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Introduction

Danga Mughogho, South African Cities Network

The South African Cities Network’s Well-Governed Cities programme considers how South African cities are governed, and whether the political and institutional context is stable, open and dynamic enough to accommodate varied societal objectives and interests. Government is the vehicle through which these interests are pursued, while governance refers more broadly to the multiplicity of arrangements among elected leaders, societal actors and service providers that make up the system.

Urban governance is about the various ways in which power is exercised by the multiple stakeholders and actors in the urban space. It encompasses several dimensions of government, from principles such as integrity and transparency, to activities including governing, management systems, and the exercise of leadership, power and policy levers.

The aim of the Urban Governance Paper Series is to explore different issues that affect the ability of cities to deliver on their mandate, ranging from institutional strength and capacity, to financial management and administrative efficiency, and people, power and politics.

The first volume of the series contains papers covering four broad governance themes: positive rights and service delivery; accountability, democracy and participation; administration, finance and governance; and private sector and innovation.

Positive rights and service delivery

Local government is where citizens engage most frequently and intimately with the state through the delivery of services such as electricity and water, and waste and sanitation.

In the paper “Components of Rights-based Urban Service Delivery”, Marius Pieterse analyses court judgements in cases where citizens and civil society groups have litigated government over urban service delivery. The case law pertaining to service delivery is contextualised (i.e. the historical backlog of inequitable resource allocation) and linked to case law related to socio-economic rights and participatory governance. The jurisprudence discussed highlights the view of the courts that the relationship between local government and residents needs to be reciprocal. The paper argues that some ground-rules are required to govern how productive dialogue between citizens and the state is structured, to ensure that democratic, developmental local government is achieved in pursuit of the common good.

Sam Koma’s paper “The Progressive Realisation of Socio-economic Rights” examines the extent to which cities have realised the socio-economic rights enshrined in the Constitution, based on the various judgements that have clarified the responsibilities of cities. Given that cities need to respect and institutionalise the involvement of communities in local government, the paper suggests some ways to strengthen alignment between constitutional principles and local government policy and practice.

Accountability, democracy and participation

A key element of developmental local government, as envisaged in the 1998 Local Government White Paper, is the participation of local communities in planning projects for their communities. In practice, the envisaged meaningful community engagement has been reduced to perfunctory community consultations aimed at meeting the minimum participatory requirements of annual Integrated Development Plans.

In their paper “Making Participation Meaningful”, Nazreen Kola and Luke Jordan look at the flaws in public participation processes and identify top-down approaches as a major obstacle to dealing with challenges faced by communities. They draw on international examples to illustrate the potential for different, iterative approaches to garner community input, arguing that democratic systems can pursue long-range, ambitious transformation, such as reversing the legacy of apartheid. The paper calls on local governments to merge South Africa’s tradition of local organising and public councils to transform the practice of local democracy.

In similar vein, Kevin Foster’s paper “South Africa’s Tools for Urban Public Participation” diagnoses the shortcomings of current public participation processes used by municipalities and describes some innovative procedural methods and technology-based tools that can result in meaningful public participation.
The contribution of young people is explored in Baba Buntu’s paper “Lost in the Afrikan City: the role of youth in decolonizing Afrikan urban development”, which looks at what decolonisation means for Afrikan cities. It argues that studying and applying western planning practices, which have yet to be decolonised, prevent Africans from imagining and creating an urban future liberated from the colonial past. What is needed is a holistic, youth-led approach to Afrikan urban development.

Administration, finance and government

Transit-oriented development (TOD) is a major policy initiative that has been rolled out in South African cities with the aim of transforming their Apartheid typology and spatial form. In his paper “Building Capacity for the Governance of Space: the case of Johannesburg’s BRT” Jesse Harber argues that TOD is more than an approach to planning – it represents a new paradigm of urban governance. What is required is synchronicity among the different departments tasked with delivering TOD, from development to transport and urban planning, but this is beyond current city systems and processes. TOD, therefore, requires genuine reform in the city governance arrangements internally and within the intergovernmental system of grant-making, policy-making and reporting.

The relationship between politicians and administrators is an important contributing factor to the ability of cities to deliver on their mandate of delivering services to citizens and long-term urban policy goals such as spatial transformation. In “Power Dynamics in Municipal Governance: Insights from the City of Johannesburg”, Collen Masango uses a case study of the ANC’s Regional Economic Transformation Committee in Johannesburg to develop an understanding of the relationship between city politicians and administrators, and offers some lessons for the future of urban governance.

Private sector and innovation

Amidst the increasing calls for government to create jobs, the actual role that government should play – creating an enabling environment – is sometimes lost in the process. In their paper, “The Private Sector and Urban Governance in South Africa: The engagement nexus”, Fana Sihlongonyane and Adaorah Ilhoanya map the development of theories of private sector engagement with government and analyse the success of initiatives to decrease the cost of doing business by governments in Cape Town and eThekwini. It identifies key lessons for the private sector-urban governance engagement nexus to fulfil its potential of yielding economic growth and development in cities.

The 1998 Local Government White Paper places developmental local government at the centre of efforts by the state to reverse apartheid inequalities and improve the quality of life of South Africans. However, 25 years into democracy and despite clearly defined authority, bureaucratic legitimacy and fiscal independence, the perception of citizens is that cities have failed to mobilise stakeholders to achieve developmental local government.

This first volume of urban governance papers is an attempt to analyse, diagnose and suggest solutions to this state of affairs in what is a critical sphere of government, and to stimulate thinking on the topic.
POSITIVE RIGHTS AND SERVICE DELIVERY
Components of Rights-based Urban Service Delivery

Marius Pieterse, Professor of Law, University of the Witwatersrand

Service delivery is arguably the most central local government function and, as such, is typically the main point of contact – and conflict – between local government and citizens. In South Africa, disputes over urban service delivery play out in various settings, from conventional, “official” participation and complaint processes, to public “service delivery” protests and court actions. In recent years, citizens and non-governmental organisations (NGOs) have increasingly resorted to litigation over the modes, content and costs of urban service delivery. This litigation is often grounded in the Constitution, which espouses rights-based and sustainable service delivery as an essential component of developmental local government [Section 152(1)(b) of the Constitution of 1996].

Accordingly, South African courts have decided several cases concerning urban service delivery. Their judgments have been long and complex, and have struck intricate balances between the realities of urban governance within prevailing resource constraints on the one hand, and the rights-based demands of the citizenry on the other. Importantly, these judgments not only resolve the individual disputes but have become part of the law that governs all future interactions between urban residents and their cities. The courts’ interpretation and application of the relevant rights and legal standards in individual cases serve to clarify the nature and extent of local government’s constitutional obligations towards citizens in general.

Scrutinising these judgments will clarify the rights and obligations of cities and their inhabitants, thereby not only (hopefully) providing guidance towards improved urban service delivery and assisting city officials in conceptualising and implementing service-delivery policies and processes, but also avoiding further litigation. Litigation wastes resources, and legal processes often disrupt service delivery mechanisms, destabilise urban governance and breed further animosity between parties (Pernegger 2014; Pieterse 2017; SACN 2016). Therefore, lessons from these cases need to be constructively internalised, to strengthen local governance, while enhancing participatory democracy and avoiding further conflict.

This paper presents an overview of the constitutional standards and supporting legislative and policy frameworks, as well as the cases and their outcomes. The case law pertaining to service delivery is contextualised and linked to case law related to socio-economic rights and participatory governance, before being dissected so as to distil a list of urban residents’ rights and obligations in relation to the services that they receive from local government. Finally, the paper critically reflects on the service delivery jurisprudence and points to some shortcomings and ways of strengthening it in the future.

Overview of the Constitutional, Legal and Policy Framework

The Constitution is the main legislation that describes the obligations of municipalities to provide urban services and residents’ entitlements to receive such services. Section 152(1) states clearly that service delivery is a central objective of local government:

The objects of local government are –

(a) to provide democratic and accountable government for local communities;
(b) to ensure the provision of services to communities in a sustainable manner;
(c) to promote social and economic development;
(d) to encourage the involvement of communities and community organisations in the matters of local government.

The manner in which services are delivered must conform to South Africa’s developmental goals, as well as to the principles of sustainability, accountability and participatory democracy. Section 156 and Parts B of Schedules 4 and 5 of the Constitution give local government executive authority over, and the right to administer, most aspects of essential service delivery, including the provision of water, sanitation, electricity, street lighting, waste removal, municipal health services and public transport. It minimises the extent to which national and provincial government can interfere with the developmental mandate of municipalities, while simultaneously making municipalities directly accountable to residents for the way in which this mandate is executed (see also Sections 139, 151 and 153 of the Constitution). While this constitutional autonomy is welcome, the developmental mandate of cities is quite formidable and exercised within a significantly constrained resource environment. Both city officials and commentators lament that the extent of municipal constitutional and legislatively devolved responsibilities is not adequately matched by devolution of resources (Pieterse, 2014a).
Section 73 of the Municipal Systems Act (No. 32 of 2000) clarifies the extent of municipalities’ obligation to provide essential urban services:

(1) A municipality must give effect to the provisions of the Constitution and -
   (a) give priority to the basic needs of the local community;
   (b) promote the development of the local community; and
   (c) ensure that all members of the local community have access to at least the minimum level of basic municipal services.

(2) Municipal services must –
   (a) be equitable and accessible;
   (b) be provided in a manner that is conducive to –
      (i) the prudent, economic, efficient and effective use of available resources; and
      (ii) the improvement of standards of quality over time;
   (c) be financially sustainable;
   (d) be environmentally sustainable, and
   (e) be regularly reviewed, with a view to upgrading, extension and improvement.

