

**SECTION 100 CONSTITUTIONAL INTERVENTION IN LIMPOPO PROVINCIAL  
TREASURY**

**BY**

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## **ABSTRACT**

Any country need to have all its oversight structures functioning well to ensure that good governance contribute to effective and efficient rendering of service delivery that creates public value. Limpopo Provincial Treasury (LPT) as an oversight structure in Limpopo Province was put under section 100 Constitutional intervention by National Government due to its inability to perform its oversight mandate over all other departments, municipalities, and public entities as enshrined in section 18 of the PFMA.

The purpose of this study was to explore and establish if the implementation of section 100 (1) (b) Constitutional intervention assisted LPT to resolve the financial disparities that plagued the Province of Limpopo. Literature survey concurs that any institution failing to perform its legislative mandate should be put under Constitutional intervention to restore best practices. The study adopted qualitative research design however, elements of quantitative research design, to a smaller extent, have been applied in the study to collect and analyse the data. Case study design was adopted with LPT as the case for the study.

The study revealed that section 100 Constitutional intervention did not achieve its objectives of clearing unauthorised expenditure of R2, 7 billion but LPT has immensely benefited from the Constitutional intervention process due to strong controls built, important projects implemented such as Project Based Learning (PBL) and being pilot for various projects such as LOGIS roll-out. The study stipulates that other oversight structures such as National Treasury, Office of the Premier, and Provincial Legislature i.e. Standing Committee on Public Account (SCOPA) had also failed in exercising their oversight responsibility over LPT. Lastly, the study recommends the review of Provincial Treasuries in general in terms of their establishment and design to make them more independent, effective and relevant.

## **DECLARATION**

I declare that this research report is my own, unaided work. It is submitted in partial fulfilment of the requirements of the degree of Master of Management in the field of Public and Development Management at the University of the Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination in any other University.

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**Mokgethwa Emmanuel Mogofe**

**July 2014**

## **DEDICATION**

To My wife, Nomthandazo Sannah Zwane, and My two sons: Tebogo Abel and Mararaule Emmanuel Mogofe Junior, this work could not have been easy without your support and understanding that I had to leave you frequently to attend to this project.

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## LIST OF ABBREVIATIONS

AC	Audit Committee
AO	Accounting Officer
AFS	Annual Financial Statements
AG	Auditor General
ANC	African National Congress
APP	Annual Performance Plan
BBBEE	Broad Based Black Economic Empowerment
CAE	Chief Audit Executive
CFO	Chief Financial Officer
CIE	Catholic Institute of Education
COGTA	Cooperative Governance and Traditional Affairs
COO	Chief Operations Officer
CPD	Continuous Professional Development
CS	Corporate Services
DG	Director General
DPSA	Department of Public Service and Administration
DORA	Division of Revenue Act
EPRE	Estimates of Provincial Revenue and Expenditure
EXCO	Executive Council
FFC	Financial and Fiscal Commission
FG	Financial Governance
FNB	First National Bank
GDP	Gross Domestic Product
HOD	Head of Department
IDP	Integrated Development Plan

LPT	Limpopo Provincial Treasury
LTSM	Learner and Teacher Support Material
MEC	Member of Executive Council
MMS	Middle Management Staff
MTBPS	Medium Term Budget Policy Statement
MTEF	Medium Term Expenditure Framework
NCOP	National Council of Provinces
NDP	National Development Plan
NGO	Non-Governmental Organisation
NRF	National Revenue Fund
OTP	Office of the Premier
PBL	Project Based Learning
PFMA	Public Finance Management Act
PGDP	Provincial Growth and Development Plan
PRF	Provincial Revenue Fund
SARB	South African Reserve Bank
SCM, A&L	Supply Chain Management, Assets & Liabilities
SCOPA	Standing Committee on Public Accounts
SGM	Senior General Manager
SMME	Small, Medium and Micro Enterprise
SMS	Senior Management Staff
SOSAC	Save Our Schools and Community
SRM	Sustainable Resource Management

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## 1. INTRODUCTION

Limpopo Provincial Treasury (LPT) is a Government Department established in terms of section 216 of the Constitution of the Republic of South Africa, 1996. The Department was established primarily to be in charge of the finances as well as fiscal policies of the Limpopo Province. The Department plays dual role as an allocator of funds as well as playing an oversight role of monitoring and evaluating the use of the funds by the departments.

Section 18 of the Public Finance Management Act (PFMA) gives powers to the Provincial Treasury to exercise control over the implementation of the provincial budget. The PFMA further gives treasuries powers to do anything further that is necessary to fulfil their responsibilities effectively including powers to withhold funds of any Department that contravenes the provisions of the PFMA. In terms of section 100 (1) (b) of the Constitution of the Republic of South Africa, National Government may assume responsibility for the relevant obligation in the Province to the point that essential national standards or established minimum standards for rendering of a service are met.

National Government exercised its Constitutional powers to intervene in LPT by taking both its executive and administrative powers to help improve the financial situation. This comes after Limpopo Province ran out of money during 22 November 2011 to pay teachers, nurses, social workers, doctors, and service providers. On 05 December 2011, National Government decided to intervene in the Province of Limpopo by taking over its financial management roles and responsibilities which were vested under National Government team of administrators. This comes after Limpopo Province incurred an overdraft of R2, 7 billion and requested for an increase of R1 billion on its overdraft facility.

However, the joint media conference between National Government and the Provincial Government of Limpopo which took place on 20 January 2012 clearly

displayed some signs of disagreement between National and Provincial Government on the intervention plan and purpose. This comes after the Provincial Government's media response on 20 January 2012 that the overdraft of R2, 7 billion emanated long before the current administration and those responsible are certain National Ministers who previously served as the leaders of government of Province. Divergent views between the two spheres may put the intervention plan at jeopardy which runs a risk of having the intervention failing to achieve its objectives (Government Communication & Information System, 2012).

In addition to the Constitutional powers vested on the National Government to intervene in any Provincial sphere if deemed necessary, section 6 (1) (b) of the PFMA also vests powers to National Treasury to coordinate intergovernmental financial and fiscal relations. These include monitoring the implementation of the provincial budget to fulfil its responsibilities most effectively. This provides a direction to this study as both the Constitution and the PFMA clearly set the rules of engagement that the National Government is a supreme sphere amongst all other spheres of government.

Intervention at LPT by National Government shows that the distribution of Constitutional powers and authority amongst the three spheres of government is unequal. It is an indication that the upper sphere of government enjoys more powers and authority over the lower spheres. This further means that an intervention should be constitutionally informed with reasons approved by parliament to intervene so that the two spheres can work together to resolve the issues that inform the intervention.

During the intervention period, the team of section 100 (1) (b) administrators reports on its day-to-day activities to the minister of finance and provides progress report to the National Council of Provinces (NCOP). The National Parliament through the Constitution vest powers to the NCOP to monitor progress on the intervention process and report back to National Parliament.

The Constitution makes provision for two different types of National Government intervention in terms of section 100 (1) (a) and (1) (b). Intervention through section 100 (1) (a) limit the powers of the intervention team by ensuring that the Accounting Officer (AO) of LPT is still responsible and accountable for the Department under the advice of the intervention team. This means that section 100 (1) (a) intervention act only on advisory role and do not assume top management functions.

On the other hand, section 100 (1) (b) means that the intervention team takes over the powers and authority of the Head of Department (HOD) of LPT and the Minister of Finance takes over the executive powers of the Member of Executive Council (MEC) for LPT. The decision to intervene using section 100 (1) (a) or (1) (b) depends primarily on the nature and severity of the problem. This spells that the problems in LPT were more severe that led to National Government to intervene using section 100 (1) (b) of the Constitution.

Within two months of the arrival of the intervention team, the HOD of LPT was removed from his position and was transferred to the Office of the Premier (OTP). This is in line with the Provincial practice that all HODs are appointed by the Premier of Limpopo and as a result, termination or transfer of their contract is centralised at the OTP. This led to LPT to function without a HOD and operated under the direction and control of the Chief Administrator until the appointment of the new HOD, Mr Gavin Pratt, on 01 January 2013.

## **1.1. BACKGROUND**

This study focuses on the implementation of section 100 (1) (b) constitutional intervention by National Government in LPT. The primary aim and focus of the study is to determine if the section 100 (1) (b) intervention assisted the Province to improve and address the financial disparities that the Province faced. The study will also investigate if the programmes and recovery projects implemented by the section 100 (1) (b) administrators are sustainable to ensure that LPT will be able to carry out its

financial management roles and responsibilities even after the departure of the section 100 (1) (b) intervention team.

The criteria to determine the sustainability of the solutions, plans and strategies will range from its persistence and capability to address and eliminate the problems through to its wide acceptance by both the LPT and the National Administration team. Furthermore, positive cash balance in the Provincial Revenue Fund (PRF) with tangible plans to sustain the surplus will also be used as a criterion to determine improvement from the financial problems.

The following is the high level structure of the LPT which depicts new form of political and administrative power distribution:

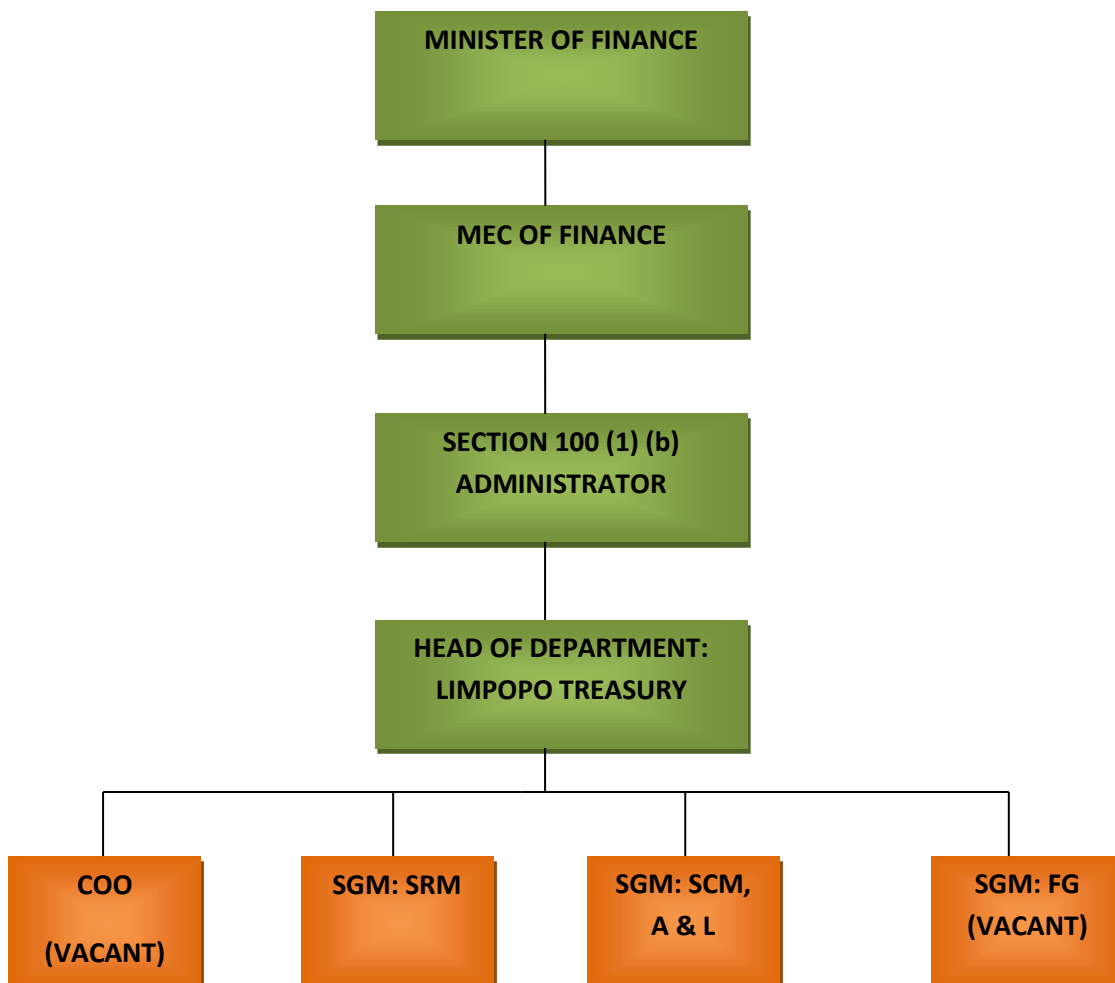


Figure 1: Researcher's own, 2013

The structure above depicts LPT's high level organogram under section 100 (1) (b) National Government intervention. However, section 100 (1) (b) Administrator does not necessarily report to the MEC and rather report to the Minister of Finance at national level although he must, timeously, inform or advice the MEC on the important decisions taken so that the MEC can be well informed about the activities of the Department.

The Minister of Finance assumes executive authority and responsibilities, meaning that all the powers of the MEC are moved to the Minister of Finance for the duration of section 100 (1) (b) intervention processes. The HOD of LPT report to the section 100 (1) (b) administrator for the duration of the intervention period. However, there are section 100 (1) (b) administrators for each branch, meaning each Senior General Manager (SGM) reports directly to the section 100 (1) (b) administrator on SGM level who then reports to the Chief Administrator.

The situation is unique in nature in the sense that each main programme has been allocated with an administrator and does not report to the HOD, instead report directly to the Chief Administrator. This clearly spells that the HOD is not useful to the Chief Administrator as the key people (programme administrators) who should be reporting to him are instead reporting to the Chief Administrator.

#### **1.1.1. Background and legal mandate of Limpopo Provincial Treasury**

LPT is a Department with a legal mandate established from section 18 of the PFMA which mandates the Department to be a custodian of the Provincial Finances. The PFMA is established from the Constitution of the Republic of South Africa which stipulates that Parliament must pass an act that will regulate the financial affairs of South Africa. The Department was established during the year 2005 as a stand-alone Department after operating as a main programme within the Department of Economic Affairs since 1994. The Vision of the Department is to strive towards being the best provincial fundraiser, allocator, monitor, manager and evaluator of public finance for socio-economic development in South Africa. The mission is to provide

ethical, consultative and people-focused services through sound public financial management, including attaining and maintaining effective financial resource mobilisation (Estimates of Provincial Revenue & Expenditure, 2013: 161).

In realising the above vision and mission statement, following are the core functions of the Department:

- To ensure the achievement of the provincial government goals and objectives through sound financial management in the provincial departments and public entities, as well as effective and efficient management of the LPT;
- To increase financial management capacity to achieve operational efficiency and promote accountability in government;
- To facilitate an increase in provincial revenue including initiating new and own sources of funding;
- To contribute to promote BBBEE and SMME development through appropriate supply chain management policies and procedures and PPPs;
- To improve the quality of life of the population;
- To enhance and effectively target and manage the Province's fiscal resources endeavouring to achieve alignment with municipal budgetary outcomes;
- To guarantee the effective and efficient management of physical and financial assets and liabilities and public-private partnerships, and
- To develop and implement efficient internal systems and processes.

The above duties will mainly provide the study with direction in terms of what is legally expected of LPT against what it is doing or performing in meeting the above core functions. Having a sense of whether the Department is living up to its expectations will also provide a light on whether section 100 (1) (b) constitutional intervention is indeed assisting the Department. The above core functions are in relation to the 2013/14 financial year which mainly mean that both section 100 (1) (b) intervention team and LPT staff have worked together to deliver the core functions.

### 1.1.2. Socio-economic profile and challenges of the Limpopo Province

The demographics of the Limpopo Province as released in 2011 by the Statistics South Africa shows drastic decline in population numbers which subsequently affect the provincial equitable share from the National Revenue Fund (NRF). The decline is in comparison to the census results released during 2001 by Statistics South Africa. Since the research study seeks to understand whether section 100 (1) (b) intervention team is able to assist the Department and if the solutions being implemented are sustainable even after the section 100 (1) (b) intervention team has departed the Province, it is then important to understand socio-economic status of the Province. This is due to the fact that demographic characteristics and economic capabilities of the Province will mainly provide the magnitude of the problems and challenges faced by the Province (Magoro, 2010: 71).

Magoro (2010: 75) indicates that the Province enjoys economic advantage in various sectors of the economy which include Agriculture, Mining, Tourism, as well as Manufacturing. The total contribution of the Provincial economy to the South African economy stood at 7, 2% of the Gross Domestic Product (GDP) which is low to keep up with the developmental challenges of the Province. As a result, majority of the population in the Province live in abject poverty with high number of unemployment and growing numbers of HIV/AIDS infections. This leaves government with no choice but to strengthen social care grant in ensuring that living standards and basic needs of the people are at least met. LPT is however propelled to exercise budgetary controls by prioritising social sector over other sectors such as infrastructure provision, and governance and administration (Statistics South Africa, 2004: 85).

The table below shows land area per square metre and changes as well as movement in population across the country with Limpopo having its population size growing from 4, 5 million in 1996 to 5, 4 million in 2011 which represent 11% of the South African population. The province receives approximately R50 billion from the NRF as part of its equitable share. The Division of Revenue Act (DORA) takes into account the population size of the province to make balanced equitable share of the revenue raised nationally.

Table 1: Population and Land Square Kilometre size per Province in South Africa.

<b>Province</b>	<b>Census 1996</b>	<b>Census 2001</b>	<b>Census 2011</b>	<b>Land Area in Square Kilometres 2011</b>
Western Cape	3 956 875	4 524 335	5 822 734	129 462
Eastern Cape	6 147 244	6 278 651	6 562 053	168 966
Northern Cape	1 011 864	991 919	1 145 861	372 889
Free State	2 633 504	2 706 775	2 745 590	129 825
Kwa-Zulu Natal	8 572 302	9 584 129	10 267 300	94 361
North West	2 727 223	2 984 098	3 509 953	104 882
Gauteng	7 834 125	9 388 854	12 272 263	18 178
Mpumalanga	3 123 869	3 365 554	4 039 939	76 495
Limpopo	4 576 566	4 995 462	5 404 868	125 754
<b>South Africa</b>	<b>40 583 573</b>	<b>44 819 778</b>	<b>51 770 560</b>	<b>1 220 813</b>

Source: Statistics South Africa: 2011

The main challenges of the Limpopo Province ranges from poverty, high literacy level, to limited access to government services. Almost half (47%) of the population residing in Limpopo are still living in poverty. Poverty is directly linked to illiteracy or education level wherein a total of 522 685 people living in Limpopo lack basic education. Advantage to live in formal structures is only limited to 78, 7% of the Province's population with the rest of the population subjected to reside in informal dwellings. Unemployment is standing approximately at 20%, thus only 1 million from the total of 5, 4 million people are occupying formal employment in the province. The above challenges put a burden on social sector budgeting as many people rely on social grants and other means of social services such as school nutrition at public schools for survival (Overview of Provincial Revenue and Expenditure: 2013).

## **1.2. PROBLEM STATEMENT**

During December 2011, LPT was placed under section 100 (1) (b) Constitutional Intervention due to maladministration of the funds of the Province. The Department

was placed under National Administration with four other departments in the Limpopo Province namely: Departments of Education; Roads and Transport, Public Works; and Health for similar reasons of maladministration of their funds. The main reason for placing LPT under administration was primarily because LPT is responsible for managing the PRF and if any Department in the Province mismanage its funds, it directly affects LPT as the custodian of the Provincial funds.

Section 100 (1) (b) constitutional intervention at LPT was widely accepted as a good governance practice by National Government to uphold principles of good governance and restore best financial management practice. It is however, unknown if sustainable strategies and solutions have been developed and implemented to restore and uphold good governance as well as good financial management in LPT. There is a strong desire to study the above in order to examine the effectiveness and sustainability of the solutions being developed and implemented by section 100 (1) (b) constitutional intervention team of administrators.

### **1.3. PURPOSE OF THE RESEARCH**

The purpose of the study is to explore and establish if the implementation of section 100 (1) (b) Constitutional intervention assisted LPT to solve the financial disparities that plagued the Province. The main criteria to determine improvement is to review the previous situation before the administrators, what happened on their immediate arrival and what the current situation is. Lastly, the purpose of the research is to further analyse and determine whether the solutions, plans and strategies implemented by the section 100 (1) (b) Constitutional intervention team of administrators are sustainable to keep the Province of Limpopo going beyond the National Government intervention period.

## **1.4. RESEARCH QUESTIONS**

- 1.4.1. Did section 100 (1) (b) constitutional intervention assisted LPT to move out of the financial disparities and crisis that plagued the Province of Limpopo?
- 1.4.2. Are the solutions, plans and strategies implemented by section 100 (1) (b) constitutional intervention team of administrators sustainable to keep the Province of Limpopo going beyond National Government intervention?
- 1.4.3. Is section 100 (1) (b) constitutional intervention a best strategy to resolve intergovernmental relations problems?

## **1.5. SIGNIFICANCE OF THE RESEARCH**

The researcher has been influenced and motivated by the growing expectations of National Government to intervene at Limpopo Province mainly by the citizens, opposition parties and various oversight structures such as National Parliament, Standing Committee on Public Accounts (SCOPA), Auditor General (AG), as well as other interest groups such as Non-Governmental Organizations (NGOs). AG audit reports since 2009 have been reporting various challenges such as poor governance structures within public institutions, misuse of public funds, weak internal controls, as well as discrepancies between planned service delivery against what was delivered.

Furthermore, the suggestions for an improvement in the study are in a form of recommendations to public sector institutions to improve as well as for the future researchers within Public Administration and Management. Findings of the study contribute to the body of knowledge within Public Administration in particular around governance and intergovernmental relations. Continuous development of theory within Public Administration, Intergovernmental Relations and Governance is necessary for the reasons mentioned above and also to guide policy makers in their policy decisions.

## CHAPTER TWO

### LITERATURE REVIEW

The study based its theoretical argument within existing and relevant literature. The main question that the study will ask which involves whether section 100 (1) (b) administrators team assist LPT to move out of the financial disparities is an evolving issue within Governance theory as it affects on-going debate on the future of governance and the New Public Administration. Bryman (2012: 98) argues that the review of the literature is important to inform the researcher on what is already known about the research topic so that the researcher does not 'reinvent the wheel'. This will assist the researcher to demarcate the study from the existing literature as well as demonstrating that the study is necessary and derive its theoretical background from the existing literature.

Bryman (202: 98) identifies six important aspects to demonstrate why the researcher needs to review existing literature as follows:

- What is already known about this area?
- What concepts and theories are relevant to this area?
- What research methods and research strategies have been employed?
- Are there any significance controversies?
- Are there any inconsistencies in findings relating to this area?
- Are there any unanswered research questions in this area?

The above questions demonstrate that the researcher may at some point need to revisit the research question or the topic itself in case where the review of literature necessitates the need. This shows that no social science study can be conducted without linking it to the broader body of knowledge. For example, the fact that one of the important aspects of literature review the researcher need to familiarise him/herself with is the fact that he/she must establish if there are no unanswered questions in the area of study. This will set the tone for the researcher to start conceptualising how he/she will answer the unanswered questions and what does that say about the study.

Neuman (2011: 111) argues that “a literature review is based on the assumption that knowledge accumulates and that people learn from and build on what others have done”. This argument indicates the fact that the broader body of knowledge is basically intertwined in one way or the other and any social science study should be supported by existing body of knowledge. There is concentrated and evolving body of knowledge within the study of administration which is an area that draws the attention of practitioners and academics with an interest in governance studies.

