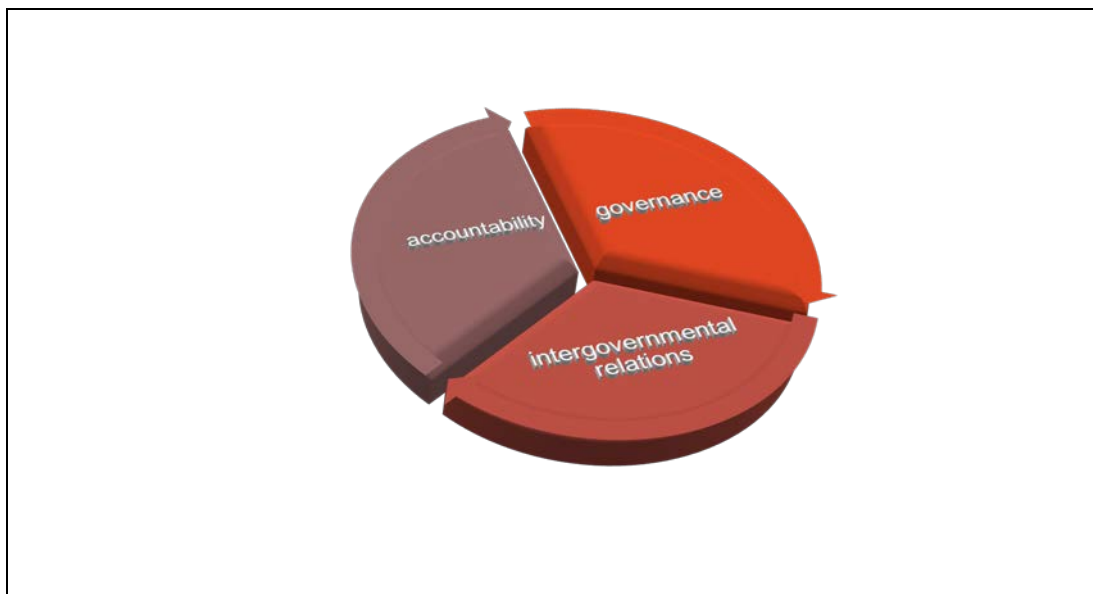
The study resolved to embark on an investigation of this project themed “Accountability within the governance of intergovernmental relations in South Africa” after having reached the conclusion that there are serious challenges concerning the delivery of the accountable governance of intergovernmental relations in a democratic South Africa. The challenges continued unabated despite the drivers, users and beneficiaries having the backing of the Constitution (1996) and various pieces of legislations at their disposal. These challenges emanate from the following background:

- **Accountability:** the study concurred with Zulu (2013:56) in that there is an element of disrespect from the state institutions and users towards the adherence to accountability. Whilst the Chapter 9 Institutions are designed and endorsed by the Constitution to champion the adherence to the principles of accountability. Mbeki (2009:64) also confirmed the shortfall in compliance to governance accountability.
- **Governance:** the study submitted that the continuous changes in South African politics and the influence of politicians in the administration pollutes and affects the governance accountability system. This submission by the

study enjoys the support of Cloete (2013:11), who said that the frequent change in officials destabilises accountability within the governance of IGR.

- **Intergovernmental Relations:** Van der Waldt (2018:18) states that the Constitution dictates that the three spheres of government are “distinctive, interdependent and interrelated”. However, the direct intervention by the national government in the functioning of a municipality, as reported by *The New Age* (18 November 2014:1), is contrary to the argument by Van der Waldt (2018:18), as well as the spirit of Section (40)(1) of the Constitution. Hence, the news report contradicts the “distinctiveness, independence and interrelatedness” of the Phokwane Local Municipality as one of the three spheres of government.

Figure 26: Circle of Accountability within the Governance of Intergovernmental Relations



Source: Own Construction

Figure 26 above illustrates the interconnectedness of accountability, governance and intergovernmental system, as discussed by the study under the theme “accountability within the governance of intergovernmental relations”. The Figure further needs to be viewed as the equal pieces of the puzzle in this study for the better understanding and interpretation by the user and the beneficiaries. Accordingly, the study coined the

concepts “accountability, governance and intergovernmental relations” together to cement the true sense of good governance.

Furthermore, the study discussed the same concepts to design the integrated governance model (IGM) as the study’s unique contribution to the world of science. Thus, accountability, governance and IGR are discussed inseparably throughout the Chapters of the study. Similarly, the Figure demonstrates the inseparability of the same concepts, consistently with Chapter 3 of the Constitution.

Lastly, the study used the three concepts as equal, interconnected components, developing the findings and recommendations for improving accountability. Hence, accountability, governance and intergovernmental relations are crucial to the IGM, as developed by the study:

7.3.1 Accountability

The findings revealed that the governance network in South Africa is the key factor in promoting the interaction of the key state actors, the economic sector and the leading civil society. Furthermore, the study found that networking provides an internal link between the interdependent actors to better develop accountable public governance in a democratic South Africa.

According to Finding 1, the governance networks increase the knowledge base and innovation. It also enhances the guiding principles in developing economic and social investments. Hence, Slaughter (2010:283) asserts that an accountable government attracts the networking actors for exchanging experiences and common challenges in order to provide the tested solutions. Accordingly, Finding 1 (networking) is consistent with Goodin (2010:205-206) who says that networking is instrumental to ensuring (i) the promotion of governance accountability, (ii) less conflict of interests, and (iii) rewarding or punishing (as is thoroughly discussed in pages 49-57). The finding also introduced the element of “global networking” (refere to pages 55-57) as essential for democratic governance, because it links the participating government to the global world in as far as the sharing of information and services is concerned. Hence, accountability and governance networks ought to be inseparable as accountability was

considered the departure point for the networking world. In the international arena, there are different types of accountability, as well as different types of government networks. Governance networks are the cheapest method of interaction, but provide possible solutions to the maximum challenges in current governments. However, both Torfing (2012:104) and Messner (2011:283) caution against the proliferation of governance networking because, despite the governance networks being instrumental to good governance, if they are not properly coordinated, they have the potential to negate their own successes.

The study found that the success of collaborating with a government depends on the availability of resources, information, knowledge and the respective individual organisations. These partnerships bring about cohesion through the stakeholders' partnership with a government from a diverse sectoral background. However, these businesses collaborating with a government need to be self-determined and self-responsible to address the challenges of the local and global society through competing with the entire world. This finding confirms the argument by Ahrens (2011:2) that partnerships with a government are the future of IGR because it strengthens the means of accountability.

Hence, the partnership with a government is a specialised function to promote accountability through the involvement with a government's activities, as discussed in pages 58-70 of the study. The demarcation of special needs needed to be performed by specific sector specialities to ensure accountable good governance. Therefore, partnering with a government dictates that (i) there are certain functions which are best suited when performed by a government, (ii) while others are best done by NGOs/NPOs, and (iii) the other functions may be better performed by the private sector, as stated in pages 58-64. Thus, partnerships have the potential to strengthen and close the gap between small businesses and government at all levels. The South African government develops potential small businesses for future relations. The study discussed the seriousness of the government in developing the business sector as the key stakeholder to ensure accountability in the governance sector. Hence, the creation of the special department for the administration of SMMEs at national government. All the government spheres have also acknowledged the role of SMMEs. This priority needs needed to be maintained to enhance the development of the youth, women,

children and people living with disabilities in doing business with government (refer to pages 68-70).

The study established that NGOs/NPOs, in partnership with the government, needed to be accountable as well. Their respective donors are bound to conduct their own internal audits for accountability and compliance purposes. The finding further endorsed that the donations received by NGOs/NPOs be strictly utilised for the specific allocated project for the purpose of accountability.

The relationship of NGOs/NPOs with the government, as discussed in pages 58-64 is facilitated by the Department of Social Development. This kind of relationship makes the government, through the Department of Social Services, a direct stakeholder to ensure accountability. The accountability mechanisms are spread across the existing NGOs/NPOs. However, relationships of this nature are to be managed with due care and with strict principles of confidentiality between the parties. Hence, Dhal (2016:145) confirms the need for confidential relations between the parties, whilst at the same time insisting on the measures of accountability and good governance.

Furthermore, the study found that in the intergovernmental governance system there is a need for a relation between businesses and NGOs/NPOs to enhance the fight against the triple challenges of unemployment, poverty and inequality in South Africa.

The NGOs/NPOs are bound by multi-disciplinary reporting for the purposes of accountability, and each activity should instil good governance within their ranks (see pages 323-327). In the same way, businesses are expected to account to their shareholders; while on the other hand, the NGOs/NPOs also need to be answerable to their donors, boards and members. In collaborating with government, the partners need to be answerable and instrumental towards delivering valuable and accountable governance. Thus, the demand for answerability by the government puts the NGOs/NPOs at the epicentre of governance accountability. It is for these reasons Ebrahim (2010:342-345) concurs with the study in page 58 that NGOs/NPOs have accountability responsibility across the three corners of (i) corporate sponsors, (ii) sector legislation, and (iii) beneficiaries.

In addition, this study established that the lack of public participation with communities and stakeholders by officials and public servants has led to slow service delivery, lack of accountability and poor governance, as discussed in detail in in pages 74-80.

In order to ensure transparent, accountable governance and strengthened democracy, it is imperative that all sectors of society need to become active participants in holding the elected answerable. The study regarded public participation as the key factor to promote good governance and accountability. Hence, the study agreed with Guthrie *et al.* (2010:143) that public participation not be reduced to merely an engagement or empowerment, but it should be a critical component of good governance by means of:

- Ensuring the periodic assessment of participation in the government for purposes of ratification, consultation, negotiation and execution,
- Involving deliberations and collective action to address the issues affecting the communities, which includes budgeting and planning,
- Strengthening the effectiveness of Ward Committees, communication between councillors and communities, and relations between the Council and elected leaders,
- Binding the government to the electorate through public participation by the enactment of legislation in (i) the National Assembly and the NCOP, (ii) provincial legislatures, and (iii) municipalities.

