



**NATIONAL COUNCIL OF PROVINCES DEBATE:
PROVINCIAL WEEK 6-10 SEPTEMBER 2010 REPORT**

**Theme: “Working together to ensure faster improvement in the
delivery of services and the living conditions of our people”**

1 March 2011

**Honourable Chairperson of the NCOP
Honourable Ministers and Deputy Ministers
Honourable MECs
Honourable MPs & MPLs**

The Provincial Week provided permanent delegates to the NCOP and Members of Provincial Legislatures an opportunity to undertake oversight visits and interact with communities in order to obtain “first hand” information on the provincial issues that should be placed on the agenda of the NCOP. We are pleased to join in the debate and reflect on the Provincial Week, aimed at fostering closer linkages between politicians and the people. As we have repeatedly emphasised, the NCOP, in particular, is a critical platform for engagement to take place between national policy and legislative direction for the country and the distinctive service preferences of provincial and local government, and the people they represent.

Some of the salient remarks during that week focused much on cooperation between the spheres of government and how the NCOP, Provincial Legislature and local government could effectively work together to ensure that progress was made with regard to quality service delivery to communities in various provinces; that interaction at the level of the Legislature and the

NCOP be more frequent and that the programme of the NCOP be forwarded in time to allow for proper planning and coordination.

Some provinces indicated the need for NCOP delegates, MPL's, Provincial Government and SALGA to interact on a more regular basis on matters affecting the province that needed to be raised on a national level and that programmes be co-ordinated and aligned between the NCOP, Provincial Legislature and local government. Honourable Chairperson, we agree. The NCOP Provincial Week programme was thus an important forum for the NCOP, provinces and local government to establish collaborative approaches in seeking solutions and devising mechanisms that will address the needs of the people of South Africa.

Turning to key issues raised

One of the critical issues raised in many provinces during that week reflected on the number of Section 139 interventions. As SALGA, we also expressed our concerns in this regard in that the Constitution requires provincial governments to play an important role in monitoring and supporting local government support and build the capacity of local government to fulfil its service delivery mandate. As a last resort, intervention is provided for, in order to ultimately assist a municipality to become sustainable and self-sufficient.

Yet, interventions have become a real threat to the institutional integrity of local government. Few, if any, interventions have been successful in the sense of capacitating the municipality when the province leaves. Persistent interventions in some municipalities are a case in point – the same problems still exist and annual intervention is the norm. The effectiveness of interventions is highly questionable and have no curative intent – most are simply take-overs without the necessary skills transfers or continued support taking place.

Alarming, there is an increase in the number of municipalities under section 139 interventions. Mechanisms, processes and procedures in terms of section 105 of the Systems Act are often overlooked in favour of a section 106

investigation and or a section 139 intervention. Of particular concern is that there is little evidence of Provincial Legislatures exercising oversight over Provincial Executive's actions in terms of section 139. This must be addressed as a matter of urgency as part of the broader approach to interventions, not necessarily to be addressed by legislation. Provinces are in our view, not checked on whether intervention is appropriate and whether support has first and consistently been offered. The aim of interventions must be restorative rather than punitive.

These interventions are evidence that provinces are struggling with their constitutional commitment to support municipalities. In fact, it is our view that the number of interventions are reflective of the inability of many provinces to fulfil their constitutional obligations to support and build the capacity of local government to fulfil its service delivery mandate. Indeed, the Gauteng Provincial Government has, but once, used intervention because it believes in supporting municipalities to fulfil their obligations and further believes that interventions would be a negative reflection of its own inability to fulfil its constitutional mandate. We could not agree more.

As we march towards the 2011 local government elections, we must ensure that the next term of municipal councils coming into office, who are the delivery agents of most of government programmes, is characterised by a national and provincial government who continually provides coherent support and an enabling policy, legislative and institutional support from provincial and national government. The legislatures must be vigilant in checking the exercise of executive power and ensuring that coherent and focused support to municipalities from the other two spheres, rather than increasing the compliance burden and interventions, become the regular order of our business.

While efforts are afoot to introduce new interventions legislation, it is our view that legislation should be used to regulate and limit the exercise of power, but should not be thrown at all and any implementation problems, especially when the implementation and adherence to current legislation is the problem. More law cannot solve the problem. Parliament, the NCOP and Provincial

Legislatures must ensure that constitutional breath of cooperative governance and support for one another, first and foremost, finds expression in our policy and legislative practice.

In conclusion

The Provincial Week is a critical platform for consolidating the gains made to date by firstly communicating with each other and thereby giving us the opportunity to address some of the fundamental constraints hampering government in our quest to effect development.

Honourable Chairperson, we remain committed to working with the NCOP and our partners in government to speed up service delivery and realise developmental vision of local government. Through our interaction and representation of our membership, SALGA will continue to engage the national legislative process to ensure the institutional integrity of local government on the one hand and the efficacy of service delivery on the other.

I thank you.

Hon Cllr Mxolose
SALGA