Following this and other acts, promulgated national regulations establish minimum levels of free basic services for residents. These include a monthly entitlement of six kilolitres of free basic water per household per month (translating into roughly 25 litres per person per day for an average-sized household of eight people), an additional four kilolitres of water per household per month for sanitation purposes, as well as a free basic electricity allocation of 50 kilowatt hours per household per month (Dugard, 2014). Legislation, such as the Water Services Act (No. 108 of 1997), prohibits the discontinuation of essential services in instances where this would deprive residents of their basic free entitlements.

Section 152(1) of the Constitution requires that service delivery processes be accountable, sustainable, development orientated and participatory. This is supplemented by Section 195(1), under the heading “basic values and principles governing public administration”, that states “services must be provided impartially, fairly, equitably and without bias” [Section 195(1)(d)]. Section 195 further emphasises that public service provision must be accountable and transparent [Sections 195(1)(f)–(g)] and reiterates that “people’s needs must be responded to, and the public must be encouraged to participate in policy-making” [Section 195(1)(e)]. Section 195 is the constitutional foundation of the “Batho Pele” (“people first”) principles, which were first published in the Department of Public Service and Administration’s White Paper on Transforming Service Delivery, that guide service delivery by all State organs. The Batho Pele principles are (DPSA, 1997: ss 3):

1. Consultation – Citizens should be consulted about the level and quality of public services they receive and, wherever possible, should be given a choice about the services that are offered.
2. Service standards – Citizens should be told what level and quality of public services they will receive so that they are aware of what to expect.
3. Access – All citizens should have equal access to the services to which they are entitled.
4. Courtesy – Citizens should be treated with courtesy and consideration.
5. Information – Citizens should be given full, accurate information about the public services they are entitled to receive.
6. Openness and transparency – Citizens should be told how national and provincial departments are run, how much they cost, and who is in charge.
7. Redress – If the promised standard of service is not delivered, citizens should be offered an apology, a full explanation and a speedy and effective remedy; and when complaints are made, citizens should receive a sympathetic, positive response.
8. Value for money – Public services should be provided economically and efficiently in order to give citizens the best possible value for money.

Some of the Batho Pele principles have been incorporated into the Municipal Systems Act: Section 4(2) determines that municipal services must be provided in a “financially and environmentally sustainable manner”, and community members must have equitable access to services and should be consulted over the “level, quality, range and impact of municipal services”.

1 See also section 73 of the Act, and for analysis of the interaction between and implications of these provisions, see Pieterse (2014a) and Steytler (2004).
However, it is the Bill of Rights in Chapter 2 of the Constitution that has often been at the centre of many challenges by citizens to the manner in which local governments provide essential urban services. Most importantly, Section 27(1)(b) determines that “everyone has the right to sufficient [...] water”. This is the only provision in the Bill of Rights that explicitly grants a right to receive an essential municipal service and is qualified by Section 27(2), which determines that “the state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of [this right]”. Although the entitlement to receive water is subject to some constraints, Section 27 is significant because it underlines that residents should access water by simple virtue of being human, rather than as a by-product of State benevolence or the operation of market forces.

The Bill of Rights does not include explicit rights to sanitation, transport, waste removal or electricity, although some have argued that these are implicit in Section 26(1), which states that “everyone has the right to have access to adequate housing” (author’s emphasis). In any event, these rights clearly form part of the obligations contained in Section 73 of the Municipal Systems Act, which speaks of ensuring “all members of the local community have access to at least the minimum level of basic municipal services”. But their absence from the Bill of Rights means that State-imposed conditions or restrictions on these services will be more easily justified than restrictions on access to water.

Other rights in the Bill of Rights that have been linked to essential service provision include the right to equality [Section 9], the right to dignity [Section 10], the right to life [Section 11], the right to freedom and security of the person [Section 12] and the environmental right [Section 24], which includes a right to have the environment protected through measures that “secure ecologically sustainable development and use of natural resources while promoting justifiable economic development” [Section 24(b)(iii)]. The environmental right is especially important because it subjects all development (including the way in which local governments exercise their developmental responsibilities, such as ensuring essential service delivery) to the principle of sustainability, which is clearly a crucial moderator of citizens’ constitutional entitlements to receive services. It further draws attention to the fact that cities must serve the needs not only of their current inhabitants, but also of future generations (Kotze 2010; Pieterse 2014b; Stewart & Horsten 2009).

Rights in the Bill of Rights are subject to limitation, provided that such limitation takes place in terms of laws that are “reasonable and justifiable in an open and democratic society based on dignity, equality and freedom” (Section 36 of the Constitution). This means that it would be reasonable for municipalities to set reasonable and justifiable conditions for access to essential services, including (obviously) the condition of paying for services in excess of the basic minimum.

In brief, the Constitution and the supporting legislative and policy frameworks view urban service delivery as being tied to local community development, and require service delivery mechanisms to be sustainable. Residents are entitled to access services equitably and to insist that services be delivered in a manner that is accountable, transparent, and respectful of their basic rights. Residents should be consulted over how they receive services, while service delivery policies should be formulated through participatory processes, and residents and municipalities need to have continued dialogue about service delivery issues. Residents are further entitled to receive certain minimum amounts of basic services for free. However, over and above these free basic entitlements, a municipality’s duty to provide services is limited by the resources at its disposal and by its obligations to meet competing demands. Residents can be expected to pay for services, provided that payment and credit control processes are open, transparent and fair. Access to water arguably enjoys greater constitutional protection against termination or disruption than access to other services, although it is unclear precisely how much.

The rights-based constitutional and legislative framework engenders significant expectations in residents and communities that their service-related needs will be met, and seemingly empowers them to insist that this occurs, also by way of the legal process. However, these expectations are bound to be frustrated because of the enormous developmental challenge facing cities, especially given the high unequal levels of essential service provision (the legacy of apartheid), limited governmental capacity and extremely scarce resources. The result is not only litigation, but also community resistance in the form of service payment boycotts, or violent protests involving damage to service delivery infrastructure, all of which derail or delay existing delivery processes and further impede the municipality’s ability to deliver. Indeed, research reveals that urban municipal governments often feel caught between a rock and a hard place, with residents demanding more than municipalities are practically and fiscally capable of delivering, despite being often legally responsible (Pernegger, 2014; Pieterse, 2017; SACN, 2016; Smith & Rubin, 2015).

2 See Bilchitz (2010) and Brand et al. (2013).
Overview of the Case Law

Since the dawn of South Africa’s “new” constitutional dispensation in the early 1990s, the courts have on several occasions had to decide rights-based disputes between urban residents and their municipalities over how essential urban services are delivered, billed and paid for.

Only one case was decided in terms of the 1993 interim Constitution, which contained neither explicit socio-economic rights (such as rights to access water or housing), nor explicit developmental obligations on local government. Yet, the Constitutional Court’s judgment in Pretoria City Council v Walker (1998) remains one of the most important service delivery judgments handed down thus far. This is because the case, which was decided in terms of the right to equality in the interim Constitution, contextualised South African cities’ obligation to deliver essential services equitably, within an overarching obligation to correct for their inherent structural and physical racial inequalities.

The Walker case involved a group of white residents in Sunnyside, Pretoria, who refused to pay their water and electricity bills because they objected to differences in the City’s billing and credit control practices between established suburbs (mainly white residents) and outlying townships (mostly black residents). Residents of Pretoria’s formerly white suburbs were charged on a consumption credit basis and faced credit control proceedings if they failed to pay for their water and electricity, whereas residents of Mamelodi and Atteridgeville were charged a flat rate for services and did not face any consequences for non-payment. The Sunnyside residents alleged that this amounted to indirect and unfair racial discrimination. The City argued that divergent billing practices were necessary while services in the townships were upgraded, given the lack of essential service infrastructure in Mamelodi and Atteridgeville and the historical discrepancies in access to services between the townships and formerly white suburbs.

The Constitutional Court affirmed that the racially segregated residential patterns of South African cities meant that geographic discrepancies in governance practices could constitute racial discrimination but dismissed the Sunnyside residents’ claim that Pretoria’s divergent billing practices discriminated unfairly against them. It emphasised that residents of the established suburbs were privileged, as they received high quality services and were not expected to do anything more than to pay for what they consumed. Therefore, the Court held that, given the discrepancies in the quality of services received by suburban and township residents, the City was entitled to charge them differently. It was also not unfair for the City to deliver services in different ways in different parts of the City, where this was done an effort to overcome and correct for the spatial inequalities occasioned by apartheid. However, the Court was less forgiving of the City’s disparate credit control practices, holding that residents had to pay for services received and fairly charged, regardless of where they lived. Thus singling out defaulters in the formerly white residential areas for credit control measures amounted to unfair discrimination and was declared unconstitutional.

The Constitutional Court’s first judgment pertaining to municipal services under the 1996 Constitution was in the case of Mkontwana v Nelson Mandela Metropolitan Municipality (2005), which involved a challenge by property owners in Port Elizabeth against Section 118(1) of the Municipal Systems Act that prohibited the transfer of property with unpaid service charges arrears. The applicants were property owners who could not transfer their properties because their tenants had racked up large, unpaid service bills. They claimed that this violated their right to property.

