

Ethical and Moral Norms in Governmental Relations

The Significance of Norms

In the previous chapter attention was paid to the administrative process and the manifestation of the generic administrative functions within the context of governmental relations. The discussions have indicated that governmental relations have so far centred mainly on the institutionalised legal aspect. Despite the fact that this approach is extremely important and also fundamental, the analysis and study of governmental relations should include investigations in other decisive fields, notably in regard to the processes of interaction between governmental units. This aspect is vitally important and will be dealt with later. At this stage, however, it is important to note that all aspects of governmental relations, with the exception of institutionalised legal aspect referred to above, needs must take account of the human being as the holder of political office or the official responsible for implementing the legislature's directives and decisions. And wherever the human element is involved, human behaviour and actions naturally also come into play.

Normative requirements in the field of public administration were developed during the course of many years and are applicable to virtually all circumstances in the administrative process. These norms were changed and adapted as time went on and eventually culminated in a number of identifiable, fundamental ethical or moral guidelines. It is particularly important to follow these guidelines in the interests of establishing and maintaining effective governmental relations. Whereas governmental bodies are established by acts of law, the interpretation and application of the law rests in the hands of appointed and elected public functionaries (Hanekom & Thornhill 1983:57). The ethical and moral actions of these functionaries thus play a decisive role in governmental relations, and moral choices are generally recognised as a decisive factor in the success or failure of the most critical aspects of government (Stillman 1980:429). In this context, there may be a great deal of truth in Chester Barnard's statement

that successful administration's success depends on the ability to resolve the various ethical requirements of government, since the majority of important public issues may to a large extent be regarded as ethical issues (Barnard 1938:272).

Identifying behaviour as ethical and unethical naturally constitutes a problem. From Machiavelli's writings, for example, the conclusion appears justified that an evil deed (such as lies or corruption) may be morally justified provided that it is in the interests of society (Hattingh 1984:41). This merits the conclusion that ethical behaviour is the result of a choice between alternative options, say a choice between public interest, institutional interests or personal interests.

Ethical or behavioural rules are frequently encountered in governmental bodies and apply to matters such as reporting for duty late, abuse of sick leave benefits and similar irregular practices. These ethical rules (or codes of conduct) are not considered to be of minor importance but are nevertheless not fundamentally essential in a macro sense, and are not included in this discussion. The norms discussed in this chapter are of fundamental importance in public administration, especially in the study of governmental relations. The various normative requirements are well known to students of Public Administration.

Five basic norms have been identified and they will be dealt with under the following headings:

- Deference to political supremacy
- Public accountability
- The promotion of efficiency
- Fundamental requirements of administrative law
- Respect for community values.

4.2

Deference to Political Supremacy

Political and legal authority is vested in a country's highest elected legislative body, which discharges duties entrusted to it by the electorate, to whom it is accountable. In a unitary state, the supreme authority is vested in

parliament. All other governmental bodies derive their authority from this source and are in all respects subject to parliamentary authority.

By means of the devolution of power (as previously discussed), parliament establishes subordinate governmental bodies and assigns power to them to enable them to effectively discharge the functions for which they are responsible. This means that each governmental body in its own sphere of influence is empowered to make decisions, and represents the supreme political authority within its particular field of authority. Hence a local authority is the supreme political authority within its area of jurisdiction, while even quasi-governmental institutions (such as Eskom) are endowed with supreme political authority within the sphere of their relative field of responsibility or activity, subject to the overall power of the supreme governmental body.

In discharging its duties as the supreme authority, parliament may assign tasks to bodies which it deems necessary to establish and, as previously explained, may exercise authority over such bodies within the framework of the administrative process. Once such bodies have been established by the policy decisions and actions of the legislature, the latter assigns to each of these bodies the necessary powers and duties to fulfil their functions. The legislature also ensures that the necessary sources of income required by such bodies are made available, provides such bodies with the necessary facilities to appoint personnel, institutes procedural measures if necessary and, above all, makes provision for the necessary control measures to ensure that tasks assigned to subordinate governmental bodies will be performed in accordance with the legislature's directives.

4.2.1

The Demonstration of Authority

In the course of the legislature's task of establishing subordinate bodies of authority and allocating the necessary facilities to enable these bodies to function effectively, the legislature demonstrates its legal and political authority over the bodies so established. Hence by implication the legislature is empowered not only to establish but also to dissolve such bodies. This means that the legislature is also empowered to repeal its own decisions, thereby amending the structure of or dissolving such bodies. In view of the establishment of a comprehensive structure of authority to

perform the state's task, it is clearly an indispensable ethical requirement that the legislature, in order to establish effective authority, should for all practical and legal purposes be accepted and *recognised as the supreme political authority endowed with the abovementioned powers and authority*. In the absence of this requirement, orderly government cannot be guaranteed. Deference to the supreme political authority also simultaneously constitutes acceptance of the legislature's *bona fides*, in that it is accepted that whatever the legislature does will be done for the sole purpose of realising the state's objective, which is to promote the welfare of the community.

What are the implications of this ethical requirement of deference to political supremacy in respect of governmental relations? In the first instance, every political office-bearer and official and every governmental body (in so far as it is a corporate body) must recognise and accept the supreme political authority as the source of all power vested in them and also accept that they cannot create any additional power for themselves save by the authority of the supreme political power.

In the second instance, respect for the supreme political authority is indicative of a reciprocal relationship between all governmental bodies and of the fact that the integrated efforts of all governmental bodies are required to enable the supreme political authority to achieve its objectives.

4.2.2

Bargaining and Negotiation

Schulz was quoted in a previous chapter as stating that the attribute of power depended on the *ability* to exercise authority rather than in actually doing so. This opens up various options for subordinate bodies, who may opt for slavish compliance, avoidance, circumvention, evasion and may even disregard the instructions of the supreme political authority which, in turn, has the discretion of utilising its position of power to request or enforce specific compliance. This effectually means - particularly where specific compliance is not summarily enforced - that governmental bodies frequently find themselves in a more or less negotiating position with the legislature. Since political office-bearers and officials naturally play an important role in such negotiations, the ensuing process has been aptly described as "intergovernmental diplomacy" (Rhodes 1981:82). The existence of a negotiatory process in this respect also points to an absence of

complete uniformity in the actions of similar governmental bodies. In regard to local authorities, where many of the functions of the nearly 600 local authorities in the Republic are subjected to virtually identical laws, considerable variation exists in the manner in which functions assigned by the supreme political authority are performed. This is due to the fact that authorities vary in size, are subject to different environmental factors, have their own priorities and, of course, their own personnel. All these factors substantially influence the manner in which the various authorities negotiate for benefits. (Par 2.4.3.3 deals with an important theory in this regard.) These factors thus also play a role in establishing different types of relations of varying intensity (see par 2.5) and, above all, substantially influence the manner in which the various authorities apply the norm of deference to the supreme authority. With the exception of matters which are *ultra vires* the powers of local authorities and hence in any case not negotiable (since such matters would constitute an illegal action by the relevant local authority), the actions of local authorities cannot be summarily regarded as unethical or contrary to the requirements of deference to the supreme political authority when such actions do not conform uniformly in regard to a particular activity.

The criterion for determining deference to the supreme political authority in a specific instance should be sought not so much in the slavish and precise compliance with the formal directives of the supreme political power, although such instructions may at times be an absolute requirement incorporated in a law, but is rather a matter of the spirit in which the requirement is met - a view which makes allowance for differences in relations between subordinate governmental bodies and the central authority.

4.3

Public Accountability

Chapter 1 referred to the process which led to government being established as a form of association and the fact that government and society entered into an agreement in terms of which government would govern in accordance with the general will of society. The development of a system of representative government was also discussed and reference was made to the absolute requirement that the elected authority should in all re-

spects be accountable to society for the manner in which it discharges the function of government. This, then, is the meaning of public accountability. During the course of history, this requirement was repeatedly adapted as various forms of government were developed, applied, amended and distorted to meet the requirements of a specific community. In the process, several interpretations were attached to the norm of public accountability, and, in effect, the norm developed a number of variants ranging from total negation of any responsibility towards society to excessive democratisation.

Under communistic/socialistic governments, power is vested in the dictator while the community, as a rule, has little say in decisions and the actions of government. Elections are occasionally held as a gesture or pretence at acknowledging accountability, say, in electing a president. Usually, however, there is only one candidate and coercion is at times applied to ensure that the sole candidate will draw the maximum number of votes.

In contrast, a particularly democratic budget procedure remained in force in the former Orange Free State. This procedure required the annual budget of the elected council of a town or city to be submitted to the inhabitants of the area in question for their consideration prior to its approval.