In line with the above, public participation has the potential to influence decisions and institutions and thus create a positive impact in the lives of communities. This happens in the broader sense because public participation involves deliberations and collective action on issues directly affecting the communities. Hence, the study identified the mechanisms of participation (local level) as endorsed in Chapter 4 of the Local Government: Municipal Structures Act (117 of 1998). These four identified mechanisms are discussed at length in pages 85-87.

Furthermore, the study revealed the two methods of participation that can stimulate effective community participation, namely, (i) bottom-up participation, and (ii) top-down participation. Cloete and Meyer (2011:92) share this view. Added to these two methods, the study established the need for periodic assessment of public participation to gauge the commitment for possible (i) ratification, (ii) consultation, (iii) negotiation, and (iv) execution. The study also identified the need for the continuous assessment of public participation, which tallies with Booyesen’s (2009:4-5) argument in pages 74-80).

Apart from the forms of public participation, as outlined under in pages 74-80, the study analysed and designed modal participation to distinguish it from stakeholder participation. Modal public participation weighed up against stakeholder participation in the form of a hierarchical typology, as reflected in Table 53 below. However, this form of public participation has an overall capacity to influence governance accountability within the intergovernmental system, in accordance with Figure 16 in 274 (see pages 301-303) of the study. In the same vein, modal public participation as designed by the study is more direct and explicit to make accountability at all levels of governance participation a reality.

Table 53: Forms of Participation

Stakeholder Participation	Modal Participation
<ul style="list-style-type: none"> ▪ Passive participation ▪ Participation in information giving ▪ Participation by consultation ▪ Participation for material incentives ▪ Functional participation ▪ Interactive participation ▪ Self-mobilisation 	<ul style="list-style-type: none"> ▪ Electoral participation ▪ Participation in core institution ▪ Civil society participation ▪ Extended executive - community engagement ▪ Co-optive and co-operative civil society participation ▪ Protest participation

Source: Own Construction

The study confirmed the four governance accountability mechanisms, which emphasise the governance accountability measures from the different angles to cooperative governance (intergovernmental relations). These governance accountability mechanisms, as discussed in pages 101-105 refer to the background of the (i) political, (ii) fiscal, (iii) administrative, and (iv) legal environment.

In relation to the above finding, the study observed these four accounting mechanisms as the main source for governance accountability, as well as the mechanisms for being instrumental to accountability within the governance of intergovernmental relations (IGR):

- **Political Mechanisms:** applies as an intervention in an environment where the goals are unclear or in conflict with regards to compliance (refer to pages 101-102),
- **Fiscal Mechanisms:** the fiscal mechanisms are regulated by both the Public Finance Management Act and the Local Government: Municipal Finance Management Act; they are also supplemented by the National Treasury regulations under the watchdog of the Auditor-General and the Public Protector (see pages 102-104),
- **Administrative Mechanisms:** this form of mechanism ought to be consistent with the administration reform in the form of policy formulation and implementation (refer to page 104) and,
- **Legal Mechanisms:** this mechanism puts its weight behind the judiciary to ensure sound outcomes of the courts; it further also insists on compliance to the rule of law and cooperation to the legislative mandate (see pages 104-105).

7.3.2 Cooperative Governance and Intergovernmental Relations

The study established that cooperative government and intergovernmental relations are not to be interpreted as the same, nor as synonymous. Cooperative governance advocated for the value of government implemented by establishing governance structures and institutions, while the intergovernmental (IG) systems are implemented in accordance with the principles of cooperative governance, in terms of Section 41(1) of the Constitution.

The government is compelled to establish these governance structures, institutions and dispute settlement mechanisms to promote and support governance accountability within the South African intergovernmental system. However, this is to be done in a properly coordinated manner in accordance with an analysis, as presented in pages 170-178 and 312 (intergovernmental), 178-180 and 347-348 (institutional), 183-185 and 287-288 (disputes) of the study. Accordingly, the study is of the view that the establishment of governance structures, institutions and dispute resolution mechanisms is a vehicle to promote intergovernmental systems. Added to this, the study analysed the discussion of accountability mechanisms in support of the finding in page 346.

The study found that cooperative government is the cornerstone of good governance in South Africa. Hence, Kahn *et al.* (2016:259) argue that cooperative governance is at the centre of intergovernmental relations and that cooperative governance enjoys the backing of Chapter 3 of the Constitution. The study further confirmed that in multi-sphered governance like South Africa and Germany, the control of the governance system is informed by the democratic and accountability principles. Hence, the study shares the sentiments of Kahn *et al.* (2016:259) that cooperative governance refers to the exclusive multiple relationships of governments within the intergovernmental system, as well as the relations between the government and the broader civil society.

In support of the above finding, the study agreed with the above debate, as advanced in pages 116-121, that South Africa's democratic Constitution (Chapter 3) is the cornerstone of cooperative governance. This submission by the study also confirmed the argument of Steytler (2013:444) and Bezdrob (2006:269). Accordingly, it is placed at the centre to regulate the accountable intergovernmental system of the three spheres of government. Hence, Kahn *et al.* (2016:262) and Salga (2016:48) sustain the argument that cooperative governance in South Africa provides for:

- Effective, accountable and transparent government,
- Cooperation with one another and fosters good relations,
- Consulting and coordinating actions and legislation,
- Avoiding legal proceedings against one another,
- Defining the roles and responsibilities of each sphere,

In line with the above finding, the study provided clarity on cooperative governance as well as the link between cooperative governance and accountability within the intergovernmental system (refer to pages 178-180). As broadly outlined in the problem statement in pages 16-20, the incapacities of accountability within the governance of intergovernmental relations (IGR) arose from various angles. Accordingly, this finding proves that the good governance systems are strengthened by sound accountable measures, backed by policies and legislations.

Despite the declaration of both Kahn *et al.* (2016:260) and Brand (2015:166) on the autonomy of the three spheres of government, the authors argued that these spheres of government are distinctive, interdependent and interrelated. However, the analysis found an impairment of the power imbalances from the national sphere into the provincial and the local spheres. In itself, there is significance interference of the senior spheres in the junior spheres and this act impacted the principles of distinctiveness, interdependency, and the interrelatedness of the spheres.

The study established that the power of the national government over the other two spheres of governments greatly done away with the distinctiveness, interdependency and interrelatedness of the other two spheres (province and local). The discussion was detected from the introductory Chapter with the direct intervention by the minister into the affairs of Phokwane Local Municipality (refer to pages 16-20). The in-depth analysis was advanced by the study in pages 357-360 of the study. It would be appropriate if the intervention sought in a legal manner for the lapse of accountability measures obtained through the reports of the Auditor-General, who is fully mandated by the Constitution to investigate and open a criminal case against any wrongdoer. Therefore, the direct and physical intervention undermined the fact that all three spheres of government are on an equal footing.

Section 41(3) of the Constitution (1996) states that disputes among organs of the state should be discouraged, and that there must be cooperation, with good faith. Similarly, the Local Government: Intergovernmental Relations Framework Act (13 of 2005) acknowledges that the intergovernmental governance system does experience conflict/disputes. As a result, the Act designed the dispute settlement mechanisms to deal with these disputes. The full discussions of the disputes mechanisms is provided in pages 170-173 and 180-183 of the study. Accordingly, in pages 183-185 the study further provided for the Constitutional dispute resolution, with specific reference to Section 125(4), Section 139(2)(a), Section 100(2)(a) and Section 167(4). However, the study found that the disputes amongst organs of the state continued unabated.

The study confirmed the state's efforts to do away with intergovernmental disputes with regard to the intervention mechanisms provided by the Constitution and the Local Government: Intergovernmental Relations Framework Act, as specified in the above finding. However, the enactment of the disputes mechanisms appeared not to be conclusive in doing away with disputes. It is for these reasons that the study opted to provide an adapted oversimplified alternative dispute resolution mechanism by Bahri (2018:211), which contains a less formal process, as discussed in pages 180-183. This method is easy to follow and it suits any model designed at any level of

government because it is less formal. Hereunder find the alternative dispute resolution mechanism:

Table 54: Simplified Conflict Resolution

	Conflict Process	Simplified Process
1	Problem Identification	The aggrieved party identifies and verifies the facts of the dispute or conflict (internal - informal)
2	Negotiations, Bargaining and Informal Consultation	The aggrieved party initiates negotiations and the bargaining powers with the alleged transgressing party (informal)
3	Alternative Dispute Resolution Procedures	The parties jointly develop the possible steps in an attempt to resolve the dispute or conflict (informal)
4	Formal Consultation	If the dispute remains unresolved, then the formal recorded procedures ensue (formal)
5	Litigation	If the dispute remains unresolved, then the parties jointly agrees to a third party intervention (courts, arbiter - formal)
6	Post-litigation	Acceptance of the outcome (judgement) and compliance with the remedial action (formal)

Source: Bahri, 2018:211

In line with the background, as provided above, the study found that the four identified dispute settlement mechanisms are dealt with in the dispute between organs of the state. The Constitution (1996) has empowered certain sectors of the state with the full Constitutional mandate to intervene and resolve disputes faster and with fewer costs. Accordingly, a solution of intervention provided for all the formations of possible disputes among organs of the state and the outcome is arbitrary. The arbitrary solution reduces the cumbersome processes of appeals and reviews, as well as costs and unnecessary red tape.

The study further deduced that the intergovernmental system is characterised by institutional arrangements, which might be formal or informal. However, the institutional arrangements, which are informal in nature, are likely to create disputes, which negatively affect accountability and service delivery. Hence, the study agrees with Besdziek *et al.* (2011:120) that these formations of intergovernmental arrangements put more pressure on the fiscal and administrative processes. However, it is worth noting this finding was arrived at

with the full knowledge that the intergovernmental governance system in South Africa is evolving.