In response, the municipality emphasised its need to collect service-related revenue and the great practical challenges that it faced in this regard. The Constitutional Court dismissed the claim, emphasising that municipalities had a “public duty” to provide essential services sustainably. This duty included obligations to “send out regular accounts, develop a culture of payment, disconnect the supply of electricity and water in appropriate circumstances, and take appropriate steps for the collection of amounts due” (Mkontwana 2005: para 47). The Court found that property owners had to assist municipalities and were responsible, as part of their civic duties, to ensure that their tenants paid for services consumed. As long as their billing systems were accurate and transparent, municipalities were entitled to insist on payment before properties could be transferred.

However, years later, the Constitutional Court found in Jordaan v City of Tshwane Metropolitan Municipality (2017) that municipalities, which did not insist on debts being paid as a prerequisite for transfer (as in Mkontwana), could not later collect the arrears from new owners, as this would constitute an unconstitutional

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3 This section presents a cursory and superficial overview of the different service delivery cases decided by South African courts. For a detailed analysis of these judgments, see Pieterse (2017: chapter 3).
limitation on the right to property. Read together with Mkontwana, the Jordaan decision emphasises that neither residents nor cities can pass the buck when it comes to ensuring that urban governance systems are stable and robust.

The Constitutional Court further developed its understanding of municipalities’ “public duty” to provide services in Joseph v City of Johannesburg (2010). In this case, tenants in a Johannesburg apartment block challenged the City’s disconnection of their power supply because their landlord did not pay the building’s electricity bills, even though they had been paying him for their electricity use. The City argued that, since its contract was only with the landlord, the tenants’ situation was irrelevant and it was entitled to cut off the electricity supply when the landlord failed to pay.

Although the Constitutional Court declined to decide the tenants’ argument that access to electricity formed part of their constitutional right to access adequate housing, it found that local government’s developmental responsibilities in the Constitution meant that there was a “public-law” relationship between the City and all its residents, regardless of whether they had also concluded individual service contracts. This public-law relationship obligated the City to “act in a manner that is responsive, respectful, and fair” when delivering services (Joseph 2010: para 45). This meant that the City could not simply ignore residents’ circumstances and, at least, had to give them notice of its intention to terminate services and to provide them with a reasonable opportunity to oppose this, regardless of the contractual specifics of every case. While the Court did not insist that the City provide for the soliciting and processing of representations from residents in the case of every threatened disconnection, since this would be too administratively burdensome (Joseph 2010: paras 60–61), it found that residents should be free to oppose the disconnection of their services within the notice period and that the City had to deal with valid objections in good faith. The City of Johannesburg’s bylaws that allowed for electricity disconnections without prior notice were declared unconstitutional.

Shortly after Joseph, the Constitutional Court handed down its most famous (and most often criticised) service delivery judgment. Mazibuko v City of Johannesburg (2010) involved a challenge against the implementation of the City of Johannesburg’s Operation Gcin’amanzi (“save water”) in the poor neighbourhood of Phiri, in Soweto. The policy was aimed at bringing an end to unsustainable and inequitable water delivery practices in Johannesburg’s townships, where much water was wasted due to crumbling or insufficient infrastructure and where revenue collection systems were completely dysfunctional (Smith & Rubin, 2015; Pieterse, 2017). Among other city-wide objectives, the policy singled out Phiri as a pilot site for installing pre-paid water meters in houses with in-dwelling access to piped water. These meters, which would be installed for all residents except those who chose to have unlimited water provided through a yard standpipe, would dispense every household’s basic free monthly amount of water, but would thereafter shut off the supply unless residents purchased extra water credits.

Despite extensive community consultation about the meters and acceptance by many Phiri residents of their installation (Smith & Rubin, 2015), there was also significant opposition from social movements against the privatisation of essential services, notably the Anti-Privatisation Forum (APF), and from those in the community who had previously accessed water informally and free of charge. When attempts to convince the City not to install the meters failed, the APF organised street protests which turned violent, and the City took legal measures to protect its workers and safeguard its infrastructure. Disgruntled residents and the APF then turned to the legal process in an effort to halt the implementation of Operation Gcin’amanzi.

With the help of public interest lawyers, a formidable array of legal challenges was mounted against the policy. The main argument was that the amount of free basic water dispensed by the prepaid meters (which, incidentally, was more than the national legislated standard) was constitutionally inadequate because it was insufficient for the needs of large households or of stands that housed multiple households. Other arguments included that it was unfair for the meters to discontinue services without notice, and that it was unfair discrimination to subject only residents of Phiri, and not those of wealthier suburbs, to prepaid water meters.

The Constitutional Court dismissed all these arguments, and held that Operation Gcin’amanzi was constitutionally compliant because it was a reasonable policy that was sufficiently flexible to cater for poor households. This was mainly because poor households could apply for extra free water under the City’s indigency policy. The Court regarded the City’s objective of more effective water management as important and underlined that it was not unconstitutional to expect people to pay for water over and above the basic free allocation, regardless of whether they had previously informally accessed water without paying. The Court did not regard water meters’ discontinuation of water services as procedurally unfair because the discontinuation could be prevented simply by purchasing additional water at fairly minimal cost. The Court further relied on the Walker decision in holding that it was not unconstitutional to have different delivery mechanisms in different areas, where these were aimed at correcting for apartheid-era inequalities.
The Mazibuko decision was shortly followed by the Constitutional Court’s judgment in Nokotyana v Ekurhuleni Metropolitan Municipality (2010), which was the first case where the Court had to decide on a demand for service provision in an area with no services (whereas previous cases concerned the way in which services were provided or regulated). Residents of the Harry Gwala informal settlement in Ekurhuleni demanded sanitation services and high-mast lighting, which the municipality did not provide because it had not yet decided whether or not to formally upgrade the settlement. The Court dismissed the application, since it was not willing to make an order that would force a municipality to provide services in an area that it had not officially decided to develop. But the Court did require Ekurhuleni to make up its mind within a reasonable time over whether or not to upgrade the settlement and endorsed the municipality’s undertaking to provide some temporary services in the meantime.

The Constitutional Court’s only other judgment that directly pertains to essential service delivery is Rademan v Moqhaka Local Municipality (2013), which reaffirmed the Walker and Mkontwana decisions that residents were obliged to pay for municipal services that they had consumed. Ms. Rademan and fellow members of a Kroonstad ratepayers association withheld municipal rates payments, in protest against what they regarded as substandard service delivery. The municipality proceeded to cut off her electricity supply, even though she had paid the electricity portion of her municipal account. She challenged the legality of this action, but the Constitutional Court was unsympathetic. It found that residents did not have a choice to pay only part of their bills, and that non-payment was not a legitimate manner in which to address billing and service quality disputes.

In addition to the Constitutional Court judgments discussed here, through the years several High Court decisions have dealt with the rights of residents to receive – and the obligation of municipalities to provide – essential services. Shortly after the 1996 Constitution and the 1997 Water Services Act came into effect, a few residents challenged the discontinuation of their water supply for non-payment. The High Courts in Durban and Johannesburg found, in accordance with the provisions of the Water Services Act, that terminating water services would be unconstitutional if residents could not receive their free basic water allocation, but was acceptable if residents failed to pay for additional water that they had used over and above their free basic entitlement (see Manqele v Durban Transitional Metropolitan Council 2002; Residents of Bon Vista Mansions v Southern Metropolitan Local Council 2002). These decisions would later be affirmed by the Constitutional Court’s approach in Mazibuko.

In 2011, the Cape High Court decided the controversial matter of Beja v Premier of the Western Cape, in which it found that the City of Cape Town’s policy to roll out sanitation services in the township of Khayelitsha, by building unenclosed toilets and expecting communities to enclose the toilets themselves, was unconstitutional because it infringed residents’ right to dignity. This judgment was significant because it affirmed that the manner in which essential services were provided had to respect all the substantive rights in the Bill of Rights.

In this respect, the Beja judgment accords with two findings by the Constitutional Court:

- that Transnet and Metrorail in Cape Town had to provide rail services in a manner that respected and protected residents’ rights to security of the person and to freedom from violence (Rail Commuters Action Group v Transnet t/a Metrorail, 2005), and
- that conditions in temporary housing provided by the City of Johannesburg had to be consistent with the constitutional right to dignity (Dladla v City of Johannesburg, 2018).

Beja was also the first court judgment to explicitly address what the Court regarded as unacceptable conduct by residents who protest against the manner in which services were delivered. The Court found that members of the ANC Youth League acted illegally and unacceptably when they broke down toilets that had been enclosed by the municipality after community members complained about the unenclosed toilets to the South African Human Rights Commission. The Court made an interim order requiring the police to intervene to stop the illegal demolition of toilets and to prosecute those responsible.

Finally, in Federation for Sustainable Environment v Minister of Water Affairs (2012), the Pretoria High Court ordered a district municipality in Mpumalanga to urgently rehabilitate and restore water supply to townships outside of Carolina, where water was unavailable due to being polluted by acid mine drainage. The Court found that the municipality was constitutionally obliged to resolve the water crisis “speedily”, and that it failed in its obligations by not consistently communicating with residents and keeping them informed of its efforts to do so. However, the Court noted that the Council’s failure to supply drinkable water in the interim was not unlawful because its efforts were sabotaged by angry community members who went so far as to burn two water tankers. As in Beja, the Court was not prepared to tolerate insurgent activities by residents who destroyed service delivery infrastructure.
Analysis

The service delivery case law needs to be understood in the context of the Constitutional Court’s overarching jurisprudence on the enforcement of socio-economic rights (such as the rights of access to housing, health care services and education), since these rights are formulated similarly to the right of access to water and their realisation is interlinked with that of rights to essential services. While space constraints prevent a detailed discussion of these judgments, it is worth noting that the Court’s approach to deciding socio-economic rights cases has typically centred on evaluating challenged State policies for reasonableness, rather than interpreting socio-economic rights as embodying immediately enforceable individual claims.