The norm of public accountability discussed in this section is the norm applicable in democratic states (such as South Africa) with a system of representative government, where elections are held, or should be held, at regular, fixed intervals.

4.3.1

Values and the Community

An appreciation of the meaning of values is a prerequisite to any discussion on public accountability, since these two phenomena go hand in hand in public administration and because of the importance of values in governmental relations.

What are values? According to McMurry (1966:315-316) values determine what people regard as acceptable, correct, desirable and ethical; values provide standards and norms for daily living which enable people who

uphold these values to know that whatever they do and say will be acceptable in the eyes of their fellow men; values determine a community's approach to important matters - be they political, economic or sociological - and provide man with a virtually unlimited variety of moral principles which he may apply to rationalise and justify his actions and particularly, his thoughts and decisions .

Values represent a personal opinion concerning manifestations or events, and because people differ, all people will naturally not ascribe to the same values (Hanekom 1977:10).

In any community the inclination to regard the same values as important is so pronounced that different groups may be distinguished within the broad framework of specific values. This is particularly true of values considered to be in the general interests of the community. Depending on the extent of like-mindedness revealed by individuals in their approach to specific values, such values are identified as community values.

Community values are of particular importance in politics (and possibly, but not necessarily, in party politics). According to Easton (Adlem & Du Pisani 1982:65), politics represents the interactions whereby values are authoritatively assigned to the community. Party politics, naturally, play an important role in this respect, as evidenced by the election of political representatives.

4.3.2

Community Values and Elections

Some time prior to elections for representatives to a legislative body (at central, provincial or local level), individuals and bodies (prospective candidates, party organisers, political parties) identify a wide range of social values pertaining in a particular community. Political parties identify with and formulate these values into acceptable, understandable desires and aspirations of the electorate and reflect these values in various political manifestos.

It subsequently becomes the task of the nominated candidates of the political parties involved to convince the electorate that these values, ascribed to by every one of them, are the true values upheld by the community and

that they should thus vote for a particular candidate.

On election day, the voter exercises his option by voting for the candidate of his or her choice. In so doing, the voter sets the process of representative government in motion in terms of which the voter, in effect, instructs the candidate of his or her choice - provided he or she is elected - to ensure that the values in question are implemented (provided the candidate is a member of the political party which gains the majority vote in the elections). The implication is that the voter, by virtue of instructing the candidate, confirms that he or she is empowering the legislature to act on his behalf and that the legislature, via the elected body, is accountable to him or her for its deeds and actions. Hence the legislature is obliged to implement the mandate received from the voter. However, since the legislature must also promote the interests of the community as a whole and not solely the interests of the voters who voted for the majority party, the legislature is actually accountable to the community, and its actions should without exception promote the interests of the community. This relationship of accountability between government and society must of necessity be founded on a sound basis, and that basis is the constitution.

Constitutionalism was discussed in chapter 1 but a few additional aspects are included in this chapter to stress the role played by constitutions in governmental relations.

4.3.3

Constitutions and Governmental Relations

A government has the authority to assign values on the community's behalf, and the relevant directives are usually laid down in a constitution. A constitution thus serves as a framework within which a government acts. As previously stated, a constitution is preceded by a political process (for example elections) to determine the nature, scope and functions of the government and to identify the required structures and relations. These desires, aspirations and needs agreed upon by the majority of the community are laid down in the constitution. In reality, therefore, the functions of government reflected in the constitution represent the government's envisaged actions and deeds for satisfying the values and needs of the community.

It is important to note that the constitution is directly involved in a variety

of relational situations closely associated with the norm of public accountability.

In the first instance, constitutions are associated with relations between the community and the government, notably relations engendered by the political process. Secondly, constitutions are associated with relations between governmental bodies in cases where such bodies are established by the constitution. Third, constitutions are associated with relations within a specific body or authority.

These three categories of relations cover a particularly wide field and were discussed in more detail in chapter 2. They are mentioned here to demonstrate the extremely important and diverse relational situations in government, the fact that such relations are generally embodied in the constitution, and the fact that government is accountable to society for all matters which have a bearing on the relations.

Attention will now be given to the influence of the so-called "autonomy" of subordinate governmental bodies on public accountability.

4.3.4

Autonomy

The underlying principle in the South African Constitution is that the central authority assigns powers to subordinate governmental bodies and that these bodies function autonomously within their respective spheres of authority.

The term "autonomy" is inclined to conjure up all manner of ideas of independence in the minds of subordinate governmental bodies, such as the conception that autonomy authorises them to go their own way and seek their own salvation as distinct, independent units. Actually, however, true autonomy does not exist in the Republic or any other unitary state. Besides the recognition of the supreme authority of parliament previously referred to, the general framework of parliamentary legislature contains so many restrictive, mandatory and imperative measures applicable to subordinate governmental bodies that problems are encountered by local authorities claiming, on the one hand, that they are autonomous while mak-

ing continual requests for “greater” autonomy (Hattingh 1984:46). While autonomy in a unitary state can at best be relative, absolute autonomy in a unitary state is unthinkable.

Within the framework of the ultimate accountability of government (parliament) to the community, the devolution of power by the central authority to subordinate governmental bodies (and their relative autonomy) has broadened the dimension of accountability. According to Ellis (1984: 101) public accountability should be accepted by all who exercise authority. This includes parliament, all state departments and public institutions. By confirming the duty of all governmental bodies, conjointly and individually, to comply with the requirement of public accountability as a fundamental ethical norm, this concept also extends the scope and significance of public accountability in promoting meaningful governmental relations.

4.4

The Promotion of Efficiency

Efficiency is an important guideline in government, and it is regrettable that a diversity of opinions abound in the public sector as to the true significance of this concept. A possible reason may be that, in contrast to the concept of efficiency in business administration, where a reasonably sound criterion - money - determines the level of efficiency, as well as in the natural sciences, where this concept may be regarded as virtually absolute, efficiency in government is a rather indefinable and unmeasurable phenomenon which at times has elicited vague definitions such as the performance of “the correct task in the correct place by the correct person at the correct time” (see Van Rensburg 1966:124). The problem is further aggravated by references to concepts such as “efficacy”, “effectivity” and “productivity” as if they convey precisely the same meaning as “efficiency”.

In view of the fact that the subject matter of this book has the added dimension of the manner in which this phenomenon is manifested in governmental relations, the concept of efficiency will be discussed in some detail.

4.4.1

Means-objective Analysis

The ultimate objective of government, which is to promote the general welfare of society, comprises a combination of numerous micro-objectives. While some of the personnel in government service are typists, others write letters and still others receive money and issue receipts. The person issuing receipts enables another person to determine the total amount of money received. All these steps (attainment of objectives) are followed up by a series of other steps, and they eventually form part of the relevant budget. From a micro-perceptual point of view, therefore, the activities of the clerk issuing receipts are performed with a specific objective in mind, while his or her task is at the same time a means to a further objective. Hence the overall action represents a continuous series of facilities and objectives. The concept of efficiency is associated with anything which has a recognisable objective (since this implies that an "objective" must be "attained"). It is evident, therefore, that efficiency and the promotion of efficiency constitute an omnipresent concept in government and are at all times essential, since government is an on-going series of actions (Hattingh 1970:5).

Although efficiency in government cannot be absolute, the objective should always be to promote and maintain efficient performance. For example, techniques could be applied to improve the efficiency with which tasks are performed in respect of every micro-objective (by means of work study investigations, etc). This, constitutes a micro-perceptual approach to the problem of efficiency, and has (except in the case of inter-personal relations in a distinct governmental body) no bearing on the broad context of governmental relations. In regard to the latter, the different connotations (if any) of terms such as "efficacy", "effectivity" and "productivity" should be defined, to determine which phenomena in public administration are aimed at the overall promotion of efficiency in government.

4.4.2

Effectivity, Productivity and Efficiency

In view of the considerable diversity of opinion as to the meaning of these and other associated terms it would be virtually impossible to analyse and compare all the different connotations. Hence it would be preferable to

seek overlapping connotations in an attempt to arrive at a logically and perceptually acceptable explanation of this phenomenon.

Luther Gulick stated many years ago (1954:192) that "In the science of administration ... the basic good is efficiency". This points to the implicit conclusion that efficiency is the essential phenomenon, and that phenomena such as effectivity, productivity, etc, convey a subordinately different and less important meaning.

This assumption is confirmed by a recent article in which Adlem (1982:9) states that, in the context of the identification of guidelines (the procedure followed in this chapter), efficiency of necessity includes both effectivity and productivity. The views of Gulick and Adlem give credence to the definition of this term in the *Woordeboek van die Afrikaanse Taal*, which defines efficiency as the ability to perform a task in order to achieve a desired goal or maximum result by concentrating all facilities on the task at hand. This also tallies with Cloete's definition (Cloete 1972:33) of efficiency in the public sector as the greatest possible quantitative and qualitative satisfaction of essential needs with the limited resources available.