Therefore, it is of critical importance to institute the institutional arrangements, which strengthens accountability and IGR. These efforts need to demarcate the functions of the legislative, executive, administrative and advisory spheres in order to enforce an accountable governance within an intergovernmental system in South Africa. Accordingly, as discussed in pages 198-200 and analysed pages 287-288, these institutional arrangements ought to ensure accountability and support for the intergovernmental system in the following manner:

- **Legislative Intergovernmental Institutional Arrangements:** to prioritise the NCOP set-ups because it is at the centre of the intergovernmental system by virtue of its composition, which promotes cooperative governance, whilst it was placed in the national government.
- **Executive Intergovernmental Institutional Arrangements:** to sensitise and synchronise the executive functions in MinMEC meetings, as it constitutes the senior officials from the national and provincial governments.
- **Administrative Intergovernmental Institutional Arrangements:** to promote intergovernmental administrative functionaries in the meetings constituted of officials and the administrative arm, such as the TIC.
- **Advisory intergovernmental Institutional Arrangements:** to provide the advisory arrangements and support, which serves as an oversight in strengthening an intergovernmental system through accountable means.

Moreover, the study established the existence of intergovernmental forums as instrumental to sustaining the adequate functioning of the intergovernmental relations system (refer to pages 158-170 and 312). However, the study noted the shortcomings of restricting these intergovernmental forums to be more of consultative in nature. Any governmental institution with no power to instill

accountability measures is bound to be less effective and toothless in ensuring implementation.

Hence, the study is in agreement with the submission by Besdziek and Holtzhausen (2011:126) that the intergovernmental forums play a predominant role in an intergovernmental governance system. They stand a good chance of ensuring accountability in the governance of the IGR arena, provided certain powers are given to legally deal with the trespassers, without encroaching on the autonomy of each sphere. In the same vein, the study shares the sentiments of Bridges and Ho (2010:286), that “governance always entails accountability and clear lines of responsibility”. However, it must be indicated that these intergovernmental forums add significant value and influence, gained from their shared experience, but the lack of power as an individual body to deal with non-implementers incapacitate these institutions.

The study acknowledged the legislation enacted by the various spheres of government to support intergovernmental relations (IGR). However, for the purposes of this study and this finding, selected legislation supporting IGR are restricted to local government. The selected legislation is (i) the Local Government: Municipal Structures Act, (ii) the Local Government: Municipal Systems Act, (iii) the Local Government: Municipal Finance Management Act, (iv) the Local Government: Intergovernmental Relations Framework Act, and (v) the Division of Revenue Act.

Thus, the study finds it appropriate that there be legislations in place, enacted in accordance with Chapter III (Sections 40 and 41) of the Constitution. Despite the fact that there are more of such legislations, the study formalised five of the key Acts, which target the local sphere of government. They are analysed and discussed in pages 147-149 and 170, respectively. The background and the relationship of these pieces of legislation are summarised below, as follows:

- **Local Government: Municipal Structures Act (117 of 1998):** it provides the division of powers and functions between the categories of municipalities and further regulates their respective internal systems.

- **Local Government: Municipal Systems Act (32 of 2000):** it regulates employment and the performance of senior managers, it advocates for transparency and accountability, and it sets measures for good governance (service delivery).
- **Local Government: Municipal Finance Management Act (56 of 2003):** it defines the roles and relations between the spheres of government concerning financial matters and compliance; it further promotes accountability in the local sphere.
- **Local Government: Intergovernmental Relations Framework Act (13 of 2005):** it provides clarity to matters of IGR at the executive level of government and it provides the establishment of intergovernmental structures.
- **Division of Revenue Act (3 of 2016):** it provides for the allocation of funds and budgets on an annual basis to all three spheres of government in a transparent manner, in the form of an equitable share.

7.3.3 Intergovernmental Relations: International Perspective

The study in pages 1-16 noted that South Africa is a sovereign state in accordance with the Constitution. The same discussion advanced in pages 222-227 confirmed South Africa as a unitary state. Furthermore, the study revealed that in a unitary government the powers of the state are vested in the central (national) government, with the provinces being regarded as subordinates.

Despite the fact that South Africa is a unitary state, in accordance with the Constitution, the nature of its unitary government and formation strongly suggests that there are strong features of a federal state. Kahn *et al.* (2016:252), as discussed in pages 110-116 supported this submission by the study that the provinces are afforded the opportunity to conclude their own Constitutions. However, the Constitutions of the provinces should not be in conflict with the Constitution of the national government.

The Constitution (Section 40) does not see provinces, nor local governments, as subordinates but as autonomous governments, which are distinctive, interdependent and interrelated (see pages 152-157). Hence, the study unreservedly agrees with Kahn *et al.* (2016:252) that South Africa has strong features of a federal government.

Furthermore, the research revealed that federalism is derived from the models of dual federalism, cooperative federalism and competitive federalism. Despite the Constitution having declared that South Africa is a unitary state in Chapter 1, the study found that South Africa has the features of a federal government. Hence, the South African government is aligned to dual federalism and/or competitive federalism, as opposed to cooperative federalism. The South African dual federalism was modelled in the form of intergovernmental system guided by cooperative governance, in accordance with Chapter 3, Section 40 and 41 of the Constitution.

Thus, the study detailed the discussion on the three models of federalism, in accordance with above finding, in pages 224-227. Furthermore, the analysis on competitive federalism was broadened in pages 357-360 of the study. Table 27 in page 223 provided more clarity on these models of federalism. Shah (2013:95) argued that the South African intergovernmental governance system strongly supports both provincial and local governments, and this support cements the formation of competitive federalism. Hence, the study agrees with Burgess and Gagnon (2010:9-10) that “federalism and democracy” are inseparable in South Africa because of the right to adopt provincial Constitutions in a unitary state. Thus, this distinction is drawn from the comparison of six countries (Federal Republic of Germany, the United States of America, Australia, Canada, Uganda and Tanzania), as derived from the roots of practising federalism from an authoritarian background against South Africa’s federal democratic governance system.

7.3.4 Comparison: Governance and Intergovernmental Systems

In addition, the study found that various authors concurred in comparing the South African governance system to internationally reputable countries. Erk (2008:93-94) and Saunders (2013:390) agree that countries like Germany and

Australia have intermediary layers, which are construed to be similar to the South African spheres of government.

The discussion in pages 237 and 251-253 respectively supplements the argument that apart from the fact that different countries name the spheres of government differently and allocate or share powers differently, the functioning remains the same as in South Africa. Accordingly, the central or national government is the same thing, and the provinces, regions, Landers, or states also refer to the same thing. On the other hand, the layers or spheres of government are not used interchangeably but refer to the same thing in different countries. Their sole purpose remains to administer and implement national policies, which are transparent and accountable in a coherent manner to reflect cooperative and intergovernmental governance.

The respect for and the functioning of the legislative, executive and judiciary were discussed in detail in pages 232-241, 242-250 251-255, and the study established that Germany and Australia, like South Africa, endorsed the checks and balances (the separation of powers) in their respective Constitutions. The inclusion and implementation of these branches of government is the declaration and commitment for accountability within the governance system.

Germany and Australia made great strides in accountability, by not only making it publicly known to the citizenry, but also including it in the Constitution, which was regarded as the supreme law of these countries. Furthermore, the separation of powers creates more space for one branch to perform its duties without the interference of the other. The independency of these branches of government promotes accountability and good governance. The practice of different branches of government is considered as the best method to sustain accountability, democracy and human dignity.

On the other hand, the study found that commonality between the Australian federal government and the South African government in their use of the legislative branch. Their common intention on the legislative arm related to taking responsibility and accountability for achieving good governance. As discussed in pages 253-254, the legislative function in Australia was informed by the Queen, the Senate, and the House

of the Representatives, whilst in South Africa it is invested in the hands of the National Assembly and the National Council of Provinces. However, they both enjoyed the benefits of imposing stringent accountability formations from their dual legislative functionaries.

The study further established that despite the United States of America (USA) and South Africa having a similar form of governance system with regard to the legislative function (see pages 244-248), the implementation and application of the legislative function was not the same. The intention of the use of the system represents the endorsement of stringent accountability checks and balances.

However, the comparison of the USA and South Africa, on the basis that they use a similar legislative function within the governance of intergovernmental system, is important because it sought to improve the accountability. It will be useful for the South African government to learn from a stable country like the USA to enhance its governance operations and intergovernmental system – given the fact that the US Constitution is old, short and difficult to amend, whilst the South African Constitution is detailed and open for interpretation by the courts.

Moreover, Tushnet (2009:1) confirmed the USA's system of governance and the separation of power. Epstein (2011:125) concurred that despite the differences, the USA has adequate checks and balances, which South Africa has entrenched in its Constitution. In the USA, the legislative branch has powers to make laws and check of accountability over the executive branch to (a) override presidential vetoes, (b) fund executive actions, (c) impeach the president, (d) approve treaties, and (e) approve presidential appointments. In addition, the USA legislative branch has checks of accountability over the judicial branch to (a) create lower courts, and (b) impeach judges (see pages 244-248).

Furthermore, the study found that Canada and South African share the same intergovernmental system. However, despite sharing a similar governance system, their municipal systems operate differently. The Canadian system strictly operates within the delegated powers, whilst South African

municipalities operate autonomously because of their nature of being distinctive, interdependent and interrelated, in accordance with Section 40(1) of the South African Constitution.

The discussion, which advanced the furtherance of this finding of the intergovernmental systems in Canada and South Africa, was captured in pages 152-159 and 256-257 respectively. The Canadian Charter does not spell out the separation of powers as explicitly as the South African Constitution does. However, the Canadian government designed strict policies to enforce accountability within the ranks of government and its stakeholders.

