

Intergovernmental Relations on Foreign Affairs in South Africa: A Twenty Year Review

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Abstract

This article analyses relations between South Africa's national and provincial governments on foreign affairs over the past 20 years. It departs from the premise that the idea of relative autonomy of subnational governments, which is embedded in South Africa's 1996 constitution, has remained largely underdeveloped owing to factors such as inherent ambiguities in the constitutional design, a strong centralising ethos on the part of the ruling party and generally weak provincial capacities. Consequently, relations between the national and provincial governments on foreign affairs have been low-key, predominantly focused on technical matters and generally of a top-down nature. Provincial governments have been virtually absent from the foreign policy-making process despite constitutional provisions to that effect. What is more, the article notes that intergovernmental processes intended to coordinate provincial international relations and align them with national development priorities and South Africa's foreign policy have for the most part been ineffective and inefficient.

Keywords: Intergovernmental relations, provincial international relations, paradiplomacy, foreign policy, South Africa

1. Introduction

The form of state established under South Africa's post-apartheid constitution has been a subject of debate among scholars and politicians alike. Hayson (2001: 504) summarises the source of this controversy in his assertion that in establishing semi-autonomous units, the constitution gives form to a federal polity, while at the same time endorsing "an integrated system of government in which national and sub-national governments are deeply implicated in each other's functioning". The unitary versus federal tension that underlies the constitution is itself a reflection of the process of give-and-take that defined South Africa's negotiated transition to democracy. As most scholars have observed (see for example Kotzé 1994; Hayson 2001; Steytler and Mettler 2001), both the 1993 interim constitution and the 1996 final constitution bear hallmarks of the fierce struggle by racial and ethnic minority parties such as the now defunct National Party (NP) and the Inkatha Freedom Party (IFP) to roll back the majority African National Congress (ANC)'s move to establish a highly centralised state. In this context, the adoption of federal principles alongside a commitment to centralised government has been interpreted as a conflict resolution mechanism which helped South Africa make a relatively peaceful transition to democracy.

Thus, although the South African constitution embodies federal ideas and principles, it is written in a language that underscores the imperative for national unity and allows for a governing hierarchy that is intended to promote and safeguard the state's unity and indivisibility. An inevitable consequence of the federal-centralising logic underlying South Africa's constitutional order is the existence of a number of grey areas in relation to the prerogatives and authority of the different spheres of government. Among the constitutional grey areas that have been the focus of many intergovernmental processes over the past two decades is that of international relations. South Africa's constitution grants the national government supreme authority over the country's foreign policy and international relations. Yet, thanks to the system of concurrent competence and the idea of cooperative governance introduced in chapter 3 of the constitution, subnational governments (SNGs) are not only provided with incentives to conduct international relations, but are also empowered to make input into aspects of the foreign policy-making process through the National Council of Provinces (NCOP). Although provinces have virtually shied away from influencing the national foreign policy, since the transition in 1994 all provincial governments have been actively involved in relatively autonomous international activities. As with other functional areas, there have been attempts over the past twenty years to develop intergovernmental structures and processes that would manage the expectations of national and subnational governments on international relations.

The objective of this article is to review these mechanisms and analyse the nature and quality of intergovernmental relations on foreign affairs in South Africa over the past two decades. The article departs from the central premise that the idea of relative autonomy of subnational governments (SNGs), which is embedded in the 1996 constitution, has remained largely underdeveloped in South Africa over the past twenty years. Consequently, provincial governments have played a very limited role, if any, in the national foreign policy-making process. More importantly, as a result of the centripetal tendencies in the polity, the article argues that relations between the national and subnational governments on foreign affairs in South Africa have been low-key, predominantly focused on technical matters and generally of a top-down nature. The article also notes that intergovernmental processes in this policy domain have for the most part been inefficient and ineffective in coordinating provincial international relations and aligning these with national development priorities and South Africa's foreign policy.

The argument unfolds as follows: the next section attempts to develop a conceptual framework for analysing IGR in the domain of foreign affairs. This is followed by brief discussions of the federal attributes of South Africa's political system, including the territorial decentralisation of elements of foreign policy and international relations. The third and main section of the article describes how and explains why intergovernmental processes on foreign affairs in South Africa over the past twenty years have evolved as a muted, *ad hoc*, top-down and fairly inefficient enterprise, despite a constitutional framework that promises cooperation and consultation in the context of interdependence and mutual trust and respect.