Efficiency may thus be accepted as the omnipresent concept, and we may turn our attention towards identifying some of those matters capable of promoting governmental efficiency, and also to the study of efficiency as an ethical norm in governmental relations. Since the achievement of *micro-objectives* by efficient performance falls outside the scope of this discussion, an identification of phenomena will be restricted to *macro-perceptual* phenomena although the same tenets may naturally be applicable to the achievement of micro-objectives.

At the risk of appearing arbitrary, it may be stated that analysis and investigation merit the conclusion that the four well-known phenomena of rationalisation, co-ordination, determination of priorities and promotion of productivity prove particularly useful in promoting governmental efficiency. These four phenomena will be discussed separately, although, as is often the case in public administration, they are not entirely unassociated (for example rationalisation or the determination of priorities may result in increased productivity). Furthermore, it should be borne in mind that since these phenomena occur and are applied within the framework of the administrative process, each of the identified generic functions play a pertinent role.

Rationalisation

The *Verklarende Handboek van die Afrikaanse Taal* (1981) defines rationalisation as bringing something into line with logic and, in an economic context, arranging something more practically and more economically by cutting down on time, labour and raw materials to reduce production costs. Applied in an administrative-political connotation, rationalisation may thus be defined as arranging governmental functions in a manner which obviates unnecessary red tape and other redundant features in facilities, structures, working procedures and other arrangements. This means identifying and applying only the absolute necessities for achieving a specific aim, and streamlining any process wherever this may be possible, necessary or desirable.

Identifying activities or phenomena which may be subjected to rationalisation is no easy task, since this may cover a very wide field. It has been even stated (Van Gunsteren 1976:151) that the establishment of a political process by which the majority of the community may share in influencing their future is not only a democratic and ethical requirement but also an essential condition of rational government. However, this statement represents an extremely broad, political view and is not necessarily applicable to the administrative process in public administration.

4.4.3.1 Plans for Rationalising the South African Public Service

Plans for rationalisation at governmental level were published in a White Paper on the Rationalisation of the Civil Service and associated Bodies (South Africa:1980).

That report explained that the rationalisation programme was an action to improve efficiency in governmental actions 'at all levels', and it was anticipated that substantial advantages would accrue from this process, including the following (par 54.14):

- Duplication and overlapping would be eliminated.

- Matters would be finalised more rapidly.
- The task of political office-bearers in regard to administrative co-ordination would be less onerous.
- The co-ordination of governmental actions would be improved.
- Less manpower would be required.
- Career prospects would improve.

4.4.3.2 The Seat of the Policy of Rationalisation

In view of the fact that authority is vested in the central government, it is generally accepted that the central government is responsible for policy and planning of rationalisation in the government sector. However, should all the planning in regard to rationalisation be concentrated in the central authority, this will of necessity result in dependence on regulations and other directives, on obliging officials and governmental bodies and even on the use of coercion (Van Gunsteren 1976: Preface). According to Van Gunsteren, only a small number of governmental bodies and even individuals are the mainspring behind the development and implementation of rationalisation programmes. This poses the question of whether the adoption of a centralised policy of rationalisation in government could be responsible for creating relations which hamper the promotion of efficiency.

A pertinent question, for example, is whether the central authority is always sufficiently well informed on circumstances at local level to enable it to devise and implement rationalisation programmes for local government? Van Gunsteren (1976; Preface), doubts the wisdom of implementing a centralised policy of rationalisation, and feels it should be applied only in exceptional circumstances.

The White Paper on Rationalisation in the Civil Service (South Africa 1980) previously referred to was introduced by the central government solely for the purposes of the central government, and local authorities were not involved.

4.4.4

Co-ordination

Co-ordination may be defined as the convergent adjustment of the functioning of the one governmental body or group of bodies to another body or group of bodies in the same field (Van Rensburg 1966:127). This definition is compatible with Cloete's view of co-ordination, namely, that all activities aimed at a specific objective should be co-ordinated (Cloete 1972:91). Both Cloete and Van Rensburg maintain that co-ordination in a specific context is aimed at achieving a single, specific objective. Accordingly, it may be stated that since the objective of government is to promote the general welfare of the community (the determined objective), and since each governmental body both macro-perceptually and micro-perceptually pursues the same objective (the same context), co-ordination between governmental bodies is essential for the efficient achievement of objectives.

Hence *co-ordinated* action between a group of bodies for the achievement of a particular objective will generate greater efficiency than would be the case if each of these bodies individually attempted to achieve that objective, and will also promote relations.

4.4.4.1 The Key Importance of Co-ordination

In view of the comprehensive and complex task of modern government, co-ordination has become a key element in the governmental function.

Mention has been made of the fact that a single governmental body is today seldom in a position to provide a comprehensive service to a community without any form of support from other governmental bodies. Rogers and Whetton (1982:3) pointed out that rural development in the United States of America at that stage involved 88 governmental bodies. This underscores the impossibility of introducing or maintaining a successful programme of rural services without a considerable degree of co-ordination between the numerous governmental bodies.

However, a high degree of formal co-ordination between such bodies is probably not always essential for the achievement of objectives. Even in

the case of the 88 bodies referred to above, the total involvement of all these bodies in all such aspects is probably not essential, since co-ordination between such bodies - be it horizontal or vertical - displays a considerable degree of variation ranging from minor, ad hoc and informal cooperation to major, permanent and formal involvement. Co-ordination may also vary from *voluntary* to *imperative* co-operation. The most intensive degree of co-ordination is imperative and formal, and characterised by the total involvement of all six generic administrative functions. This is most likely to occur when a single local authority is functionally divided into several departments under the control of an elected political authority (a city council). In such cases, the co-ordination of every aspect of municipal action is of vital importance to the existence and for the efficient functioning of the body concerned, as well as for the maintenance of formal relations between the executive institutions involved (the departments and the council).

4.4.4.2 Negative Aspects of Co-ordination

Although co-ordination is essential for the promotion of efficiency, co-ordination does not necessarily always result in efficiency. The reasons for this phenomenon include the following:

In addition to legally stipulated objectives, governmental bodies also tend to identify and pursue their own objectives. Since they wish to achieve these latter objectives, co-ordination with other institutions may be regarded as an obstacle. This tends to lead to neglect rather than promotion of the objective which should be achieved by co-ordination, and has an adverse effect on the process of co-ordination. Such negative consequences are not only dysfunctional in regard to efficiency but may also hamper reciprocal relations with other bodies.

Another negative aspect of co-ordination, notably of mandatory co-ordination, is that it may restrict or reduce the autonomous power of participating bodies to make decisions, since it is generally required that priority should be accorded to decisions relevant to the specific co-ordinated activity (Rogers & Whetton 1982:5).

Despite the possible adverse effects of co-ordination, it nevertheless stands to reason that as the environment develops and becomes increasingly com-

plex, bodies will inevitably become increasingly specialised, resulting in a commensurate need for increasing co-ordination. Hence in the interests of promoting relations and general efficiency governmental bodies will have no option but to accept mandatory regulations for co-ordination, even though these regulations may at times restrict their freedom of action.

4.4.5

The Determination of Priorities

The determination of priorities, previously identified as the third means of promoting efficiency, also forms part of the study of governmental relations.

Aspects of the question of values have been discussed elsewhere and relativity, choice and value judgements are of crucial importance in any discussion on the determination of priorities, especially as the determination of priorities implies the "evaluation" of values.

A governmental body's choice of values is reflected in its policy and decisions, with due consideration for community values as reflected, for instance, during elections. Following this initial choice, however, governmental bodies still have a wide range of value preferences available to them, since the possibility of implementing all of them simultaneously is precluded by a lack of the necessary facilities (funds and labour). A list of priorities and their sequence of implementation must thus be drawn up and in this regard, relativism may play a decisive role.

4.4.5.1 The Relativity of Values

Once values have been identified and value preferences have been determined, the question still remains whether the "correct" values have been earmarked for implementation and whether the choice should not have fallen on other values. The reason for this dilemma is that *personal* perceptions and preferences play a very important role in deciding on the relative importance of values. Hence the question as to whether the "correct" values have been selected can be answered only in relative terms, since there can be no question of absolute terms in regard to the choice of

values. This fact prompted Arnold Brecht (1959:416) to state that values cannot be expressed in terms of "is", since "is" is truth. Furthermore, it should be added that values and value judgements can never be completely objective.