Neuman (2011: 112) further identifies six types of literature review important for any study these includes context review, historical review, integrative review, methodological review, self-study review, and theoretical review. Within the above types of literature review, this study is better defined by the context review which involves a process whereby a researcher links his/her study to a larger body of knowledge. Review of literature in this study is contextual in nature because the researcher links this study to the broader body of knowledge.

This chapter focuses on reviewing literature as the nature of review for this study was defined and explained above. In this section, key concepts which trigger this study including important concepts such as The Study of Administration, The Importance of Corporate Governance, Effectiveness of Intergovernmental Relations, as well as Politics and Administration are unpacked.

## **2.1. The Study of Administration**

The study of demarcating public administration began long ago but Woodrow Wilson started to give the study more meaning during the late Eighteen Century when he coined an academic article on the study of administration. Wilson (1886: 198) argues that “administration is the most obvious part of government, it is government in action, it is the executive, the operative, the most visible side of government, and is of course as old as government itself”. Wilson attempt to simplify the distinction between government and administration as two different spheres functioning differently but dependent to one another This argument shows that administration is part of politics or government though the latter assumes superior position. Linking this to the current debate of this study, it shows that government enjoy powers to

make decisions on behalf of the administration which is directly linked to the Constitutional powers it enjoys.

From the above argument, it shows that LPT could not have avoided section 100 (1) (b) Constitutional intervention due to problems relating to the maladministration of funds as the constitution vest powers to upper sphere to intervene and restore best practices. The government of the day which is mandated by National Parliament enjoys power to take necessary steps in case the lower sphere of government fails to perform its duties as provided for in the Constitution. It is safe to assume that the three spheres of government do not enjoy equal power distribution and the national sphere could always make decisions on behalf of the provincial or local sphere provided it is in line with the legislative or Constitutional provisions (Visser, Steytler & Mettler 2000: 5).

## **2.2. Intergovernmental Relations**

Uregu Ile (2010: 53) states that an intergovernmental relation is a facilitative system that necessitates smoother relationship to all the units of government to participate meaningfully into the state activities to achieve its goals. However, Van der Waldt & Du Toit, in Uregu Ile (2010: 53) defines intergovernmental relations as “the mutual relations and interactions between government institutions at horizontal and vertical levels”. Thus, intergovernmental relations is obviously understood to take a central stage in bringing together important units such as executive unit, coordinating unit, cooperative agreements, judicial and legislative authorities of the state. However, the main objective of the intergovernmental relations is to sustain democracy, strengthen delivery capacity across all governmental spheres, and enable smoother relationships across all spheres of government.

Many countries are composed of several spheres of government which takes a form of national, provincial or regional, as well as local spheres of government and South Africa is not unique from this model. Like most parts of the world, local authority in South Africa is divided into sub-levels such as regional, sub-regional and ward councils. This federal system requires that a comprehensive approach be applied on fiscal arrangements between the three spheres of government to ensure that funds

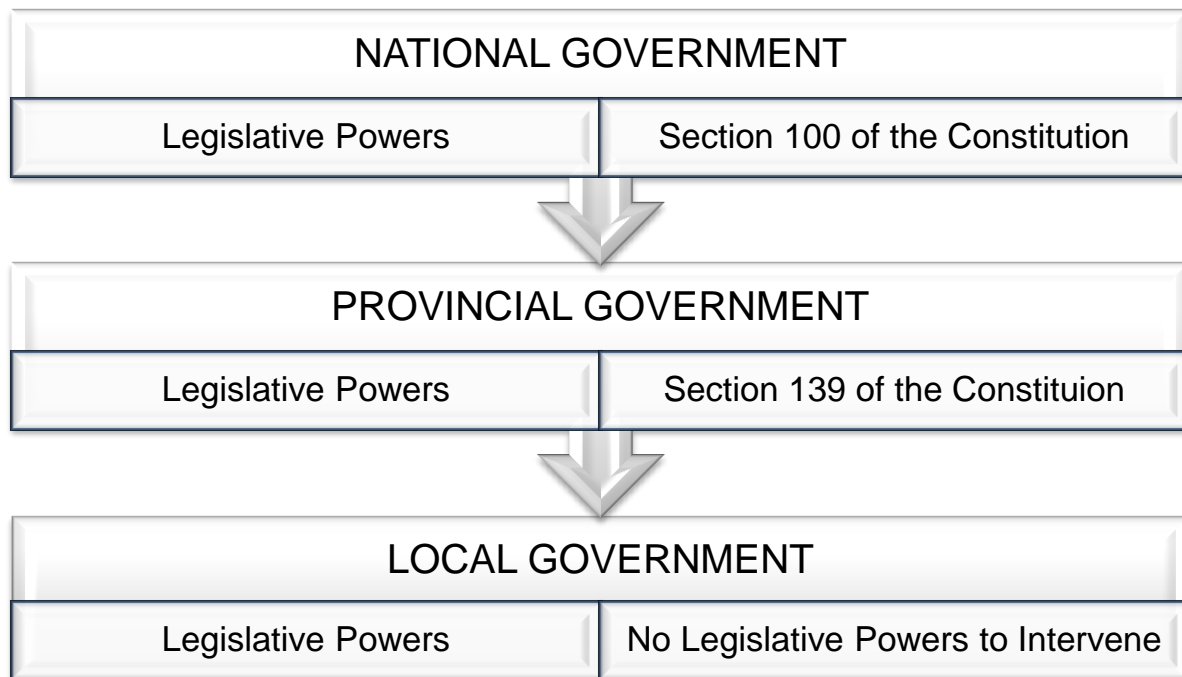
are transferred evenly and systematically from one sphere to another. Intergovernmental relations is vital for delivering the programmes of government both vertically (between levels of government) and horizontally (within levels of government) (Fjeldstad 2001: 1).

Section 100 of the Republic of South Africa's Constitution states that when a Province cannot or does not fulfil an executive obligation in terms of the Constitution or legislation, the National Executive may intervene by taking any appropriate steps to ensure fulfilment of obligation, including:

- a. Issuing a directive to the Provincial Executive, describing the extent of the failure to fulfil its obligations and stating any steps required to meet its obligations, and
- b. Assuming responsibility for the relevant obligation in that Province to the extent necessary to:
  - i. Maintain essential national standards or meet established minimum standards for the rendering of service;
  - ii. Maintain economic unity;
  - iii. Prevent that Province from taking unreasonable action that is prejudicial to the interests of another Province or to the Country as a whole.

Though each sphere is independent to the extent that it is allowed to perform its duties, the constitution provide powers to the upper sphere to check and intervene where necessary if the lower sphere is prejudicing any of the constitutional stipulations as set out above. This shows that power relation is unequal to the extent that the upper sphere must act legally to uplift the essential national standards as set out in the constitution. The National Executive must, if intervening in a province, inform in writing the NCOP within 14 days of the intervention and the NCOP has powers to approve or disapprove the intervention. The NCOP has constitutional obligations to monitor the progress of the intervention and make recommendations to the National Executive. The intervention may last up to six months and may be reviewed for further extension by the NCOP if deemed necessary (Constitution of the Republic of South Africa, 108 of 1996).

Figure 2: The intervention cycle with legislative powers per Sphere of Government.



Source: Researcher's Own (2013).

Figure 2 above shows that both National and Provincial spheres have constitutional powers to intervene at lower spheres respectively. The constitution is silent on how National Government can be summoned if it fails to maintain essential national standards or fails to meet established minimum standards for the rendering of service. However, poor performance within national government is dealt with mainly by Presidential prerogative through removal of the respective Minister and or closer interaction and cooperation with National Treasury by ailing Department. For instance, the Department of Public Works has been struggling to achieve its objectives and during the year 2012 its Minister, Mr Thulas Nxesi, announced that National Treasury will closely work with Public Works in building technical skills for a period exceeding one financial year. This is not a Constitutional intervention but a bilateral agreement between the two ministers of Finance and Public Works to beef-up the technical skills within the Department of Public Works (Department of Public Works 2012).

Local sphere of government does not have constitutional powers to intervene as it is the third and last sphere of government. However, municipalities are grouped in categories from category A to C wherein section 155 (2) of the constitution states

that National legislation must define the different types of municipalities that may be established within each category (Constitution of the Republic of South Africa, 108 of 1996).

On a different note, it is worth noting that intergovernmental fiscal system may take different approach within federal system due to differences in historical and geographical arrangements, the heterogeneity of population as well as the nature of government intervention in the economy within a given country. This indicates that questions and problems of intergovernmental relations may not be answered or resolved in a similar approach. Thus, an answer to this study cannot be generalised by similar findings previously done which covered most of the scope covered by this study. The intergovernmental fiscal question we have in South Africa today will largely be answered by thoroughly scrutinising the dynamics characterising the intergovernmental fiscal systems adopted by this country (De Mello 2000: 366).

### **2.3. Three Spheres of Government in South Africa**

Section 40 of the South African Constitution provides for governmental structure into three distinctive but interrelated and interdependent spheres of government each operating separately but interdependently. The three spheres are national, provincial and local spheres of government with national sphere dominating the legislative and policy platform. Both National Assembly and NCOP are covered within National Parliament which assumes legislative authority in South Africa wherein executive powers are vested with President as the Cabinet leader (Constitution of the Republic of South Africa, 108 of 1996).

South Africa has a total of nine Provinces each with its distinct boundary with the legislative authority vested under Provincial Legislature and the executive authority vested under the Premier of the respective province. The sphere that is close to the heart of the people and the community is local sphere of government which is composed of Metropolitan Municipalities, District Municipalities and Local Municipalities in South Africa. Uregu Ile (2010: 55) mentions that each sphere of government in South Africa is autonomous to the extent that it has to carry out its functions and exercise its powers but each sphere has constitutionally stipulated

responsibility to ensure that the next sphere carries out its responsibilities, for instance, national to the provincial sphere as well as provincial to the local sphere.

Visser et al (2000: 6) state that the intervention to any sphere of government by upper sphere should be an instrument only to be resorted to by that sphere when the lower sphere did not perform its duties as per Constitutional provisions. This means that in exercising its powers, the national sphere must respect the integrity and independency of the provincial sphere though this must be balanced against good governance and expectation to render service to the public. Accordingly, the intervention in LPT by National Government is a clear indication that the intergovernmental relation in South Africa is gaining momentum.

According to Brand (2007: 2) the important elements of South Africa's Constitution includes:

- Three sphere system of government namely; national, provincial and local government;
- The constitutionally entrenched division of powers and functions among the three spheres of government where greater powers are allocated concurrently to national and provincial governments;
- The division of fiscal resources, where the bulk of the taxing powers vests with the national government;
- Cooperative government as the overarching guiding principle;
- Supremacy of the Constitution, and
- Justifiable bill of rights.

From the above important principles of the Constitution, it is clear that powers within the three spheres have not been allocated equally in line with the Constitutional provisions. Brand (2007: 3) further mentions that section 100 (1) (b) of the constitution provide for national government to intervene in provincial executive authorities and takes over its executive and administrative powers. This is also in line with section 139 of the constitution which also provides for the provincial intervention on the local sphere of government by taking over its executive powers.

Intergovernmental relations audit (1999: 23) further mentions the three constituent components of the decentralised South African state as follows:

### **2.3.1. Distinctive**

The degree of legislative and executive autonomy as stipulated in the Constitution defines the distinctiveness of each sphere of government. Each sphere is unique from all other spheres in that it enjoys constitutional powers to make laws and execute them through provincial legislatures and Office of the Premier in case of provinces and municipal councils and Mayoral offices in case of local spheres. The legislative and executive autonomy was allocated on the basis that there are matters of public interests which will best be attended to at each respective sphere of government (Final report of the Intergovernmental Relations Audit 1999: 23).

### **2.3.2. Interdependent**

The degree to which one sphere is dependent upon another sphere for executing of its Constitutional functions define the interdependence of the three spheres of government. The interrelated aspects are mainly due to the fact that the national sphere has a duty to assist, support, monitor, overview as well as intervene when necessary to the provincial spheres. Equally, the provincial sphere has a duty to do the same to the local sphere and intervene where necessary as stipulated in section 139 of the Constitution. The fundamental aspects of the interdependent is mainly around the fact that the chain relationship should be supportive, cooperative, and consider issues of capacity by upper structure to ensure that the next lower structure can deliver the services enshrined to it by the constitution (Final report of the Intergovernmental Relations Audit 1999: 23).

### **2.3.3. Interrelated**

Cooperation by all the spheres for mutual benefits and general will defines the interrelatedness of all the spheres of government. This means that both the political and administrative leaders should work closely together not as competitors across all the spheres of government as stipulated in the basic principles of cooperative government. This also means that all the spheres of government must avoid litigation

or taking one sphere of government to court and rather find ways to resolve their issues in a more negotiation and cooperative manner (Final report of the Intergovernmental Relations Audit 1999: 23).

#### **2.4. Strengthening Intergovernmental Relations in South Africa**

Widespread corruption can mostly be attributed to issues of poor leadership in various units of government as with many other countries where quality of leadership is not up to standard to deal with variety of issues ranging from ethics, motivation, system challenges, to capacity limitations. The fact that there is section 100 Constitutional intervention in Limpopo Province assumes that leadership is still lacking though this may not only be pointed out at the Provincial level as National level should also build strong systems to address leadership challenges at all spheres of government (The Presidency, Draft Green Paper on Cooperative Governance 2010: 1).

Competitive rather than complementary relationship between political and administrative leaders also weakens the capacity of government to deliver services efficiently Uregu Ile (2010: 55). There is a need to synergize the system of intergovernmental relations and bring together all the role players to work for mutual benefits rather than working as competitors. The engagement and consultations at various levels by all the stakeholders of the intergovernmental relations must not just be for compliance, but must move beyond that to a level where they create environment conducive and enabling for a developmental state.

Furthermore, the planning process to make intergovernmental relations to work better must be improved both at administrative and political level. The recently launched National Development Plan (NDP) which contains a 20 year developmental path for the country takes into cognizance the importance of the two planning frameworks for provinces and municipalities. The two frameworks include Integrated Development Plan (IDP) which is a strategic planning framework for all municipalities in South Africa as well as the Provincial Growth and Development Plan (PGDP) for all the Provinces in the country.

Uregu Ile (2010: 55) argues that both IDP and PGDP are not aligning efforts to improve service delivery and rather works in isolation which also talks to issues of poor quality of planning across the spheres of government. He argues that this is further complicated by the fact that the IGR Framework Act 13 of 2005 became a living document 11 years after the demise of apartheid regime. The Act makes a provision for the institutional framework in order that all the three spheres of government can facilitate sound and rational government, effective service delivery, monitoring policy and legislative implementation as well as achieving developmental goals. The IGR Framework Act was established in terms of the Constitutional stipulations in section 41 (2) which stipulates that Parliament must enact legislation that will facilitate intergovernmental relations and also to settle disputes arising from intergovernmental relations.

The South African government must also strive to level the platform for coordinating and synergising policies across all spheres. Inability of the leadership to effectively coordinate ad-hoc and IGR structures affects negatively the capacity of government to render services. Both legislative provisions and intergovernmental relations structures are not supporting proper coordination across all spheres and there is much to be done if this area is to be improved. This has led to undesirable fragmentation towards service delivery approach wherein proper coordination can assist in saving the limited resources for broader public benefits (The Presidency, Draft Green Paper on Cooperative Governance 2010: 5).

Importantly, Uregu Ile (2010: 55) argues that “there are weaknesses relating to issues of delegation of responsibilities”. This means that issues relating to conditional grants from National Departments to Provincial Departments and certain conditional grants to municipalities have to be managed efficiently. For instance, the issue of managing fiscal policy is a mandate of National Treasury and delegated it to Provincial Treasuries at a Provincial level but still remain custodian of the public financial management in the country thus account for the spending of public funds to National Parliament. The delegation of responsibilities must be done with due diligence bearing in mind issues of capacity, monitoring mechanisms, and intensive support to all the stakeholders involved during service delivery processes.

## 2.5. Functioning of Financial Inter-Governmental Relations in South Africa

Brand (2007: 2) mentions that in revisiting the performance of financial intergovernmental relations, careful thought should be applied in implementing drastic changes within the system in order to allow the functional aspects of the system to promote accountability, efficiency as well as equity. Brand further mentions that South Africa is not well exposed on financial constitutional law which is described distinctively as part of the constitutional law. In broadening understanding of the financial intergovernmental relations and financial constitutional law, Brand (2007: 3) further discusses five key features of the South Africa's Constitutional order as follows:

- Economic considerations in the design of financial intergovernmental relations in decentralised systems of government;
- The constitutional allocation of financial resources and expenditure functions to the various levels of government;
- The financial equalisation method used to address the vertical and horizontal fiscal gaps in the system;
- The way in which the law (the constitution as well as ordinary legislation) deals with policy issues pertaining to financial intergovernmental relations, and
- The justiciability of legal provisions dealing with financial intergovernmental relations.

From the above, one can deduce that the economic considerations guided by Constitutional provisions assumes upper hand in allocation of the financial resources across all the spheres of government. This means that a sphere with bigger scope of work and high volume of deliverables will be allocated with a bigger slice in terms of financial resources. According to the South African Constitution, all the Provinces have original legislative powers and assigned legislative powers. Parliament enjoys entire residual legislative authority giving it powers to legislate on all other areas not codified in the Constitution (Constitution of the Republic of South Africa 1996: 103).

Brand (2007: 3) further argues that most Provinces are not fully utilising the Constitutional powers allocated to them relating to concurrent legislation despite Western Cape which came strongly in exercising its Constitutional powers to

improve service delivery and enhance governance within Western Cape. Perhaps this is largely caused by the fact that the national sphere of government has so far dominated the policy making arena as well as legislative field in concurrent matters thus converting the provinces as the implementing agencies of the national sphere.

Major revenue collection strategies such as powers to collect major taxes are vested with national sphere of government which is in line with the economic theory on decentralised systems of government. Provinces are restricted to legislate on taxes by the Constitution in order to ensure that it is not unjustifiably jeopardizing national economic policies, cross-provincial economic activities as well as the national mobility of goods, labour, capital or services. This was strengthened by the Parliament's adoption of the Provincial Tax Regulation Process Act, 53 of 2001 (Watts 1997: 21).

On the other hand, municipalities enjoy nationally regulated rights to impose rates on property and surcharges on fees for services rendered by a municipality. These clearly provide municipalities with considerable space of own tax base through imposing property rates and user fees. This is a reason why there are differences in resource base across municipalities in South Africa wherein rural municipalities without the scope of imposing property rates constantly depend on grants from their respective provinces. Conversely, urban municipalities such as Ekurhuleni and Johannesburg metropolitan municipalities collect abundant revenue from property rates and user fees due to their predominantly urbanised areas.

Major financial resources base in South Africa have practically being centralised though both the provincial and local spheres of government receives major share of the financial resources as the major expenditure base, thus necessitate a need for the creation of revenue sharing mechanism. Section 214 of the South African Constitution makes a determination for an equitable share of the revenue raised nationally for a fair and just distribution to the three spheres of government. Financial and Fiscal Commission (FFC) are required by the constitution to recommend to the Minister of Finance on the equitable share of revenue considering various factors such as fiscal capacity of both provinces and municipalities to spend the funds appropriated as per the DORA (Brand 2007: 4).

### 2.5.1. Intergovernmental Budgeting and Legislative Context

Intergovernmental fiscal relations as outlined in section 2.5 above involves an arrangement whereby a country is composed of more than one sphere of government as it is the case in South Africa. As mentioned in the 15 Year Review Report on State of Intergovernmental Relations in South Africa (2008: 25), the structure of intergovernmental fiscal relations involves expenditure allocation responsibilities, taxing powers, structure of intergovernmental grants, borrowing powers, as well as monitoring, evaluation and intervention arrangements. The evolution of intergovernmental relations system was largely strengthened by budgetary reforms as informed by Sections 215 and 216 of the Constitution which makes possible forecasting in financial arrangements within the three spheres of government.

The introduction of Medium Term Budget Policy Statement (MTBPS) during December 1997 has brought about stability in future fiscal planning which provide clear directions in terms of cash and debt management, as well as the next year's budget. Equally, the Medium Term Expenditure Framework (MTEF) which provides for government's three year spending plans also informs budgetary reforms as outlined in the Constitution which were also aligned to intergovernmental fiscal relations. Despite popular embraces of the MTEF, its major challenge was that it did not create easy link between service delivery outputs against the actual expenditure outcomes. However, various improvements were made including comprehensive strategic planning and the announcement by National Treasury that the AG will start auditing performance information and issue audit conclusion in a move towards creating synergy and alignment between service delivery and actual expenditure.

Layman (2003: 40) argues that the financial and fiscal reforms introduced through sections 215 and 16 of the Constitution have substantially improved the ailing capacity of the Provincial and Local Governments to deliver. The improvement however, is not even across the provinces and municipalities as some of them did not take advantage of the reforms for continued improvements. The pronouncement of Intergovernmental Fiscal Relations Act of 1999 saw the establishment of two pivotal fiscal institutions which includes Budget Council (Min-MEC for Finance involving Minister of Finance and all the MECs for Finance in the 9 provinces) and

the Budget Forum. The Budget forum is also attended by the officials which is very crucial for healthy and informed financial decisions making across the three spheres of government.

Section 216 of the Constitution requires that an Act of Parliament be passed to establish National Treasury for effective and efficient financial management. The PFMA was enacted by National Parliament which legally established National Treasury as an amalgamation of former Departments of Finance and State Expenditure. DORA instils fiscal confidence and discipline in terms of revenue sharing as provided for in the Constitution amongst the three spheres of government. This creates certainty on equal fair share of the revenue raised nationally by all the spheres using appropriate criteria that looks also at the demographic issues (DPLG: 15 Year Review Report on the state of Intergovernmental Relations 2008: 26).

The discussion of intergovernmental fiscal relations above brings a new argument on the table. This is to determine whether the budget allocation and own revenue for Limpopo Province as managed by LPT is sufficient to address the fiscal needs of the Province. Answer to this question will also assist the main objective of this study as to whether shortage of funds resulted into the Provincial Overdraft or mismanagement and corruption resulted in the exhaustion of the Provincial Overdraft. The following table depicts the actual and estimate of the revenue across all the Provinces in the country for the financial years 2004/05 to 2010/11.

Table 2: Actual and budgeted revenues of provincial governments (R m) in RSA

<b>R million</b>	<b>2004/05</b>	<b>2005/06</b>	<b>2006/07</b>	<b>2007/08</b>	<b>2008/09</b>	<b>2009/10</b>	<b>2010/11</b>
Total Provincial Grants	138,511	154,368	178,871	205,224	238,076	268,158	293,640
Equitable Share	120,885	135,292	150,753	172,862	199,377	225,464	246,306
Conditional Grants	17,627	19,076	28,118	32,362	38,699	42,692	47,334
Provincial Own Receipts	6,239	7,378	8,003	8,822	8,921	9,394	9,911
<b>Total</b>	<b>144,750</b>	<b>161,746</b>	<b>186,874</b>	<b>214,046</b>	<b>246,997</b>	<b>277,552</b>	<b>303,551</b>

<b>Provincial Revenue</b>							
Equitable Share %	84%	84%	81%	81%	81%	81%	81%
Conditional Grants %	12%	12%	15%	15%	16%	15%	16%
Provincial Own Receipts %	4%	5%	4%	4%	4%	3%	3%

Source: Department of Provincial and Local Government (2008: 30).