2. Conceptual Framework: Determinants of Intergovernmental Relations on Foreign Affairs

Intergovernmental relations (IGR), in the form of consultations, coordination, mutual assistance, negotiation and joint decision-making, can be described as the grease that enables any system of shared rule to function with little friction. As Roland Watts (2003: 3) correctly notes, conflict over constitutional jurisdiction, policy choices or resource allocation is inevitable in such systems characterised by great interdependence. And, although litigation provides one way of dealing with intergovernmental disputes, the imperative for harmony and efficiency in governance processes makes it more desirable to resort to mechanisms that promote intergovernmental cooperation, consultation and understanding. The nature and quality of IGR differ from one country to another, from one period to another in the same country, or from one policy area to another, depending on the prevailing circumstances and the interplay of a host of socio-cultural, legal, political and institutional factors.

The single most important variable that sets the tone of IGR in any given polity is the constitutional design and the political system that flows from it. There are different dimensions to this variation, but the distinction between integrated or cooperative federal systems on the one hand and dual or divided federal systems on the other hand is of paramount importance. Integrated federalism is underpinned by a logic that promotes cooperation and harmony among interlocking levels of government, to the effect that the structures and processes of IGR are given a legal status and are often embedded in the constitutional design itself. For example, the Basic Law of the Federal Republic of Germany, which is generally considered to be a model of cooperative federalism, is underpinned by the unwritten principle of *Bundestreue* or federal loyalty. This principle is similar to the concept of cooperative governance introduced in chapter 3 of South Africa's constitution. This stands in sharp contrast to what obtains in so-called systems of divided federalism where because of the rigid separation of functions and powers, IGR largely take the form of *ad hoc* processes with no statutory status. The constitutions of older federations like the US, Canada and Australia were designed to give form to this divided model of federalism.

In the domain of foreign affairs, IGR in any federal or decentralised system will also be significantly shaped by the constitutional distribution of foreign policy competence among the different levels of government. In this regard, Michelmann (2009: 331-332) makes a distinction between federal or decentralised systems where the foreign affairs competence of SNGs is only implied in the constitution (as is the case in India, Malaysia and Canada) and those where this authority is explicitly articulated in the constitution (such as Argentina, Germany and Belgium). In the former, the foreign affairs competence of SNGs is only circumstantial, and is often inferred from other provisions of the constitution. In the latter category, the constitution explicitly assigns SNGs powers over aspects of the country's foreign policy and external relations, although in most cases the national government maintains supremacy over foreign policy. To the extent that the South African constitution empowers the NCOP to ratify certain kinds of international agreements, it can be argued that South Africa also falls into this category.

A four-part typology for analysing IGR in foreign affairs can be developed on the basis of the federal design (whether the constitution creates a cooperative or divided federal system) and the constitutional allocation of foreign policy competence (whether SNGs are explicitly assigned foreign policy responsibilities or this role is only implied in the constitution). Table 1 depicts the different models of IGR that are theoretically possible from the interplay of these two variables in any given system. As the discussion below suggests, in practice, the nature of IGR in foreign affairs in any given

state would oscillate from one category to another depending on the relative influence of a host of other legal, institutional, political and socio-cultural factors.

	Cooperative Federalism	Divided Federalism
Explicit IR Competence	Model A: Highly formalised, robust and fairly balanced IGR	Model B: Theoretically non-existent category
Implied IR Competence	Model C: Muted, informal and largely technical IGR with pre-eminence of federal government	Model D: <i>Ad hoc</i> and largely competitive IGR with pre-eminence of federal government

Table 1: A typology of intergovernmental relations on foreign affairs (Source: Author's construction)

Model A captures IGR in cooperative federal systems where the constitution also explicitly reserves a role for SNGs in foreign affairs. Theoretically, states that fall into this category should display the most robust IGR in the field of foreign affairs, mainly because a logic of interdependence and cooperation underlies the federal order, but also because the constitution unambiguously gives the federated units a stake in the foreign policy process. This model of IGR is best exemplified in the German and Belgian federations. In an ideal system of divided federalism, foreign affairs will fall under the exclusive jurisdiction of the federal government. This means that the political systems represented by *model B* cannot exist theoretically. The federal design in the countries represented by *model C* also dictates a propensity towards intergovernmental cooperation. However, unlike the countries in *model A*, the constitutions of these countries normally entrust responsibility for foreign affairs exclusively to the federal government, either through an explicit provision or through judicial interpretation. Thus, although by virtue of the growing interdependence between the foreign and domestic spheres SNGs would indirectly assume an international role, IGR on foreign affairs would be largely conditioned by the absence of an explicit constitutional empowerment of constituents units in this regard. The Indian experience of IGR on foreign affairs approximates this model. Despite

