

# Calming the “Cape storm”

The highly politicised dispute in the City of Cape Town about a proposed change in the system of governance from an executive mayoral system to an executive committee system was finally resolved by an agreement between Mayor Helen Zille and MEC Richard Dyantyi. The dispute settlement mediated by Minister Sydney Mufamadi is a good illustration of how the Intergovernmental Relations Framework Act operates in practice.

## The Intergovernmental Relations Framework Act

The Act provides the mechanisms by which organs of state are obliged to resolve disputes and outlines the specific steps that parties must follow. The dispute resolution mechanisms can be divided into two stages. The first is a more informal stage that precedes the declaration of a formal intergovernmental dispute. An organ of state wishing to declare a formal intergovernmental dispute must first, in good faith, “make every reasonable effort to settle intergovernmental disputes without resorting to judicial proceedings”. During this stage the parties have the opportunity to attempt to resolve the dispute on their own. Although this is not specifically provided for, they may convene meetings and/or request a third party to assist in facilitating the dispute resolution.

Should these “informal” negotiations fail to yield agreement, the Act provides that an organ of state may take the next step, that of declaring a formal intergovernmental dispute, by notifying the other party of such declaration in writing. The parties may, however, request the involvement of the minister for provincial and local government at any point. Failure to fulfil these requirements will necessitate the involvement of the minister for provincial and local government.

## The dispute

In the days that followed the MEC’s announcement about the proposed change in Cape Town’s system of governance, media reports recorded the debate between the MEC and the mayor. Zille was quoted as saying it was an attempt by the ANC to regain control of the City of Cape Town and

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indicated a failure to respect the outcome of the elections which placed the DA and its alliance in power. In response, Dyantyi stated that his goal was to promote democracy in Cape Town and ensure a more “inclusive” proportional and representative governance model. The MEC further argued that the demarcation of subcouncils made the city not inclusive. It was clear that the parties were engaged in an intergovernmental dispute because the City of Cape Town was contesting the exercise of power by the MEC to change the system of governance in the city. The informal stage of the dispute process in terms of the Act had thus begun.

In keeping with the Act, the parties exchanged correspondence and attended informal meetings to try to find common ground, but failed to reach an amicable solution. Zille then made it clear that while still open to negotiation, she intended to seek a council resolution to declare a formal intergovernmental dispute in terms of the Act.

Minister Mufamadi then entered the fray and facilitated meetings between the parties, who welcomed his assistance. He also met with each party separately. Although the negotiations were still under way, the parties failed to reach consensus by the next council meeting. Accordingly, the council mandated Zille to declare a formal intergovernmental dispute. Shortly thereafter a compromise was reached and an agreement brokered between the parties. On 31 October 2006 Minister Mufumadi announced that the MEC for local government would not proceed with the intended change in the type of governance. In return, the city council undertook to establish two additional subcouncils and revive ward committees within the city.

## Comment

The willingness of the parties to engage with both the letter and the spirit of cooperative governance envisioned by the Act is commendable. The mediating efforts of the national minister were instrumental in facilitating the swift settlement of a potentially protracted dispute without recourse to the courts.

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