In view of the relativity of values in the government sector, the determination of priorities never results in a single, vertical list of values which can be implemented in succession. Once a governmental body has determined its value choices with due regard to the needs of the community, it finds - rather like an individual whose needs such as food, water, clothing and shelter must be fulfilled at the same time - that some of these values need to be fulfilled simultaneously. A governmental body provides water, sanitation, roads and electricity, all at the same time. Values are thus fulfilled in accordance with their relative urgency, which in fact means that needs are not fulfilled in succession but simultaneously. This is achieved by fulfilling every need as far as possible in accordance with its relative importance in terms of other needs, and in so far as the available facilities permit. Furthermore, the relative importance of such priorities is subject to continual change, since the intensity of needs in relation to each other vary from time to time, while the availability of facilities to meet these needs is also subject to fluctuation.

4.4.5.2 Factors Which Influence the Determination of Priorities

Well-considered determination of priorities is essential for the promotion of efficiency, and factors which have a restrictive influence on the determination of priorities may manifest as a dysfunctional effect. Examples of possible restrictive factors are the following:

In the first instance, a governmental body is obliged to satisfy those needs which have already been put into practice and in respect of which it may have a financial or contractual liability. In such cases, there can obviously be no possibility of adjustments or manipulation of any kind, even if urgent and essential needs should subsequently arise. Moreover, the facilities made available to a governmental body for satisfying a community's needs are reduced in accordance with the liabilities it has accepted.

In the second instance, the determination of priorities may be influenced

by political considerations. Hence the major priority may be political satisfaction rather than the promotion of, say, economic or social efficiency.

In the third instance, the identification of a large number of objectives by a governmental body may render it extremely difficult for that body to determine priorities. The relative quota of allocated facilities may in some cases fall so far short of actual requirements that efficiency and the fulfilment of needs are virtually precluded.

In the fourth instance, specialisation or professionalism may influence the choice of priorities, since specialisation tends to indicate the importance rather than the necessity of a particular field of specialisation, while professionalism comes into play when professionals could emphasise the importance of matters relevant to their own profession and hence exert a restrictive influence on the determination of priorities.

Policies laid down by the central authority may obviously result in the establishment of governmental bodies. The establishment of Iscor during the early thirties is a case in point, when the establishment of South Africa's own iron and steel industry was regarded as a top priority by the government of the day. A subsequent example was the establishment of Sasol and notably the expansion of the fuel manufacturing industry. In view of the necessity for South Africa to become self-sufficient in regard to fuel supplies, very substantial extensions were effected in the latter regard.

4.4.5.3 Criteria for Determining Priorities

When priorities have eventually been determined according to a process of evaluation, the final selection of objectives for implementation still remains to be made. Major considerations in this regard will be the necessity of the envisaged objective and the sum total of the facilities available.

The final choice of priorities could be made with the aid of a list of priority indicators prepared by the South African Treasury some years ago.

In spite of the relativity of values and the subjectivity inherent in value judgements and choice of values, it may be accepted that a final scale of precedence serves a useful purpose and that the merits of the following scale prepared by the South African Treasury should be judged in this light (South Africa Treasury 1976:3-4):

Priority A: This represents absolute priorities which, if scrapped or even postponed for a shorter or longer period of time, would have “catastrophic consequences”. Situations of this nature may arise in cases where a local authority is responsible for providing essential services, such as repairing a burst water main.

Priority B: This priority, rated second in order of importance, represents essential new projects or extensions to existing projects which, if scrapped or postponed, may be seriously detrimental to the interests of the community.

Priority C represents desirable new projects or extensions which should be accorded priority, since their implementation would be of exceptional advantage to the community, either politically, economically or socially .

Priority D represents new programmes or extensions which, although they may generally be regarded as non-essential, would serve a useful purpose and should be implemented in the public interest.

Priority E, the lowest priority on the list, represents projects which may be regarded as non-essential and which could be scrapped or postponed without undue negative effects.

Although it cannot be denied that the determination of priorities may, to a certain extent, create situations of conflict and sully relations, it is obvious that the determination of priorities is conducive to the creation of meaningful relations between governmental bodies and society, and between various governmental bodies.

4.4.6

The Promotion of Productivity

According to Rosen (1984:19), the word “productivity” engenders either resistance or inspiration to any person contemplating the meaning of the word. She maintains that the term is associated by some (workers) with

visions of dismissal, personnel retrenchment or exploitation of labour potential and other negative feelings. These thoughts, in turn, encourage speculations concerning regulations generally regarded as suppressive.

To others, "productivity" has a positive connotation associated with less wastage of expensive materials and an improvement in the quality of goods, services and workers' skills - in other words, with the promotion of efficiency.

Rosen (1984:19) maintains that since in any institution both options could be applicable, particularly in regard to the promotion of productivity, neither of these views is wholly correct or wholly incorrect.

The meaning of productivity and promotion of productivity are briefly discussed in the following paragraphs.

4.4.6.1 The Meaning of Productivity

"Productivity" is a useful and simple term for denoting a ratio (Rosen 1984:26). In this context, "productivity" refers to the ratio between supply (facilities utilised to provide goods and services) and output (the goods and services actually produced). Under certain circumstances it also provides the answer to the question of how efficiently facilities are being utilised in the process of rendering an output. In other words, productivity represents the ratio between the final result and the energy expended to achieve it (Rosen 1984:27). Hence supply and output must be determined before attempting to measure productivity and the ratio it represents.

In this context, the term "supply" is a useful collective noun to denote facilities such as funds, equipment, labour, space, energy and other facilities required to achieve a specific output, result or objective. It is important to note that while 'output' refers to quantity it also refers to quality, which is far more difficult to evaluate. This aspect will be discussed elsewhere.

4.4.6.2 Measures for Increasing Productivity

Increased productivity is associated with an improved output (both qualitatively and quantitatively) and hence with achieving a more satisfactory final result while the available facilities remain constant or are reduced.

This may be accomplished in various ways (Rosen 1984:21), such as improved working procedures, improved worker performance and more realistic administrative guidance.

The performance of workers may be improved by upgrading the quality of their work through education and training, by increasing workers' involvement, reducing absenteeism and improved output. Other incentives may include bonuses for above-average performance, improved safety aspects in the job situation and greater variety in the tasks performed. In addition, workers have in recent years even been increasingly involved in decision-making in regard to their work.

Working procedures may be improved by reorganisation aimed at specialisation, and by analysing existing processes and procedures to eliminate bottlenecks and time loss to ensure optimal utilisation of equipment and labour.

Finally, administrative guidance may be improved by providing intensive training (including university training) for leading officials. This includes promoting an awareness of the importance of available facilities, of human relations and of keeping abreast with technological developments.

These three procedures or any aspect of these procedures may be applied singly or conjointly to increase productivity. The choice will depend on ruling circumstances and the specific defects identified within the governmental body concerned. The questions which must without fail be asked in this regard are: Has the best possible programme been devised for increasing productivity? Will it increase efficiency?

4.4.6.3 Measuring Productivity

Rosen (1984:22) declares that all measurements are arbitrary. While the author would hesitate to express an opinion on the validity of this statement as far as the private sector is concerned, it would appear to contain an element of truth in regard to the public sector. Productivity in government cannot be measured in absolute terms, since *values* constitute a factor which must be taken into consideration.

Aspects which should be borne in mind when attempting to measure pro-

ductivity include the following :

Productivity should be measured more than once (Rosen 1984:23). The fact that a particular typist typed a specific number of pages during a specific month is of no significance whatsoever. For this finding to be of any value as a reference of measurement, a comparison must be drawn between one or more identical periods of time. Even then, however, circumstances during the periods of measurement may have varied and hence affected her typing ability. Furthermore, the identical apparatus should be used in respect of every measurement. If, for instance, a computer and word processing program was used during the first measurement, the same computer and word processing program should be used for ensuing measurements.

Productivity is measured to identify problems and solutions and also to enable decision-makers to rectify deficient productivity (Rosen 1984:24).

When measuring productivity in any institution it is essential to measure both supply and output. Supply may be measured by investigating and evaluating one or more of the available facilities, but the determination of output is complicated by the necessity of measuring both its quantity and quality. Criteria for assessing quality vary from simple systems of observation to highly complex processes for determining promptness, accuracy, safety, courtesy, speed and reliability. Moreover, the criteria themselves may vary in accordance with the requirements of a specific case. Whatever criterion or criteria are employed, the important requirement is that they should be valid.

The association between productivity and governmental relations in a governmental body is evidenced by relations between persons who formulate and determine policy on the one hand, and employees on the other. The degree of the *intensity of relations* between employer and employee is a sound indication of the relations pertaining between them and, should these prove unsatisfactory, steps may be taken to improve such relations.

Intensity of relations as a new concept in governmental relations was discussed in chapter 2.