the fact that the South African constitution accords provincial governments a direct, albeit, limited role in defining the country's foreign relations, through the NCOP, as argued below, intergovernmental processes on foreign affairs in South Africa also significantly exhibit features of this model. The last category in the typology above (*Model D*) represents IGR in divided federal systems where, despite the constitutional pre-eminence of the federal government in foreign affairs, SNGs, like in *model C*, are still able to develop an international agency and will try to influence the national foreign policy process on the basis of their domestic jurisdiction. What distinguishes the systems in this model from those in *model C* is the absence of formal institutions for, and a culture of, intergovernmental cooperation in the former.

In practice, there is a set of other variables that could determine the tone, pattern and intensity of IGR generally and in the domain of foreign affairs in particular. Any analysis of IGR on foreign affairs must therefore remain sensitive to the interplay and influence of these factors. Key among these is the relationship between the executive and legislative branches of government in any given federal or decentralised polity. Intergovernmental processes in Westminster style systems tend to be low-key and dominated by the executive, owing mainly to the concentration of power in the executive branch of government, but also to the strong party discipline in parliamentary systems of government. This is different in Presidential/Congressional systems where given the diffusion of power among different governmental actors, IGR can become more robust, with the active involvement of the legislative branch, especially where there is an upper house of parliament that is designed to represent subnational interests. However, in political systems where members of the second house are directly elected, as is the case with the US Senate, the upper house tends to play a very limited role in IGR compared to when representatives are appointed by their respective SNGs, as is the case with the German *Bundesrat*. Similarly, where a single party dominates politics at the national and regional levels, party structures and processes and not the upper house of parliament or other formal institutions often take precedence as avenues for dealing with issues that arise between the different levels of government. This political dynamic largely accounts for the limited role of the NCOP as an IGR forum in South Africa, especially on matters of foreign affairs.

Another important variable that deserves consideration when analysing IGR is the relative balance of capacity between the national and subnational governments. This is particularly true in the domain of foreign affairs. In this regard, Michelmann (2009: 344) notes that, compared to their national governments, "constituent units [in lower-income countries] generally do not yet have the expertise and financial resources to become actively engaged in foreign relations. Hence there is no great

need for highly developed intergovernmental relations". I will now proceed to highlight and examine the relevant features of cooperative federalism in South Africa's constitutional design.

3. Cooperative Federalism in South Africa: Principles and Practice

South Africa's constitution fails to bear the federal label, yet it contains significant features of a cooperative federal system and is often referred to as a quasi-federation, which leans towards a centralised system of government but also embraces "the idea of relative autonomy of subnational entities" (Zondi 2012: 51). The constitution establishes nine provinces with constitutionally-protected boundaries, powers, functions and institutions. However, as Devenish (1998:174) rightly notes, the existence of wide-ranging and vague supremacy clauses, together with intervention powers granted to the national government under section 100 of the constitution undermine provincial autonomy and give primacy to a centralised system of government. The same could be said of the centralisation of fiscal powers, which makes provincial governments dependent on the national government for most of their resources.

In an attempt to reconcile its centralising logic and the imperative to provide sufficient policy space for provinces, the constitution allocates legislative authority over most functional areas concurrently to the national and provincial governments (Hayson 2001, 508). Chapter 3 of the constitution also talks of three "spheres" rather than "levels" of government. Zondi (2012: 51) argues that this was a conscious attempt to discourage an interpretation of the constitution that suggests a "strong hierarchy in which subnational entities are fully subordinate, lacking original constitutional powers". Most importantly, the constitution introduces, in Chapter 3, the concept of cooperative government, which, in the context of the observed centralisation of legislative and fiscal authority, affirms the relative autonomy of the provinces in a three-sphere government whose components are "distinct, interdependent and interrelated". As Malherbe (2008a: 25) convincingly points out, the stipulations contained in this section of the constitution would have been unwarranted had the framers been committed to the institution of a system of government observed in unitary states. Chapter 3 of the constitution exhorts the different spheres of government to "co-operate with one another in mutual trust and good faith" and operate "in a manner that does not encroach on the geographical, functional and institutional integrity of government in another sphere". Intergovernmental cooperation, according to the principles of cooperative government, should take the form of mutual assistance and support, consultations on matters of common interest, information sharing and coordination of actions and legislation, adherence to agreed procedures, as well as preference for political rather than judicial mechanisms in settling inter-sphere disputes.