The reasonableness standard

This means that the Court would not second-guess government’s chosen method of giving effect to socio-economic rights, as long as the State’s legal and policy framework for realising a particular aspect of those rights is reasonable and is reasonably implemented. For the Court, reasonable means that the law or policy was conceptualised and formulated in a manner that is realistically achievable; properly allocates responsibilities between different spheres of government; is balanced, flexible, responsive, inclusive, transparent; and caters for emergency needs and for the needs of the most vulnerable members of society (see Government of the RSA v Grootboom, 1999; Minister of Health v Treatment Action Campaign, 2002). The reasonableness approach was explicitly followed in the Mazibuko case (where the Court essentially found that Operation Gcin’amanzi was a reasonable policy and so not unconstitutional) and has coloured the Court’s findings in most of the other cases discussed above.

The reasonableness standard presents an important yardstick by which to judge municipal policies and conduct pertaining to basic service delivery. It also limits local government’s responsibilities in the “public law relationship” with residents – apart from being responsive and treating citizens fairly and respectfully, local government must simply act reasonably in devising and/or implementing service delivery-related policies.

Reasonableness does pose some substantive standards to which policies must adhere (notably, that they must be equitable, inclusive and realistically geared towards progressively improving residents’ access to basic services). However, the standard also gives municipalities significant leeway in deciding how they are to meet their obligations towards residents. This “margin of governmental discretion” is also a feature of the Constitutional Court’s approach to the right to equality, with cases like Walker and Mazibuko indicating that the Court will allow municipalities to embark on service delivery drives that differentiate between the different areas under their jurisdiction, as long as this is aimed at progressively equalising service standards across South Africa’s racially divided cities.

Moreover, a similar margin of discretion is clearly evident from the Constitutional Court’s approach to the constitutional requirements of public participation, which emanates from yet another line of case law. In cases concerning Parliament’s duty to consult the public in the course of the legislative process, the Court has essentially found that government must reasonably consult citizens and duly consider their views, but is not absolutely bound by their views and can ultimately make up its own mind on how to proceed (see Doctors for Life International v Speaker of the National Assembly, 2006; Merafong Demarcation Forum v President of the Republic of South Africa, 2008). This was also the Court’s approach to community consultation and discontent in the Mazibuko case, where it essentially found that the City of Johannesburg was ultimately free to deploy the meters (despite the objections of some residents), as the City had extensively consulted with Phiri residents over the installation of prepaid water meters and was willing to adapt its policy to accommodate some of their concerns.

In summary, residents in South African cities can expect local governments to work towards improving their lives, and to treat them reasonably, equitably and consultatively, but they must ultimately abide by the decisions taken by municipalities in pursuing the common good. Courts are clearly sensitive to the challenges faced by local government and are not prepared to vindicate rights in ways that would derail the ability of municipalities to deliver on their constitutional mandate.
Urban residents’ entitlements

However, this does not mean that municipalities are given free rein and that constitutional rights do not really make any concrete difference to residents’ lives. Urban residents have at least the following entitlements flowing from their “public law relationship” with urban local government:

- Residents are entitled to receive free services, as granted by legislation and national policy, or for which they qualify in terms of their city’s policies (for example, the extra free water for indigent residents of Johannesburg). As long as they qualify, they may not be deprived of these services.
- Over and above this minimum, residents can demand that services essential to urban life be made available to them, albeit for payment and restricted to the mode-of-delivery options decided on by municipalities (Mazibuko; Rademan; Manqele; Bon Vista Mansions). Furthermore, these entitlements apply only in areas that formally form part of the city. Outside of these areas, residents may at most expect government to take a decision on whether to extend services to them or to accommodate them elsewhere in the city (Nokotyana).
- Residents are entitled to receive services that are consistent with applicable national quality, health and safety standards (Dladla; Federation for Sustainable Development).
- Residents are entitled to receive services in ways that do not compromise their fundamental rights to dignity, life or freedom and security of the person (Beja; Rail Commuters Action Group; Dladla; Mazibuko).
- Residents are entitled to be consulted about the kinds of services that they receive and the manner in which these services are to be made available to them. However, this entitlement does not necessarily extend to receiving services in the manner that they would prefer (Mazibuko; Nokotyana).
- Residents are entitled to procedural fairness in service delivery. This means, at least, that they are entitled to be notified of an intention to disconnect or discontinue their essential services, as well as an opportunity to raise valid objections with local government in an effort to stave off such discontinuation/disconnection (Joseph; Mazibuko; Bon Vista Mansions).
- Residents are entitled to receive services equitably, but this does not mean that they can demand services in exactly the same manner as other residents in the city, especially not in circumstances where the differences in service delivery methods are because of the city’s efforts to overcome the structural legacies of apartheid (Walker, Mazibuko).
- Residents are entitled to insist on efficient, effective, fair and responsive service delivery, billing and credit control systems; to know what they owe; and to be treated fairly and consistently by the system (Walker, Joseph; Mkontwana).
- Residents are entitled to interactions with government officials that conform to the Batho Pele principles. This means that municipalities must treat them like rights-bearing citizens rather than mere numbers, must treat them in good faith and must take their lived realities seriously (Joseph).

Responsibilities of residents

The case law is also clear that the “public law relationship” between urban residents and their municipalities is not a one-way street, and that residents’ entitlements to receive services come with a number of responsibilities:

- Over and above the services that they are legally entitled to receive for free, residents must pay for the services that they receive. If residents do not pay for these services, then municipalities are entitled to discontinue them (Walker; Manqele; Mkontwana; Joseph; Mazibuko; Rademan).
- Residents must follow official channels to resolve their disputes with municipalities. They are not entitled to withhold payment out of protest against perceived low-quality services or inequities in service provision (Walker; Rademan).
- Residents must assist municipalities in maintaining efficient and sustainable service delivery systems. This includes a responsibility to ensure that other residents play by the rules and pay for their services (Mkontwana).
- Residents must abide by the law and must be constructive in their interactions with government. This means that they must respect service delivery processes and may not undermine the government’s efforts to deliver services by damaging or destroying service delivery infrastructure (Mazibuko; Beja; Federation for Sustainable Development).
- Privileged or well-to-do citizens must be mindful of local government’s obligations to equalise service delivery across South African cities and must assist these efforts by doing their part to ensure efficient and sustainable service delivery systems (Walker; Rademan).
- Residents must accept municipal decisions that have been taken reasonably and for the common good, and after due consideration of residents’ concerns, as long as their fundamental rights have been respected (Mazibuko).
Reflections: What’s Missing?

Constitutional rights and standards are phrased in the abstract and develop over time through courts' interpretation and enforcement in specific, concrete contexts, which is somewhat problematic – litigation is not always an ideal context for fleshing out the entitlements and obligations inherent to rights-based governance. This is not only for the obvious reason that the parties before the court are in conflict, but also because they necessarily represent only part of the picture – a challenged policy or practice affects many more people than just the litigants before the court. Courts have the unenviable task of trying to find just solutions for specific governance disputes, while simultaneously trying to see through the partisan agendas of litigating NGOs or pressure groups, to distinguish between a policy’s lofty articulations and often messy implementation on the ground, and to match the experiences of the litigating plaintiffs with those of the broader community (see Pieterse 2017: chapter 7 and authorities cited there).

South African courts, led by the Constitutional Court, have arguably done quite a good job of navigating this terrain. In particular, they have proved to be attuned to the challenges of urban governance in South Africa's extremely complex cities. While the courts have not tolerated instances of rights-abuse by local authorities, their approach to the State has been reasonable, realistic and cognisant of real resource and capacity constraints. This is shown, in particular, by their insistence on preserving for local government a margin of discretion in deciding how to govern cities, deliver services and tackle the legacies of apartheid (Bilchitz, 2015; Parnell & Pieterse, 2010; Young, 2010).

Nevertheless, some commentators have expressed discomfort with the courts' approach, suggesting that the courts' sympathy for the developmental challenges faced by urban municipalities is not always matched by similar sympathy for the struggles of poor residents trying to make a life in the city (Brand, 2014; Van Marle & De Villiers, 2013; Wilson et al., 2015). Courts are too quick to defer the ultimate resolution of the problems that led to litigation to the very government structures that were unresponsive to the litigants' concerns in the first place (Wilson & Dugard, 2011). This was the case in the electricity dispute in the Joseph case and the decision over whether to extend service provision to the Harry Gwala settlement in the Nokotyana case. Moreover, while the courts sometimes express dissatisfaction with local government's limited capacity and poor performance, they typically stop short of outrightly ordering it to improve its overall capacity for service delivery. The courts seem willing to interfere in the day-to-day functioning of local government only to the extent necessary to avoid a violation of rights.

The courts have further been accused of uncritically endorsing and enforcing a neo-liberal-leaning notion of customer-based urban citizenship when it comes to urban service delivery. Especially in cases such as Mazibuko, where part of the argument before the Court was that residents could not afford to pay for essential services, courts have not been prepared to question the extent to which residents should be entitled, as a right, to access urban services regardless of their ability to pay, or the extent to which they should have a say in the manner in which services are delivered to them (Bilchitz, 2010; Pieterse, 2012; Ray, 2016; Von Schnitzler, 2008).