Meeting the Fundamental Requirements of Administrative Law

When a community agrees to establish a central authority, it empowers that authority to regulate relations within the community, be it relations between individuals and authorities or between government and governed. Most governmental bodies maintain direct relations with virtually all members of a community, and the manner in which governmental bodies and persons in authority should act towards the community are regulated by certain fixed rules. These rules and ethical requirements are based on the principles of administrative law. Such regulations are rendered essential by the existence of typical environmental factors in public administration which, under certain circumstances, are conducive to specific forms of behaviour by persons in the service of governmental bodies.

4.5.1

Factors Which May Influence the Actions of Public Officials

Environmental factors which may influence the actions of public officials are the following (Hanekom & Thornhill 1983:141):

- the mere fact of being involved in public matters;
- the provision of services to promote the welfare of the community;
- the advantage of anonymity of office-bearers and officials;
- the complexity of organisational structures and regulations;
- the diversity of public functions and activities.

The kaleidoscope of environmental climates which could be brought about by such a wide variety of circumstances clearly demands that public activity should be embarked on with caution and governed by fixed rules of behaviour .

These rules are embodied in the fundamental principles of administrative law, which owes its designation to the fact that this particular legal aspect is concerned mainly with administration of the authority of governmental bodies (Wiechers 1973:1).

4.5.2

The Fundamental Concepts of Administrative Law

Administrative law has its origins in legal provisions, decided cases and common law (Wiechers 1973:29-34). Within the framework of the judicial administrative function, the actions of individuals or governmental bodies must comply with the following criteria (Griffith & Street 1963:224):

- Action must be authorised. This means that all actions are subject to the necessary official approval.
- All actions must be within the law and performed strictly in accordance with the relevant legal requirements.
- All procedures required by law must be complied with in respect of any specific action.
- The miscarriage of justice or judicial errors of interpretation should be avoided at all costs.
- Should any official have the authority to use his discretion, such discretion may not be exercised for improper purposes or due to irrelevant considerations in any manner which is unfair or unjust.
- Actions may be performed or decisions taken only after due consideration of sufficient relevant facts or satisfactory witness.
- Generally speaking, the actions of officials shall at all times comply with the requirements of reasonableness, integrity and unimpeachability.

Compliance with these judicial-administrative principles is of cardinal importance in public administration and steps are taken throughout the world to ensure that these requirements are met. In essence, institutions such as the French Conseil d'Etat, the various systems of ombudsmen in Scandinavian countries, the British Parliamentary Commissioner and South Africa's Public Protector are all fundamentally responsible for investigating, detecting and delivering judgement on any actions which run contrary to required norms.

It may thus be concluded that norms founded on the principles of administrative law cover a very wide field. Indeed, the fact that administrative law has on occasion been described as an unwieldy instrument (Van Gunsteren 1976:79) may conceivably be due to the obvious impossibility of monitoring all the actions of all governmental bodies and officials within a specific geographic area - such as South Africa - in an attempt to uncover anomalous actions. The fact nevertheless remains that such norms in public administration are essential for regulating actions between government and the community and for maintaining healthy relations. These attributes will be discussed in the following section.

4.5.3

Administrative Law and Governmental Relations

What role does administrative law play in governmental relations?

First, the tenets of administrative law manifest as a fundamental influence on relations between government and governed, while the quality of such relations is determined by the quality of administrative action. Such relations are also influenced by the manner in which community requests are dealt with, either following or prior to any specific deed or action. In the event of an administrative body or person being appointed to review matters such as the above, relations will also be established between the said body or persons and members of the public. The man in the street, and even the informed public, is inclined to regard the enormous scope of governmental action as a confusing maze of people, offices and governmental bodies and generally speaking, the public often finds it impossible to ascertain to precisely what section or official a grievance should be reported or a request lodged (or where information may be obtained).

Administrative law also comes into play in reciprocal relations between governmental bodies, both at the horizontal (mutual relations between governmental bodies) and vertical levels (between higher and lower governmental bodies). The requirements of administrative law may play an important role in this context, notably in the latter instance, where relations between a higher and lower authority may be influenced by their respective actions. For example, the requirements of administrative law are specifically attuned to preventing manipulation, misleading statements, undue pressure, unreasonable or unjust actions by a higher body attempting to force its will on a lower governmental body.

Administrative law is also evident in relations within a specific governmental body. Relations between ministers and departmental heads or between city councils and town clerks or between town clerks, heads of departments and other officials are all, to a greater or lesser degree, influenced by the requirement of complying with the principles of administrative law.

Fourth, the requirements of administrative law may play a role in relations between independent states, although such relations are generally subject to the principles of international law.

4.6

Respect for Community Values

Some authors (cf Cloete 1972:24) classify “democratic requirements” as a separate norm. Although deference to democratic principles is a valid requirement in any state with a democratic form of government - such as South Africa - this norm is not universally valid.

4.6.1

Democratic Values as Opposed to Community Values

Generally speaking, a democratic parliamentary system is a method of achieving the authoritative assignment of values (which is a political func-

tion). Democracy has a distinct political tinge in that authority is established by means of a democratically oriented system of free elections which implies that it is a distinct type of governmental system. Since this system was previously not applicable to Soviet Russia or China, for instance, democratic requirements were not a valid normative factor in these countries.

In the interests of rendering this factor universally applicable, this norm is thus referred to as “community values” rather than “democratic values”. A value may be universally defined as a phenomenon which, under given circumstances, is regarded as important or desirable by a person (or group of people). This brings the discussion back to the question of values.

The major role played by values in public administration is confirmed by the numerous references in this chapter to values, value judgements and community values. Indeed, the fundamental difference between public and business administration centres on the significance of values in the former and its relative insignificance in the latter (except in the case of “money” as a value!).

4.6.2

An Appreciation for Community Values

It is assumed that every public official should be sensitive to the values upheld by the community he or she serves. Indeed, the *raison d'être* for the authority he serves is to identify, evaluate and determine priorities in respect of community values. In addition, the public official is charged with the duty of attempting to settle conflict which may arise in regard to these values.

It should be borne in mind that values and value choices in a community are subject to change. Community values are influenced by numerous factors which could result in such values being amended or even changed. Factors such as population composition, development in a specific area, technological progress and even political change all contribute towards the changeability of community values.

Since community values essentially represent the desires and aspirations of the community and in fact form part of what they consider to be a

“good life”, the community would obviously expect government to respect those values and take them into consideration. Having come to power, however, it would be an easy matter for an elected government to partially or totally reject the very values in terms of which it was elected and replace such values with others. Where elections are normally held every five years (a period which may, under certain circumstances, be prolonged) a government which deviates from accepted community values may conceivably wreak untold harm before a subsequent election affords the electorate an opportunity of calling the government to account. In essence, any such action by a government constitutes a breach of promise in respect of the community. Moreover, such actions are not restricted to the highest level of authority (that is to policy-making) but may occur at the employee level of government, in respect of “minor” community values.

4.6.3

The Role of Ministers and Public Officials

Decision-making and dealing with problematic issues in the administrative milieu is primarily the responsibility of public office-bearers (ministers) and high-level officials in leading positions (heads of departments), whose tasks include the duty of continually bringing undesirable trends and situations in line with the values of society. A choice of values naturally comes into play in distinguishing between desirable and undesirable in terms of community values, and in exercising this choice, persons in authority who identify a problem in an existing situation must seriously consider whether an envisaged change, while satisfying one such value, may prove detrimental to other values upheld by the community. For example, when a town planning programme in a town or city indicates that a site reserved for religious purposes should be re-zoned for recreational purposes, the community value demanding recreational facilities may welcome the decision. It would, however, adversely affect the values of another section of the community desiring facilities for religious worship.

Similar problems may arise when the adjustment of values is considered desirable at a high level of authority while lower levels of authority regard such adjustments as undesirable or contrary to the interests of the local community .

The type of problems faced in this context may give rise to conflict situa-

tions in the course of identifying and satisfying the values of a community. For this reason values must at all times be respected and all possible factors should be taken into consideration in an attempt to determine the true values of a community before effecting any changes.

The establishment and maintenance of relations between an authority and community is an important consequence of the requirement of respecting community values. As old values change and new ones come into being, governmental bodies and the community are constantly involved in a reciprocal interaction of values, also due to the fact that opinions concerning values tend to range from desirable to undesirable, subject to the ultimate evaluation of the community and the governmental body concerned.

The Influence of Constitutional Systems on Governmental Relations

There are numerous systems of government throughout the world and these vary from one-man dictatorships with sovereign power vested in the head of state to systems which in various ways uphold the principles of democracy. Irrespective of the features of these systems the underlying source of all forms of government is either a unitary or a federal form of government.