No structure better embodies the principle of cooperative government than the National NCOP, an upper chamber of parliament created by the constitution to represent the collective interests of provinces. The NCOP gives expression to the logic of intra-jurisdictional federalism, which is common to systems of cooperative federalism. Provinces are represented in the NCOP by a delegation of ten members drawn from political parties represented in the provincial legislature and headed by the Premier. The NCOP serves as a platform for provinces to participate in the formulation of national legislation and policy, and ensures that the national government remains sensitive to provincial interests. To this end, any legislation contemplated by the National Assembly and which affects the interests of provinces or certain categories of international agreements must be approved by at least six of the provincial delegations to the NCOP for it to become law (see sections 68 and 76 of the Constitution). However, in accordance with the constitutional pre-eminence of the national government over legislation and policy in South Africa, a two-thirds majority of the National Assembly can override an NCOP veto. Besides, a simple majority of the National Assembly is sufficient to overrule an objection from the NCOP on bills that do not affect provincial interests.

In consonance with the constitutional principles of cooperative government and IGR, a mesh of structures and processes has emerged over the years to promote cooperative federalism at the executive level in South Africa. In 2005 these structures and processes were streamlined and given statutory status by the Intergovernmental Relations Act (Malan 2005: 232-236). In principle, these structures, which include the President's Coordinating Council (PCC) and the Committees of Ministers and Members of Executive Councils (MinMECs), should give rise to an elaborate system of intergovernmental cooperation that strives for national harmony while also safeguarding and nurturing the relative autonomy of provinces as envisioned in the constitution. However, the dominant constitutional discourse and practice in South Africa over the past twenty years has not been in favour of the idea of a federalised polity. This has contributed to a significant erosion of the relative autonomy of provinces and entrenched a centralised system of government. The dominance of the ruling ANC in South African politics and its preference for a system of democratic centralisation is among the centripetal forces that have directed the polity away from a federalising trajectory. Thus since 1994, and with the help of the overwhelming majority it continues to wield in the national parliament and most of the provincial legislatures, as well as strong party discipline and loyalty, the party has been able to forge a centralised system that undermines the relative autonomy of the provinces (Lorimer 2001; Simeon and Murray 2001). Other factors identified by Malherbe (2008b: 47,50) as responsible for the smothering of provincial autonomy in South Africa include the provinces' financial dependence on the national government, as well as a Constitutional Court jurisprudence that has been cautious in curtailing the dominance of the national government.

Institutional weaknesses and maladministration in most provinces (NPC 2011: 21-23; Besdzik 2006: 111; Butler 2009: 129) have also contributed to entrenching a centralised system of government in South Africa. Weak political and administrative capacities in provincial governments have not only allowed Pretoria to monopolise the legislative and policy-making roles over concurrent functional areas, but they have also created room for a number of national interventions, wholly or partially, in the administration of some provinces (Murray 2006: 31). What is more, provincial inefficiency, both real and perceived, has over the last decade triggered a debate on the continued relevance of this sphere of government (ANC 2013). In the context of a quasi-federal constitutional framework on the one hand, and strong centripetal tendencies in the political system on the other hand, Malherbe (2008b: 47-49) and Murray (2006: 31) argue that IGR in South Africa have largely been characterised by the efforts of the national government to coordinate and supervise the actions of SNGs. Very little consultation takes place in the many intergovernmental forums that have been established over the years. On the contrary, these forums, and the general constitutional stipulations for cooperative government, have been transformed by the national government into vehicles for usurping provincial powers and centralising decision-making. Before I examine how this trend has played out in the domain of foreign affairs, the next section will briefly examine the constitutional justifications and manifestations of provincial international relations.

