

Real governance takes political will

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In 2004 then-finance minister Trevor Manuel gave a speech marking the 10th anniversary of the Financial and Fiscal Commission, the body responsible for divvying up the "equitable share" of national government funds among provinces.

Perhaps because the jargon of intergovernmental finance is alienating to all but the wonkiest of experts, it was very little noticed, either as the history lesson it undoubtedly was or as a policy manifesto for the proper relationship between provincial and national governments.

With the long-running debate over the usefulness of provinces revived by the treasury's intervention in a corrupt and bankrupt Limpopo, it is worth returning to Manuel's remarks, which sketch the terrain adroitly.

By 2004 the risk that provincial administrations might become mired in incompetence or serve as channels for patronage and outright theft rather than delivery was becoming very clear and the first national government interventions -- in the Eastern Cape -- had been taking place for some time. Manuel and his colleagues were looking for ways to assert more control without fundamentally altering the constitutional framework.

He began by reminding the audience that "negotiations for democracy were between centrists and federalists. On virtually every aspect of the Constitution, the centrists, with their strong experience of and commitment to human rights, won. The notable exception was the shape of government. I recall that many of us were shocked when we learned that an agreement had been struck to create nine new provinces."

The revenge of the centrists, he said, was to ensure that "in all instances" the national sphere was designed to be strong. Visits to other countries with provincial systems were conducted, approaches compared and Ismail Momoniat -- who deserves the Order of the Baobab for his services to the state over nearly two decades as a treasury official -- distributed copies of a textbook which rejoiced in the title *Fiscal federalism in the theory and practice*.

Manuel went on to explain how the constitutional and legislative balance had been struck in such a way as to ensure that the provinces had both rights and obligations and to lay a stable basis for engagement among the spheres of government. Among the laws in question were the Borrowing Powers of Provincial Governments Act, the Intergovernmental Fiscal Relations Act, the Public Finance Management Act and the Provincial Tax Regulation Process.

Nevertheless, Manuel went on, 10 years of democratic experience ought to form the basis for a reconsideration or "at least a huge debate in defence of what exists". That debate never happened, although Cosatu general secretary Zwelinzima Vavi may have begun to provoke it when he suggested last week that the provinces be scrapped.

In 2004 Manuel had six broad suggestions for reform. Two might have been controversial if the speech had been more closely parsed.

First, a move from separate "spheres" of government to more closely linked and hierarchically arranged "tiers", with greater clarity about the relative strength and weakness of the provincial and local vis-à-vis the national.

Second, a review of the powers and functions assigned to provinces by the Constitution "without attempting to fix what is not broken".

Both of those proposals could well have led to a further revenge of the centrists, but they were offset by proposals for more effective and accountable provincial governments.

"We [including provinces] need to govern in a manner that allows us to interpret the mandate we received from the electorate," Manuel said, not just by technocratically implementing fiscal formulae and spending the conditional grants allocated by the treasury for specific projects.

"We must," he said, "explore the ability of all spheres to raise taxes."

Manuel was more or less at the height of his power in 2004, but the proposals had almost no impact (apart from some soft and unenforceable language in the annual Division of Revenue Act encouraging provincial ministers to co-ordinate better with national government).

We are now reaping the consequences.

The fact is that if provincial governments do all the things they are required to do by the Constitution and the legislation, they may well deliver a dividend in both democratic and delivery terms that justifies the cost of what Vavi described as a "burdensome layer of bureaucracy".

If they don't, as is the case in Limpopo, but also in Mpumalanga, KwaZulu-Natal and the Eastern Cape (just for starters), they rapidly lose all legitimacy.

If we are to have a rational discussion about the future of the provinces, we have to ask why they are failing. Is it because of inherent design flaws that leave them vulnerable to looters and incompetent officials? Or is it rather because the law is neither enforced nor developed along the lines Manuel proposed nearly eight years ago.

The fact is that it is the national government and the governing party that have done far too little to rein in delinquent provincial administrations. There has been some reluctance in the treasury to prop up the underperformers because it is felt that they need to learn the consequences of failure, but that is an explanation at the margin. The biggest problem is a lack of political will to use the legislative and policy tools available, let alone the criminal justice system, to ensure that the term "co-operative governance" has any meaning at all.

Hopefully, that is now changing. We can have a debate about whether we should have provinces and if so, how numerous and powerful they should be, but if it is to achieve anything more than a rearrangement of the deck chairs, we need politicians truly committed to accountability, whether they serve in Pretoria, Polokwane or Putsonderwater.

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