Besides discussing the origins and features of these two constitutional systems attention will also be paid to Great Britain, which represents a unitary form of government, and the United States of America as a federal form of government. The manifestation of governmental relations in these two forms of government will be discussed in detail. Since governmental relations in South Africa under the new constitutional dispensation are discussed in detail in the following chapter it will suffice at this stage to note that South Africa has a unitary form of government.

Although confederalism is not a constitutional system in the true sense of the word a brief discussion of this form of government is included in view of its close association to a federal form of government. Some confusion exists in regard to the term 'confederation' applicable for instance to Switzerland, which has a federal form of government known as the "Swiss Confederation".

Confederation

Confederation is a voluntary association (Kriek 1982:193) of independent states for specific purposes (for example to protect their territories against a common threat). Relations between these states are informal, as illustrated by the following characteristics of a confederation (Schulz 1961:194):

■ Each participant in a confederation must be an identifiable independent state not in any way subordinate to another state. In other words, each member of a confederation must be a sovereign independent state which voluntarily agrees to co-operate with the other states.

■ The confederation established in terms of an agreement of co-operation between the participating states does not constitute a separate state.

■ The necessary executive bodies for co-ordinating a confederal agreement of co-operation are not empowered to determine policy or make decisions. Moreover, these bodies shall act only on the joint instructions of the participant states. This requirement applies to the provision of funds and manpower, as well as organisational and procedural measures and any proposed actions.

■ Member states of a confederation retain their independent status in all respects and a member may at any time withdraw from the confederation. Hence a majority vote in favour of amending the agreement of co-operation is not binding on the members of a confederation. Unanimity is required.

In certain confederations there may be further requirements which are to a certain extent binding on member states. Nevertheless, intergovernmental relations in a confederation are essentially founded on voluntary co-operation between sovereign independent states. In this respect, a confederation is directly opposed to the principles underlying a federation.

5.2

A Federal Form of Government

5.2.1

Its Origins

The government of ancient Israel probably exhibited the very first indications of a federal form of government. The “federation-confederation” of ancient Israel was not bound by political authority but rather by race and

religion, and was brought about by voluntary agreement. It should be noted that the principle of *self-government* was in any case recognised in respect of the various tribes (Mogi 1931:22) existing at that stage.

According to Mogi, the idea of a federal state had its origins in initial indications of association among the city states of Ancient Greece during the period 510 to 330 BC, at the time when these city states adopted a democratic form of government. A loose form of co-operation existed between these states for some purposes, mainly in connection with the oath requirements of the Temple of Delphi. Practical problems were nevertheless experienced in regard to possible co-operation between the city states (Mogi 1931: 22). The cultural development of these states was of an extremely high standard for that period but also markedly individualistic. Since individual states could thus hardly agree to co-operate with other states without losing prestige, no true federation could be established. It is interesting to note that visions of co-operation were entertained by the Greek philosopher Thales of Miletus (624-546 BC), one of the seven sages of Ancient Greece, who suggested that the various city states should erect a council building for joint use (Stanley 1975:12).

No true ideas of federation were expressed prior to the development of sovereign independent states (Mogi 1931:25), when it became imperative to establish relations of some type between these states. This is probably why Jean Bodin, the father of the theory of sovereignty, was recognised as the first true protagonist of the federal philosophy in 1577 (Mogi 1931:26). Bodin stressed the co-operative nature of federalism and maintained that an association of independent states could be established by agreement, in other words, a federation of sovereign states could be established in that manner.

5.2.2

Federation

According to Mogi (1931:33), the federal philosophy, besides envisaging a partnership between independent states, also envisaged co-operative and uniform action between the participating states and their communities. Relations between such states would thus be characterised both by unity and independence .

The following six basic federal principles developed from this philosophy form the basis of *mutual relations* between such governments and between the various governments and the federal body (Sawer 1976:1):

(a) A geographically identifiable totality which initially contained a number of geographically identifiable independent governments with common boundaries is established subject to (b) below. Each individual government is sovereign in its own right and in no respects subordinate to any of the adjacent governments. These governments each appoint the necessary executive bodies to fulfil the functions of government within their respective areas.

(b) For purposes of international and other law, the combined geographical area of all the individual governments constitutes a federal government with its own executive bodies necessary for fulfilling the functions of the federal government, and empowered with limited, identifiable authority over the entire area, in other words, over the joint constituent governments.

(c) The division of power between the federal and individual constituent governments provides for direct control by the constituent governments over their own communities and direct overall control by the executive bodies of the federal government over the community as a whole.

(d) The distribution of power between the federal and other governments is arranged by means of a constitution (usually in writing). The constitution is usually characterised by a considerable degree of inflexibility, while fundamental provisions contained in the constitution are entrenched. The reasons for these steps is to avoid the agreement between the governments being regarded as a loose agreement of co-operation, and to formally protect the rights and authority of the federal and other governments .

(e) The constitution also makes provision for regulations in respect of the settlement of disputes between the federal and constituent governments.

(f) The distribution of power between the federal and constituent governments as entrenched in the constitution is interpreted and upheld by a judicial authority. In the event of any reason to suspect that the federal or any of the constituent governments is exceeding its constitutional rights, the judicial authority is empowered to determine the validity of any acts (including legislation) by the federal government and any of the other governments. Hence the judicial authority also deals with situations of conflict.

With due regard to the above parameters, the federal government prescribes a number of identifiable relations between the constituent governments. The most important of these endows the federal government with the constitutional right to exercise authority over the constituent governments in respect of matters referred to in the constitution, while the individual governments enjoy full autonomy within their respective areas in respect of all matters not assigned to the federal government.

In the following paragraphs, a unitary form of government is discussed, after which attention will first be paid to the institutional aspects of a federal system with special reference to its manifestations in the United States of America, after which the unitary system of Great Britain will be looked at.

5.3

A Unitary Form of Government

5.3.1

Its Origins

A form of government develops by a process of evolution (Rienow 1966:212). This is especially true in the case of a unitary form of government.

The source of a unitary form of government may, for all practical purposes, be traced back to the so-called philosophy of sovereignty (Mogi 1931:269). The early monarchs of England and France held sovereign power in the countries under their rule. To the ancient Greeks, sovereignty meant the ultimate and absolute power vested in a community within an identifiable state (Wiechers 1967:19). This implied that the community was able to reject the authority appointed to govern it and replace it with another, provided that it was sufficiently powerful to do so.

With the advent of the Roman Empire, the power of authority was initially transferred from the community to a community gathering and from there to the Caesar (Wiechers 1967:20). It was on the basis of this principle that the English and French monarchs extended their powers until supreme power in the countries under their rule was vested in the mon-

arch; in other words, the supreme sovereign power was in their hands.

During the period when identifiable geographic areas, such as England, were established, these areas were inhabited by a number of distinct "segments" (Hinsley 1966:18) consisting of separate authorities ruled by kings or members of the aristocracy, and with little or no contact between the separate, distinct communities. It stands to reason, therefore, that there could be no question of united action as long as each of these communities went their own way.

In England, these segments were subjected and united by a series of wars of conquest (Rienow 1966:22). Following the victories of 1066, England emerged as a united state with supreme power vested in the ruler. It was only in the eighteenth century that supreme political power in England became vested in parliament (Wiechers 1967:31), following a protracted struggle between the king and parliament.

5.3.2

Fundamental Characteristics of a Unitary Form of Government

It would be difficult to find a more apt description of a unitary form of government than the comment by Louis XIV of France (cf Wiechers 1967:29) who stated: "*l'état c'est moi*" ("I am the State"). According to the doctrine of sovereignty, a unitary form of government recognises a supreme authority in every state, which is not subordinate to anything or any person. This is the basic premise of the principles whereby a unitary form of government may be identified and forms the basis of relations between governmental bodies in a unitary state (Wiechers 1967:29):

- In a state with a unitary form of government, supreme power is indivisible and unlimited. Since there can be only one supreme power, it follows that power must be indivisible. By the same token, supreme power is unlimited, since no other power exists whereby it can be restricted.
- Within the internationally recognised boundaries of a unitary state the central legislative authority is empowered to promulgate, repeal or amend laws in respect of any matters affecting the state and its citizens.
- The constitution of a unitary state (in the case of a written constitu-

tion - Britain does not have a written constitution) would normally not set any limits to the authority of the central legislative authority, unless the central legislative authority voluntarily consents to such limitations. (It should be noted, however, that such limitations may at any time be repealed by the legislative authority.)

■ The legislative authority is empowered to create such financial sources for itself as it may deem necessary, and establish by means of its legislative powers as many executive bodies of whatever nature as it may require for the proper performance of its functions.