4. Developmental Paradiplomacy in South Africa: Constitutional Roots and Manifestations

The supremacy of the national government over foreign affairs is explicitly underscored in section 231(1) of the South African Constitution, which affirms that the power to negotiate and sign all international treaties is the exclusive prerogative of the national executive. Moreover, neither of the two schedules of the constitution outlining the concurrent and exclusive competences of provincial governments make mention of foreign affairs. However, section 231(2) of the constitution mandates that international agreements that are not of a technical, administrative or executive nature, and those requiring ratification or accession, must be approved by both the National Assembly and at least six of the nine provinces in the NCOP. Scholars such as Murray and Nakhjavani (2009: 218) have inferred from this provision that the constitutional framers did not in any way contemplate shutting out the provinces from the foreign policy-making process of the state. Additionally, the general distribution of powers and functions in the constitution indirectly empowers provincial governments to engage in international relations of their own. Concurrent policy fields such as education, tourism, health services, regional development, culture, the environment and trade, for instance, have significant implications for international cooperation. This reading of the constitution appears to be supported and even encouraged by Pretoria, which has, through the Department of International

Relations and Cooperation (DIRCO), formerly Department of Foreign Affairs (DFA), encouraged provincial governments to enter into non-binding international accords and engage in external cooperation that would contribute to the fulfilment of their constitutional mandate of catalysing development within their jurisdictions (DFA 2005: 111-112).

In any case, all nine provinces have employed the logic of shared responsibility to develop a wide range of relations with foreign partners on the basis of their domestic competence. The foreign relations of South African provinces have evolved as part of global trend of SNGs becoming increasingly active on the global stage. This phenomenon has been the focus of a burgeoning scholarship that seeks to understand and explain, among other things, the motivations, determinants, forms and implications of what is commonly identified with the term “paradiplomacy”.¹ Against the backdrop of limited provincial competence on foreign affairs and a pervasive discourse of socio-economic transformation, the evolution of this phenomenon in South Africa has taken the form of what could best be described as “developmental paradiplomacy”. The concept has been coined to capture the international orientation of SNGs preoccupied primarily with leveraging external relations for local socio-economic development without placing much emphasis on developing a parallel foreign policy-making capacity (Nganje 2014: 121-126).

Developmental paradiplomacy in the South African context has at least four distinctive features. First, there is a strong emphasis in all provinces on commercial diplomacy dedicated to promoting market access, attracting foreign direct investments and showcasing the specific locality as a preferred destination for foreign tourists. Second, even in a province like the Western Cape, which is governed by a national opposition party, provincial international relations are generally defined within the framework of South Africa’s foreign policy, and in some cases are conducted in close collaboration with national departments and agencies. In fact, a good number of provincial partnerships have been undertaken within the framework of South Africa’s bilateral cooperation arrangements with countries such as Cuba, Finland and Canada. Third, a significant proportion of provincial diplomacy in South Africa is directed towards scouting for financial, technical and other forms of assistance to support local development efforts, to the extent that until recently, the most important international partners of South African provinces were located in the rich industrialised countries of Europe and North America. Finally, although wealthier provinces such as Gauteng and the Western Cape tend to conduct their foreign relations with relative efficiency, frequency and assertiveness, in the main, there are few variations across provinces with regard to the goals of international relations and the tools deployed to achieve these (Nganje 2014: 131-134).

5. Intergovernmental Relations on Foreign Affairs in South Africa

Intergovernmental processes in the domain of foreign affairs in South Africa over the last two decades have largely been conditioned by the fading federal impetuses in the polity and the corresponding gravitation towards a centralised system of government. This has encouraged a very rigid interpretation of the constitution by national policymakers; one which maintains that foreign affairs are the exclusive preserve of the national government. As illustrated above, this reading of the constitution is not entirely accurate. The constitution guarantees the supremacy of the national government over foreign affairs, but it does not exclude a role for provincial governments. Nevertheless, the dominant discourse that foreign affairs are the exclusive domain of the national government has remained largely unchallenged by the provinces. Consequently, very little official consultation takes place between national executives and their provincial counterparts on South Africa's foreign policy and international relations.

Foreign policy in post-apartheid South Africa has traditionally emanated from the presidency and the national cabinet (see Ahmed 2009; Masters 2012). The latter have been assisted in this regard by the International Cooperation, Trade and Security (ICTS) Cluster, a high-level inter-ministerial forum that deals with issues of international relations. The ICTS Cluster receives inputs from the Consultative Forum on International Relations (CFIR), an intergovernmental structure comprising senior officials from all three spheres of government and other relevant stakeholders. While provinces are represented in this forum, its advisory role leaves them with little room, if any, to influence the national foreign policy (DIRCO 2008, 10).

