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Coordination between Central and Provincial Governments

There are various mechanisms through which a state can facilitate and encourage coordination between the central and provincial governments. Codifying these procedures can be especially important in post-conflict states to help to clarify the relationship between the different levels of government and to ensure neither level of government oversteps its respective authority.

Such mechanisms may include: (1) Provincial representation in the central government; (2) Formal and ad hoc committees; and (3) Joint entities tasked with resolving disputes outside the formal judicial system.

Mechanisms to Facilitate Coordination

Provincial Representation in the Executive or Legislative Branch of the Central Government

A provincial government may have a formal role in a state's executive or legislative branch. For example, provincial representatives may serve in a state's executive ministries. This is the case in Denmark, where Greenlandic members of the national parliament serve on the Danish Foreign Policy Committee (a constitutionally-established entity within the state's executive).¹

Provincial representatives may also serve in a state's main executive body. In the President and Vice-President of the former State Union of Serbia and Montenegro were required to come from different member entities. In addition, the five positions within the Ministerial Council, the governing executive of the State Union, were divided in such a way that whichever entity held the Presidency, the other entity held three of the five Ministerial posts.²

Formal Coordination Councils

A joint council may be a permanent entity tasked with ensuring adequate coordination between the state and province. For instance, the Åland Delegation is a joint council that facilitates coordination between the central Finnish and Åland Island governments. The Delegation is headed by the Åland Provincial Governor, a representative of the central

¹ *Greenlandic members of the Danish Parliament*, Greenland Home Rule website, available at: http://www.nanoq.gl/English/The_Home_Rule/Greenlandic_members_of_the_Danish.aspx.

² Constitutional Charter, Article 21.

government who is approved by the Åland Parliament.³ Similarly, the Belfast Agreement between the Republic of Ireland and the United Kingdom provided for the creation of British-Irish Inter-Governmental Conference.⁴

Informal Coordinating Mechanisms

A state may complement formal coordinating mechanisms with informal meetings between state and provincial actors. For example, Canada holds an annual First Ministers' Conference that brings together the Canadian Prime Minister and the premiers of the provinces.⁵

Mechanisms to Facilitate Dispute Resolution

A state may create mechanisms outside the formal judiciary to facilitate the resolution of disputes between the central and provincial governments. Especially in a post-conflict situation, a clear and delineated process can avoid additional conflicts over the establishment of ad hoc processes. An examination of state practice illustrates, however, that a state's judiciary is traditionally the final arbiter of disputes between the central and provincial authorities.

A constitution may provide for a standing committee to resolve disputes during the legislative drafting process. Referral to such a committee can be constitutionally or legally mandated. South Africa's Constitution, for example, requires that legislation involving the provinces, and on which the two chambers of parliament disagree, be sent to the Mediation Committee consisting of both national and provincial delegations.⁶ If the disagreement is not resolved in the Mediation Committee, the legislation in question can only be passed by a two-thirds majority in the National Assembly.⁷

A peace agreement may also provide for a committee to mediate disputes between the central and provincial governments. For example, the Joint Supervisory Body, established in the agreement between Papua New Guinea and Bougainville, plays a role in resolving disputes between the two governments. If the specific agencies of the two governments cannot reach an agreement, the Joint Supervisory Board serves as an intermediate forum before the dispute is referred for mediation and arbitration. Finally, if mediation and arbitration fail, the parties can submit the dispute to the courts.⁸

³ Act on Åland Autonomy, Chapter 8.

⁴ The Conference also acts as a forum for discussions on non-devolved issues, security matters, human rights, justice, prisons, and policing in Northern Ireland. The Northern Ireland Peace Agreement: The Agreement reached in the multi-party negotiations (1998), *available at* <http://www.usip.org/library/pa/ni/nitoc.html>.

⁵ Canadian Intergovernmental Conference Secretariat (CICS) website, *available at* http://www.scics.gc.ca/menu_e.html.

⁶ The National Assembly is the directly-elected lower house of the South African parliament; the National Council of Provinces is the upper house of parliament and is made up of representatives from the provinces.

⁷ The Committee can either agree to: (1) the version of the legislation passed by the National Assembly, (2) the version of the bill passed by the NCOP, or (3) a new version of the legislation. If the committee agrees to a new version of the legislation, this new version must be voted on and passed by both the National Assembly and the NCOP. At least five National Assembly delegates and five NCOP delegates on the mediation committee must agree before a decision is adopted. South African Constitution, §76: Ordinary Bills Affecting Provinces.

⁸ Bougainville Peace Agreement, Articles 265-67.

In some instances, a committee may only be constituted in relation to a specific dispute. This is the case in The Greenland Home Rule Act that establishes the relationship between Denmark and the autonomous province of Greenland. The Act provides for the creation of an ad hoc mediation committee when a conflict arises between the central and provincial governments. When convened, a committee consists of two delegates from Denmark, two from Greenland, and three judges from the Danish Supreme Court. The delegates from Denmark and Greenland try to resolve the dispute without the involvement of the Supreme Court judges. If the delegates from Denmark and Greenland cannot reach an agreement, then the judges from the Supreme Court decide the issue.⁹

A committee may also be responsible for resolving disagreements in a particular topical area. This can ensure dedicated and effective mediation, especially if a specific issue is critical to the successful coordination between different levels of government. For instance, the Interim Agreement for Peace and Self-Government in Kosovo created a Commission to resolve disputes regarding the reallocation of ownership and resources under the terms of the agreement.¹⁰

⁹ The Greenland Home Rule Act (1978), Act No. 577, *available at* http://www.nanoq.gl/English/The_Home_Rule/The_Home_Rule_Act.aspx.

¹⁰ Interim Agreement for Peace and Self-Government In Kosovo (1999), Chapter 4, *available at* http://www.usip.org/library/pa/kosovo/kosovo_rambtoc.html.