■ Should the nature and scope of its functions demand it, the highest legislative authority is empowered to establish on a geographical or other basis and at various hierarchic levels, as many subordinate multi-purpose or single-purpose governmental bodies as it may deem necessary. Similarly, it may recognise and approve of any separate governmental units which may have existed before the creation of the unitary state, and they may be incorporated into the hierarchical structure.

■ The legislative authority is empowered to assign powers and authority to the governmental bodies thus established, and to assign the necessary funds or financial sources to enable them to discharge their respective duties and functions.

■ Relations between governmental bodies at different hierarchic levels are determined by the legislative authority.

Relations between governmental bodies in a unitary state presuppose absolute subordination to the highest legislative authority. However, absolute subordination may be tempered by the type of control to which a subordinate body is subjected and the degree of discretion permitted it in fulfilling its assigned functions.

Differences in Relations Between Unitary and Federal States

In respect of the arrangement and establishment of governmental relations, the following fundamental differences may be identified between unitary and federal states, although these differences cannot be regarded as absolute (Schulz 1961:179):

(a) Because of the principle of supreme sovereign power inherent in a unitary state, a unitary form of government is more flexible than a federal one in regard to the distribution and redistribution of functions between governmental bodies and the revision of geographical boundaries. Hence the legislative authority in a unitary state may, in view of changed circumstances in the country, establish new governmental structures and assign to them such functions and authority as it may deem necessary. The legislative authority is also empowered to extend or reduce any geographical areas controlled by governmental bodies should this prove necessary, and even to amend the existing number of levels of authority. Such changes cannot be effected by these means in a federal state. For example, a federal government is not empowered to amend the functions and authority of constituent governments without their permission, nor is it empowered to change boundaries without the permission of the governments concerned.

(b) Uniform policies are more readily implemented in a unitary state. A federal government's authority to determine policy is restricted to matters assigned to it in terms of the constitution. Should a federal government consider it desirable to implement a policy in the entire federal state, such a policy can be implemented only with the permission of all the constituent federal governments. For this reason, important matters can be more readily co-ordinated between the participating authorities in a unitary state than in a federal state.

(c) A unitary form of government naturally offers fewer guarantees against centralisation of authority than a federal form of government. This difference is particularly important, since maximum effective individual participation by every member of the community is one of the basic tenets of

democracy (Wiechers 1967:19). Such participation fully involves the community in determining community values and makes a fundamental contribution towards the establishment of meaningful extragovernmental relations. In a federal state, local authorities are insured against the summary centralisation of authority by means of entrenched guarantees. While there are no such guarantees in a unitary state, it is nevertheless unlikely that centralisation will be summarily effected.

5.5

A Federal Government in Practice: The United States of America

Prior to the federal system, the original thirteen states of the United States of America had for specific reasons been joined together in a confederal system where any relations existing between them had been of a loose and voluntary nature. The confederation was dissolved with the promulgation of the American Constitution in 1789. During the next few years, the implications of legal and other relations contained in the constitution were put to the test, while an important aspect of the relations became fixed by verdicts of the court in 1868 and 1869.

5.5.1

Important Court Decisions

A particular aspect of the relations between the states and the federal government and between the states and local government was emphasised by two important court decisions, which determined that in terms of the constitution, the hierarchic position of authority of states and local authorities were irrevocable.

5.5.1.1 Texas

In 1869, the State of Texas, which had become unwilling to accept the authority of the federal government any longer, decided to withdraw from the federation and become an independent state (Berman 1981:29). The

court ruled that in terms of the constitution, Texas did not have the power to do so, since any withdrawal from or repeal of the federation could be effected only with the consent of all the constituent states. The significance of this decision lies not only in its implications concerning vertical intergovernmental relations (subordination to the authority of the federal government) but also in its implications concerning intergovernmental relations at the horizontal level between the various states whereby, in effect, federation established a mutual bond between the various states which could be severed only with the consent of all the constituent states.

5.5.1.2 Dillon's Rule

When groups of people in America initially gathered together to form communities, local authorities were the first governmental bodies to be established. Many of these authorities subsequently united without forfeiting their fundamental autonomous rights. The larger and rapidly developing local authorities, in particular, strongly disapproved of being subjected to the authority of the various states in terms of the new federal constitution. These local authorities felt that their freedom was being restricted and some of them attempted to withdraw from the federation. This led to the famous verdict in 1868 by Judge Dillon of Iowa, generally known as Dillon's Rule. The relevant portion of the verdict reads more or less as follows (Martin 1967:29).

The rights and powers of municipal authorities are assigned to them by state legislation, without which they would not exist. A state has the authority to establish or abolish local authorities and therefore also to change and control such authorities, even without the consent of the federal government.

Hence there can be no limit to the authority of a state over local authorities within the area of its jurisdiction.

Dillon's Rule thus leaves no question that unitary principles, and not federal principles, apply in regard to relations between the State and local authorities in the US federal system.

The federal constitution, the court decision in regard to Texas and Dillon's Rule clearly testify to the vertical lines of authority between the federal

government, the various states and local authorities in the USA. Changed circumstances, however, notably in the wake of World War II, have resulted in deviations in the federal system of government. Some of these circumstances and their repercussions on governmental relations in the USA are discussed in the following paragraphs.

5.5.2

Changed Circumstances in the USA

Changing circumstances in the USA may be divided into the following three fundamental issues: financial problems, resulting in the increasing inability of the states to accept responsibility for local government; a virtually unprecedented urban growth rate; and the community's increasing involvement in governmental affairs.

5.5.2.1 The States

As Dillon's Rule clearly testifies, the states were initially charged with the duty of resolving urban problems as far as possible. However, the manner in which this duty was discharged became increasingly unsatisfactory. Apart from their financial inability, the attitude of the states also suggested some unwillingness to resolve the problems of local authorities (Martin 1967:18). This led to an increasing realisation by the federal government that local authorities should be assisted, particularly in regard to finances. Because of a willingness in federal circles to provide financial assistance, the federal government became directly involved in the affairs of local authorities, notwithstanding the fact that this represented a deviation from the pattern of relations laid down by the US Constitution. This involvement resulted in dramatic changes in intergovernmental relations between the federal government, the various states and local authorities, also in the sense that it constituted a negation of the fundamental principles of a federal form of government.

5.5.2.2 Urban Growth

The development of America into a number of metropolitan-urban communities had far-reaching consequences for America and gave rise to unprecedented urban problems. The rural population flocked to urban ar-

areas in large numbers and contributed significantly to the population increase in urban areas (Martin 1967:14). The five major problems caused by urbanisation were the following (Martin 1967:15):

(a) Urban decline. Most of the buildings in the city centres of large urban areas had been erected fifty to one hundred years ago, and very little attention had been paid to the renovation and proper maintenance of these buildings. As a consequence, the cores of many urban areas were dilapidated and had to a large extent become unfit for use. Business and residential areas affected by this deterioration declined even further when undesirable elements occupied these buildings.

(b) Housing problems. Housing erected during the twenties started deteriorating rapidly, and large and expensive houses within walking distance of the city centres vacated by their owners were eventually occupied by two or three families, and numerous substandard housing units were erected. As a result, slum conditions developed.

(c) Urban transport. Tremendous problems were encountered in providing transport for the masses of urban dwellers. Apart from an essential increase in public transport facilities, which were operated at a considerable loss, the number of private vehicles increased at an alarming rate.

(d) Education. Massive urbanisation also gave rise to educational problems in urban areas. The increase in numbers, the growing demand for technical training and the considerable funds required for buildings and equipment, contributed to the financial problems experienced by large cities.

(e) Pollution. Massive health problems were experienced in urban areas due to air pollution and a deterioration in the quality of water supplies. Steps to improve the quality of water supplies and reduce air pollution proved inadequate, and conditions deteriorated.

These problems, in conjunction with the inability of the states to provide assistance, paved the way for federal assistance.

5.5.2.3 Public Participation

In any city throughout the world, public participation in the administrative processes of governmental bodies is effected by means of political parties, interest groups, the media and pressure groups (Adlem & Du Pisani 1982:76). In the USA, a new dimension was added to public participation at the beginning of the sixties by specific legislative provisions for maximum active participation by the community (Wright 1982:57). The influence of this participation was substantial, particularly on extragovernmental relations. In Dayton, Ohio, increased public participation was introduced at the same time as the PPBS (planning, programming, budgeting systems), which had a negative effect on relations between the community and local government (Hattingh 1973:footnote 119). In this regard, Wright (1982:57) states that the legislative encouragement of public participation introduced an unstable element in mutual relations.