Relations between provincial departments and their national counterparts on international relations issues are not different. As pointed out earlier, provinces exercise concurrent responsibility with the national government over a number of policy areas such as health, education and trade, which have increasingly become the subjects of South Africa's international relations and cooperation. When matters relating to international relations arise in these fields, Murray and Nakhjavani (2009: 220-222) note that, with the notable exception of environmental issues – where provinces like KwaZulu-Natal have demonstrated superior capacity that is not matched in the national sphere – national departments hardly consult with their provincial counterparts.

As discussed earlier, the NCOP, South Africa's upper House of Parliament, is constitutionally mandated to serve as an intergovernmental consultative forum on certain aspects of South Africa's foreign relations. However, the NCOP has proven to be ineffective in fulfilling this role. The chamber is not only shut out of the negotiation phase of international agreements that touch on matters

falling within provincial jurisdiction, but once concluded, these agreements are often passed in the house without any comments (Murray and Nakhjavani 2009: 223; Ahmed 2009: 301). Provincial representatives in the NCOP engage as little as possible with the foreign policy-making process, often deferring to the national executive, or at best to the lower house of parliament. In the very rare cases where the NCOP's Select Committee on Trade and International Relations (SCTIR) has demonstrated interest in scrutinizing international agreements, the NCOP's influence has been constrained by the overwhelming majority that the ANC enjoys in the house. Nine of the 13 members of the NCOP's SCTIR belong to the ANC, which has enabled the party to veto objections or proposed amendments to foreign policy bills debated by the house.²

The limited role of the NCOP and even the national assembly in the foreign policy process has been exacerbated by South Africa's unique combination of features of presidential and parliamentary systems. This hybrid institutional design has encouraged the concentration of power in the hands of the national executive, particularly the president. Because provincial administrations also follow the Westminster system, executive federalism has emerged as the dominant model of IGR in South Africa. Considering that the executive in most provinces owe allegiance to the national leadership of the ANC, provincial compliance with national policies and directives is often assured. As noted earlier, weak capacities in the provinces has also deterred provincial representatives in the NCOP from advocating a more active role in the making of national laws and policies that may affect their jurisdiction, particularly in the complex and technical field of international relations.

The weak influence that the NCOP and provincial administrations generally have on South Africa's foreign policy can also be understood through the lens of the dominant post-apartheid discourse of transforming the socio-economic legacy of the past. With its undertone of national unity and oneness of purpose, this discourse has become a rallying point for all segments of South African society – including state and civil society; ruling and opposition parties; as well as national, provincial and local governments. The national government has leveraged the pervasive appeal of this discourse to discourage sub-national activism around the foreign policy process and justify its attempts at supervising the international relations of provincial governments.

5.1 National Supervision and Coordination of Provincial International Relations

In the absence of a culture of consultation between the national and provincial governments on foreign affairs, most of the interaction between the two spheres of government in this policy area takes the form of attempts by Pretoria to supervise the international relations of provinces, ostensibly to align them to South Africa's foreign policy and national development priorities. The

conduct of provincial international relations over the past two decades has not been without problems, providing official justification for Pretoria to adopt measures to supervise the foreign activities of provincial governments. In addition to poorly planned, weakly monitored and generally uncoordinated foreign activities, instances of misconduct, unaccountability and deviation from established foreign policy norms and practices have also been characteristic of provincial international relations in South Africa. For example, a report prepared for the then South African Department of Provincial and Local Government (DPLG) by the European Commission delegation in South Africa identified instances where provincial international relations undermined South Africa's foreign policy and international reputation, including a visit to Israel by a delegation of provincial officials, who failed to make a courtesy call on the Palestinian Authority as mandated by South Africa's foreign policy (EC 2006: 5).

DIRCO has over the years been at the centre of intergovernmental processes intended to align provincial international relations with the national foreign policy and development priorities. As early as 1996, each of the nine provincial governments was encouraged by DIRCO to establish international relations units. As Murray and Nakhjavani (2009: 221) have observed, besides coordinating the international activities of different provincial departments and agencies, these units have served as "entry points" for DIRCO to oversee the provinces' foreign relations. A Directorate for Provincial Liaison (Intergovernmental Relations and Provincial Protocol since 2009) was also created at DIRCO to serve as a liaison office between the national and provincial governments on international affairs. Reflecting the muted nature of IGR on foreign affairs in South Africa, the responsibilities of this directorate have always been left to a small number of junior foreign affairs officials. It should also be underlined that although located in the offices of provincial premiers, and have progressively been staffed by highly ambitious practitioners, international relations units generally wield little political influence within provincial administrations. Not surprisingly, interactions between DIRCO's Directorate for Intergovernmental Relations and Provincial Protocol and provincial international relations offices have largely been limited to providing consular services for international visits by senior provincial officials, sharing of information on actual and potential provincial international relations partnerships, as well as giving advice on diplomatic etiquette.