Share of revenue raised nationally has been steady and consistent for the most part of the financial years with provincial revenue showing declining trends during the last two financial years of 2009/10 and 2010/11. The decline in revenue raised provincially is not good for the Limpopo Province as population size has since grown from 5 million during 2011 to 5, 4 million during 2011. Growth in population size must talk to increase in revenue as well as share of revenue from NRF to cater for all social sector budgetary expenditure involved such as Health and Education. The Provincial population of Limpopo represent 11% of the South African population and from this only about 1 million of the Province's population are working.

In addition, the table below depicts actual and estimate of the revenue for Limpopo Province for the financial years 2004/05 to 2011/12.

Table 3: actual and estimate of the revenue for Limpopo Province for the financial years 2004/05 to 2011/12

<b>R million</b>	<b>2004/05</b>	<b>2005/06</b>	<b>2006/07</b>	<b>2007/08</b>	<b>2008/09</b>	<b>2009/10</b>	<b>2010/11</b>	<b>2011/12</b>
Equitable share	16 414 913	18 181 553	20 553 144	21 615 995	26 545 173	30 916 856	33 706 324	36 793 208
Conditional Grants	1 604 784	2 090 354	1 997 124	2 577 834	3 366 894	5 325 853	5 983 201	7 113 453
Provincial Own Receipts	350 988	391 975	451 080	444 122	539 803	554 438	561 198	512 006
<b>Total Provincial (Limpopo)</b>	<b>18 370 685</b>	<b>20 663 882</b>	<b>23 001 348</b>	<b>24 637 951</b>	<b>30 451 870</b>	<b>36 797 147</b>	<b>40 250 723</b>	<b>44 418 667</b>

Equitable share	89.4%	88.0%	89.4%	87.7%	87.2%	84.0%	83.7%	82.8%
Conditional Grants	8.7%	10.1%	8.7%	10.5%	11.1%	14.5%	14.9%	16.0%
Provincial Own Receipts	1.9%	1.9%	2.0%	1.8%	1.8%	1.5%	1.4%	1.2%
<b>Total Provincial (Limpopo)</b>	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Source: Limpopo Provincial Treasury (2013).

Table 3 above shows that the total provincial revenue had grown from R18, 4 Billion during 2004/05 financial year to R44, 4 billion during the financial year 2011/12. The total revenue includes equitable share raised nationally, conditional grants, as well as the Province's own revenue raised locally. The growth of the provincial revenue represent a growth of more than 100% during the comparable period but the larger amount of the revenue goes to salaries and social sector expenditure. Equitable share budget represent 82, 8% of the total budget, conditional grant represent at least 16% of the total budget with revenue raised locally representing only 1, 2% of the whole provincial revenue. Given that conditional grant comes from NRF as well and only provincial own receipts represent revenue collected locally, it clearly shows that the Province is fully dependent on the funds raised nationally.

Smaller amount of the provincial budget goes to infrastructure development coupled with the fact that the Province lacks capacity to spend the infrastructure budget. Popular reasons for under spending of the infrastructure budget ranges from late submission of procurement plans to the implementing agency which is Public Works to capacity constraints within the Public Works itself. Without infrastructure development, the Province cannot develop with no opportunities to attract investment due to difficulties involved in doing business locally without necessary infrastructure. This means that many people will remain unemployed thus depending on government social grant while some economically active population will emigrate to other Provinces such as Gauteng (Overview of Provincial Revenue and Expenditure 2012/13).

## 2.6. Basic Principles of Cooperative Government and Intergovernmental Relations

Section 40 and 41 of the Republic of South Africa's Constitution stipulates that all the three spheres of government and the organs of the state are guided by the principles of cooperative government. This then spells out that intergovernmental relations encompasses all the institutions as listed below:

- Parliament, all national departments as well as all institutions and public entities falling within national sphere of government;
- Provincial Legislatures, all provincial departments as well as public entities falling within provincial sphere of government, and
- Municipal councils, institutions as well as organs falling within local sphere of government i.e. municipal entities.

The Constitution protects the powers and authority of the courts and the judicial officers from the arrangements including Constitutional institutions established from chapter 9 which includes AG, South African Human Rights Commission (SHRC), Public Protector e.t.c. In addition, the three basic principles that bind the three spheres of government to cooperate for mutual benefits are as follows:

- A common loyalty to the Republic as a whole;
- The distinctiveness of the spheres should be respected, and
- The spheres of government must take concrete steps to realise cooperative government such as assisting and supporting one another, fostering friendly relations, adhering to agreed procedures as well as coordinating their actions and legislation.

This argument holds different views to most of the authors mentioned above for instance Uregu Ile (2010: 55) argues that there is poor leadership to guide and coordinate the three spheres of government for mutual gain. Despite that the above argument is based on a report from one of governmental structures, the views are future oriented which shows that government is in agreement with popular views that much needs to be done to improve intergovernmental relations in South Africa (DPLG 15 Year Review Report on State of Intergovernmental Relations in South Africa 2008: 5).

## **2.7. Purpose, Aims and Objectives of Section 100 1 (b) Constitutional Intervention**

### **2.7.1. Constitution**

The main purpose and objectives of the Constitutional Intervention on another institution is basically to restore good financial management systems, improve performance and develop skills and capacity. According to the Constitution of the Republic of South Africa (1996) “when a Province cannot or does not fulfil its executive obligations in terms of legislation or the constitution, the National Executive may intervene by taking any appropriate steps to ensure fulfilment of that obligation”. This can be done by assuming responsibilities for the relevant obligation in the province in order that essential National standard can be maintained or to meet minimum standards as documented to render service. The intervention could also be implemented to maintain economic unity as well as national security. National Government can also intervene to prevent any province from taking unreasonable action that is likely to prejudice the livelihood and interests of any province or of the country as a whole.

Both Section 215 (1) and (2) of the Constitution seeks the budgetary process to be prepared in a manner that promotes transparency, accountability to ensure effective financial management that sustains economic growth. Preparation of provincial budget must follow the national framework as per national legislation in an effort to ensure that revenue sources and planned spending is not deviating from the national norms and standards. Basically, section 100 (1) (b) constitutional intervention in LPT was implemented to restore best financial management practices and ensure that service delivery is not compromised. This is due to that poor financial management directly affect service delivery and that is when National Government comes in to intervene to ensure that the set national priorities are met.

### 2.7.1. Public Service Act

The two Ministers of Justice and Constitutional Development, and DPSA are part of the Inter-Ministerial Committee leading section 100 Constitutional Intervention in five of the Limpopo Provincial Departments namely, LPT, Education, Health, Public Works, and Roads & Transport. This is due to the fact that this is a constitutional matter and equally it is a public service issue wherein various Human Resources matters such as disciplinary steps are taken against employees found wanting. In terms of chapter 2 of the Public Service Act (1994), the Minister for DPSA must ensure that norms and standards applicable to the effective functioning of the public service are established. This encompasses aspects such as people, processes, structure, systems, and technology to facilitate transformation, reform and improvement of service standards.

As a result, the Diagnosis Report (2013) mentions that the broader legal implications of the section 100 Constitutional intervention entails the following aspects:

- a) The National Executive (Minister of Finance) taking over the executive functions of LPT to fulfil the responsibilities and objectives as stipulated in the Constitution of the Republic as well as duties stipulated in Section 18 of the PFMA,
- b) The HOD of LPT surrendering his / her functions and responsibilities as conferred by Section 36 of the PFMA to the Chief Administrators.

The inclusion of the DPSA in the overall process is a good move by Cabinet though the Constitution did not provide further details on how this should be coordinated and there are no guidelines to provide direction on how section 100 Constitutional intervention should be coordinated. However, at the time of finalising this research report, the Department of Cooperative Governance and Traditional Affairs was in a process of finalising guidelines on how section 100 Constitutional intervention work.

### **2.7.3. The Public Finance Management Act (1 of 1999 as amended by Act 2 of 1999)**

Sections 213, 215 – 219 of the Constitution of the Republic of South Africa (1996) gives effect to the PFMA which in turn establishes both National and Provincial Treasury. The Constitution requires that the PFMA becomes a supreme legislation in areas pertaining to the public financial management such as revenue, assets, expenditure, and liabilities. Chapter 5 of the PFMA section 39 (2) (a) stipulates that the AO of the Department must take effective and appropriate steps to prevent any overspending of the vote of the department or a main division within the vote and if such materialises, the AO must:

- a) Comply with any remedial measures imposed by the relevant treasury in terms of this Act to prevent overspending of the vote or a main division within the vote.

Furthermore, section 38 of the PFMA states that an AO may not commit a department, trading entity or constitutional institution to any liability for which money has not been appropriated. PFMA clearly confers powers to treasuries to act at a higher level when any department fails to comply with the PFMA. This takes into account that section 36 of the PFMA states that the relevant treasury may, in exceptional circumstances, approve or instruct in writing that a person other than the person appointed as AO be the AO for a department or a constitutional institution or a trading entity within a department.

This shows that treasuries have powers to act in any matter if a particular department fails to comply with the provisions of the PFMA including withholding of the budget. This shows that section 100 (1) (b) Constitutional intervention is a last resort of the National Government when things are not well within the department and treasuries are well positioned to ensure that systems of financial management are effective within their respective jurisdiction.

## **2.8. Conditions and Requirements Necessitating Section 100 Constitutional Intervention**

It is very important to look at the requirements and conditions necessitating intervention of upper sphere to a lower sphere. Brand (2007: 3) argues that intervention by upper sphere to a lower sphere should clearly be informed by effort to sustain democracy, plans to strengthen service delivery capacity, and to enable smoother relationship between the spheres. This argument is clearly linked to the main research question of the study which seeks to explore whether section 100 (1) (b) Constitutional intervention assist LPT to move out of the financial disparities or not. Improving a situation such as the one in this study requires plans of long term capacity improvements, conducive environment for a smoother relationship to facilitate a network of interaction even after the Constitutional intervention for smoother support and monitoring.

Joint ministerial team on Limpopo section 100 Constitutional intervention (2012: 1) states that “National Treasury had cautioned the LPT that the Province would not have sufficient cash to finance its 2011/12 budget obligations as the Province has been spending beyond its means”. Accordingly, the Province faced a shortfall of R2 billion at the end of the 2011/12 financial year and National Treasury had to intervene to stabilise the finances of the Province by finding ways of saving.

In addition, section 100 (1) (b) of the Constitution states that National Government may assume responsibility for the relevant obligation in the Province to the point that essential national standards or established minimum standards for rendering of a service are met. This means that if a Province or provincial department fails to meet its obligations by rendering essential services, a relevant national department can or must intervene to restore essential service standard. Thorough scrutiny needs to be made to determine if Limpopo was also jeopardising essential national standards on the budget shortfall. It is important to note that National Treasury intervened as a result of assessment of the situation that the Province may, in future, not be able to meet its financial obligations. The actual situation did not occur whereby teachers,

doctors, nurses, as well as suppliers, did not get paid, the intervention was based on proactive assessment by National Treasury to avoid the undesirable situation. However, the Province had accumulated unauthorised expenditure of R2, 7 billion exhausting its overdraft facility of R757 million with the South African Reserve Bank (SARB) and was about to exceed its overdraft facility with First National Bank (FNB). This was alarming enough for National Government to intervene after several engagements and warning to the Department (Diagnostic Report 2013).

### **2.9. Section 100 Constitutional Intervention in Eastern Cape Provincial Department of Education**

During April 2012, Cabinet approved section 100 Constitutional Intervention at the Eastern Cape Provincial Department of Education led by the Department of Basic Education. The Department intervened using section 100 1 (b) Constitution meaning that the executive powers were surrendered to the Minister while the administrative powers were surrendered to the leader of the administration team. The intervention was through a cabinet decision as well as a court order of 20 March 2012 initiated by Grahamstown NGO Save Our Schools and Community (SOSAC) and the Catholic Institute of Education (CIE) due to ailing state of Education in Eastern Cape (Basic Department of Education 2012).

According to the Minister of Basic Education Angie Motshekga, the Provincial Government of Eastern Cape was resisting the section 100 (1) (b) Constitutional Intervention but after several engagements the Province agreed about the terms of the intervention. Stakeholders from various departments namely Department of Public Service and Administration, National Treasury, Higher Education, and Justice and Constitutional Development met to agree about process and procedure regarding the intervention process. This clearly spells the complexities involved in intervention process whereby each stakeholder above has a role to play adding to the reporting complexities. Though the intervention is a full takeover of the Education Department, National Government will only intervene and take full control of the following areas; scholar transport, infrastructure, school nutrition, finances, and

learner attainment. The Provincial Department of Education will look after the rest of the normal functions and monitor other matters that are outside the core areas of the Department (Basic Department of Education 2012).

Similarly to LPT where the HOD was removed from his position, former HOD of Eastern Cape Education, Advocate Modidima Manny, was also removed from his position as the HOD. The intervention is led by four people three of them appointed by National Government and the fourth person appointed by Provincial Education Department. In his letter to the Chairperson of Portfolio Committee for Basic Education, Mr. Bobby Soobrayan, he mentioned that the intervention will have two main pillars. The first pillar will focus mainly on operational matters, management, administrative and system challenges facing the Department, wherein the second pillar will focus on delivering quality education at schools (Soobrayan 2011: 2).

The Eastern Cape Education department is plagued with leadership and financial problems given its dismal performance in National Senior Certificate for matric exams. During March of 2012, 290 schools were reported to have shut down due to mass exodus of learners in search of quality Education and mostly in Western Cape Schools. This followed a termination of a contract of over four thousands temporary teachers due to insufficient funds to pay them. In total, the Department spend 92% of its equitable share budget to pay its entire staff members both teachers and office based officials. Termination of the temporary teachers' contract will mean the Department will spend 81% of its equitable share budget on compensation of employees and redirect the funds to other areas of priority. Like Limpopo Education Department which had unauthorised expenditure of R1, 7 billion at the end of the financial year 2012, Eastern Cape Education is likely to incur unauthorised expenditure of R1, 22 billion within its equitable share allocation for infrastructure for the financial year 2012/13 (Kota 2012: 4).

Systems and processes to support quality Education in Eastern Cape are in a state of turmoil such as high rate of teacher vacancy, failure to deliver Learner and Teacher Support Material (LTSM) to some schools, collapse in National School Nutrition

Programme, and most suppliers rendering scholar transport are not paid. The Department is also plagued with many corruption activities in areas of procurement which further makes it unstable. The intervention process will last until the Eastern Cape Education Department achieves a 70% pass rate in matric, stabilises its administration, and obtain unqualified audit opinion without matters of emphasis. Progress in the above areas has not been publicly reported however, AG Report reveals that the Department of Education in Eastern Cape has obtained qualified audit opinion with matters of emphasis. (Auditor General South Africa 2013).

## **2.10. CONCLUSION**

The literature above suggests that for intergovernmental relations to be successful and achieve its goals, all the spheres of government must be constitutionally and systematically designed to support each other rather than working in isolation and in competitiveness. Part of the main question that this study seeks to answer is whether both the National Government and LPT teams are working closely and supporting each other to restore good governance and best financial management practice. The literature further maintains that interventions by one sphere to another should solely aim to closely supervise and monitor in order that national or provincial goals can be achieved. The reviewed literature above support the need for this study in that most authors agree that any intervention should be carefully designed for smoother collaboration to achieve end results. This clearly support the main research question which seeks to establish if the support by National Government intervention team is gladly welcomed and receiving warmth welcome through good collaboration and team effort.

Lastly, the literature review suggests that any intervention by upper sphere to lower sphere should clearly be aimed at sustaining democracy, strengthening service delivery capacity and enabling smoother relationship between the spheres. This is clearly what this research is trying to establish i.e. whether there is a good relationship between the two teams from national and provincial, and whether capacity is there to establish and implement good strategies and plans that are sustainable to sustain democracy.

## CHAPTER 3

### RESEARCH METHODOLOGY

The purpose of the study is to explore and establish if the implementation of section 100 (1) (b) Constitutional intervention assisted LPT to solve the financial disparities plagued the Province. As a result, it is very crucial that the research paradigm and research design being employed in this study are helping the researcher to achieve the intended objectives of the study.

Consequently, this chapter present the reader with an opportunity of discovering the logical steps applied in determining if the section 100 (1) (b) intervention team assist LPT or not. The nature of the study is both quantitative and qualitative research in which the latter apply the basic principles of interpretative and critical social science. This chapter will further elaborate on various methods applied in ensuring that the findings of the study are reliable and valid.

According to Neuman (2006: 89) “the interpretative approach holds that social life is based on social interactions and socially constructed meaning”. This is mainly because interpretative approach holds that the perceptions of people mainly constitute the social world because social life is based on the experiences of the people and the meaning they attach to it. Interpretative social science shares certain important elements with concepts such as constructionism, subjectivist, qualitative sociology, cognitive, phenomenological and hermeneutics which involves a theory rich with meaning that traces its origins back during the nineteenth century. This approach often involves the application of field research as well as participant observation. This approach mainly requires that the researcher spend more time with the people being studied to make meaningful observation. However, this may also takes a form of transcripts analysis of conversations and or the study of videotapes to observe certain behavioural patterns within nonverbal communication environment. This clearly supports the purpose of this study as spending more time with the people being studied as well as transcripts analysis forms the basis for the plan to collect and gather as much information from the participants.

On the other hand, Neuman (2006: 95) mentions that the logic behind critical social science is the fact that critical social research does not only involves a mere studying of the social world, but to study it and change it. This means that the meaning observed from the social world must be accompanied by practical explanations of the social world as well as recommendations to influence changes in behavioural patterns. This involves criticism and transformation of social relations by revealing hidden truth, myths, and the realities of social relations that empowers the people to transform and shape the world.

The main objective of the critical social science research is to empower people by helping them to change the world for themselves. As a result, this research seeks to generate data to evaluate the effectiveness of section (1) (b) in Limpopo. This will determine if section 100 (1) (b) is indeed assisting and if not, recommendations will be made for improvement which in the process assist future researchers and all other future interventions. Furthermore, critical social science establishes various options or what would be considered a realistic alternative by people for them to act based on what they believe to be possible and reasonable. Generating theory through research of this kind empowers people with new options that have been revealed through the study in a form of recommendations. (Neuman 2006: 95).

### **3.1. RESEARCH PARADIGM**

The study followed a qualitative research design however, small elements of quantitative research design have been applied slightly in the study. The quantitative elements, to a smaller extent, appear during the analysis of the income and expenditure reports as well as AG reports and budgetary information retrieved from LPT archiving systems and National Treasury website. According to Bryman (2012: 380) qualitative research “is a research strategy that usually emphasizes words rather than quantification in the collection and analysis of data”. This is mainly because inductive approach which stresses generation of new theory from the data collected is mainly emphasized as opposed to the deductive approach which aims at testing the theory. Qualitative research is concerned with usage of the words rather

than numbers or quantification which is predominantly used by quantitative researchers.

According to Neuman (2006: 151) qualitative researchers “rely mostly on interpretative or critical social science thus they apply logic in practice and follow a nonlinear research path”. This is the reason why qualitative researchers use cases and contexts in their study thus they embark on thorough analysis of cases to generate theory.

Qualitative research is mainly concerned with generating theory rather than testing the existing theory. As a result, this research seeks to generate data to evaluate section 100 (1) (b) intervention in LPT in terms of the assistance it is providing to the Department. Qualitative research is more suitable for this study in that it speaks the language of examining case studies, critical social science, as well as following nonlinear research path which all characterises this study. (Bryman 2012: 380).

As a result, qualitative research will assist the researcher to collect the data for this study in that this study can be achieved through a case study by following a nonlinear path. Nonlinear path allows the researcher to move in various directions, sideways and backward which is adequately suited for this study. In addition, critical social science which empowers people to make the world better for themselves which can better be studied qualitatively also give path for this study to be studied qualitatively with elements of quantitative paradigm.

According to Neuman (2006: 151) Most Quantitative researchers “rely on a positivist approach to social science by applying reconstructed logic and follow a linear research path by speaking a language of variables and hypotheses”. Measuring of variables as well as testing hypotheses linked to general causal explanations describes a character of quantitative research. Quantitative researchers ensure integrity by putting reliance on objective technology, replication, standard techniques, statistics, and numerical measures. Use of numerical measures and statistical analysis will assist this study during triangulation of the data by confirming and comparing primary data from the interviewees as well as secondary data in a form of AG reports, budgetary information, and income and expenditure information.

Analysis of this information will assist in generating data to evaluate the intervention process in LPT.

Ospina in Hlakudi (2012: 88) mentions that the differences between quantitative and qualitative research emanate from the fact that qualitative seeks “to study the phenomenon from the inside while quantitative research studies the phenomenon from the outside. Studying the phenomenon from the inside shows that the researcher is actively involved in the study process to establish better understanding on the complexities involving the phenomenon. On the other hand, by studying the phenomenon from the outside spells that the researcher seeks to detach him / herself from the process in order to eliminate biasness.

From the above, it is clear that this study can best be studied through qualitative research with some elements of quantitative research to ensure analysis of the numerical data in a form of expenditure and budget reports. Given that the study is a case study, qualitative research is even more important to assist in collecting relevant and accurate data for the study in a form of the interaction with the respondents. As a result, studying the phenomenon from inside and outside is more appropriate to gather both qualitative and quantitative information in order to evaluate the intervention as to whether it is assisting LPT or not. Both qualitative and quantitative research paradigms are suitable to be adopted together for this study which involves both observable and the experience of human behaviour (Welman, Kruger & Mitchell 2005: 7).

### **3.2. RESEARCH DESIGN**

The design strategy of this research is a case study design focusing on LPT as a case study for this research. As Bryman (2012: 66) observes, the basic case study involves comprehensiveness and thorough examination of a single case. In this case, LPT is an organization that will be studied in relation to the topic of this study which seeks to determine and investigate if section 100 (1) (b) intervention is indeed

helpful to the Department and whether the resolutions and strategies being applied are sustainable to assist the Province beyond the intervention period.

Bryman (2012: 70) identifies different types of cases although for the purposes of this research representative or typical case will be used as the most relevant for this study. According to Bryman (2012: 70) representative or typical case may assume a representative role within a broader category that it derives its membership from. Though the purpose of this research is not to generalise the findings to other cases or populations beyond this case, but LPT exemplify a broader category of cases in particular within Limpopo Provincial Government in relation to all other four departments that are also under National Government intervention.

The main reason for identifying LPT as a case for this study is out of convenience and the fact that since the year 2011 on its final audit outcomes, the Department has been obtaining unqualified audit opinion with matters of emphasis hence it becomes a suitable case for the study. However, other provincial treasuries in other Provinces may have obtained similar audit outcomes but the fact that they are not under section 100 (1) (b) Constitutional intervention does not give them better opportunity to be selected as case studies though convenience assumed greater role in selecting LPT as a case study.

In addition, the topic of this research itself necessitate a case study in that it refers to LPT as a main are of research with the unit of analysis primarily focusing on section 100 constitutional intervention. Case study approach is the suitable research design for this study in that the main aim of the research is to explore and establish if the implementation of section 100 (1) (b) intervention assist LPT to solve the financial problems plagued the Province of Limpopo. As a result, a case study will allow the researcher to interact with the interview respondents relevant for the study to collect data necessary for this study. As a result, a case present good opportunity for gathering data smoothly as LPT was visited to conduct interview with sampled population as a means of gathering data. The data sources mainly took a form of the section 100 (1) (b) Chief Administrator, Three Programme Administrators, HOD for LPT, focus group involving various Senior Management Staff (SMS) within LPT, and Senior Official from AG.