These criticisms draw attention to residents' entitlement to efficient, effective, fair, responsive and stable service delivery, billing and credit control systems and processes, as identified from the case law. It also calls to mind the constitutional requirement of participatory local governance which, despite having been fleshed out by the courts in other contexts, has not really featured centrally in the service delivery case law. There seems to be a general problem with the responsiveness of city systems to residents' concerns and complaints, and to their openness to input from residents. Litigation is often caused by acute communication failures between local government and residents, as most powerfully illustrated by the Mazibuko case, where residents turned to the courts only after failing in their extensive efforts to engage the City of Johannesburg through its own structures and community protest (see Pernegger, 2014; SACN, 2016; Smith & Rubin, 2015). This arguably points to problems in the existing conceptions of participatory governance and community engagement.

The Joseph decision rightly insisted that service delivery processes be modified, so residents are given notice of decisions taken that adversely affect their access to services, and have an opportunity to engage with city structures over these decisions. However, it does little to ensure that residents can raise concerns or communicate with cities about service delivery practices before matters reach a litigious stage of conflict. The service delivery judgments also contain little about residents' constitutional entitlement to contribute meaningfully to the formulation of service delivery policies. In this respect, the Mazibuko decision at most reflects an entitlement to be informed and consulted about the implementation of policies after they have already been formulated by city authorities.
The Municipal Structures Act (No. 117 of 1998) establishes elaborate participatory structures that are supposed to facilitate participatory governance, but these structures (especially the ward committee system established by Sections 72–74 of the Act) are generally regarded as ineffective and even outright dysfunctional (Booysen, 2009; Gervais-Lambony, 2015; Oldfield, 2008; Ray, 2016; SACN, 2016). Indeed, a breakdown in communication between cities and their residents is a main cause of not only litigation but also the (often severely disruptive) service delivery protests for which South African cities have become notorious (Atkinson, 2007; Dugard, 2014; Brown, 2015; Booysen, 2009). In other contexts, the Constitutional Court has tried to strengthen statutory dispute resolution processes (see Maphango v Aengus Lifestyle Properties 2012) but has not yet had the opportunity to do this in relation to participatory municipal structures. In this regard, the question is whether there is room for the Court to extend its jurisprudence pertaining to “meaningful engagement” to the context of service delivery (Ray, 2016).

“Meaningful engagement” comes from the Constitutional Court’s housing-rights jurisprudence, where the Court has routinely found that cities may not evict people from their homes without first meaningfully engaging with all affected residents over factors such as the reasons for the eviction, whether it is possible to avoid or postpone the eviction, the immediate and long-term needs of the residents, the city’s constitutional obligations towards residents, what the city can do to soften the blow of its decisions for residents, the availability of alternative accommodation, etc. (see Port Elizabeth Municipality v Various Occupiers 2005; Occupiers of 51 Olivia Road, Berea Township v City of Johannesburg 2008; Residents of Joe Slovo Community, Western Cape v Thubelisha Homes 2010).

Cities have accordingly institutionalised the requirement of meaningful engagement, which is now part of their practice when evicting people from inner city properties or relocating informal settlements. Meaningful engagement processes are not without their problems (Chenwi, 2009; McLean, 2009; Wilson & Dugard, 2014; Ray, 2016) but are generally regarded as important avenues for participatory democracy, not least because they allow residents to give input into policy processes, while simultaneously preserving a margin of discretion for the State (Liebenberg, 2012; Ray, 2016; Strauss & Liebenberg, 2014; Van den Berg, 2013). Importantly, “meaningful engagement” forces cities and residents to tackle housing and urban environmental problems together, and to find solutions that serve the city’s public objectives and give effect to residents’ fundamental rights. The housing jurisprudence’s notion of meaningful engagement is not suitable in all respects to the context of service delivery, but courts or cities could devise a modified notion to give effect to the constitutional requirement of participatory governance in service delivery (Ray, 2016).

Apart from participation, sustainability is surprisingly the other explicit constitutional element of essential service delivery that is nearly absent from the case law handed down thus far. The constraints of ecological and financial sustainability of essential service delivery have pertinently coloured several of the judgments discussed (notably Mazibuko, which is the only case where the Constitutional Court explicitly acknowledges water scarcity as a factor relevant to its assessment of the city’s policy but fails to clarify what this factor entails). However, the courts have not said anything about the impact on what municipalities and residents can expect from one another (Kotze, 2010; Stewart & Horsten, 2009), except perhaps in the Mkontwana judgment, which stated that residents must assist cities to ensure that service delivery systems are robust and sustainable. This is a glaring weakness in the jurisprudence, and one area where courts appear to under-appreciate the binds in which many urban municipal governments find themselves. The legal conception of rights and obligations inherent to the public-law relationship between cities and residents cannot lose sight of sustainability issues. This is highlighted all too starkly by the current severe water restrictions in response to the water crisis in the City of Cape Town, as well as news reports that several municipalities are in danger of having their electricity supply terminated by Eskom because of non-payment of their bulk electricity accounts.

Apart from these shortcomings, the case law on service delivery in South African cities paints a picture of cities incrementally negotiating their historical service delivery inequalities, and progressively establishing systems that ensure the sustainable delivery of services to all urban residents. Perhaps wisely, the courts have interfered minimally in cities’ pursuit of their developmental mandate, and have vindicated the rights of residents within an understanding of their relationship with their cities, which is very much a reciprocal one, with entitlements being entwined with responsibilities. Alongside a clearer sense of how the scarcity of both natural and financial resources shape the rights and obligations inherent to this relationship, what arguably remains to be established is some ground-rules over how dialogue between residents and cities can be structured in a manner that maximises the democratic character of developmental local government and the pursuit of the common good.

What is clear from the jurisprudence discussed here is that the courts view the creation of just and sustainable cities as a joint project between local government and residents. The challenge seems to be to establish structures and processes through which this project can meaningfully be jointly pursued in more constructive ways than has hitherto been the case.
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The Progressive Realisation of Socio-economic Rights

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The South African Constitution is one of the most progressive constitutions in the modern world and includes a Bill of Rights (Chapter 2) that provides for human rights to be exercised and enjoyed by everyone. The Bill of Rights is the cornerstone of democracy in South Africa, since it safeguards the rights of all people in the country and affirms the democratic values of human dignity, equality and freedom. It applies to all law and binds the legislature, the executive, the judiciary and all organs of state. Section 7(2) explicitly provides that the state must respect, promote and fulfil the rights contained in the Bill of Rights. South African courts can declare invalid any legislation or administrative action that is contrary to the provisions of the Bill of Rights. Furthermore, the courts can make an appropriate order to rectify the damage done to the person whose rights were affected.

Several international documents recognise human rights, including the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Economic, Social and Cultural Rights and the 1981 African Charter on Human and Peoples’ Rights. Socio-economic rights are those rights that give access to certain basic needs required for human beings to lead a dignified life. They include the right of citizens to have access to adequate housing and to sufficient water. The state has a duty to fulfil these rights and must adopt appropriate legislative, policy, administrative, budgetary and institutional measures, so that access to basic services is progressively extended and enhanced for the benefit of communities.

The Constitutional Court has emphasised the inter-relatedness of socio-economic rights in the South African context. In the Government of the Republic of South Africa v Grootboom and Others in 2000, the court made it clear that realising a particular right, such as the right to access to housing, would require elements of other rights, such as access to land, to be in place as well. Together, these rights are mutually supportive and have a significant impact on the dignity of people and their quality of life (Olivier et al., 2004).

The courts can enforce socio-economic rights and have the power to order the state to take positive steps. In concrete terms, this power has been used in several cases to enforce socio-economic rights. For example, where necessary, the court will allow a class action to be brought before it, in order to protect the interests of the poor and vulnerable groups. When adjudicating and enforcing socio-economic rights, courts have a wide range of possible remedies at their disposal. Under Section 172 of the Constitution, a court may make any order that is just and equitable when deciding a constitutional matter within its power. Just and equitable orders include orders of invalidity; the development of common law to give effect to constitutional rights; the creation of procedural mechanisms necessary for protecting and enforcing constitutional rights; an interdict, a mandamus, and declaratory and mandatory orders. When enforcing the rights in the Bill of Rights, the courts are further empowered to grant appropriate relief (Nyenti & Olivier, 2008: 206).

After describing the mandate and role of South African municipalities in realising socio-economic rights, this paper examines the various judgements through which the courts have clarified the responsibilities of cities in ensuring the socio-economic right of access to adequate housing. It concludes with some advice for cities.

The Mandate of Cities

The Constitution stipulates that the state must take reasonable legislative and other measures to achieve the progressive realisation of socio-economic rights, within its available resources. It should create an enabling environment that facilitates the fulfilment of these rights, which must be respected, protected and promoted. Local government is the sphere of government closest to the people and well-placed to respond to local needs, and the interests and expectations of communities. Municipalities are at the coalface of public service delivery, and their core function is to provide various basic – but essential – services to the communities within their jurisdiction (Roux, 2005). According to the Constitution, services that fall within the ambit of local government include municipal roads, street lighting, licences, fresh produce markets, parks and recreation, and refuse removal (in Part B of Schedule 5 of the Constitution). Other local government responsibilities include air pollution, building regulations, child-care facilities, electricity and gas reticulation, local tourism, municipal airports, municipal planning, municipal health services, municipal public transport and municipal public works (Part B of Schedule 4 of the Constitution).