A number of other intergovernmental structures and processes, with varying degrees of formality and effectiveness, have also formed part of efforts by the national government to bring greater coherence to provincial international relations and align these to the national foreign policy and development priorities. Under the auspices of the International Relations Directorate of the

Department of Cooperative Governance and Traditional Affairs (COGTA), formerly the Department of Provincial and Local Government (DPLG), an intergovernmental process was initiated in 1996 in response to a spate of chaotic international outings by provincial and local governments.³ As part of this process, a series of workshops were convened during which officials from relevant national government departments interacted with and drilled their provincial and municipal counterparts on the orientation of South Africa's foreign policy and the technicalities of international relations. An attempt was also made to give these *ad hoc* meetings a relatively permanent status by establishing a Provincial International Relations Coordinating Group (PIRCG). The forum, which had a very short life-span, was designed to bring together relevant national departments to provide support and guidance to provincial and municipal international relations practitioners on a regular basis. A more ambitious initiative by the DPLG, which was aimed at developing a provincial and municipal international relations policy framework, accompanied by legislation to formalise intergovernmental structures and processes on international relations, also ended prematurely.⁴ National supervision of provincial international relations has also taken the form of efforts by South Africa's National Treasury to act as a gatekeeper between provincial governments and international donors (Murray and Nakhjavani 2009: 221).

From the mid-2000s, it was the national cabinet that provided the primary impetus for devising an effective intergovernmental framework for coordinating the international relations of the different spheres of government in South Africa. In partnership with DIRCO, the then cabinet cluster on International Relations, Peace and Security carried out consultations with relevant actors across the three spheres of government, which culminated in the drafting of the *Measures and Guidelines for Enhanced Coordination of International Engagements*. This is a policy framework for coordinating South Africa's international relations, which was adopted by cabinet in November 2008. The framework also established a Consultative Forum on International Relations (CFIR), an intergovernmental structure comprising senior officials from all three spheres of government and is designed to meet at least twice a year under the auspices of DIRCO. As previously indicated, the CFIR does not deal with the substance of foreign policy; it is charged primarily with facilitating information-sharing, planning and coordinating international visits, and providing guidance on South Africa's foreign policy to international relations practitioners in the different spheres of government (DIRCO 2008: 8-9).

It is fair to observe that the adoption of the *Measures and Guidelines for Enhanced Coordination of International Engagements* and the establishment of the CFIR represent significant progress towards effective intergovernmental coordination in foreign affairs in South Africa. However, it is also true

that these new initiatives have not been immune to the effects of the negative dynamics that have undermined previous intergovernmental processes, so much that their effectiveness has been found wanting. This was evident in the attention that the issue attracted at the 53rd national conference of the ANC held in Mangaung in December 2012. One of the resolutions of the conference was a call for DIRCO to publicise the national guidelines for the coordination of international relations to ensure that these are adhered to by officials in all spheres of government. Additionally, the ANC petitioned the national government to “investigate the regularization of international twinning agreements of provinces and cities” (ANC 2013: 48).

Among the dynamics that have worked against effective intergovernmental coordination of international relations in South Africa is an enduring attitude of ambivalence from national government officials towards the foreign activities of provincial governments. These misgivings flow from the idea that foreign relations are the exclusive competence of the national government and have over the years been reinforced by the incompetence displayed by some provincial governments in the execution of their functions generally, and the conduct of foreign relations in particular. Coupled with challenges associated with a poor culture of inter-departmental cooperation, weak leadership and capacity constraints within the national sphere of government, these reservations have engendered half-hearted support for provincial diplomacy and a corresponding lack of urgency and commitment to coordinate and align these activities to the objectives of the national foreign policy. For example, a major obstacle to the establishment of a statutory intergovernmental structure on international relations has been the institutional tension between DIRCO and COGTA.⁵ Moreover, the absence of a committed leadership within DIRCO to champion processes of coordination has been partly blamed for the ineffectiveness of successive intergovernmental coordinating forums, including the CFIR, which has recently witnessed a decline in the frequency of meetings and stakeholder participation.⁶