7.3.5 Constitutional Accountability

The study further established that it is of critical importance to respect the independency and impartiality of state institutions (Chapter 9 Institutions) and to allow them space to perform their duties without fear, favour or prejudice. These state institutions, which are established in terms of Section 181 of the Constitution, as discussed by De Vos (2012:161), are established in the spirit of being the accountable watchdogs in support of the Constitutional democracy.

In accordance with the discussion in pages 200-204 of the study, and as confirmed by De Vos (2012:173), these state institutions are afforded the same functions as the judiciary to ensure accountability. However, unlike the courts, the findings of these state institutions are not binding, like the outcomes of the courts. However, the Auditor-General was granted more separate powers to open criminal charges against those who commit acts of fraud with taxpayers' money, to instil accountability. Hence, these institutions are designed to assist the legislature in holding the executive accountable. Thus, they report directly to the National Assembly.

The study also found that there are four sources of Constitutions, commonly known as the patterns of Constitutions. These patterns of Constitutions serve as a guide during the formulation and development of individual countries' Constitutions. However, despite Constitutions being rooted in the four patterns, they differ vastly from one another.

The broad discussion on the patterns of Constitutions is provided in pages 230-231) of the study. They are known as (i) the monarchical or republican (the old form), (ii) democratic (advocates for unity and diversity), (iii) religion-orientated (religiously informed), and the (iv) Marxist-informed (communistic influence). The South African Constitution adopted the democratic pattern. However, common to these patterns is the endorsement that these Constitutions are the supreme law. Accordingly, the discussion provided that these Constitutions grant the judiciary the legal grounds to interpret the law in the courts. The study used the same Constitutional patterns to gauge accountability and the intergovernmental systems of six countries (i.e. Germany, the USA, Australia, Canada, Uganda and Tanzania).

The study further learnt that the legislature, executive, and the judiciary form the branches of government, and that they should operate independently, with no influence on one another. This independent functioning was designed to instil checks and balances as a means of accountability to deliver good governance. This independency is known as the principle of the separation of powers. Alternatively, the study found that the effective implementation of the branches of government strengthens accountability and good governance. Schwella (2015:xi) and Kahn (2016:3) concur, that “effective branches of government promotes the checks and balances”. Therefore, the implementation of strong mechanisms of the separation of powers will deliver enhanced accountable good governance.

The study provided the full details of the legislature, executive and judiciary in various Chapters (i.e. Chapters 1, 2, 3 and 5). Chapter 1 laid down the foundations of the checks and balances in the form of accountability, while Chapter 2 (refer to pages 101-102) provided the accountability mechanisms. In addition, Chapter 3 in page 132 advanced accountability in accordance with the properly contained checks and balances in line with the Constitution. At the same time, pages 301-311 of the study endorsed the checks and balances as the actual anchor and the cornerstone of accountability in delivering good governance. In as far as the analyses are concerned, the machinery of accountability is expected from the elected, the administration, as well as the electorate in a democratic society. Hence, these checks and balances are

bound to ensure balanced branches of government, with no one dominating the other. It is for these reasons that this finding coincides with the argument by Page (2012:83) and Koenig-Archibugi (2012:218) that the principle of checks and balances is an extended concept of accountability.

Moreover, the study established that the separation of powers between the legislative, executive and judiciary branches was endorsed in the Constitution for the assurance of accountability and good governance. These principles of the separation of powers are used by the Constitution as an instrument to implement and monitor properly coordinated checks for accountability, transparency, responsiveness, equitability (inclusive), effectiveness (efficiency), the rule of law, participation and consensus orientation within the ambit of intergovernmental governance.

The full discussion in support of this finding was delivered in **pages 116-121**. However, Figure 22 on page 379 of the study provided a more simplified Figure to demonstrate the principles of good governance in as far as the legislative, executive and judiciary (*trias politica*) branches are concerned. Apart from the discussion in pages 116-121, the combination of the branches of government was further analysed explicitly in page 132 of the study; hereunder summarised as follows:

- **Legislature:** it performs three basic functions, which are (i) the representative function, (ii) the legislative function, and (iii) an oversight function (see page 132).
- **Executive:** the executive authority of South Africa is vested in the President. As the result, the President is the head of the state and the Cabinet. The executive prepares, initiates and presents legislation before the Parliament for approval (refer to pages 132-133).

- **Judiciary:** the judicial authority of the country is vested in the hands of the courts and they are bound to be independent. As such, no person nor an organ of the state may interfere with the operations of the courts or organs of the state by means of legislative or other measures (see pages 133-134).

In addition, the study established the imbalances in the economy due to the triple challenges of unemployment, poverty and inequality. The study further confirmed that these challenges have a negative effect on the entire economic system of the country. Hence, the study used the national policy (the NDP), which is aimed to eradicate these challenges, as the measuring instrument to gauge accountability mechanisms relating to its commitment to achieve its targets by 2030.

The full discussion in accordance with the above finding unfolded in pages 323-346. The study dictates that there is the need for accountability measures to provide lasting solutions for the economic challenges (unemployment, poverty and inequality) in South Africa. As discussed in pages 315-316, SMMEs are instrumental in the Radical Economic Transformation Campaign to eradicate the challenges of unemployment, poverty and inequality. The discussion on the National Development Plan (NDP) further revealed that there are prospects of success in developing the economy of the country by 2030. However, the success is dependent on strong measures of accountability being adopted by all sectors of government.

The study also found that state-owned enterprises (SOEs) render different services to the public on behalf of the state and thus operate under the guidance of the national policy. Grootes (2013:114) confirms that the government is responsible for the existence of these businesses. Therefore, the chain of governance accountability was extended to the state-owned enterprises (SOEs) because some of them depend on governmental resources for their survival. The government also appoints the senior officials and board members of these institutions in order to sustain and maintain the national policies, and for the purposes of accountability.

It is worth noting that despite the study having discussed only three SOEs (i.e. Eskom, SAA and the SABC), there are many more. Hence, Grootes (2013:114) confirmed that there are more than 700 SOEs in South Africa. The discussion in relation to these state-owned enterprises (SOEs) was presented in pages 318-320 and 321-323 respectively. The study confirmed that given the nature of and the link of these businesses to government, they are subject to internal institutional and governance accountability as an oversight across the spheres of government.

7.3.6 Governance Accountability

Additionally, the research found insurmountable relevance in the argument presented by Bovens (2012:18) that governance accountability means different things to different people. This was argued because the word “accountability” remains a broad concept for interpretation. Furthermore, the study established that the word accountability cannot be used in isolation from any of the following, “good governance, transparency, equity, democracy, efficiency, responsiveness, responsibility or integrity”, as demonstrated in Figure 22 in page 377 of the study. In its finding, the study adopted the submission by Chirwa and Nijzink (2012:5), Koliba *et al.* (2011:22) and Corder (2012:87) that those in power must be answerable, responsive and able to deal with those who are unresponsive to their call.

The finding, as indicated above, was discussed in detail in pages 36-45. The finding emphasises that accountability is critical for the purposes of consultation and decision-making, and it further provides for evaluated feedback to the society. Governance accountability also plays an integral part in the information flow between the accouter and the accountee. Moreover, governance accountability strengthens the relations within the arena of (i) electoral representation, (ii) the authorities and the government, and (iii) the evaluation of the performance of those in power. Hence, the study agrees with Koliba *et al.* (2012:226) that accountability results from the interdependency between the accouter and the accountee.

The study further confirmed the four forms of accountability structures, as the vehicle to be responsive and responsible to constituencies. The actors of the governance accountability structures are restricted to the enhancement of answerability to the electorate. The study also established the active participants of elected representatives, citizens, courts, supervisors, professionals, consumers and collaborators as the key factors in governance accountability.

Given this finding, the study described these forms of governance accountability in pages 92-100). The finding is in line with the study in as far as the adopted formations of governance accountability structures are concerned, as presented by Pelizzo and Stapenhurst (2014:3) and Mattes (2010:14) as follows:

- **Horizontal Accountability:** the internal control system established by the state to hold the other state organs accountable, for example, the Public Protector (pages 93-94),
- **Vertical Accountability:** an internal state organ subpoenas another state organ to justify its decisions or actions to the public, for example Scopa and any other department (pages 94-96),
- **Diagonal Accountability:** citizens directly interact with the state institutions, for example the public participation conducted by state institutions (pages 96-97), and
- **Social/Societal Accountability:** the citizens' demands for public access from the state, for example, public protests or media interactions (pages 97-100).

7.3.7 Governance Policy: National Development Plan and Oversight

The study finds that the public policy is integral to government and governance because it guides the actions and intentions of the government. Accordingly, the government is the sole policymaker and the body accountable for the design of the national policies to speed up the process of transformation. Accordingly, the national policy was designed with a specific set of goals and objectives. Hence, the National Development Plan (NDP) is meant to get rid the challenges of unemployment, poverty and inequalities in South Africa.

Accordingly, the targets of the National Development Plan (NDP) are clearly set in pages 344-346 in the form of goals and objectives of the policy. These goals and objectives are set to meet the expectations by undoing and redressing the imbalances of the past in as far as unemployment, poverty and inequality. The policy initiatives are intended to improve the targeted groups or those affected or likely to be affected by the imbalances. On the other hand, as argued by Roux and Cloete (2011:100) the policy ought to deal with the values and culture of stakeholders who are also involved within the implementation of the policy.

Moreover, the study established the existence of internal control measures in all three spheres of government. These internal measures conducted strict oversight in the endeavour to deliver good governance and to ensure that each organ of state accounts for their every activity. Hence, the study finds that the Standing Committee for Public Accounts (Scopa) was appointed for the National Assembly, the Provincial Public Accounts Committee (PPAC) is appointed for provincial legislatures, and the Municipal Public Accounts Committee (MPAC) is appointed at municipal level.

