

# Intersection of multilevel government with food security imperatives

Governance Tools and Mechanisms towards  
Food Security

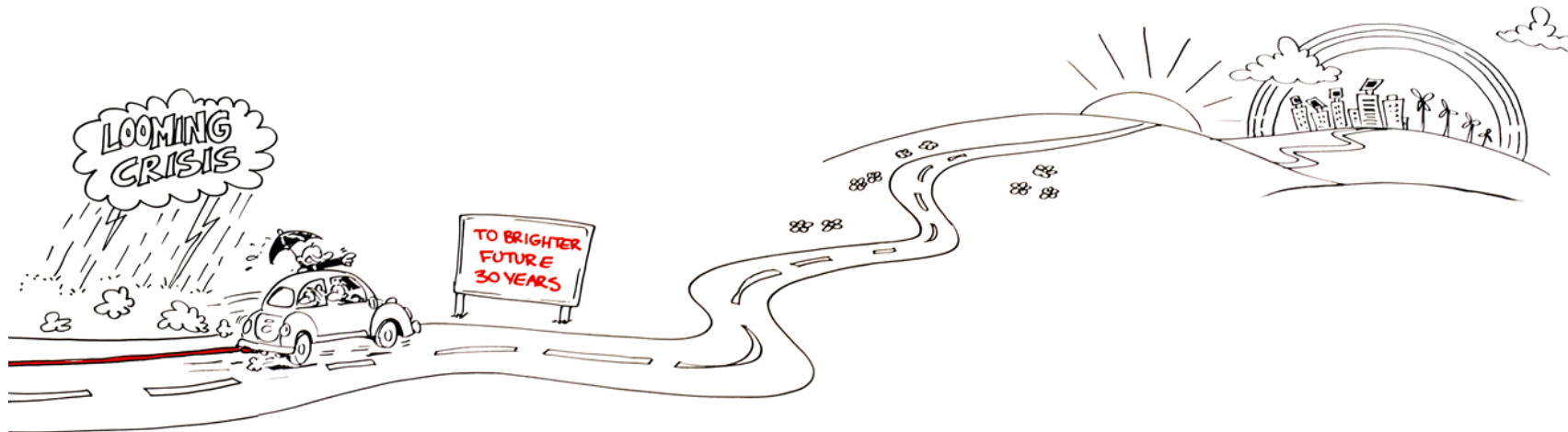
Featherhill Conference Centre

18 June 2015

Ms S Johnstone

# Scope of Presentation: 3 outcomes

- ▶ One to examine what role local government (lg) must fulfil in respect to the right to food? (defining food security; insecurity ; and the food system)
- ▶ Two to provide an overview of how these spheres ought to engage each other with reference to the co-operative governance principles
- ▶ Three to focus on the constitutional powers and functions related to planning and land use management (unpacking problems of unclear mandates & overlapping competencies)