### 3.3. SAMPLING

LPT as a case study to this research defines the population studied in this research. Sampling is very important to any study and choosing it appropriately have an impact on the results of the study. Neuman (2006: 219) state that “qualitative researchers focus less on a sample’s representativeness than on how the sample or small collection of cases, units, or activities illuminates social life”. According to him, the main aim of sampling is to collect specific cases, events, or actions that can provide clarity and enhance understanding to social life. Given that the study is qualitative with certain elements of quantitative research focusing on LPT as a case study, sampling for the study is non-probability sampling which does not draw any representative sampling and only focus on sample that is relevant for the study. Qualitative research rarely determines sample size and uses non-random samples which yield limited knowledge about the abundance of the population from which a sample is drawn from.

Haphazard or convenience sampling and purposive sampling were both used for this study. Bryman (2012: 418) defines purposive sampling “as a non-probability sampling”. In this sampling type, the researcher does not intend to select research participants using a random sampling. The primary goal of the purposive sampling is to sample the participants in the research in a very programmatic manner suitable and relevant to the research question. Neuman (2006: 222) state that purposive sampling is suitable for sampling unique cases or participants that are informative to the study. In case of this study, LPT as a case study focusing on its top management staff, the Chief Administrator of section 100 (1) (b) intervention as well as other Programme Administrators becomes appropriate for the sample.

Haphazard, accidental or convenience sampling is the most simplest form of non-probability sampling which focuses on sampling near and readily available members of the studied population. Welman et al (2005: 68) mentions that conclusions drawn inductively are primarily based on haphazard sampling and they are not necessarily

typical of the relevant population and or the unit of analysis. Haphazard sampling was used for focus group focusing on LPT SMS officials.

A total of six respondents were selected and interviewed individually in addition to the focus group that involved LPT employees at SMS level.

In summary, the study has drawn its sample by conducting individual interviews with the following respondents:

- Section 100 1 (b) Chief Administrator;
- Head of Department for LPT;
- Section 100 1 (b) Programme 1 Administrator;
- Section 100 1 (b) Programme 2 Administrator;
- Section 100 1 (b) Programme 4 Administrator, and
- Senior Official from the office of the AG in Limpopo.

In addition, the focus group consisting of six SMS staff from different units within LPT that are directly interacting with both section 100 (1) (b) administrator and HOD for LPT were interviewed. This ensured that each branch within LPT was represented by at least one official at an SMS level for this study to gather sufficient data.

The sampling above assisted the researcher to obtain data needed for this study in that individual interviews were allowed to speak freely and openly with the researcher asking open ended questions as well as clarity it is required. All the respondents both individual and focus group were well informed about section 100 (1) (b) intervention as they all interacted with it which assisted the researcher to obtain accurate and relevant data for the study. Group power dynamics were managed in such a way that each group member was given an opportunity to answer or comment on each research question to cover views from all the focus group members.

### **3.4. DATA COLLECTION**

Data collection is a very crucial stage of the research in which the achievement of the objectives of the research can mainly be attributed to this stage. Bryman (2012: 12) mentions that some of the data collection methods are used widely which includes interviews and questionnaires, and some methods involve structured approach wherein the questionnaire is an example of such a method of data collection.

The following sources formed part of data collection for this study which includes primary and secondary data collection. Primary data collection entailed individual interviews and focus group composed of six SMS staff within LPT.

#### **3.4.1. Primary Data Collection**

Primary data collection was collected using both unstructured individual interviews as well as focus group to gather relevant and sufficient data. Interviews were set for both parties i.e. section 100 (1) (b) intervention team, HOD for LPT, Senior Official from the AG in Limpopo as well as LPT SMS officials through a focus group.

#### **3.4.2. Individual Interviews**

According to Bryman (2012: 469), interviews are probably the most popular form of data collection being widely used by qualitative researchers. According to him, there are two main types of interviews in qualitative research which includes unstructured and semi-structured interview. The researcher identified relevant officials within the unit of analysis as the interviewees. Permission was requested and obtained from the section 100 (1) (b) Chief Administrator to interview the respondents. However, the permission obtained did not serve as an enforcement to get participation from the respondents. Each respondent was approached individually and request his/her consent to participate in the research project. Purposive sampling as mentioned above was applied to sample the respondents as a suitable sampling method due to

the nature of this study. As a result, purposive as well as haphazard or convenience sampling were both used for the study to identify interviewees in order to collect sufficient and relevant data for this study.

Reasonable effort was applied to ensure the respondents selected for the interview possess a vast amount of experience and are relevant to the study as an effort to ensure that the data collected is credible and can be validated. The case study for the research is LPT which was chosen merely because it was placed under section 100 (1) (b) national government intervention which is suitable and chosen as convenience for the study.

Similar questions were used to collect data from all the interviews (individual and focus group) and the researcher used follow-up questions to obtain clarity in cases where possible ambiguities were observed or to obtain further information. Due to the sensitivity of this research topic given instabilities plagued the political leadership in Limpopo Province, audio tape voice recorder could not be used to allow the respondents to provide much information under a comfort zone. As a result, the researcher took extensive notes during the interviews by engaging the respondents to talk and provide as much information and relevant to the questions.

### **3.4.3. Focus Group**

According to Bryman (2012: 501), “the focus group technique is a method of interviewing that involves more than one, usually at least four, interviewees”. This is a group interview that involves selected group of individuals with the researcher though some researchers are drawing a distinction between focus group and group interview technique. Bryman further identifies three reasons behind the distinctions as follows:

- Focus groups typically emphasize a specific theme or topic that is explored in depth, whereas group interviews often span very widely;

- Sometimes group interviews are carried out so that the researcher is able to save time and money by carrying out interviews with a number of individuals simultaneously. However, focus groups are not carried out for this reason, and
- The focus group practitioner is invariably interested in the ways in which individuals discuss a certain issue as members of a group, rather than simply as individuals.

There are similarities between focus group and group interview and the terms are mostly applied interchangeably. Most of the focus groups are conducted by the researchers applying a qualitative research. The researcher often referred to as a facilitator during focus group is expected to guide the group session but avoid interfering.

Participants of focus group were selected based on their relevancy to the research, their experience and involvement to the case study. Similar questions to that of individual interview were used to gather data from the focus group. Similarly to the individual interviews, audio tape recorder could not be used during the focus group interview to allow conducive environment for the group members to participate willingly and freely given the sensitivity of the topic. Group dynamics were managed by the researcher by giving each focus group member an opportunity to answer or comment on each research question.

#### **3.4.4. Secondary Data Collection**

Secondary data collected for the study include data from annual reports of the LPT, audit reports of the AG, Provincial Expenditure Reports, and National Treasury reports on revenue and expenditure overview for the Provinces. However, it must be noted that National Treasury did not form part of the research as a case study, but its information on the status of the financial affairs of the Provinces is crucial given that National Treasury itself lead the intervention process in LPT.

Other sources of secondary data used to collect information include books, academic articles, and journals. The annual reports are located at National Treasury

website which includes annual reports for all the provinces. However, data such as books, academic articles and journals were accessible from the Universities Library. Information from the National Treasury was readily accessible from the internet and can alternatively be retrieved manually by request. Wits library as well as other accessible libraries were used to locate journals, books, and academic articles. As a registered student with Wits University, access to the library is free to access the secondary data required for the study.

### **3.5. DATA ANALYSIS**

Data analysis forms an important part of the research as the researcher make a reasonable judgement based on the evidence gathered. Neuman (2006: 458) mentions that “all social researchers compare the evidence they have gathered internally or with related evidence. The researcher has applied the tools of grounded theory such as coding and memos during analysis of the data to ensure that inductive approach reasoning is realised. This allowed the researcher to develop theory on section 100 constitutional intervention during the process of data collection.

Moreover, preparation of field notes, theme identification as well as displaying the data was adopted as part of the data analysis method to ensure that important themes as identified from both field notes and secondary data are properly classified for smoother analysis of the findings (Welman et al 2005: 212).

#### **3.5.1. Coding the Data**

Welman et al (2005: 213) mentions that the challenge faced by any researcher after the compilation and processing of information is to reduce the enormous data collected in a more manageable and understandable juncture. Coding requires the researcher to turn raw data into meaningful information that can be understood by anyone. According to Neuman (2006: 460) codes are “tags or labels for assigning units of meaning to the descriptive or inferential information compiled during a study.

Codes usually are attached to chunks of varying size-words, phrases, sentences or whole paragraphs, connected or unconnected to a specific setting”. This clearly means that during data collection process, the researcher collect as much data as can and will later codify the data to allow clear understanding and easy description.

Process of open coding was applied which allowed the researcher to break down, examine, compare, conceptualise as well as categorizing the data. However, axial and selective coding features appeared during data coding as data was both put together in a new ways as well as selecting core categories (Bryman 2012: 569). This was done merely because coding entails labelling data, separating, compiling and organising the data to ensure that it is manageable to enable the researcher to make meaning to it. Coding of the data also encouraged the researcher to compare the merging codes to what the literature review has identified about the topic.

### **3.5.2. Thematic Analysis**

According to Welman et al (2005: 2110) themes can be described as “umbrella constructs which are usually identified by the researcher before, after, and during the data collection”. This definition implies that the researcher create expectations before the data collection process which, arguably, means that during formulation of questions a sense of what might be said is created in advance but the researcher may be out to prove it right or wrong.

The researcher has identified themes from the original notes taken during individual and focus group interviews as a primary method for collecting data. Bryman (2012: 579) mentions that themes and subthemes mainly involve the recurrence of patterns in the notes or within the transcripts which are then applied to the data in order of relation or cluster. During analysis of the research findings, themes were identified in terms of what had emerged during presentation of the research findings. This means that recurring patterns and or themes from the presented data were used for thematic identification. Words with similar or relative meaning, keywords relating to

the main research question, and keywords in context were used to identify themes. Broader themes were mainly identified through grouping together all the similarities that arose from the data collected (Hlakudi 2012: 99).

### **3.5.3. Preparing Field Notes**

The researcher relied on hand written notes taken during individual and focus group interviews for analysing the data collected. Voice recorder could not be used and detailed notes taken by hand were then converted into write-ups for ease of reference. Welman et al (2005: 211) mentioned that write-ups can assist the researcher, during the review of the raw field notes, to remember important things highlighted during the interviews but omitted by the researcher. As a result, raw field notes were taken and rephrased by the researcher during write-ups to enable smoother analysis of the data collected.

## **3.6. DATA VALIDATION (VALIDITY AND RELIABILITY)**

Each researcher must ensure that the findings of the study are reliable and validated. According to Neuman (2006: 196) reliability “means dependability or consistency”. Researchers using both quantitative and qualitative paradigms employ different elements to ensure reliability of the findings of the study. This includes interviews, photographs, participation, and document studies which assist them in noting their observations most consistently. In addition, Bryman (2012: 390) further identifies two reliability techniques which include external reliability and internal reliability. External reliability is concerned with the degree to which a research can be replicated to another. On the other hand, internal reliability is mainly concerned with whether different observers can arrive or observe similarly and agree about what they observe.

According to Neuman (2006: 196) validity “means truthful”. He further argues that researchers using qualitative paradigm are more concerned with authenticity than truth itself. Accordingly, authenticity involves presenting a fair, honest and balanced

view of social life from a person who interacts with it most frequently. Unlike validity, reliability is crucial for data validation and can be easily realised. This means that a measure can be reliable though invalid.

Bryman (2012: 390) identifies two validity instruments which are internal validity and external validity. Internal validity is concerned with the extent to which there is adequate match between researchers' observations and the theoretical ideas developed. On the other hand, external validity is concerned mainly with whether findings can be generalised within different social settings. In noting the importance of reliability and validity, the data will be collected to ensure that they actually represent the actual situation within section 100 (1) (b) administration at LPT to achieve the objectives of the study.

Furthermore, Bryman (2012: 392) identifies triangulation which involves "using more than one method or source of data in the study of social phenomena". Triangulation of data collected from both the individual interviews and focus group to that of annual reports retrieved from both National and Provincial Treasuries will be conducted to determine reliability of the data. In addition, budget allocation and budget adjustments for various years overlapping with section 100 (1) (b) intervention period and this study will be used to determine whether there has been improvement or regression.

Revenue collected against expenditure will also form the basis for determining improvement against regression in particular expenditure that is linked to the deliverables and tabled budget at the Provincial Legislature. Fiscal stability will mainly inform if there has been improvement as prior the arrival of the National Government administration, the Province was at overdraft of R2, 7 billion and positive or negative changes on the financial stability of the Province will mainly tell if there is improvement or regression. Audit reports of the Auditor General will also be used to compare the opinions of the AG on good governance and best practices in financial management.

### **3.6.1. TRIANGULATION**

For the fact that this study is a qualitative in nature with certain elements of quantitative research, the reader should be rest assured that the data collected was looked at from various angels and viewpoints than to examining it from one way. Information gathered from both individual and group focus was examined and validated against the secondary data collected from LPT, AG and National Treasury. According to Neuman (2006: 149) triangulation is involves looking at something from multiple points of view which improves accuracy of the data collected.

The researcher observed the data from different viewpoints in that individual interviews were conducted and triangulated against the focus group interview. In addition, the information from both the individual and focus group interviews was triangulated against the data collected from the senior official from the AG in Limpopo which is considered external and independent from the government. Lastly, AG and both National and Provincial Treasuries reports were used as a secondary data to triangulate the data collected from the primary sources.

### **3.7. LIMITATIONS OF RESEARCH**

The result of the study cannot be generalised to the broader universe as the study is qualitative in nature with elements of quantitative research. The study focuses on section 100 (1) (b) constitutional intervention in LPT which limits broader understanding of different kinds of interventions by National Government. Both the scope of the study and the sectoral is limited to only LPT which can be replicated to other departments within Limpopo, Gauteng or Free State which are under administration though under different constitutional provisions. This field was not intensively studied which made the availability of literature more difficult. Literature on constitutional intervention by upper sphere in South Africa or elsewhere could not be found.

Literature on section 100 (1) (b) constitutional intervention in Eastern Cape Provincial Department of Education could not be found other than documented reports on plans to intervene in Eastern Cape Education Department.

### **3.8. ETHICAL PRINCIPLES**

Social researches encounter ethical issues in various stages during the research and this section seeks to address all concerns relating to ethical issues arising during the research. Bryman (2012: 130) mentions that the discussions regarding ethical issues in social research reveals the important role of values during the research process which revolves around the following:

- How should we treat the people on whom we conduct research?
- Are there activities in which we should or should not engage in our relations with them?

The researcher was committed to moral and professional association with the research participants and during literature review and the interpretation of the secondary data by ensuring that there are no instances of plagiarism. The researcher also ensured that the information is not falsified or distorted in an effort to produce quality report. Neuman (2006: 129) argues that the researcher should conduct him/herself ethically irrespective of whether the research participants are unaware or do not care about ethical issues. Ethical principles involves dilemmas as well as conflicting issues on how to conduct proper, quality and integrity, as well as ethical research. Furthermore, Bryman (2012: 135) further argues that ethical principles tend to revolve around four main issues mentioned as follows:

1. Whether there is harm to participants;
2. Whether there is a lack of informed consent;
3. Whether there is an invasion of privacy, and
4. Whether deception is involved.

The following paragraphs explain important ethical principles as mentioned above.

### **3.8.1. Informed Consent**

Neuman (2006: 135) mentions that “a fundamental ethical principle of social research is; never coerce anyone into participating; participation must be voluntary”. Although the researcher has obtained permission from both the AO of LPT to conduct research, participation into the research remained solely a decision of the research participants. Research participants were informed of their rights and were informed of what they asked to participate to enable them to make informed decisions.

All the participants were informed that they are participating in the research study and were informed of the purpose and aims of the research to obtain their participation approval. After reading the purpose and aims of the research, participants were asked if they are still willing to participate and they were each asked to complete participant informed consent forms. Bryman (2012: 140) mentions that the benefits of informed consent forms are that they provide the participants with an opportunity to be well informed of the nature of the research and the implications surrounding their participation. This also protect or benefit the researcher with signed and documented record of participation should any concerns arises.

### **3.8.2. Privacy, Anonymity and Confidentiality**

Due to the nature and sensitivity of the topic, the researcher did not record the interviews with the participants to further ascertain and guarantee them about their right to privacy. However, Neuman (2006: 139) mentions that “the ethical researcher violates privacy only to the minimum degree necessary and only for legitimate research purposes”. The research participant’s information is protected from public disclosure. As a result, the researcher did not use details of the research participants during presentation of the research findings, instead participants were referred to as participant A to F for privacy, anonymity and confidentiality purposes.

Confidentiality entails withholding information attached to names of participants by keeping it secret from everyone. In addition, anonymity entails ethical protection by ensuring that the research participants are nameless and unknown in a way of protecting their identity from being disclosed in any manner. The researcher has maintained this standard in ensuring that invasion of privacy of the participants does not occur.

### **3.9. SUMMARY**

The research methodology is a fundamental section of the research process which guides the reader on a step by step followed by the researcher when embarking on the study. Qualitative being a dominant research paradigm in this study was fully elaborated and motivated its relevancy and importance for this study. Use of quantitative paradigm was also motivated though to a smaller degree involving analysis of financial data from LPT, AG and National Treasury.

Research methodology chapter is very crucial in any research in that important research instruments and tools applied are discussed here. The design focus of this study was a case study of LPT with data collection process involving mainly two ways, namely primary and secondary data collection process. Primary data involved individual and group focus interviews with sampled population using haphazard or convenient and purposive sampling. Secondary data collection involved mainly the documentary sources retrieved from LPT, Office of the AG in Limpopo as well as from National Treasury.

The last part of this chapter discussed data validation wherein triangulation of the data was applied using both primary and secondary data. Triangulation of the data mainly involved validating both individual and group focus interviews against individual interview from independent observer in a form of AG senior official as well as validating it against secondary data retrieved from AG, LPT and National Treasury. Ethical issues were discussed which are fundamental to the research in order that participants are well informed and their rights to privacy are not violated. This ensured that participants understand the aim and purpose of the research before agreeing to the interview by signing the participant information sheet.

## CHAPTER 4

### PRESENTATION OF THE RESEARCH FINDINGS

#### 4.1. Introduction

Collection of the data required to finalise a research report is a fundamental stage of any research. Presentation of the data collected had mainly taken two forms. The first presentation of the data involved the data collected from the individual interviews which forms the crux of this study. Lastly but not least, data collected from group focus interview was also presented as part of the primary data collected wherein one group focus interview was conducted.

The data from primary sources was presented through key themes categorised in terms of the three main research questions. The first key themes seek to answer the first research question which is; Did section 100 (1) (b) Constitutional intervention assisted LPT to move out of the financial disparities and crisis plagued the Province of Limpopo? Key themes emerged to present data collected in this question include understanding section 100 (1) (b) constitutional intervention; Reasons necessitating section 100 (1) (b) constitutional intervention; and Challenges of carrying out section 100 (1) (b) constitutional intervention.

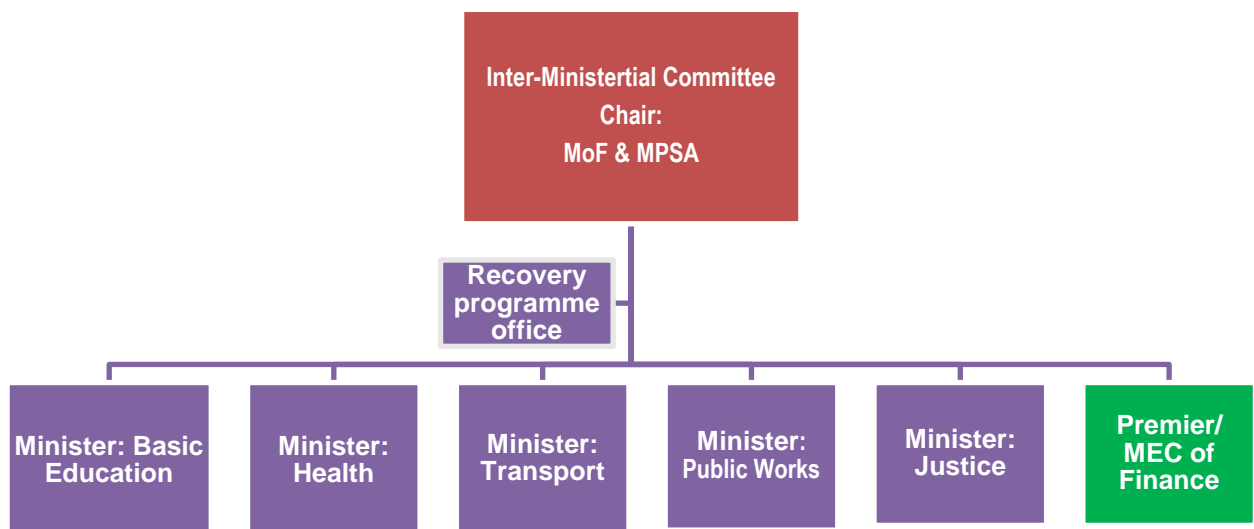
The key themes identified during data collection to answer the second main research question which is; Are the solutions, plans and strategies implemented by the section 100 (1) (b) Constitutional intervention team of administrators sustainable to keep the Province going beyond the National Government intervention period? Include New Plans, Programmes and Recovery Projects Introduced; Sustainability of the New Programmes and Recovery Projects.

Lastly, the key themes identified to answer the third and last main research question includes alternative to section 100 (1) (b) Constitutional Intervention; and Skills, capacity, processes and procedures to operate effectively. The above themes seek to answer this question; Is section 100 Constitutional intervention a best strategy to resolve Intergovernmental Relations problems?

#### 4.2. Diagnosis report on section 100 1 (b) Constitutional Intervention in Limpopo Provincial Treasury

Section 100 (1) (b) administrators conducted a diagnostic analysis on the problems pertaining to LPT and it was a collaborated effort with LPT team. Many problems were found in Limpopo departments of Education, Public Works and, Health but LPT's inability to intervene on reckless spending by other departments, National Treasury had to recommend to Cabinet to implement section 100 (1) (b) of the Constitution (Diagnostic Report 2013: 4).

The Inter-Ministerial Committee on the intervention composed of the National Ministers of the five departments namely; Roads & Transport, Health, Education, National Treasury, and Public Works as well as the Ministers of Justice & Constitutional Development, and DPSA are leading the intervention process (Recovery Project 2013).



Source: Provincial Treasury Diagnostic Report, 2013

The Diagnostic Report (2013: 4) identified major issues led to the intervention as follows:

- a) The Province had accumulated unauthorised expenditure of R2, 7 billion,
- b) The Province has started the financial year 2011/12 with an overdraft of R1, 7 billion,

- c) The Province was closer to exhaust its overdraft limit with its commercial banker of R500 million and in overdraft of R757 million with the SARB,
- d) The cash position created a strong risk that salaries of teachers, nurses, Doctors, and invoices of the service providers could not be paid,
- e) Poor cash management across the Province as the departments disregards agreed and approved cash flow projections as well as cash withdrawn from their PMF accounts,
- f) Auditor General emphasis of matters on areas such as lack of proper contract management, irregular awarding of tenders, weak controls and lack of oversight over entities.