These bodies, as discussed in pages 305-311), are appointed and instituted to ensure compliance and oversight at all levels of government. In line with the above finding, the study concurs with Pelizzo and Stapenhurst (2014:40) that some of the legislatures in South Africa use more than one oversight tool. Hence, there are internal controls such as Scopa (nationally), the PPAC (provincially) and the MPAC (locally). On the

other hand, there is also Constitutional accountability, as discussed in pages 185-198 of the study.

The study further found that Section 181 of the Constitution provides for the Chapter 9 Institutions. They are intended to promote and sustain the democratic and governance accountability. These state institutions are crucial in playing an oversight role over all the state organs, as well as in supporting Constitutional development. However, these oversight capacities cannot be restricted to the level of legislatures, but rather to the complex conglomeration of internal and external oversight tools.

The study provided conclusive evidence on the Chapter 9 Institutions in pages 200-213, as the means of instituting governance accountability in accordance with Section 181 of the Constitution. These institutions are independent, with no influence from the government, civil society or the public and/or private sectors.

7.3.8 Integrated Governance Model

The unique finding of this study, as expressed in Chapter 6, reflects the integrated governance model (IGM), which serves as one of the institutional governance mechanisms, designed to provide an autonomous and self-governing model for good governance. Furthermore, the integrated governance model (IGM) seeks the government and the public officials to earn public trust and confidence for intergovernmental governance and its respective institutions. Hence, a mixture of collegial, political and bureaucratic influence constituted part of the integrated governance model, in order to address the broader challenges of accountability within intergovernmental governance.

In line with the above finding, if successfully implemented, the IGM ought to do away with all the obstacles, which hinder the implementation and delivery of good governance within the three spheres of South African government. The Model also emphasises non-hierarchical, cooperative decision-making, as outlined in pages 33-35 of the study. The in-depth analysis and design of the IGM, as discussed in Chapter

6, contains all the ingredients and the recipe for accountable good governance in the different spheres of government.

7.4 Recommendations

South Africa has made good strides in the development of good policies towards the building of good governance during the stage of the developmental state. Having considered the entire investigation, it becomes appropriate to articulate the recommendations, which will assist in guiding prospective users in future. These recommendations by the study were not crafted haphazardly; instead, they will be designed in the manner intended to address the (i) broader theme of the investigation by the study, (ii) the research question of the study, and (iii) the challenges, as outlined by the problem statement in pages 16-20 of the study.

In the first instance, the recommendations in relation to the theme need to provide a definitive guide with regard to accountability, governance and intergovernmental relations in South Africa. Secondly, the recommendations need to address whether “how can the government develop the best accountable measures to improve the intergovernmental (IG) governance system and accountability in South Africa” as the main and key research question of the study. Thirdly, the recommendations of the study are expected to cover the broad spectrum of challenges raised by the problem statement. These challenges, as outlined by the problem statement in pages 16-20 of the study, and those challenges included the following:

- The collapse of good governance
- The functioning of intergovernmental relations
- The lack of accountability
- Disrespect towards government institutions
- Participation, partnership and networking, and
- The comparison of South Africa’s intergovernmental relations system with its international counterparts.

Furthermore, this Chapter needs to reflect on the previous Chapters, which projected the meaning and the interpretation, and thus developed the model known as the integrated governance model (IGM). The integrated governance model (IGM) needed to be viewed as comprehensive enough to provide the supportive guide and supplement the recommendations of this study. The following are the proposed recommendations that intend to assist in improving accountability within the governance of intergovernmental (IGR) and good governance:

7.4.1 Accountability

Accountability is always central to governance success and lack thereof was ascribed to the failure to deliver good governance. This summation makes the word accountability a crucial term in the world of governance globally. The study detected the two critical components, which demand to be applied with due care and be conducted with due diligence. These two components, which anchor the recommendations, with relevance to accountability, are: (i) governance accountability, and (ii) governance oversight. It is therefore, recommended that:

- **Governance Accountability:** having noted that the study fully agrees with Bovens (2012:18) that accountability means “different things to different people”, it was concluded from the beginning of the research that there was a challenge with accountability within the governance of IGR in South Africa. The challenges continued despite having emphasised the principles of good governance, such as being transparent, efficient and responsive. The same challenges of accountability were experienced internationally, as confirmed by Dawson (2011:96) in that “the challenge of accountability in Europe is to design mechanisms and institutions by which executive actors can both explain their actions in relation to the preferences and needs of the policy community as a whole”. Therefore, the study recommends that it is imperative to ensure that proper training and communication is shared in every government sphere and at every work centre, so that there is a common meaning and understanding of accountability. This will level the playing field, with no party feeling inferior to be at the receiving end of implementing the principles of accountability. Accountability implemented with a common meaning and understanding, as

well as delivered and received routinely, is bound to succeed locally, provincially and nationally.

- **Governance Oversight:** the study confirmed the existence of governance oversight in the three spheres of government. The politically appointed Municipal Public Accounts Committee (MPAC), the Provincial Public Accounts Committee (PPAC) and the Standing Committee on Public Accounts (Scopa) ought to play an oversight role to municipalities, provinces and the national government respectively. The study also noted that despite these oversight bodies are provided with strong (legislative powers), they are still disrespected for their independency due to the lack of accountability. Therefore, the study recommended that the appointment of these oversight bodies (Scopa, PPAC and MPAC) needed people with superior insight, knowledge, and necessary qualifications. They must also be non-partisan. The appointed oversight bodies (Scopa, PPAC and MPAC) needed the competencies of knowledge and skills of investigations and reporting in order to exercise “accountability”. The oversight bodies appointed on the merits of intellectual capacity, synergy, integrity, and respect to the government institutions, as entrenched in the Constitution in terms of Section 181 promoted accountability.
- **Constitution (1996):** the study asserted that the Constitution is the supreme law of the country and further confirmed that any other legislation in conflict with its prescription was regarded invalid. Similarly, various authors have hailed the Constitution for its assurance of the expressed accountability measures, which clearly states complete respect for the branches of government. Hence, in including the branches of government in the Constitution, the South African government was not expected to experience a lapse of accountability and good governance. Therefore, the study recommended minimal contradictions in complying with and upholding the Constitution. In the attempt to minimise the contradictions, the study designed the integrated governance model (IGM). The model intended to simplify and strengthen the application of the Constitution in relations to accountability, governance and intergovernmental (IGR); thus, doing away with the dichotomy of having a good Constitution in place, whilst

experiencing the lapse of good governance, which is perpetuated by the lack of understanding and proper interpretation of the Constitution.

- **Governance Confidence:** in accordance with the explanation provided in pages 362-365 and the broader discussion on pages 258 to 260, with regard to the importance, rewards and outcomes of accountability measures, the study recommends for strong accountability measures to be built in the governance of IGR. These accountability measures should earn and gain governance confidence, and that to be achieved through the consideration of the public's views and adherence by the state institutions. Hence, the study is of the view that in building governance confidence, the government institutions, which are accountable, will help to achieve the developmental outcomes and gain continued trust of the citizenry. Hence, the government, which was trusted by its citizens, is rated highly on the assessment for government performance and accountability. Furthermore, the government, with strong roots of accountability, builds strong socio-economic outcomes and good governance.

7.4.2 Governance

According to the study, the services of good governance are based on the principles of multi-disciplinary or pluralistic representation of the joint efforts by different constituencies. These constituents of representation are derived from (i) networks, (ii) partnerships, and (iii) participation. Accordingly, these constituents relate to the power, which influences the decision-making by all stakeholders in all forms of governance within IGR. Hence, Fourie (2009:353) concedes that good governance depends solely on the sound and joint decision-making thereof. Apart from this, according to this investigation, the principles of good governance will only be complete with the inclusion of the development and implementation of a sound governance policy. Hence, the recommendations on good governance aligned to the following constituencies:

(a) Essentiality of Governance in Networking, Partnering and Participating

The study diagnosed that there is a close relationship between the network, partnership and participation, based on accountability within the governance of IGR in South Africa. The study declared these three key factors, as discussed in Chapter 2, to be essential and pillars of strength for good governance. Thus, their main function is interaction for the common good of the economy. However, the nature of the approach of these factors of the network, partnership and participation departs from different interests and identities. Hence, the study recommends the following for the attainment of good governance:

- (i) **Network:** the study recommended that network governance should strictly be reserved to interact for the sole purpose of enhancing the relationship, for political, technological, social, environmental, legal and economic reasons, in the interest of building good governance. The interactions be conducted at the level of each sphere and they should be equal counterparts. This interaction will support accountability, governance and intergovernmental relations (IGR).
- (ii) **Partnership:** the study further recommended that the partnership in South African governance was regarded as the interplay between government, business and the citizens, be taken to a next level. This need is essential and ought to be prioritised because the study sees partnerships as the future of governance, within the governance of IGR in South Africa.
- (iii) **Participation:** the study recommended that the mechanisms be put in place to encourage public participation in all spheres of government because through participation greater accountability and responsiveness could be achieved. Apart from that, it is imperative that the citizenry need to be taught about the importance of public participation, as Van der Waldt (2018:28) argues, “The quality and success of participation is further dependent on the levels of general

knowledge the citizens have ...”. It was recommended that the individual members of the public be encouraged to participate, and such responsibility should not be left in the hands of the representative.

(b) Governance Policy

In 2011, the South African government adopted the National Development Plan (NDP) as the national governance public policy to eradicate the challenges of poverty, unemployment and inequality. Du Plessis (2011:249) confirmed these challenges. The policy correctly defined the problem as poverty, unemployment and inequality. Central to these challenges, the Plan identified the nine points, as outlined in pages 36-45, as its key objectives. However, the recommendations in this regard did not focus on the National Development Plan (NDP) alone, but stretched to the improvement of all national policies. Accordingly, the National Development Plan (NDP) was used as the basis to measure the implementation of the national policies.