5.5.3

Innovations Which Influenced Federal Relations

The changed circumstances resulted in a deviation from the formal federal system in the USA, as illustrated by the following examples :

(a) The federal government initiated substantial aid programmes to the various states and hence also commenced to intervene indirectly in the internal policy of the various states. The federal government even succeeded, by means of manipulation, in applying federal policy in the states (Wright 1982:114) by advising the states that subsidies would be withdrawn if certain federal policies were not accepted. As a consequence, unitary elements were introduced into the federal relations pertaining between the federal government and the states.

(b) Similarly, a deviation from fundamental federal principles was brought about by the fact that the federal government increasingly bypassed the states by providing financial and other aid directly to local authorities. Direct relations between the federal government and local authorities were progressively established and, mainly in view of the financial aid provided by the federal government, the latter was in a position to prescribe to authorities what they should and should not do. These deviations from the

fundamental provisions of the constitution were justified by the claim that intervention would be restricted to the provision of aid (Wright 1982:117). This so-called "aid" to local authorities resulted in substantial changes in the vertical relations between the states and local authorities, because local authorities tended to disregard the hierarchic authority of the states and preferred to negotiate directly with the federal government. This has resulted in the development of close relations between the federal government and local authorities (Wright 1982:118).

(c) These developments necessitated drastic adjustments by both the states and local authorities in respect of their own intragovernmental relations. Policies had to be amended and, as a consequence, internal priorities had to be changed in view of the fact that subsidised projects, due to the federal government's aid programme, could be initiated far more readily than would otherwise have been the case. In addition, financial arrangements and budgets had to be revised in view of the financial aid received from the federal government. Other changes necessitated by federal aid included changes in departmental structure, a revision of personnel structures, new procedural regulations, and the necessity to revise control methods to accommodate a more direct form of control by the federal government (Wright 1982:118).

(d) Drastic changes in extragovernmental relations were brought about by these developments. Subsidies and other financial aid to the states and local authorities substantially changed the power base of interest groups, community associations and voters (Wright 1982:119). Indications are that the influence exerted by these groups also increased due to legislative encouragement. In addition, participation frequently escalated into direct intervention in cases where federal donations occasioned by requests from outside groups were made to local authorities. In numerous cases, moreover, pressure groups even regarded federal funds made available to states and local authorities (for welfare work, for example) as funds which could be utilised to bring pressure to bear on local authorities (Wright 1982:58).

In view of all these deviations, amendments and adjustments to the fundamental principles inherent to a federal form of government, it is not surprising that authors of publications on governmental relations in the USA (Wright, Sawers, Martin) refer to the "new federalism" and find difficulty in defining and elucidating the growing complexity of governmental relations pertaining in the USA. The problems experienced by these

authors can be appreciated in view of the many deviations from the federal system as laid down in the American Federal Constitution.

5.6

A Unitary Form of Government in Practice: Great Britain

As previously indicated (in par 5.3.1), the origins of a unitary form of government can be traced to the so-called philosophy of sovereignty which gained ascendancy in Britain. The unitary approach in British governmental relations today has undergone a gradual process of evolution between central and local authorities, and this process will be briefly discussed by reviewing events in Britain from the tenth century, in other words, subsequent to the virtually stagnant historical period of five hundred years between 500 and 1 000 AD (Collingwood 1949:444).

5.6.1

The Tenth Century

During the first half of the fifth century, when it was already evident that the Roman Empire would come to a fall, Roman Britain consisted of a number of tribal authorities spread across the length and breadth of the country. At that time, minor elements of separate governments emerged as a consequence of Honorius instructing these authorities to manage their own affairs. By the year 450, the last vestiges of these separate governments had disappeared (Collingwood 1949:315).

Tangible signs of a unitary form of government in England emerged only during the tenth and eleventh centuries. Following the conquests of 1066 in England, an elementary form of municipal status was granted to local authorities, while relations were governed by the fact that local authorities were in all respects merely the instruments of the central authority (the king) (Platt 1976:130). By the end of the twelfth century, in contrast, the king had already granted a considerable degree of autonomy to local authorities (Platt 1976:135).

5.6.2

The Fourteenth Century

Towards the end of the fourteenth century, and for some centuries thereafter, relations between the central and local authorities were dominated by the emergence of military despotism occasioned by a marked irresponsibility and corruption prevalent in England (Mumford 1961:353). As a consequence, local authorities again found themselves in a position where they were required to request permission from the central government for anything they wished to undertake. By the beginning of the nineteenth century, matters had deteriorated to such an extent that virtually all local representative councils had been abolished (Redlich & Hirst 1971:32).

In the meantime, however, the despotic rule of the Tudors and Stuarts had come to an end and had been succeeded by a new era, notably in intergovernmental relations.

5.6.3

The Nineteenth Century

The ascendancy of William of Orange to the British throne put an end to the strife between absolute and constitutional government, and for the first time local authorities were no longer subject to administrative control (Hattingh 1984:45). Another innovation was the devolution of authority by the central government, effected with due regard to the fundamental principles of a unitary state, in other words, the supreme authority of the British parliament.

A Royal Commission of Inquiry was appointed in 1834 to investigate the position of local authorities. The commission found that although local authorities had mayors, town councils and local communities, the community had no part in the nomination of political office-bearers, while political office-bearers had no knowledge of their respective functions (Clarke 1955:43).

Reports submitted by the Commission of Inquiry led to the promulgation of the Municipal Corporations Act in 1834, whereby a uniform system of local government was introduced in Britain, while relations between the central government and local authorities were regulated by provisions contained in the Act.

The Twentieth Century

Governmental relations between the central and local authorities in Britain are currently dominated by financial problems and marked indications of the centralisation of authority. It has been pointed out (par 5.4) that the centralisation of authority is a relatively simple matter in a unitary state, since supreme authority is vested in the central government.

These problems in Britain emerged in the post-war period and have progressively increased in intensity up to the present time, where local government, to all intents and purposes, is dominated by the British central government.

Tony Byrne (1983:279) foresaw six crisis areas in the late nineties and beginning of the twenty-first century which could fundamentally affect relations between the central and local governments in Britain.

First, the issue of local government structures: Since plans to restructure local authorities came into effect in 1972 when local authorities were either changed, abolished or reclassified, no finality has been reached and no satisfactory structural scheme has been devised, despite continuing efforts to arrive at a solution.

Second, the fact that local authorities have to date not succeeded in finalising their internal structures - despite the restructuring programme initiated in 1972 - is having a generally harmful effect on intragovernmental relations in local government. Some local authorities abolished the post of chief executive officer (town clerk) and subsequently reversed this decision by reinstating this post (Byrne 1983:280). A so-called Corporate System of Management was introduced but has in the meanwhile again been rendered virtually powerless.

Third, it would seem that local government, in so far as some political aspects of extragovernmental relations are concerned, has become a political football in the hands of political parties in Britain. This problem was aggravated by the emergence in the political arena of a strong Social Democratic party, in addition to the Conservative and Labour Parties. In

an attempt to comply with promises contained in political manifestos it has even been alleged that the ruling political party is "opposed" to fundamental forms of local government. These fears have been confirmed by legislation which abolished the Greater London Council.

A fourth problem - which also affects political relations - is a mooted change in the electoral system from the well-known system based on wards to one of proportional representation. This could conceivably result in local authorities being entirely reconstituted, for instance, to accommodate greater representation by the business sector.

A fifth problem - which, as in the USA, probably represents the most critical aspect of relations between the central and local governments - is the question of finances. A complex scheme of financial aid to local authorities has been in operation for many years, but it is alleged that new regulations in this respect threaten to undermine the discretion enjoyed by British local authorities to determine their own level of expenditure (Greenwood, 1982: 253). This could mean that local authorities in Britain would again be plunged into a position of absolute subordination to the central government, similar to the situation pertaining in the Middle Ages.

The sixth problem is a fundamental issue, and concerns the actual relations between the two levels of authority. Although Britain has a unitary form of government, it has no formal constitution to regulate relations between these two levels of authority, and relations between the central and local governments are interpreted by means of general assumptions and conventions. And although a tendency to progressive centralisation of authority is strongly suspected, this tendency can neither be substantiated nor refuted, due to the absence of parameters. According to Byrne, there can be no doubt that any vestige of consensus which existed between the two levels of authority has been destroyed.

The foregoing historical review clearly reveals that relations between the levels of authority in Britain are founded on the principles of a unitary form of government and that the central government still assiduously exercises its supreme sovereign power in this respect. In addition, these relations exhibit varying degrees of intensity, ranging from relative local autonomy to absolute subordination. This suggests a lack of political stability which is not calculated to promote local government or meaningful governmental relations.

Having considered the basic principles of federal and unitary forms of government and the deviations and problems associated with the forms of government discussed in this chapter, we progress to the next chapter, which deals with governmental relations in South Africa.