The Constitution and the Municipal Systems Act (No. 32 of 2000) lay out the governance framework within which cities should govern and operate. Governance means the constitutional, legal and administrative
arrangements by which government exercises its power, as well as the related mechanisms for public accountability, rule of law, transparency and citizen participation. At city level, governance involves the manner in which political office-bearers and officials steer cities to respond to the demands, needs, interests and expectations of communities. Their role is to ensure local government meets its constitutional obligations, within the limits of the resources available, and uses these resources effectively and efficiently to improve the quality of life of communities.

The municipal council is the supreme legislative and executive authority, and serves as a governing body in a city. It is responsible for setting the municipality’s mission, policy and administration parameters and for approving the integrated development plan and budget of the city. In exercising its statutory functions, the municipal council delegates its executive authority to an executive mayor who is assisted by a mayoral committee.

The executive mayor is expected to provide the vision and policy direction; oversee and monitor the implementation of policy, service delivery strategies and programmes; and take responsibility for municipal council decisions. The executive mayor is a key link between the municipality and its communities and must provide political guidance and direction on service delivery planning and budgeting. An executive mayor is empowered to review and evaluate the needs of the community, as well as to recommend feasible and realistic strategies, programmes and services to address priority needs through the integrated development plan and city budget. The executive mayor should adopt an inclusive stakeholder approach that balances the needs, interests and expectations of stakeholders residing in the jurisdiction of the city.

The city manager is the head of administration and advises the executive mayor and council on administrative matters relating to policy, finances, personnel and organisational issues that a city needs to execute and fulfil its constitutional and legislative mandates. The advisory role entails assisting the municipal council to interpret its constitutional duties, including implementing measures to progressively realise socio-economic rights. The city manager further executes the municipal council’s mission and policies and must manage the municipality’s affairs in the most effective and efficient manner.

Citizens may hold cities accountable (through litigation and public engagement platforms) for not fulfilling the realisation of socio-economic rights. In adjudicating matters of socio-economic rights, the courts usually compel cities to provide evidence in the form of policies, plans and budgets formulated with the purpose of achieving the progressive realisation of these right. Cities are meant to be responsive, accountable and open to communities regarding their planning and policy decision-making for realising socio-economic rights.

**The Findings of the Courts**

The Constitution compels the state to provide services impartially, fairly, equitably and without bias. According to Section 4(2)(f) of the Municipal Systems Act, municipalities have a duty to contribute (along with other state organs) to the progressive realisation of socio-economic rights contained in the Constitution, taking into account their financial and administrative capacity and practical considerations. Although the Constitutional Court has at times been cautious in its approach (Olivier, 2008: 38), the Constitutional and High Courts have affirmed that socio-economic rights can be settled by law, even if the inclusion of these rights may have direct financial and budgetary implications for the government. Various court cases have clarified the role of the state in the progressive realisation of socio-economic rights, specifically related to access to adequate housing.

**Measures taken by cities must be “reasonable”**

Liebenberg and Pillay (2000) describe the characteristics of a reasonable government programme as being:

- capable of facilitating the realisation of the right;
- comprehensive, coherent and co-ordinated;
- balanced and flexible;
- reasonably conceived and implemented; and
- transparent, with its contents made known effectively to the public.

Furthermore, a reasonable government programme must make short-term provision for those whose needs are most urgent and who are living in intolerable conditions, and make the appropriate financial and human resources available (ibid).
In what is considered a landmark decision, the Constitutional Court found (in Government of Republic of South Africa v Grootboom) that the state is obliged to ensure that people have adequate access to housing and other services necessary to realise their constitutional socio-economic rights. The Court held that all rights are inter-related and mutually supporting. Therefore, the right of access to adequate housing cannot be seen in isolation from access to land. The Court recognised that the state is limited by the resources available but must still realise these rights. What is important is that the measures taken by the state are reasonable. The “right to access” does not mean that socio-economic rights are absolute and must be fulfilled immediately, as realising these rights depends on several factors, such as the availability of (human, financial and material) resources. For example, the right of access to housing suggests that other conditions must be met, i.e. land, services and a dwelling are needed for a person to have access to adequate housing. Therefore, cities would need to have other conditions in place to fulfil these rights, such as an integrated service delivery plan covering the provision of housing, water, sanitation and electricity.

The Court ruled that the state’s housing policy was unreasonable and thus infringed Section 26(1) of the Constitution because it did not include people who were homeless and lived in intolerable conditions. It directed the government to revise its policy and to make suitable housing available for those in desperate need. The Court issued a declaratory order to the effect that the state must have a reasonable plan in place to realise the right to housing over time and within its budgetary constraints. This would entail cities adopting action plans that outline implementation steps, timeframes, resource allocations and measurable targets with a view to fulfilling socio-economic rights. The regular review of these plans would also enable cities to progressively improve the nature and quality of the fulfilment of socio-economic rights.

Cities are obliged to engage with citizens

In several cases, the Constitutional Court has declared that cities are obliged to engage with citizens on the premise that meaningful engagement can help deepen democracy and empower citizens who may feel alienated from bureaucratic planning and decision-making processes within cities.

In Occupiers of 51 Olivia Road and Others v City of Johannesburg, the Constitutional Court held that engagement is a constitutional requirement in all eviction cases, and that municipalities must engage meaningfully before evicting residents who will face homelessness as a result. City officials, affected beneficiaries, stakeholders, and interested parties should engage in order to find a mutually acceptable solution. In arriving at this decision, the Constitutional Court stated that the city must respect, protect and fulfil the rights in the Bill of Rights, in particular the right to human dignity and the right to life.

In its judgement, the Court identified several characteristics of engagement:

- Engagement should be flexible and adapted to each specific case.
- Engagement should be incorporated from the start of the process.
- Civil society organisations can represent vulnerable citizens.
- The state must record details of the engagement process.

A municipality that ejects people from their homes without first meaningfully engaging with them acts in a manner that is at odds with the spirit and purpose of its constitutional obligations. Engagement is a two-way process through which the City and those about to become homeless talk to each other to achieve certain objectives. The agreement reached between the parties contained interim measures to secure the safety of the building and to provide the occupiers with alternative accommodation in the City of Johannesburg. The City would provide toilets, potable water, waste disposal services and fire extinguishers, and conduct a once-off operation to clean and sanitise the properties. The City would also decide on the nature and location of permanent housing in consultation with the occupiers.

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4 Government of the Republic of South Africa and Others v Grootboom and Others 2000 (11) BCLR 1169 (CC). Mrs Grootboom was one of the 390 adults (and 510 children) living in the Wallacedene informal settlement who illegally occupied land earmarked for low-cost housing. They were forcibly evicted, their shacks bulldozed and their possessions destroyed. The Cape High Court ordered all spheres of government to provide the families with rudimentary services, but the government failed to do this within the timeframe, and so the case went to the Constitutional Court.

5 Occupiers of 51 Olivia Road, Berea Township and 197 Main Street, Johannesburg v City of Johannesburg CCT 24/07 [2008] ZACC 1 (19 February 2008). The case started when the City of Johannesburg applied to the High Court to evict 400 occupiers from inner-city buildings that were unhealthy and unsafe.
The case of the *Residents of Joe Slovo Community v Thubelisha Homes and Others* involved the City of Cape Town's major redevelopment project along the N2 highway: the N2 Gateway housing project, which is part of the national Breaking New Ground programme aimed at providing decent housing for people living in informal settlements. Thubelisha Homes, the housing company engaged by the state to implement the project, applied for the occupiers' eviction, but the occupiers argued that they were not unlawful occupiers and so could not be lawfully evicted. They also argued that the eviction was a means of avoiding the promise to provide 70% of the housing to the displaced residents (neither Phase 1 nor Phase 2 included houses allocated to the low-income residents, as promised), and that there had been no meaningful engagement.

The Constitutional Court ruled that the eviction of the residents of the Joe Slovo community was a reasonable measure to facilitate the N2 Gateway new housing development project, and that the parties involved (the City and the Minister for Housing) acted reasonably. However, the state had failed to communicate adequately with the residents, and the eviction would only be constitutional if the process included meaningful engagement – the Constitution requires a structured consultation process, as highlighted in the *51 Olivia Road* case. The Court ordered the parties to engage meaningfully with each other, to reach agreement over the eviction and relocation process (e.g. start date of the relocation and the timetable for the process). Furthermore, the City was ordered to provide the applicants with suitable temporary accommodation (in terms of Section 152(1) and 153(a) of the Constitution); to ensure that the amenities provided to the applicants and people resettled were no less than the amenities and basic services provided to them before the relocation process took place; and to report back on the steps taken to comply with the Court's order.

The obligation of the state to engage meaningfully with residents is also highlighted in *Beja and Others v Premier of the Western Cape and City of Cape Town*. This case concerned an application by residents from the Makhaza informal settlement in Khayelitsha to declare unconstitutional the unenclosed toilets installed as part of the informal settlement upgrading undertaken by the City of Cape Town. The Western Cape High Court found in favour of the applicants and that the consultation process with the community had been flawed. The judge ruled that the municipality's conduct was in violation of the residents' constitutional rights (including the right to human dignity, freedom and security of the person, privacy, environment, housing and healthcare) and ordered the City to enclose the toilets. The judgement also stressed the importance of community participation and meaningful engagement.

**Evacuation does not mean eviction**

The state has an obligation to provide access to shelter, even if the people concerned are removed in an emergency and for their own safety.