Therefore, the study recommended that the policies be at a central point for implementation and monitoring purposes. However, there is a need to establish satellite centres in the nine provinces, and in the district municipalities. These centres will be the link for the implementation and monitoring of the policy programmes; thus, there needs to be sound reporting among the centres. Such a link between the centres will also strengthen intergovernmental relations (at national, provincial and local level) accountability and coordination, as projected by the study. All the centres needed to be governed or guided by the same terms of reference to determine the successes and failures. These references should include, but not be limited, to the following:

- A list of a clearly outlined set of objectives,
- A plan on how to achieve these objectives,
- Periodic assessment of the implementation and failures, and
- A determination of the capacity to achieve these objectives

7.4.3 Intergovernmental Relations

Corporate governance and IGR in South Africa was considered as the Constitutional mandate in line with Chapter 3 of the Constitution. The Constitution does not “just” make mention of IGR, but outlines how the spheres of government are supposed to function, in Section 41(1)(h). According to Van der Waldt (2018:18), the spheres of government ought to be “distinctive, interdependent, and interrelated”. This refers to the fact that (i) one sphere cannot act arbitrarily against one another, (ii) each sphere has unique independence to execute its executive, legislative and judicial functions, and (iii) each sphere differs from one another in terms of the scale, power and degree of the organisation. Brand (2015:177) and Van der Waldt (2018:19) commonly express these views of the independence of the spheres of government, in that these spheres are oversimplified in the Local Government: Intergovernmental Relations Framework Act (13 of 2005) for better understanding.

- **Corporate Governance and Intergovernmental Relations:** the study in Chapter 1 found that the spheres of government do not consider themselves as equal in status. The study is of the view that cooperative governance is critical governance in South Africa. Picard and Mogale (2015:172) argue that for the successful implementation of cooperative governance in South Africa, there must be an understanding of the intergovernmental processes. The misunderstanding of the “distinctiveness, interdependence and interrelatedness” within intergovernmental system led to a compromise of the checks and balances; this submission is confirmed by Van der Waldt (2018:18-19). Therefore, the study recommended that the three spheres of government be equal, and that an individual sphere’s financial muscle not be used to suppress another sphere. In regards to the intergovernmental relations (IGR) fora, which involve the national, provincial and local governments, a spirit of mutual interest be preached amongst the spheres of government and it must top the agenda at the intergovernmental relations (IGR) fora. Furthermore, both the national and the provincial government must comply with Section 154 of the Constitution (1996), and supported by the Intergovernmental Relations Act (2005), which calls for the strengthening and capacitation of the local government.

7.4.4 Integrated Governance Model

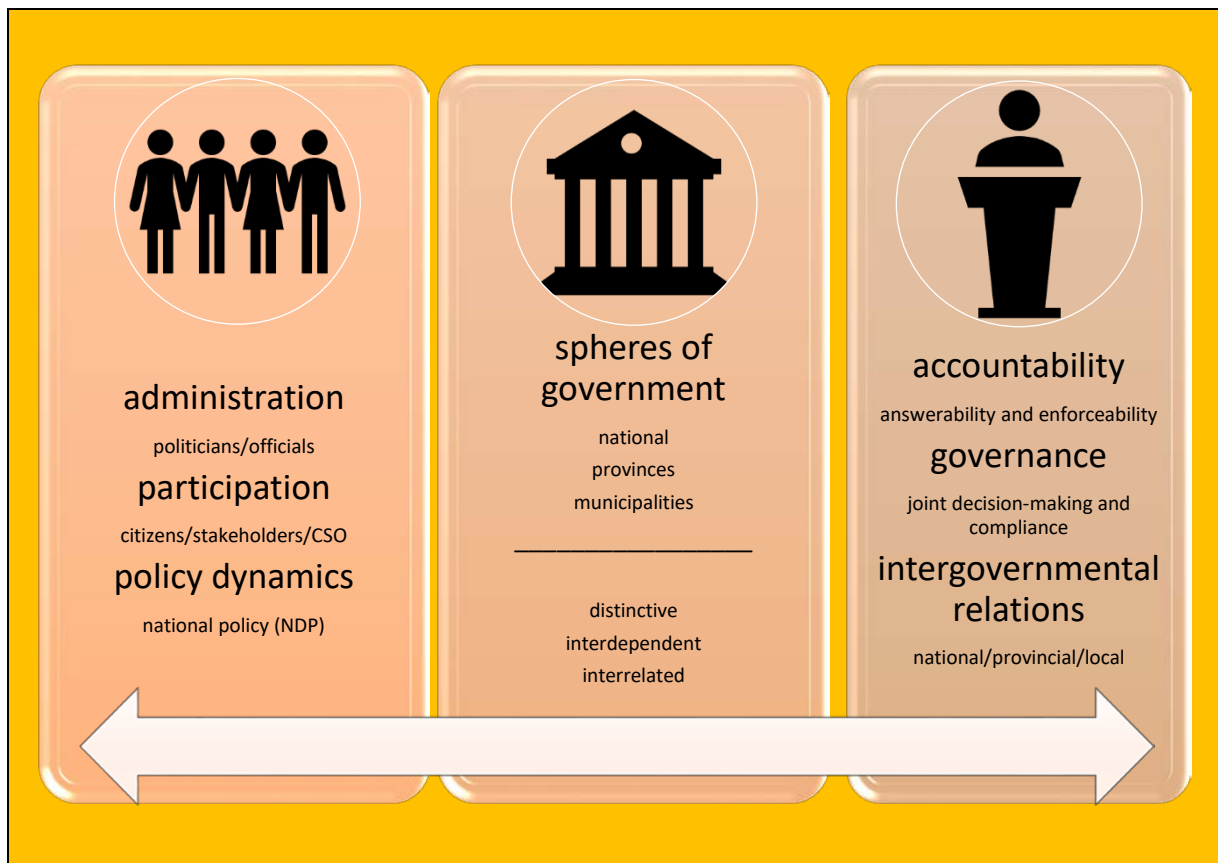
The full discussion on the integrated governance model (IGM) was presented in pages 381-389. In accordance with the discussion presented in page 383, the study is obliged to make its own and unique contribution to enhance scientific knowledge and develop new governance perspectives. Therefore, the study designed the integrated governance model (IGM) as its unique and significant contribution, in order to develop new perspectives on accountability, governance and intergovernmental relations (IGR). Hence, these new perspectives developed by the study, are designed to guard against the lapses of accountability and good governance in the three spheres of South Africa.

Moreover, the discussion in pages 383-384 discouraged the development of good principles of governance in the absence of implementation. Hence, the study resolved to emphasise the implementation part to ensure that all the strategies are delivered. Given the history of South Africa, having good systems in place but with lapses in good governance, it was imperative for this investigation to ensure a simplified implementation process, as the implementation of the recommendations could be a matter of complex reality. As presented by De Coning *et al.* (2011:32), the Model ought to simplify the complex reality to explain the process of instilling accountability within the intergovernmental governance system in South Africa.

The study further recommends that in the process of accountability “one is accountable to the other” for the purposes of outputs, results and outcomes. The Model is comprehensive and inclusive of officials, politicians, citizens and partnerships. With this high level of inclusivity in the line of active participants and the integration of accountability, governance and intergovernmental models, ensured that the intergrated governance model (IGM) is well researched and rehearsed to bring change towards good governance. Apart from the integrated governance model (IGM) being inclusive of all the active participants, it further simplified the merging of the administrative and policy factors, in line with accountability.

The the development of the integrated governance model (IGM), was preceded by the governance and intergovernmental models, as discussed in pages 377-379 and 380-381 respectively. This discussion focussed on addressing the challenges, as identified by the problem statement of the study. This means that the pitfalls of good governance due to a lack of governance accountability, are addressed and prioritised to improve the governance systems. The governance model identified the relations of consultation, participation, the rule of law, efficiency, equality, responsiveness, transparency and accountability as the critical pillars of good governance. Apart from reflecting on the relations of these pillars, the Model also focussed on the implementation, to affect the *status quo*.

Figure 27: The Intergrated Governance Model (IGM)



Source: Own Construction

The Figure 27 above is a replica of Figure 24 in page 386. This is done to put more emphasise to the integrated governance model (IGM) in a summarised form. The Figure is represented by the three bonded blocks. The first block translates the relationship of the administration (politicians and officials) and the importance of public

participation (citizenry, stakeholders and CSO). It included the involvement and the implementation of the sound policy dynamics (legislations and the NDP). The second block represents the relationship of the national, provincial and local government spheres, which are distinctive, interdependent and interrelated. The last block synchronises the first two blocks with the relationship of accountability (implementing and accounting), to ensure good governance influenced by joint decision-making and compliance. Hence, accountability and governance, as reflected in the third block, are built within the system of IGR. Thus, the reflected blocks cannot work in isolation (i.e. they are inseparable) in the integrated governance model (IGM).

Hence, even though Figure 24 and 27 are simplified, it is important to provide broad narrative information on the IGM to deepen the understanding of the user. Apart from deepening understanding, the study is duty bound to make the Model more user friendly and simple for ease of reference. Accordingly, the proper interpretation of the integrated governance model (IGM) deserves the following summary for ownership by the user:

- **Administration/Participation/Policy Dynamics**

The administration part of the integrated governance model (IGM) referred to the personnel factor. The personnel, or the political deployees, should be accountable, responsive and transparent in performing their day-to-day duties. These administrators needed to develop a schedule for public participation to interact with the citizenry, as public participation is the cornerstone of good governance. Despite good governance built on the principles of accountability, responsiveness and transparency, the integrated governance model (IGM) expressed itself through the measures of policy formulation and implementation. The example of the national policy used by the study to illustrate the government's economic plan is represented by the National Development Plan (NDP), as discussed in pages 323-346) of the study. The plan (NDP) was designed to eradicate the challenges of unemployment, poverty and inequality. Accordingly, the implementation of the National Development Plan (NDP) cuts across the existing governmental departments to meet its objectives. Despite the efforts of the National Development Plan (NDP), the distinctiveness of the integrated governance model (IGM), as demonstrated in Figure 16 and 17 (see pages 252 and

274) respectively, binds the processes of administration, governance participation, and the policy dynamics together in a simplified manner.