The problems above point to breakdown in controls on each respective area within LPT as the custodian of provincial revenue funds as stipulated in Section 21 of the PFMA. According to the Diagnostic Report (2013), the main purpose and objectives of the intervention team was to:

- a) Provide an intensive investigation and analysis of the root causes of the key challenges that led to the intervention as well as to develop, implement short to medium and long-term sustainable solutions,
- b) Ensure that LPT perform its duties in terms of Section 18 of the PFMA as follows
  - I. Preparation of a credible budget,
  - II. Exercising control over the implementation of the budget,
  - III. Promotion and enforcement of transparency and effective management in respect of revenue, expenditure, assets and liabilities of the provincial departments and public entities,
  - IV. Ensure that fiscal policies do not materially and unreasonably prejudice national economic policies.
- c) Assist the Province to upgrade its systems and capabilities to ensure full compliance with applicable legislations including the PFMA.

The Diagnosis Report (2013) which was established in collaboration with LPT officials revealed that there were no cash management procedures and internal controls in place within LPT. The findings revealed in this report will be tested

against primary data involving individual and group focus interview to establish valid findings. Some of the findings revealed by Diagnosis Report includes:

- i. The Provincial EXCO passed a resolution to pay service providers eight (8) times in a month contravening Treasury Regulations which stipulate that payments to the suppliers should be made within 30 Days of the receipt of the invoice;
- ii. Departmental payments released without checking if funds were available in the bank account. No controls to prevent overdrawing the bank account;
- iii. Bank reconciliations not performed. Effort to analyse cash position was done mainly to secure salaries while neglecting commitments to suppliers;
- iv. No evidence of internal control mechanisms such as delegations and segregation of duties to verify large payments;
- v. Departments authorised payments with no regard for the projected expenditure, and
- vi. In-Year Reports were produced merely to comply with the requirements as there was no consequence for ineffective expenditure management.

The findings of the diagnosis report present mixed results in relation to the data presented below and the surveyed literature. From the diagnosis report above, it is clear that section 100 (1) (b) was necessary and had identified root causes of the problems that the Province can work on them going forward to resolve all the challenges. Furthermore, it is clear that lack of controls was also made worse by poor leadership and lack of segregation of duties on areas of expenditure control.

#### **4.3. Progress on the reduction of R2, 7 billion unauthorised expenditure**

Total expenditure for the Limpopo Province during the financial year 2012/2013 amount to R45 751, 256 billion which represent 95,4% of the total Provincial budget of R47 955, 402 billion. This means that the Province had under spent its total budget by R2 204, 137 billion representing 4,6% of the total provincial budget. The under spending consists of R1.2 billion from conditional grants roll - over requests and the remaining under spending balance consist of equitable share from NRF. However, as at the end of May 2013 and in terms of the AFS

submitted to AG, it is clear that there is a total of R634 million worth of accruals wherein the provincial commitments are standing at R6.1 billion.

Table 4 below illustrate a summary of how the Province had spent its provincial budget during the financial year 2013/2014.

Table 4: 2012/13 summary of Provincial Expenditure

	Main Appropriation	Adjustments	Adjusted Appropriation	Available funds*	Projected outcome	Actual spending as at 31 Mar 2013	Actual spending as % of Adjusted budget	(Over)	Under	% (Over)/ under of Adjusted budget
<b>R thousand</b>										
Education	22 126 035	757 862	22 883 897	22 883 897	21 923 522	21 923 522	95.8%	-	960 375	4.2%
Health	11 947 985	860 538	12 808 523	12 808 523	12 829 995	12 829 995	100.2%	-21 472	-	-0.2%
Social Development	1 165 929	27 254	1 193 183	1 193 183	1 191 502	1 191 502	99.9%	-	1 681	0.1%
Public Works	859 288	-15 286	844 002	844 002	748 050	748 050	88.6%	-	95 952	11.4%
Agriculture	1 580 374	-20 216	1 560 158	1 560 158	1 519 763	1 519 763	97.4%	-	40 395	2.6%
Roads And Transport	3 776 872	130 176	3 907 048	3 907 048	3 421 452	3 421 452	87.6%	-	485 596	12.4%
Co-Operative Governance Human Settlements And	2 374 417	218 509	2 592 926	2 592 926	2 126 847	2 126 847	82.0%	-	466 079	18.0%
Sport,Art And Culture	288 441	14 989	303 430	303 430	258 520	258 520	85.2%	-	44 910	14.8%
Safety,Security And Liason	67 301	-2 262	65 039	65 039	60 882	60 882	93.6%	-	4 157	6.4%
Office Of The Premier	329 288	-23 150	306 138	306 138	274 607	274 607	89.7%	-	31 531	10.3%
Legislature	217 664	26 560	244 224	244 224	238 464	238 464	97.6%	-	5 760	2.4%
Treasury	315 521	40 975	356 496	356 496	283 455	283 455	79.5%	-	73 041	20.5%
Economic Development Environment And Tourism	888 338	2 000	890 338	890 338	874 206	874 206	98.2%	-	16 132	1.8%
<b>Total</b>	<b>45 937 453</b>	<b>2 017 949</b>	<b>47 955 402</b>	<b>47 955 402</b>	<b>45 751 265</b>	<b>45 751 265</b>	<b>95.4%</b>	<b>-21 472</b>	<b>2 225 609</b>	<b>4.6%</b>
<b>Economic classification</b>							<b>Net</b>	<b>2 204 137</b>		
<b>Current payments</b>	<b>38 150 625</b>	<b>1 132 777</b>	<b>39 283 402</b>	<b>39 283 402</b>	<b>38 056 883</b>	<b>38 056 883</b>	<b>96.9%</b>	<b>-</b>	<b>1 226 519</b>	<b>3.1%</b>
Compensation of employees	31 376 954	569 881	31 946 835	31 946 835	31 623 008	31 623 008	99.0%	-	323 827	1.0%
Goods and services	6 773 287	562 896	7 336 183	7 336 183	6 433 150	6 433 150	87.7%	-	903 033	12.3%
Interest and rent on land	384	-	384	384	725	725	188.8%	-341	-	-88.8%
<b>Transfers and subsidies</b>	<b>5 449 368</b>	<b>590 135</b>	<b>6 039 503</b>	<b>6 039 503</b>	<b>5 600 408</b>	<b>5 600 408</b>	<b>92.7%</b>	<b>-</b>	<b>439 095</b>	<b>7.3%</b>
<b>Payments for capital assets</b>	<b>2 337 460</b>	<b>293 737</b>	<b>2 631 197</b>	<b>2 631 197</b>	<b>2 089 612</b>	<b>2 089 612</b>	<b>79.4%</b>	<b>-</b>	<b>541 585</b>	<b>20.6%</b>
<b>Payments for financial assets</b>	<b>-</b>	<b>1 300</b>	<b>1 300</b>	<b>1 300</b>	<b>4 362</b>	<b>4 362</b>	<b>335.5%</b>	<b>-3 062</b>	<b>-</b>	<b>-235.5%</b>
<i>of which: NPNC</i>	<i>12 223 039</i>	<i>1 154 331</i>	<i>13 377 370</i>	<i>13 377 370</i>	<i>12 038 645</i>	<i>12 038 645</i>	<i>90.0%</i>	<i>-</i>	<i>1 338 725</i>	<i>10.0%</i>
<b>Total</b>	<b>45 937 453</b>	<b>2 017 949</b>	<b>47 955 402</b>	<b>47 955 402</b>	<b>45 751 265</b>	<b>45 751 265</b>	<b>95.4%</b>	<b>-3 062</b>	<b>2 207 199</b>	<b>4.6%</b>
<i>* Available funds refers to adjusted budget including any post adjustment (Virements and shifts)</i>								<b>Net</b>	<b>2 204 137</b>	

Source: Limpopo Provincial Treasury (2013)

Table 4 above depicts unique and peculiar results as the Department of Education had under spent its funds by R960 375 million which is very odd as this Department was reported to have serious shortage of funds. In addition, all other departments had also under spent their budget allocation for the financial

year 2012/13 despite the Department of Health which is the only one that had over spent its budget allocation by R21 472 million. Reasons for under spending can be attributed to prioritising of expenditure on core areas of the departments and curbing expenditure on non-core area such as goods and services as well as travelling, catering and accommodation. This enabled the Province to realise surplus funds that are used to ease pressure on the PRF (Provincial Rollover Allocations for 2013/14 Financial Year 2013).

For the fact that the Province under spent its provincial budget, it present a great opportunity to fund unauthorised expenditure depending on the nature of approval by SCOPA and classified funds. During the planning of the financial year 2012/13 budget, the province had planned to fund the unauthorised expenditure from the surplus of the tabled budget. An amount of R748, 5 million was provided for during 2012/13 financial year to fund the unauthorised expenditure. Saving was realised due to cost containment measures resulting from re-enforcement of circular 1 of 2012 implemented by all the provincial departments. The circular aimed at cutting expenditure on unnecessary items and prioritise expenditure on core functions of the departments such as social sector, education, health and infrastructure. The surplus was then transferred to the PRF to fund the overdraft.

The main aim and objectives of keeping smaller cash in the commercial bank and keep sufficient cash in the provincial account with the SARB is to enhance cash management as lower interest rates are earned from commercial bank and sufficient interest rates are earned from the provincial bank account. This emphasises the importance of SCOPA sittings to approve with or without funds the unauthorised expenditures by the departments. Approval of unauthorised expenditure with funding is a direct charge to the PRF whereas approval of unauthorised expenditure without funding is a first charge on respective Department's budget.

Table 5 below illustrate how the approval of unauthorised expenditure by Provincial Legislature was done for the financial year 2012/13.

Table 5: 2012/13 Progress on Unauthorised Expenditure

DEPARTMENTS	APPROVED WITH FUNDING by LEGISLATURE	APPROVED WITH FUNDING by LEGISLATURE	TOTAL TO BE FUNDED BY PRF	FUNDED BY TREASURY IN 2012/13	BALANCE OUTSTANDING
Premier	-	32,038	32,038	32,038	-
Legislature	1,127	22,924	24,051	24,051	-
Education	449,400	1,395,844	1,845,244	449,400	1,395,844
Agriculture	-	-	-	-	-
Provincial Treasury	6,803	-	6,803	6,803	-
Economic Development	2,203	-	2,203	2,203	-
Health	256,261	18,544	274,805	274,805	-
Roads & Transport	25,034	-	25,034	25,034	-
Public Works	-	-	-	-	-
Safety, Security & Liaison	663	-	663	663	-
Local Government & Housing	-	-	-	-	-
Social Dev	7,001	-	7,001	7,001	-
Sport, Arts & Culture	-	-	-	-	-
	<b>748,492</b>	<b>1,469,350</b>	<b>2,217,842</b>	<b>821,998</b>	<b>1,395,844</b>
Education - Not considered by SCOPA yet					175,212
<b>TOTAL OUSTANDING</b>					<b>1,571,056</b>

Source: Limpopo Provincial Treasury (2013)

#### 4.4. Limpopo Provincial Financial Position as at 31 March 2013

Given that the financial information of government can easily be presented and analysed in terms of the financial year which start from 01 April of each year ending 31 March of the following year, this report will present the financial information taking into account the financial year of government. However, this does not ignore the fact that there are developments from 01 April 2013 to date, it is due to the fact that changes in expenditure patterns and financial behaviour of departments can easily be presented and interpreted at the end of each financial year.

As at the end of March 2013, the provincial cash position in Limpopo stood at a positive cash balance of R2, 4 billion wherein the balance continued to generate interests at the SARB. However, during July 2013, the provincial cash position was standing at R3, 5 billion. The accumulated unauthorised expenditure has been reduced by R1, 3 billion wherein the under spent funds that has not been committed amounting to R640 million will also be set aside for 2013/14 budget

and to cater for budget shortfall of the Department of Education. The Province tabled the 2012/13 financial year budget with a surplus of R907 million and an amount of R748 million was set aside to fund the overdraft and the difference was utilised to finance the recovery projects as well as provincial priorities. The R2, 7 billion of accumulated unauthorised expenditure was funded by R1, 3 billion of which R821 million was funded from the PRF during the financial year 2012/13 with the balance funded from the departmental budgets. Total outstanding unauthorised expenditure is standing at R1, 4 billion wherein the Province plan to fund it by R640 million during the end of the financial year 2013/14 whilst the balance will be financed over the MTEF period (Progress Report Regarding Limpopo Section 100 (1) (b) Intervention 2013).

From the above documentary analysis, it is clear that section 100 (1) (b) intervention was not successful in clearing the R2, 7 billion of accumulated unauthorised expenditure. This may be attributed to various factors such as shorter period of evaluation, already financially strained Province, multitude of problems that section 100 (1) (b) team had to deal with on arrival such as breakdown in controls, ill-disciplined SMS staff and resistance to change, lack of leadership e.t.c. However, section 100 (1) (b) administrators must be credited for putting measures in place to stop accumulating unauthorised expenditure as well as putting in place measures to fund the shortfall over MTEF period.

Secondary data analysis above assist to confirm synergy or lack of it between the interview responses and what has been documented and reported to various governance structures to the public through Limpopo Legislature, AC, and National Treasury. The documentary analysis above confirmed that section 100 (1) (b) administrators assisted LPT in various areas such as improving controls within finance environment but had not been entirely successful in clearing unauthorised expenditure of R2, 7 billion as R1, 4 billion of unauthorised expenditure is yet to be cleared. This method was very useful in that both individual interviews and focus group produced contradictory results in terms of what has been achieved by section 100 (1) (b) administration team.

#### **4.5. INTERVIEW RESPONSES**

The above section focused on documentary analysis as a main secondary data mentioned during data collection process under Research Methodology chapter. The focus now is on both individual interviews and focus group as primary sources of data collection. This area will start with individual interviews followed by focus group. The two sources (primary and secondary) were compared and confirmed to one another during data analysis.

#### **4.6. Interview Responses to Answer the First Main Research Question**

Total of 6 individual interviews were conducted with the respondents answering seven (7) research questions originating from the main research question which is; Did section 100 (1) (b) Constitutional Intervention assisted Limpopo Provincial Treasury to move out of the financial disparities and crisis plagued the Province of Limpopo?

Key themes were identified to answer the above research question as follows:

##### **4.6.1. Understanding Section 100 (1) (b) Constitutional Intervention and Reasons for intervening in Limpopo Provincial Treasury**

According to most participants, (Participant A, interviewed, August 01, 2013; Participant B, interviewed, August 02, 2013; Participant C, interviewed, August 07, 2013; Participant D, interviewed, September 03, 2013; Participant E, interviewed, September 03, 2013; and Participant F, interviewed, September 11, 2013) section 100 (1) (b) of the Constitution entails National Government taking over the roles and responsibilities of the Provincial Government due to mismanagement of funds by that province. In this case, LPT failed to exercise its roles and responsibilities as stipulated in section 18 of the PFMA and eventually incurring accumulated unauthorised expenditure of R2, 7 billion.

Participant F (Interviewed, September 11, 2013) further mentioned that Section 100 (1) (b) involves a situation whereby National Government intervention is applied due to poor financial management by a Provincial Department. Section 100 (1) (b) seeks to stabilise financial management principles and practices within a Department by implementing stringent and austerity measures.

Some research participants (Participant A, interviewed, August 01, 2013; Participant B, interviewed, August 02, 2013; and Participant D, interviewed, September 03, 2013) share common views that for section 100 (1) (b) to be applied the following must first be satisfied:

- a) Evidence of financial mismanagement which may lead to a total takeover of roles and responsibilities,
- b) Section 100 (1) (b) must be carried out by upper sphere i.e. National Government to a Provincial Government and Provincial Government to a Local Government, and
- c) The process must aim at stabilising and normalising financial management best practices.

In one way or the other, all the participants are agreeing that section 100 (1) (b) Constitutional intervention should first recognise a problem – poor management of finances and then implement the intervention measure as a tool available for government to deal with poor financial management at the lower level of government.

- a) Reasons for Intervening in Limpopo Provincial Treasury

Furthermore, most research participants (Participant A, interviewed, August 01, 2013; Participant B, interviewed, August 02, 2013; Participant E, interviewed, September 03, 2013; and Participant F, interviewed, September 11, 2013) mentions that the compelling reasons necessitating section 100 (1) (b) ranges from lack of both political and administrative leadership to the shortage of skills and capacity constraints within top management of LPT.

Participant B (interviewed, August 02, 2013) mentions that the following should be implemented to resolve the problems as stated above:

- a) Bringing in good leadership politically and administratively,
- b) Fill in Vacant positions with qualified, skilled and competent employees,
- c) Conduct skills audit to determine levels of competency and skills gap and provide necessary training where necessary,
- d) Move or properly relocate employees in areas suitable to their skills where they will excel in their work.

Few research respondents (Participant C, interviewed, August 07, 2013; and Participant D, interviewed, September 03, 2013) mentions that the compelling reasons for section 100 (1) (b) Constitutional interventions in LPT includes unfavourable cash flow position, failure to manage cash and provincial revenue funds, unmanageable overdraft, failure to oversee other departments' finances, as well as cumulative unauthorised expenditure that is not dealt with according to the prescripts. Other reasons includes frequent payments i.e. thirteen (13) payments in a month as opposed to two (2) monthly payments currently, failure to decisively deal with accumulated unauthorised expenditure of R2,7 billion, Inadequate leadership by top management to take critical decisions, as well as critical vacant positions remained unfilled for a longer period.

Participant C (Interviewed, August 07, 2013) mentioned the following as contributory factors leading to reasons for intervention in LPT:

- a) High vacancy rate in critical key positions thus disabling LPT to play its oversight role in terms of section 18 of the PFMA,
- b) Inappropriate skills set of officials in key positions,
- c) Poor recruitment strategy disabling LPT to attract relevant and appropriate skill set,
- d) Inadequate controls in Banking and Cash Flow environment,
- e) Lack of accountability by LPT resulting in accumulated unauthorised expenditure and high overdraft.

Participant D (Interviewed, September 03, 2013) mentions that the following were implemented to resolve the aforementioned challenges:

- a) A Finance Bill was tabled at the Provincial Legislature to approve with or without funding all the accumulated unauthorised expenditures dating few years ago,
- b) For the 2012/2013 financial year, R748 million was set aside to pay the unauthorised expenditure of R2, 7 billion and by end of March 2013 a total amount of R830 million was paid to fund the unauthorised expenditure,
- c) For the remainder of the 2011/12 financial year, allocation letters were issued to the departments to alert them about their budget and cash allocations and the fact that they can no longer spend more than they have,
- d) Schedule of payment / disbursements was issued to all the departments informing them about dates for payments which were reduced from 13 to 2 in each month,
- e) Unused monies in the PMG account was cleared and reallocated to critical areas such as Education,
- f) Cash was invested in PRF as opposed to the Commercial Bank to raise more profit and interest for the Provincial Government,

#### 4.6.2. Summary

Poor political and administrative leadership, failure to execute functions and powers as stipulated in Section 18 of the PFMA by supporting and overseeing the finances of other Provincial Departments, as well as accumulated unauthorised expenditure of R2, 7 billion were dominantly stated as main reasons invited Section 100 (1) (b) Constitutional intervention in LPT. Breakdown in control environment coupled with lack of leadership are central to reasons behind section 100 (1) (b) intervention in LPT. The reasons for the intervention can further be explored in taking a different approach than this as this research seeks to explore if the intervention process assist LPT in moving out of the financial disparities.

#### **4.6.3. Challenges and Opportunities of Implementing Solutions and Strategies of Section 100 1 (b) Constitutional Intervention**

Most research participants (Participant A, Interviewed, August 01, 2013; Participant B, Interview, August 02, 2013; and Participant D, Interviewed, September 03, 2013) mentions that notable challenges relating to implementing section 100 (1) (b) include resistance to change and unwelcoming attitude by LPT officials as they were happy with the status quo. Accordingly, there is pure negativity towards section 100 (1) (b) Administrators by many officials who felt that section 100 (1) (b) intervention is a burden and as a result, it interferes with their own internal affairs and disrupts their comfort zone.

According to the above participants, attempt to resolve the situation was through providing clear instructions and support to the staff. Regular meetings were held to support and comfort the staff members and educating them about the purpose of section 100 (1) (b) which is meant to correct and not to estrange other employees.

Few participants (Participant C, Interviewed, August 07, 2013; and Participant E, Interviewed, September 03, 2013) mentioned that section 100 (1) (b) administrators did not receive adequate support from National Government though the support was strengthened during the process. Participant C mentions the following are key areas to be noted:

- a) Unavailability of guidelines on who must do what resulting in poor coordination of section 100 (1) (b) Constitutional intervention and conflict / disagreement between section 100 (1) (b) Administrator and the HOD.
- b) Complex relationships between the existing HOD to both the Member of Executive Council (MEC) and to the section 100 (1) (b) Chief Administrator. section 100 (1) (b) administrator took over powers and responsibilities of the AO in LPT to be able to implement the recovery measures without difficulties but the reporting lines remained problematic.

- c) Challenges relating to Human Resources (HR) issues as to whether the Intervention is financial or both financial and HR in nature as HR forms integral part of financial component. This caused problems when disciplinary actions had to be taken through the channels of section 100 (1) (b) intervention as OTP in Limpopo is not under Administration and is central to the process of carrying out the disciplinary actions. Coordination became problematic.
- d) Due to limited capacity or shortage of officials from National Government to carry out the intervention, section 100 (1) (b) administrators had to rely on internal capacity within LPT to carry out the improvement / recovery plans.
- e) Section 100 (1) (b) administrator reporting directly to the Minister of Finance thereby omitting or leaving out the MEC of LPT which created discrepancies and loopholes for the MEC to be well informed of recovery progress within LPT.

According to Participant C National Treasury has acknowledged the deficiencies around regulation and coordination of section 100 (1) (b) intervention hence National Department of Cooperative Governance and Traditional Affairs is currently drafting Section 100 Constitutional Intervention regulations and guidelines to be presented to Parliament for adoption. The guidelines will cover section 100 (1) (a) and (1) (b) as well as section 139 of the Constitution which will provide guidelines on intervention by Provincial Government onto the Local Government.

Participant F (Interviewed, September 11, 2013) mentions that the challenges associated with carrying out section 100 (1) (b) intervention relate to inadequacy of the internal controls, capacity constraints and inadequate skills within LPT. LPT is unable to support Departments, Public Entities, and Municipalities due to its internal challenges. King III Report convey Treasury as an assurance provider in this case LPT as a second level assurance provider but it is hardly possible to recognise LPT as an assurance provider due to poor quality of work produced.

Participant F further mentioned that in around late 2011, the task of Key Control Questionnaire Assessment was handed to LPT by AG Limpopo but in less than a

year, the task was handed back to AG Limpopo due to inadequate skills and capacity constraints to perform the task by LPT. This tells the magnitude of the problems within LPT and the fact that the officials are not kept abreast with latest developments. Participant F further mentioned that in attempt to address some of the above challenges, LPT must provide continuous development, people management, and capacity development in particular to core staff members responsible for support and monitoring to Municipalities, Public Entities and the Departments.

#### **4.7. Summary**

The most notable challenges of implementing section 100 (1) (b) intervention strategies and recovery projects includes resistance to change and negative attitudes by LPT staff. However, it was also mentioned that section 100 (1) (b) administrators also displays negative attitudes towards internal LPT staff. Lack of documentation to provide guidelines on how Constitutional Intervention should operate in particular around reporting lines and who is responsible for what also dominated the discussions of the above section. The fact that National Government has acknowledged its deficiency on lack of guidelines and working on documentation to provide clear guidelines on how section 100 constitutional intervention should work will clear confusions in any other future constitutional interventions.

#### **4.8. Interview Responses to Answer Second Main Research Question**

A total of four (4) questions were presented to the participants to answer the second main research question which is: Are the solutions, plans and strategies implemented by section 100 (1) (b) Constitutional Intervention team of administrators sustainable to keep the Province of Limpopo going beyond National Government Intervention?