# Critical concepts

- ▶ The right to food
- ▶ Food security & insecurity
- ▶ The Food system



Human  
Dignity  
Equality



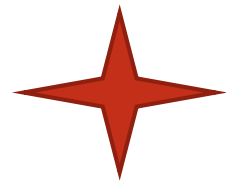
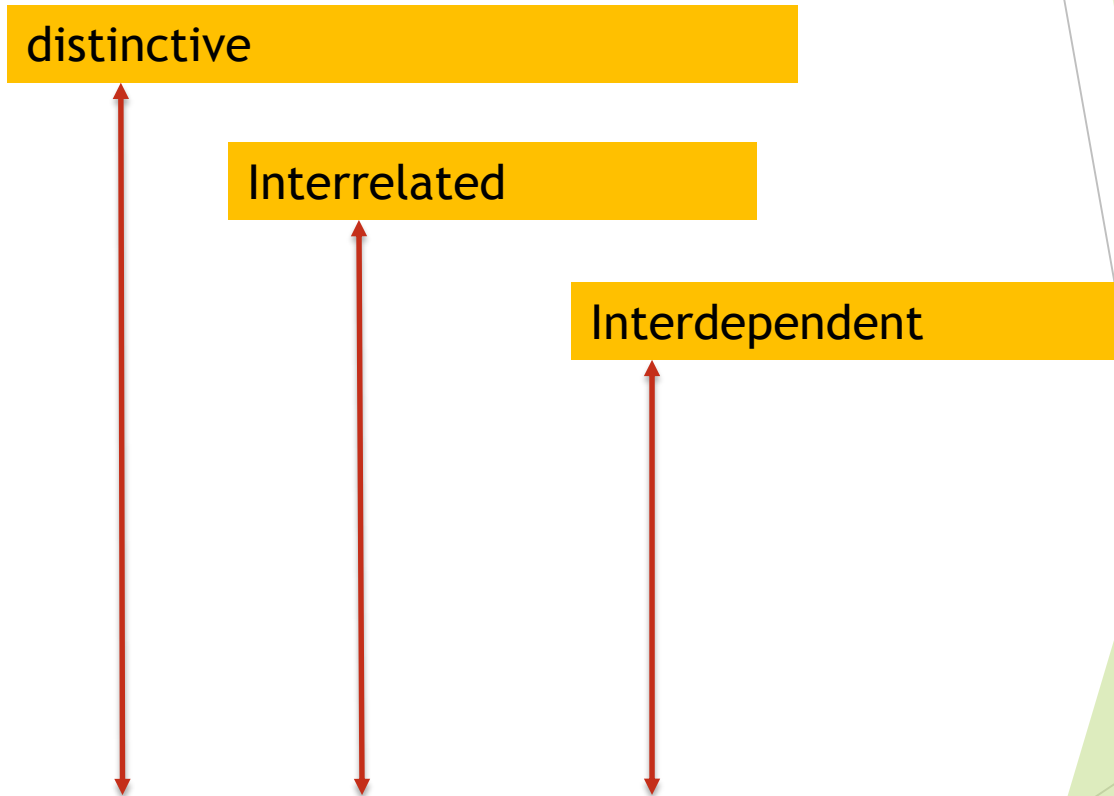
- ▶ Objects of lg
- ▶ Developmental lg
- ▶ Original powers



Human  
Dignity  
Equality

# Constitutional distribution of state powers

- S 40 (1)- Co-operative government: national, provincial and local government
- Each sphere is conferred legislative authority ( power to enact legal rules) and executive authority (power to give effect to legal rules) in terms of the functional areas set out in schedules 4 & 5 of the Constitution



Section 41 of the Constitution  
8 principles of co-operative principles

# land use planning

- ▶ **White Paper on Spatial Planning and Land Use Management 2001**

Study of planning laws "revealed an extraordinarily complex and inefficient legal framework, with planning officials in all spheres of government having to deal with numerous different systems within the jurisdiction of each province, and indeed within most municipalities. The difficulty of dealing with this legal inheritance compounds the already difficult task of planning for sustainable, integrated and equitable land use and development in South Africa"

- ▶ **Land resources are used for a variety of purposes which interact and may compete with one another; therefore, it is desirable to plan and manage all uses in an integrated manner.**

- ▶ **Yacoob J: (Wary Holdings) Planning entails land use and is inextricably connected to every functional area that concerns the use of land. There is probably not a single functional area in the Constitution that can be carried out without land**

# Unclear mandates & Functional overlaps land use planning

- ▶ What is “municipal planning”
- ▶ How does it relate to “provincial planning”; “regional planning and development”; and “agriculture”?
- ▶ Can national planning override municipal planning?
- ▶ When does the province have a right to intervene and override a decision?

**“agriculture land ”**  
**Wary Holdings (Pty) Ltd v Stalwo (Pty) Ltd 2009 (cc)**

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**Municipal  
planning**

- Include land use management and development planning
- City of Johannesburg v Gauteng Development 2010 (CC)

**National  
planning  
approval**

- Cannot override municipal planning approval
- Maccsands Ltd v City of Cape Town 2012 (CC)

**Prov  
intervene &  
override lg  
decisions**

- Land use planning municipal function therefore Province cannot intervene. Province to make laws that govern rather than override decision-making
- Lagoon Lifestyle Estate (Pty)Ltd 2013 (CC)

Thank you

The background features abstract, overlapping geometric shapes in various shades of green, ranging from light lime to dark forest green. These shapes are primarily located on the right side of the frame, creating a modern, layered effect against the white background.