- **Spheres of Government**

The integrated governance model (IGM) placed the spheres of government at the centre of delivering accountable, transparent and cohesive good governance, which is responsive to the needs of the society. The integrated governance model (IGM) championed the coherent operations of the national, provincial and local governments, which are supportive of one another. According to Figure 23 as demonstrated in page 380, the integrated governance model (IGM) promotes responsibility and accountability within the intergovernmental governance system. The integrated governance model (IGM) simplified its processes and procedures to the benefit and for the sake of the user. The integrated governance mode (IGM) remains relevant to solve the current challenges of accountability within the governance of intergovernmental relations (IGR) in South Africa. Nealer (2018:190) confirmed that there is a growing battle for the scarce resources within the intergovernmental governance systems. Accordingly, the study concurred with Nealer (2018:190) that these growing battles for scarce resources have the potential to disjoint the implementation of intergovernmental operations. Hence, the integrated governance model (IGM) provided a guide to improve accountability and relationship between the spheres of government. The integrated governance model (IGM) meant to build accountability with the intergovernmental governance system which is distinctive, interdependent and interrelated.

- **Accountability/Governance/Intergovernmental Relations**

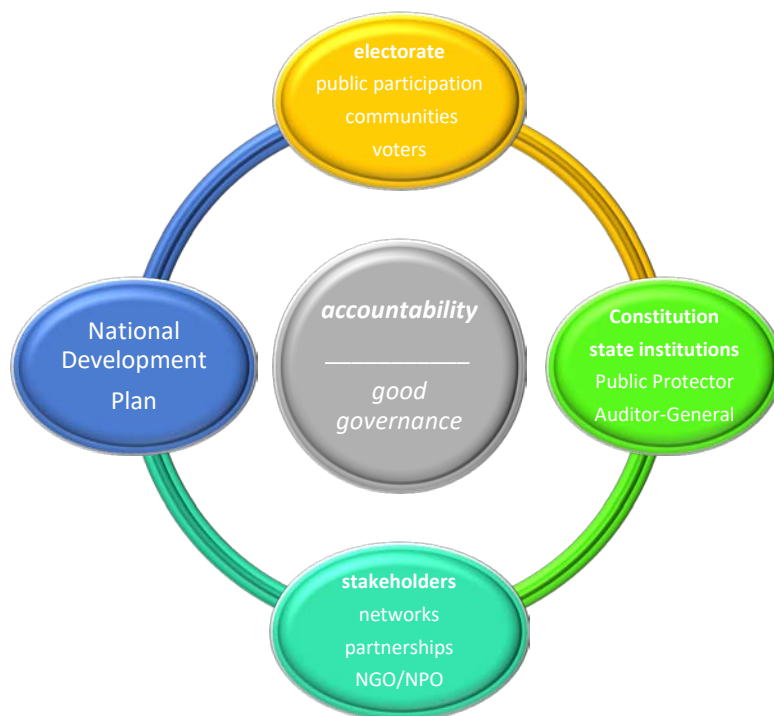
Figure 23 above projected accountability as the instrument to ensure answerability and implementation. This referred to answerability of the government to its citizens (i.e. elected leaders to the electorate). The study also confirmed that the principles of answerability needed to be implemented or enforced in a systematic manner to ensure improved governance. The Figure illustrated that good governance arises from the joint decision-making efforts informed by the principles of networks, partnerships, and

public participation. Hence, Figure 23 also indicated that the mechanisms of good governance be subjected to the accountability at all levels of government (i.e. at national, provincial and local spheres). In general, Figure 23 demonstrated an overall implementation plan of the integrated governance model (IGM) designed by the study to assist users in ensuring accountability within the intergovernmental governance system in South Africa.

- **Electorate, Constitution, National Policy, and Stakeholders**

Moreover, the integrated governance model (IGM) did not restrict its development to beneficiaries and users; the study extended the Model to cover communities through the means of networking, partnerships and participation. In conclusion, the study is set to achieve the targets as prescribed by the research problem statement, outlined in pages 16-20. The study deemed it fit to conclude the investigation by further simplifying the integrated governance model (IGM) in Figure 28 below to the benefit of the user. Figure 28 puts accountability and good governance at the centre of the intergovernmental (IG) system.

Figure 28: Integrated Governance Accountability



Source: Own Construction

Figure 28 appeared the first time in page 387 as Figure 25. However, in this Chapter the study wishes to provide a broader view of it in a summarised version, as follows:

- **Public Participation** (the community): in democratic governance, the society is prioritised as one of the key accountability measures to ensure that public servants and elected officials are accountable to the electorate. Hence, the integrated governance model (IGM) insisted on public participation in every major governance decision.
- **Constitution** (state institutions): the study recognised the Constitution (1996) as the supreme law of the country and, as a result, the Model insisted on compliance. It needed to be kept in mind that these state institutions are regulated by Section 181 of the Constitution (1996); hence, the demand by the study for compliance. Accordingly, the integrated governance mode (IGM) identified the Chapter 9 Institutions as one of the instrumental accountability measures within accountable intergovernmental governance.
- **National Policy** (the NDP): the national policy served as the set of targets for service delivery and implementation. These are the targets for all public servants and elected officials needed to commit to and be accountable for the service delivery and the implementation of the Plan. The study diagnosed through its integrated governance model (IGM) that the implementation of the National Development Plan policy needed strict accountability measures for the accountable intergovernmental governance circle.
- **Stakeholders** (partnerships): the study acknowledged that government alone could not provide solution to the challenges facing the country during this transition at the developmental stage. Therefore, the study identified the need for partnership with stakeholders. However, the integrated governance model (IGM) insisted that accountability should be at the helm of the partnership to ensure accountable intergovernmental governance. Apart from accountability by the government in the partnership, the integrated

governance model (IGM) demanded that all partnerships subscribe to the accountability measures.

7.4.5 Study highlights

The highlights of the study from the previous Chapters, in as far as the integrated governance model (IGM) is concerned, was pitched, discussed and analysed in the first six Chapters of the study to develop and in-depth sound Model. The discussion and analysis presented in the previous Chapters ensured the development of the integrated governance model (IGM). Accordingly, the underneath Table provided the process guide or reference of the use of the key indicators of the integrated governance model (IGM) for the benefit of the user. It is for the same reasons that the study is of the view, the references of the integrated governance model (IGM) as reflected in the table below included illustrative ingredients to implement the Model with ease by the user.

Table 55: References for Integrated Governance Model (in accordance with this study)

1	Branches of Government	Chapters: 4 / 5 / 7	Figure	Constitution
	<ul style="list-style-type: none"> ▪ Executive ▪ Legislative ▪ Judiciary 	<ul style="list-style-type: none"> ▪ item 4.5.3, 4.6.3, 4.8.4, 4.10.4 and 5.3.1 ▪ item 4.6.2, 4.7.2, 4.8.3, 4.9.5 and 5.3.2 ▪ item 4.6.4, 4.8.5, 4.10.5 and 5.3.3 and 7.10.3 	<ul style="list-style-type: none"> ▪ Figure 9 ▪ Figure 9 ▪ Figure 9 	<ul style="list-style-type: none"> ▪ Chapter 5, Section 85 ▪ Chapter 4, Section 44 ▪ Chapter 8, Section 165
2	Spheres of Government	Chapters: 1 / 2 / 3 / 5	Figure	Constitution
	<ul style="list-style-type: none"> ▪ National ▪ Provincial ▪ Local 	<ul style="list-style-type: none"> ▪ item 1.1.2(a), 2.4.6, 3.7.1 and 5.4.1 ▪ item 1.1.2(b), 2.4.5, 3.7.2 and 5.4.2 ▪ item 1.1.2(c), 2.4.4, 3.7.3 and 5.4.3 	<ul style="list-style-type: none"> ▪ Figure 22 ▪ Figure 22 ▪ Figure 22 	<ul style="list-style-type: none"> ▪ Chapter 4, Section 42 ▪ Chapter 6, Section 103 ▪ Chapter 7, Section 151
3	Constitution Accountability	Chapters: 5 / 6 / 7	Table/Figure	Constitution
	<ul style="list-style-type: none"> ▪ Auditor-General (AG) ▪ Public Protector (PP) ▪ Oversight 	<ul style="list-style-type: none"> ▪ item 5.8.6 and 6.6.1 ▪ item 5.8.3 and 6.6.2 ▪ item 5.8.1, 6.9.1, 6.14.4, 7.4.2 and 8.3.10 	<ul style="list-style-type: none"> ▪ table 30 and 31 ▪ table 30, 31 and 33 ▪ table 39 and Figure 15 	<ul style="list-style-type: none"> ▪ Chapter 9, Section 188 ▪ Chapter 9, Section 182 ▪ Sections 92 and 133
4	Active Citizen (Participation)	Chapter: 2	Table/Figure	Constitution
	<ul style="list-style-type: none"> ▪ CSOs ▪ CBOs ▪ NGOs/NPOs 	<ul style="list-style-type: none"> ▪ item 2.3.1 and 2.4.3(b) ▪ item 2.3.1 and 2.4.3(b) ▪ item 2.3.1 and 2.4.3(b) 	<ul style="list-style-type: none"> ▪ table 1 ▪ table 1 ▪ table 15 	<ul style="list-style-type: none"> ▪ Chapter 4, Section 66 ▪ Chapter 4, Section 67 ▪ Chapter 4, Section 59
5	Supporting Legislations	Chapter: 3	Table/Figure	Legislations
	<ul style="list-style-type: none"> ▪ MFMA ▪ IRFA (Framework) ▪ DoRA 	<ul style="list-style-type: none"> ▪ item 3.8.3 and 3.9(c) ▪ item 3.8.1 and 3.9(a) ▪ item 3.4.3 and 3.9.(d) 	<ul style="list-style-type: none"> ▪ table 10 ▪ table 10 ▪ table 10 	<ul style="list-style-type: none"> ▪ MFMA (Section 35,36 and 37) ▪ IRFA (Chapter 2, Section 2) ▪ DoRa (Chapter 2, Section 3)
6	Intergovernmental Systems	Chapter: 3	Table	IRFA, 13 of 2005
	<ul style="list-style-type: none"> ▪ PCC ▪ P-IGF ▪ Mayoral Committee 	<ul style="list-style-type: none"> ▪ item 3.7.1(a) ▪ item 3.7.2(a) ▪ item 3.7.3(a) 	<ul style="list-style-type: none"> ▪ table 9 ▪ table 9 ▪ table 9 	<ul style="list-style-type: none"> ▪ part 1, Section 7 ▪ part 3, Section 18 ▪ part 4, Section 26
7	Integrated Models	Chapter: 7	Table/Figure	Chapter 7 and 8
	<ul style="list-style-type: none"> ▪ Accountability model ▪ Governance model ▪ IGR model ▪ Integrated governance 	<ul style="list-style-type: none"> ▪ item 7.10 ▪ item 7.11 ▪ item 7.12 ▪ item 7.9.1, 7.9.2, 7.13 and 7.13.4 	<ul style="list-style-type: none"> ▪ Figure 19 ▪ Figure 20 and 21 ▪ Figure 22 ▪ table 48/Figure 23/24 	<ul style="list-style-type: none"> ▪ Chapter 1, Section 1 ▪ Chapter 3, Section 41(1) ▪ Chapter 9, Section 181(1) ▪ Chapter 9, Sections 181-192