Themes were identified as follows to answer this research question:

#### **4.8.1. New Plans, Programmes and Recovery Projects Introduced by Section 100 (1) (b) Administrators Team**

Most research participants (Participant A, Interviewed, August 01, 2013; Participant E, Interviewed, September 03, 2013; and Participant F, Interviewed, September 11, 2013) mentioned that Austerity Measures Circular 1 of 2012 was reinforced to curb spending on unnecessary areas such as accommodation, travelling, overtime, catering, appointment of critical posts only e.t.c. In addition, Organisational / Human Resource structure of LPT is being reviewed to ensure alignment to new projects being implemented. Centralised procurement of common goods and services i.e. security, toilet papers, stationery, amongst others, to ensure efficiency through economic of scale.

Participant A & E further mentioned that LOGIS (financial system) has been introduced which interacts directly with Basic Accounting System (BAS – financial system) when creating orders while allowing monitoring of budget to avoid over-committing the available budget. Furthermore, governance structures have been reviewed i.e. Provincial Internal Audit and the shared Audit Committees to ensure that both the Departments of Health and Education in Limpopo have their own dedicated Internal Audits and Audit Committees to have enough time to review their reports.

According to Participant B (Interviewed, August 02, 2013) the role of LPT was strengthened as per Section 18 of the PFMA and by upgrading the salary level of the HOD of LPT. New position of the COO was established to take over all operational matters within LPT so as to enable the HOD to exercise his/her oversight role to Departments, Municipalities, and the Public Entities. Participant B further mentioned that LOGIS was implemented which interface with BAS in order that budget can be monitored while orders are being created.

Participant C (Interviewed, August 07, 2013) mentions that a number of recovery plans were introduced and some are depicted below:

- a) Audit Assistance programme was introduced to assist the departments in clearing AG audit findings run by Price-Water-House Coopers (PWC) and Rakoma,
- b) Project Based Learning (PBL) was introduced to equip employees with work based skills programmes,
- c) Filling in the vacancies with skilled and competent employees,
- d) Supply Chain Management processes improvement project,
- e) Re-enforcement of Austerity Measures through Circular 1 of 2012 which aims at curbing expenditure on unimportant areas such as accommodation, travelling, Overtime, and Catering / Refreshment.

According to Participant D (Interviewed, September 03, 2013) quite number of programmes and recovery projects were introduced as follows:

- a) Review and reinforcement of Revenue Enhancement Strategy resulting in increased revenue from R509 million during 2011/12 financial year to R650 million during 2012/13 financial year,
- b) Section 53 Subsection 3 of the PFMA on surrendering of unspent funds by both the departments and importantly the Public Entities,
- c) PBL whereby staff members are taken to work i.e skills based training,
- d) Clearing of AG audit findings project conducted by PWC and Rakoma by working closely with the departments,
- e) Austerity Measures Circular 1 of 2012 aiming at cutting expenditure on non-important items and reallocate savings to areas needing urgent attention,
- f) All appointment of vacant positions subjected to review and approval of the PHRTT which approve the appointment of critical posts. This project assisted in cleaning persal system by removing all unfunded positions within the system as part of the DPSA project.

#### **4.8.2. Summary**

According to the above theme, new projects have been introduced in which some are already yielding satisfactory results while others are multiyear

projects that will yield required results in a long run. Austerity measures, PBL, and PWC and Rakoma projects to assist LPT in clearing AG audit findings are assisting the Department to spend responsibly, develop its capacity and resolve all the AG findings to achieve clean audit. In addition, the team did not only introduce new programmes to improve the situation, but other programmes that were existing but not effectively implemented were revitalised and reinforced which includes revenue enhancement strategy and reinforcement of circular 1 of 2012 on cost-containment measures.

#### **4.8.3. Effectiveness and Sustainability of the New Programmes and Recovery Projects Implemented by Section 100 1 (b) Administrators**

According to Participant A (Interviewed, August 01, 2013) the Human Resource personnel structure of LPT has been reviewed to ensure that the new structure support sustainability of the gains of section 100 (1) (b) intervention. This was done by appointing skilled and competent employees who will maintain the good work done by section 100 (1) (b) administrators. Although there was resistance to change during the arrival of section 100 (1) (b) administrators, staff morale has improved through continuous engagement and regular staff meetings. According to Participant A, improvement in staff morale will yield positive results towards sustainability of the gains of section 100 (1) (b) intervention.

According to Participant B (Interviewed, August 02, 2013) the plans and programmes implemented by section 100 (1) (b) intervention are sustainable because there are capacity building programmes to ensure that staff members are skilled to carry out the plans which in turn addresses the issue of sustainability. Building capacity to sustain the programmes is addressed at various intervention levels. Gradual involvement of staff has assisted in dealing with resistance encountered during arrival of section 100 (1) (b) team.

Some research participants (Participant C, Interviewed, August 07, 2013; and Participant E, Interviewed, September 03, 2013) stated that the recovery projects introduced have been included in the Operational Plan and APP of the HOD of LPT and cascaded down to SMS staff for sustainability. Progress reports of LPT

are now including and reporting on progress regarding all the recovery projects. The PBL intend to build capacity of the staff members at senior level to deal with all the challenges facing LPT including carrying out the recovery projects. Participant C further mentioned that the employment of skilled and competent employees will also ensure that all the gains of section 100 (1) (b) intervention are carried forward. Though there was resistance and denial towards section 100 (1) (b) intervention, staff morale has improved after realising that, indeed, there was a problem that needed to be solved.

According to Participant D (Interviewed, September 03, 2013) mentions that section 100 (1) (b) initiated an exit strategy by conducting sustainability workshop to the staff members.

The sustainability workshop seeks to develop sustainable plans on the following five (5) areas:

- a) Supply Chain Management Processes,
- b) Asset Management Processes,
- c) Compliance processes,
- d) Infrastructure development/building processes, and
- e) Data and Records processes.

According to Participant F (Interviewed, September 11, 2013) sustainability of the recovery projects depend heavily on proper communication in all platforms to ensure good understanding of what needs to be done. The exit strategy must be made to be understood by all staff members of LPT to ensure ownership even after the departure of section 100 (1) (b) administrators. Participant F mentioned that the appointment of consultants assist the process, however, the Service Level Agreement (SLA) with the Consultants is silent and does not say anything on passing skills by the consultant to the staff members which is a cause for concern. According to Participant F, discrepancies within the SLAs signed with the consultants do not address sustainability of the recovery projects which need to be addressed urgently.

## **4.9. Summary**

The data presented on the above theme clearly indicates that the survival and effectiveness of the programmes and recovery projects implemented by section 100 (1) (b) depend largely on human elements. According to most participants, ownership and clear communication of the programmes and recovery projects will ensure that the gains of the intervention process are sustainable. The fact that all the programmes and recovery projects have been built in the LPT's APP and SMS Performance Plans coupled with sustainability workshop as an exit strategy will clearly ensure that there is general understanding on what needs to be done even after the departure of section 100 (1) (b) intervention team.

## **4.10. Interview Responses to Answer Third Main Research Question**

A total of three (3) questions were presented to the participants to answer the third main research question which is: Is Section 100 (1) (b) Constitutional Intervention the best strategy to resolve Intergovernmental Relations problems?

Themes were identified in answering and presenting data collected from the third main research question as follows:

### **4.10.1. What can work better than Section 100 (1) (b) Constitutional Intervention in LPT**

Most research participants (Participant A, Interviewed, August 01, 2013; Participant E, Interviewed, September 03, 2013; and Participant F, Interviewed, September 11, 2013) states that section 100 (1) (a) or (b) is a provision in the Republic of South Africa's Constitution and at the moment, it is the only best strategy or tool available for National Government to address intergovernmental relations failures resulting from mismanagement of funds. As a result, the National Government felt that the problems of LPT can best be resolved by enforcing Constitutional directives of section 100 (1) (b). Participant A felt that there was no available tool or strategy to assist LPT other than section 100 (1) (b) intervention to resolve all the problems. However, the Participants raised

concerns in relation to accountability matters i.e. is the MEC still accountable to SCOPA and the Provincial Legislature or it is the Minister by virtue of assuming the executive powers of LPT.

According to Participant B (Interviewed, August 02, 2013) National Government had other options to assist LPT in a form of continuous support to LPT while developing early warning mechanisms to detect problems at an early stage. Participant B felt that appointment of skilled personnel could have assisted LPT to avoid section 100 (1) (b). However, LPT must strengthen its participation within governance structures such as Budget Council, Technical Committee on Finance (TCF), and MINMEC meetings.

Participant C (Interviewed, August 07, 2013) mentions that depending on the magnitude of the problems, section 100 (1) (b) intervention was the best tool to resolve problems of LPT. However, section 100 (1) (a) was relevant at that stage rather than implementing section 100 (1) (b) from the onset. Section 100 (1) (a) would allow the HOD to retain his powers and duties under the supervisory and guidance of the National Government Administrator. National Treasury should have noticed the cash flow problems in time and assist as they receive monthly reports including In-Year Monitoring reports regularly. As a result, National Treasury had also failed to exercise its duties in terms of section 6 of the PFMA. National Treasury should have implemented section 100 (1) (a) before the cash flow problems got worse.

Participant C further emphasised that National Treasury's oversight role should equally be strengthened to ensure that similar problems do not occur in any of the nine (9) Provinces. As a result, as much as LPT failed to exercise its powers under section 18 of the PFMA to support and oversee other departments, National Treasury also failed to exercise its powers under section 6 of the PFMA by supporting and overseeing LPT overdraft problems.

According to Participant D (Interviewed, September 03, 2013) Section 100 (1) (b) is an ultimate stage of intervention and support by National Government when any Department fails to exercise its duties and responsibilities. Section 36 Sub-section 3 of the PFMA stipulates that LPT may appoint another person to be the AO and assume all the powers of the current HOD. According to Participant D National Government had no other option but to appoint an AO in terms of Section 3 Sub-section 3 of the PFMA to take over the powers of the HOD because LPT was not able to exercise its duties as stipulated in Section 18 of the PFMA.

#### **4.10.2. Summary**

Most of the participants in the above theme agree that nothing could have worked better than section 100 (1) (b) constitutional intervention in LPT as the problems warranted this process. According to most of the research participants, National Government had no other options available to assist LPT other than enforcing section 100 (1) (b) to ensure speedy recovery and the clearing of R2, 7 billion in unauthorised expenditure. However, the participants question the capacity and strength of National Treasury to carry out its oversight role over LPT as they have been receiving alarming reports about LPT but could not act or assist the Department in time to avoid section 100 (1) (b) intervention. The participants mentioned that the capacity of National Treasury to carry out its oversight role over other Provincial Treasuries should be strengthened to ensure that all the Provincial Treasuries receives adequate support from National Treasury.

#### **4.10.3. Skills, Capacity, Processes and Procedures to Supplement Solutions, Strategies and Programmes Implemented by Section 100 (1) (b) Administrators**

Some research participants (Participant A, Interviewed, August 01, 2013; and Participant C, Interviewed, August 07, 2013) state that there are skilled officials in

LPT and with a boost from the new Human Resources structure, recent appointment of competent HOD and SGM for SRM, and strong emphasis to appoint skilled and competent people, LPT will be able to operate effectively after the departure of section 100 (1) (b) administration. Participant A mentioned that the Political leaders should refrain from interfering with the appointment of administrative officials and focus on providing political direction and leadership instead of imposing unskilled and inexperienced people based on loyalty to their political party.

According to Participant B (Interviewed, August 02, 2013) based on continuous support from National Treasury, LPT is building skills and capacity to sustain the gains of section 100 (1) (b) administration. Participant B mentioned that current arrangement within LPT ensures that only competent and skilled personnel are appointed and this will go a long way in sustaining the recovery projects of the section 100 (1) (b) administration. Participation of LPT in structures such as MINMEC, Budget Council, Technical Committee on Finance, Intergovernmental Relations forums, and Accountant General Forums will assist the Department to improve its capacity. However, Participant B mentioned that LPT is currently building its capacity and it is not yet ready to operate on its own without the presence of section 100 (1) (b) constitutional intervention. Various projects implemented including PBL are meant to assist the Department and right now it is still early to let LPT operate without the presence of section 100 (1) (b) administrators.

According to Participant D (Interviewed, September 03, 2013) the Department does have minimum skills at SMS level but building the required skills will take time. However, filling of top management positions with skilled personnel is being prioritised to build skills and capacity overtime. With presence of Project Based Learning skills will be built and the relocation of staff to areas that they can perform better should be prioritised. Participant D further mentioned that training of unskilled staff as expelling them is almost impossible in government should also be prioritised. In addition, changes in political leadership affect the staff organ gram as each MEC appoint new personnel and the existing staff in MEC's

office must be relocated elsewhere in the Department which overload the Human Resource structure of the Department.

Participant D further mentioned that LPT will be able to carry on and operate effectively after the departure of section 100 (1) (b) administration though capacity issues will take time to be fully addressed. However, with the appointment of the new HOD and the SGM for SRM the Department will yield some improvements. The participant further emphasised that appointment of SGM for FG and COO must be fast-tracked to further boost the positive gains.

Participant D also mentioned that upgrading of salary level of the HOD from level 15 to level 16 also built sustainability as it provide powers and authority to the HOD of LPT to effectively deal with all oversight matters in the Province. The COO will be responsible for running all the day-to-day functions of LPT as a Vote 5 while the HOD deal with all the oversight functions of LPT as stipulated in Section 18 of the PFMA.

Participants E and F (Interviewed, September 03, 2013; September 11, 2013 respectively) mentioned that LPT does not have required skills and capacity to perform better. Both participants mentioned that the issue of skills and capacity need to be addressed and it will take longer to be fully addressed.

However, both participants mentioned that LPT will be able to operate effectively after the departure of section 100 (1) (b) due to new controls and systems introduced to deal specifically with the problems led to section 100 (1) (b) intervention. According to the participant, staff within LPT is now accountable and the Department will be monitored from a distance. section 100 (1) (b) will be replaced by section 100 (1) (a) to monitor the Department from a distance in a form of advisory role to ensure they continue doing what they are rightfully supposed to do.

Both participants E and F further mentioned that over the years LPT did not have major internal control issues until during the year 2011 and the Department is a step closer to achieve clean audit if it can deal with tribal levies issues. LPT should lead by example by strengthening its support role to the departments, municipalities and the public entities and also skill and capacitate its employees. Political leadership must take some positive and constructive critical decisions to assist LPT to exercise its duties and responsibilities in Section 18 of the PFMA.

#### **4.10.4. Summary**

Most of the research participants agree that LPT had built necessary mechanism and processes to continue functioning well even after the departure of section 100 (1) (b) intervention team. However, the participants agree that skills and capacity to perform certain responsibilities is still lacking from some of the officials but there are adequate controls which if effectively implemented the Department will achieve its vision and mission. This clearly means that there are necessary controls to guide officials what needs to be done when and how and the officials just need to adapt to the new processes and procedures introduced.

### **4.11. FOCUS GROUP**

#### **4.11.1. Focus Group Responses to Answer First Main Research Question**

Focus group interview composed of six participants involving SMS staff of LPT was conducted. The focus group was conducted after finalising the individual interviews and as such the focus group participants answered eight (8) questions originating from the main research question which is: Did section 100 (1) (b) Constitutional Intervention assisted LPT to move out of the financial disparities and crisis plagued the Province of Limpopo. The reason for adding one more question for the focus group was mainly to supplement and bridge the gap on the data collected from the individual interviews.

Key themes were identified to answer the research question as follows:

#### **4.11.2. Rationality Behind Section 100 (1) (b) Constitutional Intervention in Limpopo Provincial Treasury**

According to focus group (Interviewed, September 05, 2013) section 100 (1) (b) involves a situation whereby an institution fails to manage itself and the upper structure takes over its roles and responsibilities. Section 100 (1) (a) involves advisory role from a distance or on a close range while section 100 (1) (b) involves absolute assumption of the duties of an institution that fails to manage itself.

#### **4.11.3. Reasons Necessitating Section 100 (1) (b) Constitutional Intervention and Improvement Plans**

Focus group interview (Interviewed, September 05, 2013) states that reasons for section 100 (1) (b) interventions originate from failing to execute LPT duties as enshrined in Section 18 of the PFMA. Failing to oversee finances of other departments as the custodian of the Provincial Finances, frequent payments without verifying if cash and/or budget is available, as well as failure to deal with accumulating unauthorised expenditure of R2, 7 billion were identified as major reasons for section 100 (1) (b) constitutional intervention in LPT.

Focus group respondents further mentioned underlying factors contributed to section 100 (1) (b) intervention as follows:

- a) Failure / inability to monitor and provide support to the departments,
- b) Inadequate skills and capacity constraints to execute the powers and functions of LPT,
- c) Highly congested Human Resources structure leading to more budget directed at paying salaries instead of service delivery,
- d) Poor leadership, and

e) Inadequate policies, processes and procedures to guide employees to perform their duties smoothly,

Misallocation of budget i.e. salaries under budgeted with the bulk of the budget redirected to goods and services and eventually leading to overspending on compensation of employees. This is done deliberately by shifting compensation of employees budget into goods and services knowing that salaries / Persal runs or pays automatically irrespective of whether there is money in the system or not.

The table below present recommendations suggested by focus group interview in resolving some of the issues raised above:

Table 6

AREA OF CONCERN	PROPOSAL TO RESOLVE THE CONCERNS
1. Inability to exercise Section 18 of the PFMA	All Provincial Treasuries (including LPT) should not be made ordinary Votes / Departments. Provincial Treasuries must be made regions of National Treasuries like SARS reporting directly to National Treasury in order to free them from political pressure and influence of the Provinces. Political master or the MEC of LPT must be a strong candidate and exercise his/her duties independently as the CFO of the Province.
2. Undue influence of the Office of the Premier	OTP and the Premier him/herself must fully understand the role of LPT as an adviser to the Premier on issues of finance thereby accepting and respecting it as it is. The ruling party must ensure that the Political Master of the LPT is a very good candidate to be able to carry out duties as stipulated in Section 18 of the PFMA.
3. Poor leadership	LPT must draft good recruitment strategy enabling attraction and appointment of skilled and competent employees. There must be cohesion and good working relationship between the MEC and the HOD of LPT.

4. Highly Congested Human Resources Structure	<p>Short Term Plan: LPT must fund early retirement to unskilled employees in particular those inherited from former homelands.</p> <p>Long Term Plan: Await for normal retirement of unskilled employees and fill the vacated positions with skilled and competent employees.</p>
5. Skills and Capacity	<p>Review the recruitment strategy i.e. head hunt skilled and competent employees as well as providing continuous training and professional capacity development.</p>

Source: Focus Group Interview (Interviewed, September 05, 2013)

#### **4.11.4. Challenges of Implementing Programmes and Recovery Projects of Section 100 (1) (b) Constitutional Intervention**

Focus group respondents (Interviewed, September 05, 2013) mentions that some of the challenges experienced in implementing section 100 (1) (b) intervention programmes and recovery projects was mainly linked to poor communication and coordination of the intervention process. Focus group mentioned that the fact that there was no proper addressing of staff regarding the plans to put LPT under section 100 (1) (b) intervention says a lot about poor coordination of the process and no dissemination of information. Focus group further mentions the following as notable challenges:

- a) One way instruction by the Intervention team without staff involvement in some of the major and critical decision makings,
- b) Resistance from LPT staff members due to poor communication, and
- c) Continuous changing of section 100 (1) (b) team of Administrators due to inadequate skills within the Administrators team.

#### **4.11.5. Focus Group Responses to Answer Second Main Research Question**

A total of four (4) questions were presented to the focus group to answer the second main research question which is: Are the solutions, plans and strategies implemented by section 100 (1) (b) Constitutional intervention team of administrators sustainable to keep the Province of Limpopo going beyond National Government Intervention?

Themes were identified as follows to answer this research question:

##### **4.11.5.1. New Plans, Programmes and Recovery Projects Introduced by Section 100 (1) (b) Intervention Team**

According to focus group Interview (Interviewed, September 05, 2013) section 100 (1) (b) Constitutional intervention did not introduce or establish any new plans or projects within LPT. Accordingly, all the recovery projects have been adapted to the existing plans and programmes of the Department with minor improvement.

According to focus group, the plans and programmes that were adapted and reviewed by section 100 (1) (b) are as follows:

- a) Cost Containment measures Circular 1 of 2012 was re-enforced,
- b) Review and re-enforcement of Revenue Enhancement Strategy,
- c) Surplus budgeting,
- d) Organisational re-alignment (Reduction of Employee Cost by 2%),
- e) Issuing of allocation letters,
- f) Central Procurement of similar services across departments and Public Entities, and
- g) PBL driven by PWC and Rakoma which assist the departments in clearing AG audit findings.

#### **4.11.5.2. Effectiveness and Sustainability of the New Programmes and Recovery Projects Implemented by Section 100 (1) (b) Intervention Team**

Focus group respondents (Interviewed, September 05, 2013) mentioned that the sustainability of the recovery projects is made possible by the fact that nothing new was implemented as all the recovery projects have been amended and adapted from the existing plans and programmes of the Department. As a result, staff members of LPT are familiar with all the recovery projects and will not encounter difficulties in implementing them as they are actually the founders of these plans. However, focus group mentioned that section 100 (1) (b) was fiercely opposed by the politicians and the officials of LPT remained calmed and assisted section 100 1 (b) administrators with whatever they needed including making information readily available to them.

Accordingly, the plans and programmes adapted by section 100 (1) (b) are effective and will be sustainable beyond the intervention period as all LPT staff members are aware of them and have accepted them. Focus group respondents further emphasised that the plans are indeed effective as they were improved during amendment process to be relevant and at par with current challenges.

#### **4.11.6. Focus group Responses to Answer Third Main Research Question**

A total of five (5) research questions were presented to focus group members to answer the third main research question which is: Is Section 100 (1) (b) Constitutional Intervention the best strategy to resolve Intergovernmental Relations problems?

Themes were identified in answering and presenting data collected from the third main research question as follows:

#### **4.11.6.1. Alternative to Section 100 (1) (b) Constitutional Intervention**

According to focus group (Interviewed, September 05, 2013) section 100 (1) (b) is the only available mechanism to deal with failures by LPT in exercising its duties as stipulated in section 18 of the PFMA. However, group focus mentioned their worries as to whether National Treasury has required skills to support Provincial Treasuries since LPT is under section 100 (1) (b) administration.

According to focus group, normal continuous support from National Treasury has been there prior to section 100 (1) (b) and what could have gone wrong under the support of National Treasury that prompted section 100 (1) (b) in LPT. According to the participants, National Treasury should skill itself in order that it can be able to support other Provincial Treasuries as section 100 (1) (b) in LPT is a bad manifestation in the nature of support it provides to all Provincial Treasuries in South Africa.

Consequently, focus group respondents felt that continuous and strengthened support by National Treasury was another option to section 100 (1) (b) that National Government could have opted to strengthen its support and governance role in LPT though it may not be effective like section 100 (1) (b) Constitutional intervention.

#### **4.11.6.2. Skills, Capacity, Processes and Procedures to Supplement Solutions, and Recovery Projects Implemented by Section 100 (1) (b) Administrators**

According to focus group (Interviewed, September 05, 2013) most of the staff within LPT are still lacking necessary skills to perform better and the Department should consider getting rid of these employees and replace them with skilled and competent staff by funding their early retirements.