Another major factor that explains the weak state of intergovernmental coordination on international relations in South Africa relates to differences in the expectations of the national and provincial governments on the goals of IGR in this policy area. Although provincial officials have at times demonstrated a keenness to cooperate with the initiatives of the national government in this regard, it appears that they have done so having expectations that diverge from the priority of the national government. As illustrated above, Pretoria’s intergovernmental processes have been motivated primarily by concerns with bringing coherence to the country’s foreign relations through efficient and well-coordinated sub-national international relations. However, provincial politicians and their highly ambitious international relations bureaucracies have expected more than

paternalistic supervision. They have desired to be better capacitated to conduct their external relations with relative autonomy.⁷ These divergent expectations have been a major contributory factor to the ineffectiveness and short life-span of most of the intergovernmental mechanisms initiated to coordinate South Africa's international relations.

There are, however, instances where strong convergence of national and provincial interests and objectives has engendered highly cordial cooperation on foreign affairs. This is mostly in the domain of commercial diplomacy, where provincial governments, including their trade and investment promotion agencies, have found it expedient to cooperate with the national government in order to mitigate operational challenges in promoting their economic interests abroad. From the perspective of provinces, intergovernmental collaboration becomes a useful strategy to benefit from Pretoria's diplomatic clout and networks, as well as access much-needed resources and technical expertise. For example, most provincial trade and investment promotion agencies have entered into "strategic partnerships" with the South African Department of Trade and Industry (DTI) and some of the country's embassies abroad. As part of these partnerships, the DTI regularly funds and assists provincial agencies with their trade and investment promotion activities and also takes them on board its own foreign economic missions and exhibitions.⁸ South African embassies and consulates have also become instrumental in gathering business intelligence, marketing individual provinces and linking them to the business communities and opportunities in host countries.⁹

6. Conclusion

This article reviewed the nature of relations between South Africa's national and provincial governments in the area of foreign affairs over the past two decades. While according the national government supreme authority over the country's international engagements, South Africa's 1996 constitution also provides for provincial authorities to make input into foreign policy processes that affect their jurisdictions. By giving provinces authority over functional areas that have become increasingly internationalized, the constitution also creates strong incentives for these subnational entities to develop an international agency. I have argued that owing to strong centripetal tendencies in South Africa's political system and institutional weaknesses at the provincial level of government, provinces have not been able to fully exercise their foreign affairs competencies. Although provincial governments engage in international activities, they have been generally absent from the foreign policy process. Intergovernmental relations in this policy field have therefore remained underdeveloped and have been dominated by Pretoria's attempt to supervise the international activities of provincial administrations. So far, there has not been any overt attempt even by the Democratic Alliance-led Western Cape provincial government to challenge Pretoria's

strong hold over South Africa's foreign policy and international relations, although officials across the nine provinces have subtly resisted the supervision of their international activities by DIRCO. It remains to be seen whether the growing integration of provinces like Gauteng into the global economy and their increasing influence in national policy debates will have any significant effect on the nature of relations between the national and provincial governments on foreign affairs.

Endnotes

¹ The term paradiplomacy was introduced by Ivo Duchacek and Panayotis Soldatos to describe the phenomenon of SNGs (provinces, regions, or cities and local governments) developing their own international relations. Alternative terms include multi-layered diplomacy, sub-state diplomacy or constituent diplomacy (See Nganje, 2014: 121-123).

² Personal communication with a member of the NCOP's Select Committee on Trade and International Relations, 30 June 2010.

³ Personal communication with a former official in the Department of Provincial and Local Government, now Department of Cooperative Governance and Traditional Affairs, 31 July 2012.

⁴ Personal communication with a former official in the Department of Provincial and Local Government, now Department of Cooperative Governance and Traditional Affairs, 31 July 2012.

⁵ Personal communication with a former official in the Department of Provincial and Local Government, now Department of Cooperative Governance and Traditional Affairs, 31 July 2012.

⁶ Personal communication with an official in the Department of International Relations and Cooperation, 16 October 2012.

⁷ Personal communication with officials (current and past) in the Offices of the Premier, North West and Gauteng Provinces, November 2012 and August 2013.

⁸ Personal communication with an official in the Western Cape trade and investment promotion agency, 12 April 2012.

⁹ Personal communication with a former official in the Office of the Premier, North West Provincial Government, 2 August 2013.

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