The *City of Johannesburg v Rand Properties (Pty) Ltd* case concerned an application by residents from the Joe Slovo Community v Thubelisha Homes and Others Case 2009 (9) BCLR 847 (CC). This case concerned the right of a local authority to order occupiers to vacate a building that is unsafe for them or for others. The Rand Properties buildings were in a terrible state and posed health and fire hazards for the occupants, most of whom were poor, with no formal employment. The Supreme Court of Appeal found that the City had the power to order the evacuation of unsafe buildings, and this power was not dependent on having to provide alternative accommodation. However, the eviction triggered a constitutional obligation upon the City to provide at least minimum shelter to occupants with no access to alternative housing. The Court ruled that the respondents be interdicted from occupying the property until the City had granted permission in writing that the property may be occupied or used. The City of Johannesburg was ordered to offer and provide the evicted residents with relocation to a temporary settlement area within its municipal area.

*Schubart Park Residents’ Association v City of Tshwane Metropolitan Municipality* concerned a City-owned apartment block comprising four buildings that had fallen into disrepair. Over the years, the City had made various attempts to evict the people living in Schubart Park, but the residents resisted any attempts to remove them. Two weeks after the water and electricity supply to the buildings had been cut off, residents embarked on protest action that rapidly turned violent. To control the situation, law enforcement evacuated the buildings and prevented access by residents. As a result, more than 700 families were living on the streets or in temporary

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6 *Residents of Joe Slovo Community, Western Cape v Thubelisha Homes and Others Case 2009 (9) BCLR 847 (CC).*
7 *Beja and Others v Premier of the Western Cape and Others [2011] SA WHCH 97*
8 *City of Johannesburg v Rand Properties (Pty) Ltd 2007 SCA (RSA)*
9 The temporary accommodation would consist of at least the following elements: a place where they may live secure against eviction; a structure that is waterproof and secure against the elements; and with access to basic sanitation, water and refuse services.
10 *Schubart Park Residents’ Association and Others v City of Tshwane Metropolitan Municipality and Others 2012 (26) (CC).*
shelter. The Constitutional Court found the eviction to be illegal and that the residents were entitled to occupy their homes as soon as reasonably possible. The Court directed the residents and the City to engage meaningfully with each other, and the City to either refurbish the buildings (if feasible) and allow the residents to return, or to provide suitable accommodation, while housing the residents in the interim.

In *Phoko and Others v Ekurhuleni Metropolitan Municipality and Others*\(^1\), the Constitutional Court ruled that the City had acted unlawfully in removing residents of the Bapsfontein settlement from their homes, relocating them 30 kilometres away, and demolishing their houses. The municipality relocated the residents because of the imminent danger from sinkholes in the area, but had no court order authorising the eviction – the municipality claimed authority under the Disaster Management Act (No. 57 of 2002), as the area had been declared a disaster area. The Court held that the municipality had an obligation to provide the applicants with suitable temporary accommodation (in terms of Sections 152(1) and 153(a) of the Constitution), as well as amenities that were no less than the amenities and basic services provided to them in the original relocation. The Court ordered the City to report on steps taken to comply with the order to provide access to adequate housing, to identify land in the immediate vicinity of Bapsfontein for the relocation of the applicants, and to engage meaningfully with them on the identification of the land.

### Cities must provide alternative accommodation

The state cannot avoid its constitutional responsibilities because of the lack of a budget. The state – not a private entity – has an obligation to provide alternative accommodation for people evicted and to avoid large-scale disruptions in the social fabric. If necessary, cities need to revise their policies.

In *President of the Republic of South Africa and Others v Modderklip Boerdery (Pty) and Others*\(^2\), the Constitutional Court affirmed its earlier ruling on the *Grootboom* case, that the state must adopt measures and policies to facilitate access to temporary relief for people who have no access to land and live in intolerable conditions. The Court found that a private entity should not be forced to provide alternative accommodation – which was the state’s responsibility. Furthermore, it was unreasonable of the state to do nothing when Modderklip was in no position to evict the occupiers (the cost of the eviction order, which required a deposit of R1.8-million, was higher than the value of the Modderklip property). The Court held that the state should compensate Modderklip for the unlawful occupation of its property in violation of its rights, which would ensure the residents could occupy the land until alternative land has been made available to them by the state or the provincial or local authority.

In *City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties*\(^3\), the City of Johannesburg objected to the Supreme Court of Appeal’s decision that the City must provide temporary alternative housing for people evicted from their homes by private property owners. The Constitutional Court held that the City would have to find the money somehow and ruled that the City’s housing policy was unconstitutional because it excluded the occupiers (and others similarly evicted) from being considered for temporary accommodation, and such exclusion was unreasonable. The City was ordered to provide temporary emergency accommodation to the occupiers of the Blue Moonlight Properties. This ruling had budgetary implications for the City of Johannesburg and led to a review of the city’s housing policy that excluded occupiers evicted by private property owners from being considered for temporary accommodation in emergency situations.

The City of Cape Town also had to revise its housing policy, following the *City of Cape Town v Rudolph and Others* case. Consultants to the City had identified open land in Valhalla Park as a possible site for “infill” housing, but a lack of funds meant that the municipality would not do anything to the site for several years. Over 80 families in the area, who were living in over-crowded, intolerable conditions, moved onto the vacant land and built houses. The City applied to evict them and demolish their houses. The Western Cape High Court found the City of Cape Town’s housing policy to be unconstitutional, as it did not provide any short-term programmes for those desperately in need. The City had failed to progressively realise the rights of access to adequate housing, as stipulated in the Grootboom judgment, and so had failed to fulfill its constitutional and statutory obligations. The City was ordered to comply with these obligations and summit a report within four months detailing steps taken and policies to be put in place to deal with the situation.

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\(^1\) *Phoko and Others v Ekurhuleni Metropolitan Municipality* (No 2) (CCT19/11) [2015] ZACC 10; 2015 (5) SA 600 (CC); 2015 (6) BCLR 711 (CC) (7 May 2015).

\(^2\) *The President of the Republic of South Africa and Another v Modderklip Boerdery (Pty) Ltd* 2005 CCT 20/04. During the 1990s, the occupiers moved onto a portion of Modderklip’s farm, having been evicted from nearby land. When the Benoni City Council gave notice to the property owner to institute eviction proceedings, Modderklip responded that it was the Council’s responsibility to do so.

\(^3\) *City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd* 2012 (2) SA 104 (CC) [74].
Conclusion

The South African Constitution obliges state organs to respect, promote, protect and fulfil the socio-economic rights contained in the Bill of Rights. The state has an obligation to progressively realise these socio-economic rights, which include access to adequate housing and sufficient water. As the sphere of government closest to the people, local government is at the coalface of realising these rights. Since 1996, various court cases have clarified the role of the state and in particular cities, which should:

- take “reasonable” measures, including providing short-term accommodation for those in desperate need;
- provide alternative accommodation, even when a budget is lacking;
- periodically review their programmes and budgets to respond to the evolving needs and priorities of citizens; and
- engage with citizens.

Although the Constitution and the courts are clear – that the state has an obligation to progressively realise socio-economic rights, the court cases show that cities are not managing to meet their constitutional responsibilities. If cities are to achieve progressive realisation of socio-economic rights, they will need strong political leadership; management capabilities; enhanced staff motivation and attitudes; new philosophies underpinned by service quality, innovation, speed and excellence; and sound and responsive public administration.

Cities must put in place early warning systems geared towards monitoring the implementation of service delivery plans and programmes, so that remedial action can be taken should there be deviations, administrative delays, bottlenecks and inadequate resources. This requires realistic planning, adequate budget allocations and a sound policy framework, as well as ongoing review to ensure these plans and policies are responding to the evolving needs and circumstances of communities.

The involvement of communities in local government affairs is a constitutional obligation that cities should respect and institutionalise. By working together, cities and communities can find feasible and sustainable ways of addressing pressing socio-economic issues. Meaningful engagement with communities should be part of city planning and decision-making. Cities should provide structured, coordinated and comprehensive engagement processes that enable them to explain their resource, financial and administrative constraints to communities, as well as their plans for progressively achieving socio-economic rights.

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ACCOUNTABILITY, DEMOCRACY AND PARTICIPATION
Making Participation Meaningful
Nazreen Kola and Luke Jordan

The paradox of South Africa’s local governance is that the legal and regulatory framework for participation is among the strongest in the world, with participation being an explicit part of municipal governance procedures, but participation has failed in practice. This failure is acknowledged widely, by both officials (“no one comes to the meetings”) and citizens (“no one listens – until things burn”).

This paper examines how one of the world’s most advanced participatory frameworks has declined into technocratic managerialism on the one hand, and apathy on the other hand. It attempts to answer the question of how such strong legislative and regulatory provisions have had such little effect on the culture of participation, and what might be done to address the problem. It explores what might account for – and how to break – the paradox. The paper outlines the significant legal and regulatory framework governing local government and describes the legislation directly relevant to participation. Having established the challenges created by this framework, the paper argues that cultures and processes within the state, along with a dense and complex legislative framework, combine to produce a form of wooden compliance that disables and distorts participation.

Drawing on case studies from abroad, the paper argues that the state must be meaningful in people’s lives, if they are to be reasonably expected to participate. That means involving people in procedures that are relevant and connected to their reality, and presenting and deliberating on choices that are meaningful to them.