Focus group members mentioned that LPT will be able to operate effectively after the departure of section 100 (1) (b) Constitutional Intervention. At the rate of how things are being done currently, LPT is ready to operate effectively on its own.

However, the participants' emphasised changes in mind-set by the Departmental staff which will ensure that the Department operate effectively.

In terms of lessons learnt and what has been an eye opener, the focus group members mentioned that Treasury should remain Treasury thus, LPT should exercise its section 18 of the PFMA unapologetically and without fear even after the departure of section 100 (1) (b) administration.

#### **4.11.6.3. Has Section 100 (1) (b) Assisted Limpopo Provincial Treasury to Move out of the Financial Disparities**

The focus group members (Interviewed, September 05, 2013) mentioned that due to continued overspending of the Provincial Budget, section 100 (1) (b) Administration did not achieve its purpose and objectives since the money in PRF is a conditional grant that has not been spent by the departments. High volume of accruals (unpaid committed invoices) clearly indicates that section 100 (1) (b) did not achieve its objectives because if the accruals were to be settled before reporting, then the Province would still be in overdraft like before their arrival. In a nutshell, section 100 (1) (b) did not assist LPT to move the province out of the financial disparities experienced before their arrival. However, the focus group respondents mentioned that section 100 (1) (b) was able to assist LPT in certain areas which were initially not part of the problem such as re-enforcement of various governance and compliance circulars, improving procurement measures, and instilling a sense of financial discipline to SMS staff.

#### **4.12. SUMMARY**

Chapter 4 above presented the data collected from both primary and secondary data in a form of soft and hard copies of retrieved reports as well as individual and focus group interviews respectively. Different sources were used to triangulate the data collected including interviews to the senior member of the office of the AG in Limpopo.

Data collected from individual interviews differs slightly with the data collected from group focus respondents in that individual respondents felt that they have been able to assist LPT to move out of the financial disparities wherein focus group respondents felt that section 100 (1) (b) Intervention did not achieve its purpose. This is also noted from the fact that focus group respondents stated that LPT staff was fully cooperative with the section 100 (1) (b) Administrators wherein individual interview respondents mentioned that the staff attitude was not welcoming thus resistant to change. This might be because focus group interview was dominated by LPT SMS staff while individual interviews were dominated by section 100 (1) (b) Administrators and the two might be defending their integrity. AG provided a balanced view in his argument that section 100 (1) (b) assisted in some areas and failed in some areas though according to him success rate and benefits are higher than the failures.

## CHAPTER 5

### ANALYSIS OF THE RESEARCH FINDINGS

#### 5.1. Introduction

This chapter provide analysis of the data presented in terms of the themes as presented above. New themes based on what has emerged during data presentation were formed to create meaning out of the data presented. The analysis started with secondary data collected in a form of reports from LPT and other assurance providers such as the Office of the AG. The results of the individual interviews are slightly different to the results of the focus group thus the data for both individual and focus group interviews were presented separately. After observing differences between data collected from individual interviews to that of focus group, senior staff in the Office of the AG was interviewed to triangulate the data collected.

Documentary information provided clarity on various areas as it was used to compare and confirm what has been collected from both individual and focus group interviews and key themes were developed based on the three sources above. The themes developed include Shortage of Skills and Inadequate Capacity Building; Lack of Accountability; Sense of Financial Discipline; Inadequate Oversight Role Played by National Treasury and Provincial Legislature; and section 18 of the PFMA.

#### 5.2. Section 18 of the Public Finance Management Act – PFMA and Undue Oversight Role by OTP, Provincial Legislature and National Treasury

All the participants share common view that LPT has dismally failed to exercise its roles and responsibilities as stipulated in section 18 of the PFMA. Both AG (Interview, September 11, 2013) and focus group participants (Interview, September 05, 2013) also confirmed that LPT had not performed its duties and responsibilities as stipulated in section 18 of the PFMA as follows:

Subsection 1:

- (a) Provincial Treasury must prepare a provincial budget,
- (b) Exercise control over the implementation of the provincial budget,

Subsection 2:

- (g) Provincial Treasury must intervene by taking appropriate steps, which may include the withholding of funds, to address a serious or persistent material breach of this Act by a provincial department or a provincial public entity,
- (i) Provincial treasury may do anything further that is necessary to fulfil its responsibilities effectively.

Triangulation of the data has yielded similar results confirming that indeed, LPT did not do what it was supposed to do but the data collected differ on the magnitude of the problem for instance Participant C (Interview, August 07, 2013) felt that implementing section 100 (1) (b) was too harsh and perhaps section 100 (1) (a) could have been more appropriate. However, focus group (Interview, September 05, 2013) felt that section 100 Constitutional Intervention was not necessary instead National Treasury should have taken drastic measures to strengthen support to LPT. Importantly, all the participants do agree about the existence of a problem in LPT and the Diagnosis Report (2013) also revealed that LPT failed to perform its duties as legislated.

Section 100 of the Republic of South Africa's Constitution (Constitution of the Republic of South Africa 1996) confirms that when a Province cannot or does not fulfil an executive obligation in terms of the Constitution or legislation, the National Executive may intervene by taking any appropriate steps to ensure fulfilment of obligation. Visser et al (2000: 6) also confirms that the intervention to any sphere of government by upper sphere should be an instrument only to be resorted to by that sphere when the lower sphere did not perform its duties as per constitutional provisions. As per primary data collected from the research participants and the

secondary data collected from LPT reports, it is clear that LPT did not perform its duties as stipulated in section 18 of the PFMA and this warranted an immediate intervention to correct the situation.

Focus group (Interview, September 05, 2013) further mentioned that the inefficiencies within National Treasury shows the loopholes within the Constitution in terms of dealing with incompetence of National Treasury by failing to deal with problems at early stage before they escalate to a crisis level. Approached differently, the Legislative Framework may, perhaps, recognise National Treasury as absolute expert in the field of finances and fails to recognise that it may also fails and corrective measures should be in place to address such failures.

The participants (Participant C, Interview, August 07, 2013; focus group, Interview, September 05, 2013; and Participant F – AG, Interview, September 11, 2013) also mentions that National Treasury also failed to exercise its oversight role over LPT because it has been receiving In-Year Monitoring and Management Reports and other kinds of information enough to alert it about the overdraft crisis in Limpopo. Accordingly, National Treasury should have acted swiftly long before the crisis could even grow to necessitate section 100 (1) (b) Constitutional Intervention i.e. by withholding funds or act as per Chapter 2 Section 6 Subsections 1 (f) and 2 (f) of the PFMA. The above sections stipulates that National Treasury must monitor the implementation of Provincial Budgets, and must intervene by taking appropriate steps, which may include steps in terms of section 100 of the Constitution or withholding of funds in terms of section 216 (2) of the Constitution, to address a serious or persistent material breach of this Act by a department, public entity or constitutional institution.

Accordingly, (Participant C, Interview, August 07, 2013; focus group, Interview, September 05, 2013; and Participant F – AG, Interview, September 11, 2013) both Provincial Legislature – SCOPA and National Treasury did not exercise their oversight responsibilities over LPT to a satisfactory level. Participant C (Interview,

August 07, 2013) mentioned that the unauthorised expenditure in the Province is dating back to 2001 and was not dealt with effectively. SCOPA had its own backlogs to deal with the unauthorised expenditure in which it had a role to approve the unauthorised expenditure with or without funding.

If SCOPA approves the unauthorised expenditure with funding, the LPT must find money to fund the approved unauthorised expenditure with funding. If the unauthorised expenditure is approved without funding, it becomes the first charge on the respective Department's budget. However, this does not entirely shift the crisis of unauthorised expenditure to Provincial Legislature – SCOPA, LPT had responsibilities to monitor provincial budget and ensure that departments are not overspending by not releasing cash on expenditure that has not been budgeted for.

On the other note, Participant B (Interview, August 02, 2013) mentioned that OTP on the virtue of its Executive status had taken over the fiscal responsibility of LPT and most of the important financial decisions were taken by the Premier of Limpopo instead of the MEC of LPT. Duplication of duties or a mere reduction of any Treasury into a post office will inevitably lead to fiscal crisis. LPT must take this as a lesson and ensure that going forward it fully exercises its duties as legislated. The above finding is also confirmed by Uregu Ile (2010: 55) arguing that competitive rather than complementary relationship between political and administrative leaders weakens the capacity of government to deliver services.

Though this study aimed at exploring and establishing if section 100 (1) (b) assisted LPT to solve the financial crisis in Limpopo, the study had also revealed important lessons that undue influence of other Institution or its inability to fulfil its duties that affect the next party may lead to catastrophic result. Both National Treasury and Provincial Legislature should have exercised their oversight role which unknowingly might have created a different picture seen from LPT today. In addition, different Oversight structures must respect and appreciate the role and importance of other structures such as OTP which should let LPT to perform its fiscal responsibilities in the Province.

### **5.3. Barriers Impeding Limpopo Provincial Treasury to Fully Sustain the Gains of Section 100 1 (b) Constitutional Intervention**

Shortage of skills and inadequate building of capacity to the LPT staff has emerged as part of the dominant factors impeding LPT to perform better and sustain the gains of section 100 (1) (b). The Department is dominated by unskilled officials inherited from former homelands of Lebowa, Gazankulu, and Venda which impede it to support the departments, municipalities and public entities in terms of section 18 of the PFMA. Plans to build capacity to the staff are only oriented towards members of the SMS which in most instances are inherently skilled. Staff members within Middle Management Services (MMS) to lower levels are not forming part of the capacity development initiatives. The current capacity development initiatives PBL is targeting SMS members thus neglecting critical officials that are performing core operational duties of the Department (Participant C, Interview, August 01, 2013; Participant D, Interview, September 03, 2013; Participant E, Interview, September 03, 2013; and focus group, Interview, September 05, 2013).

Brand (2007: 3) mentions that improving a situation such as the one in LPT requires plans of a long term capacity improvements, conducive environment for a smoother relationship to facilitate a network of interaction even after the intervention for smoother support and monitoring. This shows that capacity development is fundamental to ensure that the gains of the section 100 (1) (b) Constitutional intervention are sustained for a long time. In addition, the Diagnosis Report (2013) also mentions that lack of skills is a fundamental course and a threat for LPT to sustain the gains of the section 100 (1) (b) intervention.

On the virtue of its PFMA mandate, LPT should provide a lead role in supporting departments, public entities as well as municipalities and ensure effective financial management in the Province. However, shortage of skills and inadequate capacity development reduces the Department into a mere post office whereby finances are appropriated from National Treasury through to the LPT and transferred to the departments without appropriate measures to monitor spending of those finances.

This is confirmed by AG's Report (Limpopo Provincial Treasury Auditor General's Audit Report 2013: 4) which stipulates that LPT did not appoint shared Audit Committee (AC) for a certain period to provide oversight role to the AO on financial and performance management. Coupled to this is the assertion that the Department did not submit the annual financial statements for the provincial revenue fund for auditing within two months after the financial year end as per requirements of section 40 (1) (c) of the PFMA.

In addition, the HOD of LPT had also confirmed when responding to SCOPA questions that the collapse of Limpopo Provincial Government was mainly caused by lack of skills and incompetence within LPT staff (Northern Review, 15 November, 2012). All the participants are in one way or the other sharing common view that LPT lack adequate skills and capacity to perform its duties efficiently and effectively. Provincial Treasuries across the country are predominantly new and established between the years 2004 and 2005 essentially giving them opportunity to appoint skilled and competent people from the labour market. LPT has instead inherited unskilled people from the Department of Economic Development, Environment and Tourism that was established from which affect it negatively until today.

Lack of skills and competence to support the departments, municipalities and the public entities defeat the purpose and objective that the Department was established for. The fact that current measures to develop skills and build capacity through PBL is mainly targeting senior officials also defeat the main purpose of section 100 (1) (b) Constitutional Intervention as Brand (2007: 3) mentions that Constitutional Intervention should be followed by capacity development and skills to the key staff. Both the Office of the AG and the focus group respondents mentioned that the skills shortage is mainly at the support staff which is critical for execution of the Department's mandate. The Department need to establish long term plans to address the skills and competence deficiencies while ensuring that its recruitment and appointment strategies attract skilled and competent employees.

#### 5.4. Lack of Accountability and Instilling a Sense of Financial Discipline

Failure to take action by management and lack of accountability dominated the data that was collected both primary and secondary data. The Diagnosis report (2012) had revealed that there was no accountability on the responsibilities performed and decisions taken. According to Flinders (2011: 602) “the promise to hold someone or something to account is therefore symbolically interpreted as a threat; as a promise to make someone pay for an error, omission, or mistake. Accountability has therefore become almost synonymous with the identification of scapegoats and the delivery of sacrificial lambs”. The above statement propels new debate on whether accountability can be bad at some point? This can be answered by bearing in mind that only a brave person can challenge and create unfashionable argument about accountability being bad for democracy.

Where public funds are being spent arguably in the most responsible manner, accountability should be inevitable to build public confidence that create public value. According to Participant E (Interview, September 03, 2013) prior to section 100 (1) (b) Constitutional intervention, staff was not held accountable but things have improved as staff are now accounting for their actions. Lack of accountability is a symptom of reduced public confidence in a state institution as citizens have vested interest on how and for what are their taxes being spent for. Participant C (Interview, September 03, 2013) further mentioned that lack of accountability by LPT resulted in accumulated unauthorised expenditure and high overdraft. This meant that officials kept on spending money that the Province did not have without them being brought to account for spending beyond the Provincial means.

Governance structures including Provincial Legislature and its Portfolio Committees i.e. SCOPA should ensure that LPT account for its actions to the public. Bringing people to account reduces corruption and fraud activities while instilling confidence to the citizens that the Department is rendering services as expected. Political leaders should take a lead role and take decisive decisions in ensuring that officials are always brought to account.

This finding of lack of accountability is in line with what Uregu Ile (2010: 55) had established that lack of accountability by the Department as a whole invite punitive measures by Parliament. In addition to notable lack of accountability by LPT staff prior to section 100 (1) (b) Constitutional intervention, the Office of the AG (Interview, September 11, 2013) had found that lack of accountability had taken a new form in LPT. The fact that there were no guidelines on who should be accountable, whether MEC should still account to SCOPA or the Minister on the virtue that he assumed executive powers of LPT, these complexities created loopholes in terms of accountability matters. Breakdown in communication between section 100 (1) (b) administrators and the Provincial executives as well as LPT also meant that section 100 (1) (b) administrator could not account to the governance structures of the Province such as SCOPA and EXCO.

The guidelines on how section 100 (1) (b) and 1 (a) should be implemented should be very comprehensive in such that it outlines the reporting lines on who is accountable to who. Breakdown in accountability mechanisms create a loophole for corruption and disintegrate the public from getting answers on failed projects and expenditures not in line with the PFMA provisions.

## **5.5. Shared Ownership of the Plans, Programmes and Recovery Projects**

Despite many of the challenges negatively affecting the success of section 100 (1) (b) such as negative attitude towards each other and lack of skills and capacity, the teams agree on what needs to be done to take LPT into the next level. This is due to the fact that the focus group had mentioned that most of the recovery projects implementing by section 100 (1) (b) team had been there before but were not consistently implemented or were not implemented in its entirety. Further to that, the AG had also mentioned that the section 100 (1) (b) team is implementing good strategies that are sustainable and it is up to LPT staff members to embrace the recovery projects to ensure that the Department is back to normal like any other Provincial Treasuries.

Of concern is the fact that the focus group respondents felt that LPT is ready to continue on its own wherein individual respondents which was dominated by section 100 (1) (b) team are adamant that LPT is not ready to carry on its own and their departure may reverse and result in regression of most of the gains. Positive elements in this is the fact that they agree on the recovery projects that should be implemented to sustain the gains of the section 100 (1) (b) and ensure that LPT functions normally to support the departments, municipalities and public entities. On a short term evaluation of section 100 (1) (b), the team did not achieve its intended objectives of eliminating the overdraft of R2, 7 billion as it still stand at R1, 4 billion but with positive vision and optimism of both individual respondents and focus group in terms of the recovery projects, the team will achieve its objectives. This should be determined looking at the future possibilities particularly when one looks at what they were able to achieve within a space of two years wherein they were able to clear the overdraft by R1, 3 billion. This is because the overdraft was accumulating and one can argue that in their absence, the overdraft might have grown to more than R3 billion particularly because the warning signals informed section 100 (1) (b) was the fact that LPT requested additional overdraft.

#### **5.6. Effectiveness of the Programmes and Recovery Projects Implemented by Section 100 (1) (b) Team**

Section 100 (1) (b) Constitutional intervention has created a sense of financial discipline and had led to improvements in areas of financial management, supply chain processes, and spending that is in line with the budget and this view was shared by all the research participant. AG (Interview, September 11, 2013) mentioned that section 100 (1) (b) administrators had stabilised the financial situation in Limpopo by reinforcing austerity measures in a form of Circular 1 of 2012 as well as reducing unauthorised expenditure by R1, 3 billion and improving procurement processes through central procurement of popular and common goods and services.

According to Participant A (Interview, August 01, 2013) and Participant E (Interview, September 03, 2013) officials who failed to account on the financial decisions taken

including neglecting and deregulation of duties were held accountable by taking disciplinary steps against them. This serves as an eye opener to all the staff to take full responsibility of their roles and responsibilities. Participant D (Interview, September 03, 2013) mentioned that prior to section 100 (1) (b) Constitutional intervention, LPT was making frequent payments twice per week without reconciling available cash against budget. LPT did not attend to the accumulated unauthorised expenditure of R2, 7 billion which was increasing annually with no steps taken to address it. However, section 100 (1) (b) administrators issued allocation letters and payment schedule to all the departments indicating payment dates and cash available so that departments can no longer spend more than they have. This practice still exists today and has surely assisted in eliminating overdrawing of the PRF account and ensured that departments do not spend more than they have. Most of the participants agrees that the plans, strategies and recovery projects implemented by section 100 (1) (b) are effective, however, this will greatly depend on the people that will take over from section 100 (1) (b) team in driving the vision and mission of LPT. Employment of skilled personnel and PBL will certainly contribute positively towards sustaining the recovery projects as Participants C & D argue (Participant C, Interviewed; August 07, 2013; & Participant C, Interviewed, September 03, 2013 respectively).

Audit assistance programme should also be utilised to pass skills to the LPT staff to enable them to support the departments, public entities and municipalities. Participant F (Interviewed; September 11, 2013) confirmed that this is a good programme but LPT did not ensure that the SLA contains passing of skills by PWC and Rakoma which should be reviewed to ensure skills development to LPT staff. Good as they are confirmed to be, the continued effectiveness of the recovery projects are largely depending on the LPT staff not the section 100 (1) (b) intervention team as LPT staff will in future have to own and implement the projects without the section 100 (1) (b) intervention team. The research has revealed that the recovery projects are, in a long run, very effective but will mostly need ownership and acceptance of the LPT staff which so far had shown positive and warmth welcome of the recovery projects.

## 5.7. SUMMARY

Analysis of the section 100 (1) (b) Constitutional Intervention in LPT reveals that the Department did not perform its duties as stipulated in Section 18 of the PFMA. However, there are mixed views on the nature of assistance required to assist the Department to move out of the financial disparities plagued the Province though the data confirms that problems existed and in one way or the other intervention or extreme support was needed. Section 100 (1) (b) administrators had, according to the analysis above, made notable improvement that one cannot ignore in particular around instilling a sense of financial discipline and accountability to the staff members.

Moving from the assumption that the solutions, plans and strategies implemented by section 100 (1) (b) administrators are sustainable, there is probability that the plans and strategies implemented might not be adequate enough to fully rescue the Province from the financial crisis. This is merely because the entire unauthorised expenditure of R2, 7 billion was not entirely cleared and instead it is growing which means that the plans to prevent unauthorised expenditure might be having some weaknesses.

The analysis above also proved that LPT lacks technical skills to support departments, municipalities and public entities as stipulated in section 18 of the PFMA. Current plans to develop skills and build capacity are only targeting senior management staff which is a concern because Managers and lower level staff are responsible for implementing almost 90% of the APP of the Department. The only known and revealed plan to develop skills and capacity is PBL. Other known and revealed skills and capacity development plans also target non-permanent employees of the Department who are currently doing Internship for a period of 12 months. The programme is led by PWC with a hope that the Interns might be absorbed by the Department which is not guaranteed that interns might be absorbed given the fact that one of the finding was that the Human Resource structure of LPT was too big.

## CHAPTER SIX

### CONCLUSION AND RECOMMENDATIONS

#### 6.1. Introduction

For the first time since the democratic dispensation in 1994, the National Government has exercised its Constitutional powers by taking drastic measures of Intervening in LPT. This saw four other departments within Limpopo Province being put under section 100 Constitutional Intervention namely; Roads and Transport; Education; Health; and Public Works. The intervention involved taking both the executive powers of the MEC and the Administrative powers of the HOD of LPT. By taking the powers, National Government was able to act speedily in identifying problems and challenges for coming up with implementable solutions. Section 100 (1) (b) administration was able to assist LPT in a number of issues including strengthening of controls in various areas such as Procurement and Supply Chain, Asset Management, Compliance, Infrastructure, and Data and Records.

However, section 100 (1) (b) administration did not succeed fully in assisting LPT to fully clear the unauthorised expenditure of R2, 7 billion which was instrumental for the implementation of section 100 (1) (b) in LPT by National Government. As at end of May 2013, the unauthorised expenditure was only cleared with R1, 3 billion and a balance of R1, 4 billion is yet to be cleared. Alternative plans might be needed including additional funding on the baseline to both the Limpopo Departments of Education and Health to resolve the unauthorised expenditure once and for all (Provincial Rollover Allocations for 2013/14 Financial Year 2013).

The aim and purpose of the research was to explore and establish if the implementation of section 100 (1) (b) Constitutional Intervention assisted LPT to solve the financial disparities plagued the Province. The purpose was to further analyse and determine whether the solutions and improvement plans and strategies implemented by the section 100 (1) (b) administrators are sustainable to keep the Province of Limpopo going beyond the National Government Intervention period.

The research was a case study based on LPT with the main focus on assistance received and the sustainability of the plans and improvement strategies implemented. Three main questions were answered to gather data which includes firstly; did Section 100 (1) (b) Constitutional Intervention assisted LPT to move out of the financial disparities and crisis plagued the Province of Limpopo? Secondly; are the solutions, plans and strategies implemented by Section 100 (1) (b) Constitutional Intervention team of Administrators sustainable to keep the Province of Limpopo going beyond National Government intervention? And thirdly; is Section 100 (1) (b) Constitutional Intervention a best strategy to resolve Intergovernmental Relations problems? It is worth noting that in an attempt to triangulate the data, the sub-questions to the above three main questions were modified based on the gaps identified. The sub-questions were slightly modified during the focus group interviews and during the Interviews with the AG.

## **6.2. Synopsis of the Previous Chapters**

Chapter 1 introduced the topic of the research and provided the background of the research and problems affecting LPT. From the background highlighting problems in Limpopo Treasury, problem statement was identified outlining that it is unknown if section 100 (1) (b) Constitutional Intervention is indeed assisting LPT to move out of the financial disparities. The main purpose of the research was also outlined in this chapter which gave path to the three main research questions used to collect data. Lastly, significance of the research was also highlighted arguing for the importance of this study.

Chapter 2 presented and analysed the existing literature pertaining to Section 100 Constitutional Intervention as well as Intergovernmental Relations. It was in this chapter that fundamental concepts underlying this study were identified which includes synergising of policies across all spheres of government amongst others. The Chapter on literature review also assisted the researcher to demarcate the research topic presenting itself as a unique researchable area.