Source: Own Construction

Table 55 above provided a comprehensive summary of the study; more so, it provided conclusive information on the intergrated governance mode (IGM), as discussed in the last two Chapters of this investigation. Table 55 also provided the key indicators of the study, with specific reference on where to find them. It further referred to the possible illustrative extra Tables or Figures, with the sole purpose of justifying the argument. Table 55 also directed the main objectives of the discussion, which are directly linked to the Constitution (1996) or the relevant legislations. Hence, Table 55 is a step-by-step simplified guide for the implementation and use of the integrated governance model (IGM), for ease of use by the end user, as discussed in pages 381-389 of the study.

7.5 Conclusion

The study distinguished three forms of governance networks and further discussed global governance networks in detail. Governance networks may be categorised in the form of their unique connection; they can be viewed as internal networking in South Africa. The networks involve governance networks that share resources and the market (standard resources), other governance networks, which are separate and independent (private administration), and those that have global links with the international arena (global). Thus, the study indicated that these network actors bring about superior levels of participation in the governance network. The study's categorisation of governance networks differed from the categories provided by Koliba *et al.* (2011:74-75), who classified a governance network as the accountability mechanism within localism, regionalism, nationalism and internationalism (an intergovernmental system).

Furthermore, the study in Chapter 2 created various mechanisms of public participation by all participants in the form of stakeholders for the development of participatory opportunities. These participatory arenas were expanded to be employed within the social platform, which involves the fora of the public (communities). Briefly, the study referred to these fora as public participation, which are convened by the political leadership as part of their consultation with the public. However, the study acknowledges that public participatory meetings are not only held for the process of legislative compliance. Therefore, the study is of the view that for the success of public

participation, sound monitored programmes should be in place. Successful participation ensures and strengthens democracy, as well as accountability, within the governance of IGR. Apart from this study, Van der Waldt (2018:30), Dawson (2011:3) and McKinney *et al.* (2005:17) confirmed that the principles of openness, accountability and participation strengthen democracy within the intergovernmental system.

Apart from cooperative governance and intergovernmental relations (IGR) being outlined in Chapter 3 (Sections 40 and 41) of the Constitution, the study diagnosed and distinguished the relationship between the two concepts (i.e. cooperative governance and intergovernmental relations). Furthermore, the study investigated how accountability within the governance of intergovernmental relations is implemented in South Africa, when compared to international practices. The concepts “accountability, governance and intergovernmental relations” were investigated and discussed in unison. Hence, the study focused on the characteristics of good governance borne out by the research; these characteristics, as outlined in Figure 22 on page 379 of this study, are as follows:

- Accountability
- Consensus-Orientation
- Participation
- Transparency
- Responsive
- Effectiveness and Efficiency
- Compliance

Accordingly, the study denoted that there were no universally accepted mechanisms for achieving the checks and balances, endorsed by the separation of powers, as a means of accountability. The discussion in page 132 emphasised accountability (checks and balances) by demarcating the boundaries of the Legislative (page 132), the Executive (pages 132-133) and the Judiciary (pages 133-134). Each government sphere depends on developing its own range of factors, including the adopted principles of democracy, to endorse the separation of powers. These principles help

to energise government controls to be effective in creating a healthy division of power. The separation of powers prevents the branches of government from trampling on the affairs of another branch, and it further gives the citizenry the power to monitor and constrain abuse by the government (i.e. the Legislature or the Judicial branches). The study further provided guidance on how the separation of powers should be managed with regard to the relationship between (a) the Legislature and the Executive, and (b) the Legislature and the Judiciary in all spheres of government. Apart from the management of the separation of powers as a means of applying checks and balances, the study further included the debate on the complete respect for the separation of powers. This conclusion on the separation of powers by the study coincides with the argument by O'Regan (2005:131), and thus maintains the relevance.

Despite Dawson's (2011:96) argument that European countries are still experiencing challenges in designing accountability mechanisms and institutions, this study recorded marked progress with the development of accountability. This may be drawn from the advanced discussion in pages 287-290 of the study on institutional accountability, as derived from Section 181 of the Constitution. Furthermore, the discussion included governance oversight, as projected in all three spheres of government. The classic example of the discussion referred to the Standing Committee on Public Accounts, the Provincial Public Accounts Committee, and the Municipal Public Accounts Committee. These three oversight functionaries were broadly investigated across the three spheres of government.

Apart from the study having provided a broad analysis of the policy theories, the investigation sought to signify the National Development Plan (NDP) as the basis for the discussion in determining its implementation and the progress made since 2012. The study zoomed into the National Development Plan (NDP), which projected the intention to deliver radical transformation to eradicate unemployment, poverty and inequality by 2030. The study used the National Development Plan (NDP) as the relevant national policy to determine its mid-point success/failure rate towards the intended targets and implementation. The study focused on the halfway mark of the national policy to provide a predictive analysis of Vision 2030. However, by using the National Development Plan (NDP) as the gauge example for the implementation of

the national policy and for final use by the end user, the study was not restricted to investigating “accountability, governance and intergovernmental relations” in order to provide guidance to eradicate “unemployment, poverty and inequality” in South Africa.

The **integrated governance model** (IGM) formed an integral part of the study because the investigation sought to develop a unique contribution to improve the mechanisms of **accountability** and **governance** of the **intergovernmental system**. The integrated governance model (IGM) was designed from an intensive investigation, which is based on accountability, governance and intergovernmental relations (IGR). Given the background of the theme for the research, the Intergrated Governance Model (IGM) was preceded by the same pillars of accountability, governance and IGR, which are also reflected in the form of the Model. These pillars preceding the integrated governance model (IGM) were demonstrated by the study in the form of Figures and tables; this is done to ease the understanding and the implementation of the broader research. Accordingly, the study developed the integrated governance model (IGM) from a combination of the thoroughly analysed concepts of “accountability, governance and intergovernmental relations”, which signified an Integrated Governance Model (IGM), which is unique, comprehensive and conclusive.

7.7. Final Remarks

This section marks the conclusion of the investigation by the researcher. The researcher was confident that the research is complete in its investigation of “accountability within the governance of intergovernmental relations in South Africa”. The research provided a broad discussion on the key conceptual terms developed from the topic of the research. Accordingly, the study defined, demarcated, developed, and articulated these concepts of “accountability, governance and intergovernmental relations” throughout the investigation process. By so doing this, the researcher is of the view that the investigation correctly answered the research question posed in page 20 of the study. The research question needed to know “how can the government develop the best accountable measures to improve intergovernmental (IG) governance system and accountability in South Africa” and further implement the same accountability measures to ensure an answerable good governance.

Apart from the above, the study ventured into how the South African government exercised accountability within intergovernmental relations (IGR). This exercise of benchmarking South Africa with its international counterparts provided the beneficiaries and users with an unfair advantage with regard to the amount of information. The generation of information was conducted under the strict terms of reference of accountability, governance and intergovernmental relations (IGR), with specific reference to the Legislative, Executive and Judiciary functioning of the state. The research focussed on the application of the checks and balances against the use of and respect towards the designated governance institutions. The generated information from the benchmark or comparisons could strengthen the capacities of the beneficiaries to tighten accountability.

This investigation provided a unique outcome as required by item 1.6 backed by the findings and recommendations of the study. In addition to the findings and recommendations, the study designed a unique integrated governance model. This thoroughly researched governance model is the classified significance of this study. Hence, the researcher is confident that this study, through its findings and recommendations, will develop the capacity of accountability within the governance of intergovernmental relations (IGR). Thus, the beneficiaries or users will be able to develop their abilities and skills to instil self-affirmation and empowerment in the endeavours to transform the governance of intergovernmental relations (IGR).

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