Chapter 3 introduced the research paradigm applied which is a mixed research paradigm of qualitative and quantitative research paradigms. The chapter further outlined research design for the study in which the research is a case study design focusing on LPT. The sampling of the data was haphazard or convenience and purposive sampling. In addition, primary and secondary data collection was mainly in a form of individual and focus group interviews for primary data collection and available soft and hard copies of reports, articles amongst others for secondary data collection.

Chapter 4 which is mainly one of the important chapters in any research presented the data collected from both primary and secondary sources. Data was presented as per guidelines mentioned in Chapter 3 wherein data collected from individual interviews was presented followed by data collected from focus group and AG was interviewed to triangulate the data collected. However, reports of both LPT and AG assisted during presentation of the data in order that the analysis of the data can be tested using different reliable sources as part of data triangulation. Different themes were used to present the data in terms of the data collected.

Chapter 5 mainly focused on analysing the data presented in chapter 4. New themes were used to analyse the data based on what has emerged during data presentation in order that sense and meaning can be created out of the data presented. Analysis of the data helped the researcher to test the data collected against the existing literature wherein it emerged that section 100 (1) (b) Constitutional Intervention had assisted Limpopo Treasury in certain areas that were not part of the Intervention Plan but had not been successful in entirely clearing the unauthorised expenditure of R2, 7 Billion.

### **6.3. Summary**

During the research study, three main issues emerged which will assist the researcher in drawing general conclusion namely, limited research and inadequate analysis of the problems in LPT; Negative attitude by both section 100 (1) (b) administrators and LPT staff; Lack of Guidelines on how section 100 (1) (b) Constitutional Intervention must be coordinated.

### 6.3.1. Inadequate Research and Poor Analysis of the Problems in Limpopo Treasury

National Government decided to intervene in LPT within a short space of time after the problem had grown rapidly that urgent action needed to be taken though In-year Monitoring reports and other kind of reports were continuously sent to National Treasury even before. The magnitude, nature and scope of the problems were only realised after some time when they were already in LPT. The Diagnosis report shows that most of the problems were identified in collaboration with some of LPT staff who were cooperative and honest enough to provide information to the section 100 (1) (b) administrators.

In addition Participant D (Interview, September 03, 2013) confirmed that they had to rely on internal LPT staff to identify most of the problems outlined in the diagnosis report. With this in mind, it is safe to assume that the basis for intervening in LPT was the overdraft of R2, 7 billion which was a symptom for systems failure and breakdown in controls around cash and banking in the Department. Of concern is the fact that LPT had never stopped reporting to National Treasury about its challenges and opportunities but the problem was allowed to grow until it warranted intervention. Perhaps what needs to be understood is:

- a) Was LPT honest enough in its reporting to National Treasury including reporting on In-Year Monitoring Reports, or,
- b) National Treasury did not take seriously problems of LPT and were only surprised when the problems threatened salaries of Teachers, Nurses, Doctors, Service Providers, Public Servants, e.t.c. or,
- c) National Treasury had its own capacity challenges to thoroughly analyse the reports received for appropriate advice and support.

However, AG, focus group, and some of the individual interview participants mentioned that National Treasury had also failed to exercise its oversight role over LPT and this could be attributed to lack of skills and capacity. From the data

collected, it is apparent that problems in LPT were more than unauthorised expenditure of R2, 7 billion as controls in various critical financial management areas were not adequate.

Inadequate knowledge about the problems result in uninformed decisions and the results may in some instances be worse than the current situation. The fact that the overdraft was not fully cleared and had also been growing clearly assumes that time had also been spent on other areas not initially part of the Intervention plan.

### **6.3.2. Negative Attitude by Section 100 (1) (b) Administrators and LPT Staff**

All the participants confirmed that there was negative attitude between LPT staff and section 100 (1) (b) administrators which might be normal but becomes a problem when the attitude extent to the full cycle of the intervention period. Some of the participants mentioned that section 100 (1) (b) administrators had negative attitude and did not involve or recognize LPT staff when making major decisions and introducing recovery plans and projects. On the other hand, some participants mentioned that LPT staff had negative attitude towards section 100 (1) (b) administrators and are resistant to change.

The improvement process on managing finances being implemented is incremental in nature and major issues will evolve around skills, routines and beliefs of the employees concerned. Both individual and organisational culture becomes critical as common way of doing things makes people comfortable. Improvements and changes that affect organisational culture should be effected with careful consideration as disregarding culture may negatively affect the recovery projects being implemented.

According to Boonstra & Gravenhorst (1998: 100) Position power model of change and improvement is characterised by a leader with legitimate power to impose organizational change. Power-coercive strategies are used to take decisions and all other employees are excluded coupled with a belief that any actions taken by the

employees to challenge the recovery process is considered as a resistance to change. This is exactly the situation in LPT wherein National Government sent a team of experts to drive improvement and changes on finances are being managed led by Chief Administrator with legitimate power to effect organisational change.

Conversely, Fernandez & Rainey (2006: 169) mentions that creating a vision encompassing an image or picture of what the future looks like should the vision being achieved is one of the greatest persuasions for change to all the stakeholders. AG and focus group as well as few individual participants mentioned that there was breakdown in communication which adversely affected the whole process and staff started to take decisions based on assumptions due to poor information dissemination. According to focus group, the diagnosis report and recovery projects plans were never communicated to all staff members to contextualise their visions so that all LPT staff can adopt and own the vision. The impact is that the staff does not see a need for recovery and improvement process given that this has not been communicated to them and they were not even informed of the vision nor involved to participate in change process.

According to the Constitution of the Republic of South Africa (1996) section 100 (1) (b), intervention may last for 180 days or six (6) months and may be extended for a further period through NCOP. However, in case of LPT section 100 (1) (b) intervention had spent approximately two years and the problem had not been fully fixed which clearly shows that new other problems were encountered including resistance to adopt recovery projects by LPT staff which was not managed effectively.

### **6.3.3. Lack of Guidelines on how Section 100 (1) (b) Constitutional Intervention Operate**

At the time of finalising this research report, the Department of Cooperative Governance and Traditional Affairs (COGTA) was in the process of presenting a bill to the parliament on how section 100 1 (b) and 1 (a) including all other Human

Resources issues mentioned above should be coordinated. The bill will clearly clarify many ambiguities that affected negatively the coordination of the intervention process. For instance, OTP in Limpopo has powers to instigate and coordinate disciplinary hearings within Limpopo Provincial Administration and this often clashed with section 100 administrators on how to handle and deal with disciplinary matters as they expected DPSA to manage the entire process. This saw both the Premier of Limpopo and the Chief Administrator exchanging media statements on the processes around handling of the disciplinary processes within the departments under section 100 constitutional intervention.

The new guidelines will need to take into account lessons learnt from LPT as well as addressing power dynamics. It is safe to conclude that lack of guidelines had partly affected the achievement of the section 100 Intervention plans in LPT in that the reporting lines were not fully defined resulting in LPT under spending its main vote by R33 million for the financial year 2011/12 after the arrival of section 100 administrators. This was mainly because programme managers could not commit themselves on financial decisions and equally section 100 (1) (b) administrators were still new in the Department and could not approve for projects they are not familiar with. Lastly, in a situation where the reporting lines are not adequately defined, accountability can easily be evaded as the question of who should bring who to account remains unresolved.

## **6.4 RECOMMENDATIONS**

To address the findings of this study, this research project is putting forward the following recommendations:

### **6.4.1. Absolute Review of Provincial Treasuries**

Given the legislated mandate of Provincial Treasuries and the role they play in each respective Province, Provincial Treasuries should be reviewed in terms of

establishment and powers they enjoy. Reporting and accountability lines of Provincial Treasuries should be reviewed to either report directly to National Treasury as Regions of National Treasury or review their legislative establishment to confer more powers to them over all other departments on areas pertaining to its mandate.

Although Section 18 of the PFMA confer powers to Provincial Treasuries to do anything further that is necessary to perform its duties including withholding of funds of any Department, the MEC of any Provincial Treasury is still subjected to account to EXCO or provincial cabinet wherein the decisions of the Provincial Treasury can still be reversed by the Council chaired by the Premier. Alternatively, National Treasury and all Provincial Treasuries should be established under Chapter 9 Constitution of the Republic of South Africa to operate more independently from cabinet and report directly to Parliament like Auditor General, Public Protector e.t.c.

#### **6.4.2. Partnership with Institutions of Higher Learning and recognised Professional Bodies**

LPT should partner with institutions of higher learning and recognised professional bodies to ensure Continuous Professional Development (CPD) to all the staff members. The study has revealed that the Department lack skills and competence with no plans to ensure CPD amongst its staff. The role and mandate of LPT is highly specialised and without continuous development plans in place, the Department is likely to fail again or losses it's knowledgeable and competent staff to institutions that value and appreciate their staff.

Partnership with institutions of higher learning and professional bodies will also ensure the influx of qualified graduate in the Department and also establish learning and capacity development programmes for the staff with the professional bodies and institutions of higher learning. Establishment of a relationship with the Universities should not be informed by the locality of the University, but quality education and

good research on finance field should inform the partnership. The role of Treasuries are not oriented to provide services directly to the public, but to coordinate fiscal policy and support to the departments, public entities and municipalities. As a result, adequate budget should be reserved for skills development, training and capacity building to staff members while ensuring that there is influx of highly skilled personnel and qualified graduates. Without this LPT cannot be able to support the departments, municipalities and public entities more effectively and efficiently thus, similar problems prompted section 100 (1) (b) Constitutional intervention may still occur in the near future.

#### **6.4.3. Improving Accountability**

Failure to account for your own actions means that something bad or wrong might have been done which undermines democracy and the will of the people. Both National Treasury and Provincial Legislature need to raise awareness on the importance of accountability to the LPT staff. Furthermore, the recovery projects of section 100 (1) (b) administrators should be linked to the performance of the key officials responsible for the implementation of the recovery projects.

Accountability should not only be driven by governance structures such as EXCO, SCOPA, and other Portfolio Committees, management should drive accountability to their subordinate with punitive measures put in place. Lastly, accountability should not be an event driven activity, it should be continuous and staff should be sensitised about work ethics and good practices on a regular basis. Improving accountability will motivate and ensure commitment by the staff members thus will be more cautious against fraud and corruption resulting in overall improved performance.

The Speaker of the Provincial Legislature and the Chair of Chairs should be more vigilant about the work and performance of the Portfolio Committees. SCOPA should account on poor performance or backlogs and poor performance should be dealt with in accordance with the prescripts. Lastly, National Treasury should account on the nature and impact of support provided to the Provincial Treasuries. Parliament

should not neglect the support of Provincial Treasuries by National Treasury on the basis that there are Provincial Structures such as Portfolio Committees to deal with matters relating to Provincial Treasuries.

## **6.5. Recommendations to Future Researchers**

Literature on section 100 Constitutional intervention remains limited and research on this area is fundamental to accumulate knowledge in this area. Intergovernmental Fiscal Relations was narrowly researched but its correlation and relationship to section 100 constitutional intervention has not been researched. Further research is required in this area to commemorate the momentum and the attention it gains. It is on the basis of the above findings that researchers and research institutions should conduct research on the following area:

- a) Impact of Constitutional Intervention as opposed to ordinary legislated support to curb corruption, and
- b) The use of section 100 constitutional intervention to create synergy to Provincial and National Policies.

## **6.6. CONCLUSION**

This research aimed at establishing if section 100 (1) (b) Constitutional intervention assisted LPT to improve and resolve its overdraft problems. An analysis of the nature of assistance, plans, strategies and programmes applied to resolve the problems was conducted. The study was motivated by contradictory media statements between Minister of Finance and the MEC of LPT regarding intervention in LPT and to four other departments. Although it was found that section 100 (1) (b) Constitutional intervention had made improvement in certain areas such as building good control systems, processes and procedures, the team has not been successful in clearing the unauthorised expenditure of R2, 7 billion which was central to the intervention decision.

Mixed research paradigms namely qualitative and quantitative research paradigms where applied to conduct the research and the research design focused on LPT as a case study. Although the research was not aimed at investigating the nature of support and oversight role of both National Treasury and Limpopo Legislature, the research revealed that both the institutions had failed in exercising their oversight role over LPT.

In addition, the review of the relevant literature had revealed that section 100 constitutional intervention should mainly aim at restoring best financial management practice and importantly build skills and develop capacity. However, the study has found that skills and capacity development targeted SMS staff in a form of PBL which meant that MMS and lower level staff will not benefit from the skills and capacity development plans implemented. This poses a risk of reversing the gains of the section 100 (1) (b) Constitutional intervention as top management are mainly not responsible for operational matters which is largely performed by MMS and lower level staff.

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# APPENDICES

## Appendix 1: Individual Participant Information Sheet

Research Topic: Section 100 1 (B) Constitutional Intervention in Limpopo Provincial Treasury.

Dear research participant

The researcher at the Graduate School of Public and Development Management of the University of Witwatersrand is appealing for your assistance by availing yourself for an individual interview.

I'm currently conducting a research study with the aim of exploring and establishing if the arrival of Section 100 1 (b) Constitutional Intervention team assisted Limpopo Provincial Treasury to solve the financial disparities plagued the Department. The Purpose is to further determine if good relationship exists between Section 100 1 (b) administrators and Limpopo Provincial Treasury team which is crucial for skills transfer and capacity building.

You are kindly requested to answer a set of unstructured questions by the researcher. The researcher will ask you questions in relation to the topic and you are required to provide more detailed answers to the questions. The researcher may also ask clarity seeking questions to get more information.

Your answers will be tape recorded on your permission.

Your rights as a participant, including the right to withdraw at any time without penalty, are guaranteed. You can leave the study, or ask for a break, at any stage.

You are requested not to disclose any instances of corruption that you know of, as the information you provide is not protected from any legal process that might occur.

The researcher may publish the findings of the research in peer reviewed journals or present them in conferences. Your anonymity is guaranteed and your confidential information cannot be disclosed.

For further information, please do not hesitate to contact M.E Mogofe on: 082 813 8689 or (015) 298 7194.

If you have any question, please ask them now. You are kindly requested to sign the attached consent form for participation in the research.

Yours sincerely

Mokgethwa Emmanuel Mogofe: Wits University Student

Dr. Ivor Sarakinsky: Study Supervisor, University of the Witwatersrand

## **Appendix 2: Participant Consent Form: Individual Interviews**

Title of the Research Project: Section 100 1 (B) Constitutional Intervention in Limpopo Provincial Treasury.

Researcher: Mokgethwa Emmanuel Mogofe

Researcher's contact details: Mobile: 082 813 8689 or (015) 298 7194

Student No: 580009

Dear research participant

Please read and sign the form below as consent to be interviewed.

### **Consent:**

- i. I agree to participate in the above research study. I have read the Participant Information Sheet, which is attached here to this form.
- ii. I understand what my role will be in this research, and all my questions have been answered to my satisfaction.
- iii. I am satisfied with the instructions I have been given so far and I may request further information at any stage of the research project.
- iv. I understand that I am free to withdraw from the research interview at any time, for any reason and without prejudice.
- v. I understand that I have the right not to be tape recorded if I so wish.
- vi. I have been informed that anonymity will be used in research report, but confidentiality of the information I provide will not be guaranteed if I provide my full details.
- vii. I am free to ask any questions at any time before, during and after the study.
- viii. I have been provided with a copy of this form and the Participant Information Sheet.
- ix. I have not been coerced in any way to participate in this study.
- x. I was warned not to disclose any instances of corruption that I know of, as the information that I provide is not protected from any legal process that might occur.

**Data protection:** I agree to the researcher and the University of the Witwatersrand processing personal data that I have supplied. I agree to the processing of such data for any purposes connected with the research project as outlined to me.

Name of participant.....Signed.....Date.....

Name of Researcher.....Signed.....Date.....

## **Appendix 3: Individual Interview Questions**

### **Introductory questions**

1. Which department are you working for?
  2. What is your position in the department?
- A. To what extent did Section 100 1 (b) Constitutional Intervention assisted Limpopo Provincial Treasury to move out of the financial disparities and crisis plagued the Province of Limpopo?**
1. What is your understanding of Section 100 Constitutional Intervention?
  2. Are you involved in the Section 100 Constitutional intervention in Limpopo Treasury?
  3. What are the reasons led to Section 100 interventions at Limpopo Provincial Treasury?
  4. What do you think are the main challenges facing the Limpopo Provincial Treasury? How might they be addressed?
  5. Have you observed any difficulties facing the team carrying out the Intervention? If yes, what are they and have they been resolved?
  6. What was corporate and financial practice like before the Intervention? Has the situation improved / stayed the same?
  7. Has the Intervention led to changes in the Department's budget? If so, what are the possible implications?

**B. Are the solutions, plans and strategies implemented by the Section 100 1 (b) Constitutional Intervention team of Administrators sustainable to keep the Province going beyond the National Government intervention period?**

1. Have you observed any resistance to the Intervention from Departmental officials? How were they addressed?
2. Were any programmes, plans, and strategies of the Department reviewed and amended by the Intervention team? If yes, What are those and how?
3. Were any new programmes, plans and strategies proposed and implemented by the Intervention team?
4. If any new plans and programmes were proposed, are they sustainable and are existing staff supportive of them?

**C. Is Section 100 Constitutional Intervention a best strategy to resolve Intergovernmental Relations problems?**

1. Besides a Section 100 Intervention, are there other mechanisms available to address the challenges facing the Department?
2. Does the Department have sufficient skills and capacity to implement the recommendations, if any, of the Intervention team?
3. Do you think that the Department will operate effectively after the departure of the Intervention team?

## **Appendix 4: Group Focus Interview Participants Information Sheet**

Research Topic: Section 100 1 (B) Constitutional Intervention in Limpopo Provincial Treasury

Dear research participant

The researcher at the Graduate School of Public and Development Management of the University of Witwatersrand is appealing for your assistance by availing yourself for an individual interview.

I'm currently conducting a research study with the aim of exploring and establishing if the arrival of Section 100 1 (b) Constitutional Intervention team assisted Limpopo Provincial Treasury to solve the financial disparities plagued the Department. The Purpose is to further determine if good relationship exists between Section 100 1 (b) administrators and Limpopo Provincial Treasury team which is crucial for skills transfer and capacity building.

You are kindly requested to answer a set of unstructured questions by the researcher. The researcher will ask you questions in relation to the topic and you are required to provide more detailed answers to the questions. The researcher may also ask clarity seeking questions to get more information.

Your answers will be tape recorded on your permission.

Your rights as a participant, including the right to withdraw at any time without penalty, are guaranteed. You can leave the study, or ask for a break, at any stage.

You are requested not to disclose any instances of corruption that you know of, as the information you provide is not protected from any legal process that might occur.

The researcher may publish the findings of the research in peer reviewed journals or present them in conferences. Your anonymity is guaranteed and your confidential information cannot be disclosed.

For further information, please do not hesitate to contact M.E Mogofe on: 082 813 8689 or (015) 298 7194.

If you have any question, please ask them now. You are kindly requested to sign the attached consent form for participation in the research.

Yours sincerely

Mokgethwa Emmanuel Mogofe: Wits University Student

Dr. Ivor Sarakinsky: Study Supervisor, University of the Witwatersrand

## **Appendix 5: Participants Consent Form: Group Focus Interview**

Title of the Research Project: Section 100 1 (B) Constitutional Intervention in Limpopo Provincial Treasury

Researcher: Mokgethwa Emmanuel Mogofe

Researcher's contact details: Mobile: 082 813 8689 or (015) 298 7194

Student No: 580009

Dear research participant

Please read and sign the form below as consent to be interviewed.

### **Consent:**

- xi. I agree to participate in the above research study. I have read the Participant Information Sheet, which is attached here to this form.
- xii. I understand what my role will be in this research, and all my questions have been answered to my satisfaction.
- xiii. I am satisfied with the instructions I have been given so far and I may request further information at any stage of the research project.
- xiv. I understand that I am free to withdraw from the research interview at any time, for any reason and without prejudice.
- xv. I understand that I have the right not to be tape recorded if I so wish.
- xvi. I have been informed that anonymity will be used in research report, but confidentiality of the information I provide will not be guaranteed if I provide my full details.
- xvii. I am free to ask any questions at any time before, during and after the study.
- xviii. I have been provided with a copy of this form and the Participant Information Sheet.
- xix. I have not been coerced in any way to participate in this study.
- xx. I was warned not to disclose any instances of corruption that I know of, as the information that I provide is not protected from any legal process that might occur.

**Data protection:** I agree to the researcher and the University of the Witwatersrand processing personal data that I have supplied. I agree to the processing of such data for any purposes connected with the research project as outlined to me.

Name of participant.....Signed.....Date.....

Name of Researcher.....Signed.....Date.....

**TOPIC: SECTION 100 CONSTITUTIONAL INTERVENTION IN LIMPOPO PROVINCIAL TREASURY**

**GROUP FOCUS INTERVIEW: 05 SEPTEMBER 2013**

**Appendix 6: Participants Consent Form: Group Focus Interviews - Attendance Register**

<b>No.</b>	<b>NAME &amp; SURNAME</b>	<b>SIGNATURE</b>	<b>INSTITUTION / DEPARTMENT</b>	<b>DIRECTORATE / BRANCH</b>	<b>DESIGNATION / RANK</b>
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					

## **Appendix 7: Group Focus Interview Questions**

### **Introductory questions**

3. Which department are you working for?
4. What is your position in the department?

### **D. To what extent did Section 100 1 (b) Constitutional Intervention assisted Limpopo Provincial Treasury to move out of the financial disparities and crisis plagued the Province of Limpopo?**

8. What is your understanding of Section 100 Constitutional Intervention?
9. Are you involved in the Section 100 Constitutional intervention in Limpopo Treasury?
10. What are the reasons led to Section 100 interventions at Limpopo Provincial Treasury?
11. What do you think are the main challenges facing the Limpopo Provincial Treasury? How might they be addressed?
12. Have you observed any difficulties facing the team carrying out the Intervention? If yes, what are they and have they been resolved?
13. What was corporate and financial practice like before the Intervention? Has the situation improved / stayed the same?
14. Has the Intervention led to changes in the Department and/or Provincial budget? If so, what are the possible implications?
15. Other than financial aspects, what else do you think are the compelling reasons for intervention by the National Government?

**E. Are the solutions, plans and strategies implemented by the Section 100 1 (b) Constitutional Intervention team of Administrators sustainable to keep the Province going beyond the National Government intervention period?**

5. Have you observed instances of cooperation or resistance to the Intervention from Departmental officials? How were they addressed?
6. Were any programmes, plans, and strategies of the Department reviewed and amended by the Intervention team? If yes, What are those and how?
7. Were any new programmes, plans and strategies proposed and implemented by the Intervention team?
8. If any new plans and programmes were proposed, are they sustainable and are existing staff supportive of them?

**F. Is Section 100 Constitutional Intervention a best strategy to resolve Intergovernmental Relations problems?**

4. Besides a Section 100 Intervention, are there other mechanisms available to address the challenges facing the Department?
5. Does the Department have sufficient skills and capacity to implement the recommendations, if any, of the Intervention team?
6. Do you think that the Department will operate effectively after the departure of the Intervention team?
7. What have you learnt from the intervention team and what do you think is mostly an eye opener from the intervention process?
8. How do you think Section 100 Constitutional Intervention has achieved its purpose and objectives in Limpopo Treasury?