The argument is made that the role of the state and its officials is to aggregate and connect these processes of deliberation into the pursuit of larger societal goals and outcomes. The potential reward, as shown in the case studies, is the capacity of democratic systems to pursue vast, long-range, highly ambitious transformations – precisely the South African state’s aim in undoing the legacy of apartheid, which is often said to be impossible in a traditional democratic state. The paper explores the potential role of technology in facilitating this transition, and concludes with some targeted suggestions for putting necessary changes into place.

A Full and Complete Legal Framework

South Africa has a far-reaching legislative and regulatory framework to guide the relationship between citizens and the state, incorporating the ways in which the two parties can work together to achieve key developmental outcomes.

The Constitution of the Republic of South Africa (Act 108 of 1996) is the legal foundation of the country’s law and contains a chapter (7) that is dedicated to local government. Section 152 states the “objects of local government”, which include:

(a) to provide democratic and accountable government for local communities;

(e) to encourage the involvement of communities and community organisations in the matters of local government.

The Constitution establishes the fundamental commitment to include the public in decision-making, through public consultation, involvement and participation alongside accountable, responsive and transparent representative institutions. The constitutional commitment to democratic consultative and representative governance has been codified in the local government policy and legislation.

According to the Municipal Structures Act (No. 117 of 1998), every year a municipal council must review the needs of the community, its priorities to meet those needs, its processes for involving the community, its organisational and delivery mechanisms for meeting the needs of the community, and its overall performance therein. Municipal councils “must develop mechanisms to consult the community and community organisations in performing its functions and exercising its powers” [Section 19(3)]. This includes public participation forums, such as ward committees.
The Municipal Systems Act (MSA) (No. 32 of 2000) is the central piece of legislation that realises the vision of participatory local governance contained in the 1998 White Paper on Local Government. The MSA provides the core principles, mechanisms and processes necessary for the social and economic upliftment of local communities. Chapter 4 of the MSA is dedicated to community participation or “participatory governance” and calls for the development of a “culture of community participation”, as well as describing the mechanisms, processes and procedures for achieving it (Section 17). The Act also identifies key municipal issues that require public participation, including the preparation, implementation and review of the integrated development plan (IDP), the preparation of the municipal budget, as well as performance management, the annual report and strategic decisions concerning the provision of municipal services.

Further local government legislation and policies provide the requirements for community participation and consultation on local government budgets, the IDP, contracts, long-term debt, establishing municipal entities, public-private partnerships and the annual report. They include the Local Government: Municipal Planning and Performance Management Regulations (2001), the Municipal Finance Management Act (No. 56 of 2003), the Community Development Workers’ Project (2003), the Draft National Public Participation Policy Framework (2005 and 2007), and Guidelines for the Establishment and Operation of Municipal Ward Committees (2005). These documents are complemented by numerous strategies, all are aimed at building a capable state and all raise the relevance and importance of citizens as agents who co-produce their own development.

A Failed Equilibrium in Practice

Despite the legislation and policies confirming the importance of community participation and consultation, public participation has failed in practice. Understanding the anatomy of failures requires a reflection on South Africa’s constitutional and legislative framework, its complex local government system, the types of spaces and structures created, and the practical difficulties of participation.

Ambitious constitutional and legislative guarantees

The Constitution of South Africa embraces the ideals of a decentralised state, contains a Bill of Rights and professes a commitment to participatory, consultative democracy. It is considered different to liberal classic constitutions or bills of rights in other parts of the world, as it engages with the future, i.e. it embodies a transformative vision aimed at correcting the injustices of the past and establishing a society based on social justice.

This transformative vision is understood as a constitutional commitment that translates into an “implicit yet omnipresent constitutional mandate to pursue social justice” (Fuq, 2015). The Constitution:

- sets out the rights and duties of citizens;
- defines the structure of government;
- lays the foundation for local government, which is the sphere of government that is closest to communities – its developmental role and nature; and
- provides the basis for the statutory framework for local government, including extensive legislative and executive powers and functions with service delivery as the central mandate and an obligation to facilitate public participation and accountability in local governance.

The “elaborate” legal framework on public participation at the local level signals a clear attempt to correct the past that was characterised by exclusionary governance processes and repression (de Visser, 2005).

As mentioned, the MSA has an entire chapter – Chapter 4 – dedicated to community participation, obliging municipalities to encourage and create conducive conditions for communities to participate in municipal affairs. It calls for a high level of public participation in the political processes of municipal councils, through a wide range of institutional channels, with councillors, ward committees and advisory committees.

The intention is that ward committees will act as a formal and direct communication channel through which community residents may interact with their ward councillors and forward complaints and suggestions to council. However, the ward committee system has been ineffective and dysfunctional, and residents have lost confidence in the potential of ward committees to represent and defend their interests.

In the 1998 White Paper, the objects of community participation are embedded in its core vision of developmental local government that requires the local sphere of government to work with municipalities in finding sustainable ways of improving people’s quality of life.
The current system for participatory local governance is legally entrenched, compliance-oriented and narrowly prescribed by a set of structures and processes. Municipalities display a legal commitment toward promoting public participation in local governance, but effective public participation remains a challenge.

Apart from dysfunctional ward committees, IDP forums and other public participation vehicles, some municipal officials have reduced public participation to a technocratic and procedural practice of citizen engagement, i.e. a technical exercise aimed at ensuring compliance with the legislative requirements (ibid). The lack of a more open and inclusive practice of citizen participation has created or enabled a “democratic deficit” (Shankland, 2006). The result is reduced electoral participation, because citizens are disillusioned with government corruption, and perceive the institutions of government to be distant, unaccountable and unresponsive to the needs of the poor and marginalised (ibid). The increasing number of service delivery protests across the country, although the result of several factors, are also an indicator of the lack of quality public participation in some local communities.

In summary, the South African experience shows (Fuo, 2015: 189):

elaborate constitutional, legislative and policy provisions that (a) guarantee the right to public participation in local governance; (b) oblige local authorities to facilitate community participation in local government matters; and (c) creates political structures for community participation, do not necessarily translate to active public participation at the grassroots level.

Such provisions also tend to be tokenistic.

A complex system of local government

Local government leadership and administrations seem to be grappling with the complexities of the developmental local government system. The challenge is finding the right balance between the legislative and policy environment, implementation, meeting the needs and interests of citizens, and delivering services – in a system with institutional fault lines and structural flaws (de Visser, 2009).

Therefore, achieving a deliberative democracy premised on good public participation, political oversight, accountability, intergovernmental relations and overall good governance has been compromised by the legal requirement to comply and meet reporting targets. While elected councillors are perceived to have the interest of their communities at heart, they confront a system that is technical, have skills and capability gaps, and find themselves having to navigate party-state interests in a deeply political environment. Problems often stem from the inability of leadership and municipal administration staff to fulfill responsibilities in meaningful ways.

Invited spaces are not non-partisan structures as intended

Ward committees are meant to be independent, impartial and of high integrity, accounting to the communities they serve as well as to all political parties in council. However, the politics of participation have insulated parties from formal opposition, while at the same time creating a vulnerability to internal ideological competition and factionalism (Piper & Deacon, 2008). Past popularity has meant that “government is in danger of taking power for granted and so becoming less responsive and accountable to constituencies, intolerant of civil society, and mismanaging or even abusing office” (ibid: 62). Party dominance, specifically ANC electoral dominance, can be a good thing for democratic consolidation if it ties in with non-electoral mechanisms of accountability (Butler, 2004). However, “are ward committees really independent of local party branches, and do they encourage forms of accountability separate from party competition?” (Piper and Deacon, 2008: 62).

Research reveals that having partisan ward committees not only undermines their independent role, but also directly affects the well-being of civil society because of whose voices are enabled or facilitated through the current system. Ward committees are not very effective in securing either the material needs or democratic agency desired by local communities (EU, 2011: 47):

There are gaps in meeting or responding to the needs expressed by the public in the participatory process as well as the affirmation of democratic values and beliefs such as a heightened confidence in the responsiveness of the system, i.e. citizen recognition, affirmation and empowerment in the participation process.

Section 73(b)ii of the Municipal Systems Act states that municipalities and metros must make rules regulating “for a diversity of interests in the ward to be represented”.

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15 Section 73(b)ii of the Municipal Systems Act states that municipalities and metros must make rules regulating “for a diversity of interests in the ward to be represented”.
Other research has found wards committees to be more effective in areas where members are selected from well-organised sectoral structures or interest groups (CoGTA, 2005; CoGTA & GIZ, 2005). These groups include women or youth forums, religious groupings, arts and culture organisations, business formations, senior citizens, community safety forums, traditional leaders and agricultural associations.

**Focus on functionality, not effectiveness**

The framework within which local government operates has translated into bureaucratic institutions, procedures and platforms. Part of the challenge is that local authorities do not understand the nature of meaningful, substantive participation, how to facilitate public participation engagements or how to optimise local political structures, interest groups and stakeholder support to enhance public participation. Currently, there is little distinction between functionality (legislative provisions, policy recommendations) and effectiveness (the achievement of democratic outcomes).

The culture is managerial and has limited institutional capacity, capability and resources, particularly in relation to managing and responding to the needs raised by communities. Holding IDP forums, ward committees and other institutionalised, state-sanctioned forms of public participation has removed the imperative for municipalities to look for innovative ways to genuinely engage communities. As a result, communities are not integral partners in achieving stronger developmental outcomes that have a direct bearing on their daily lives, and public dissatisfaction and protests continue to increase both in number and intensity.

The right to public participation in local governance must be understood in terms of the nuances of this right, the corresponding responsibilities, and the ways in which citizens exercise influence and control over the decisions that affect them. This approach provides a shift from “narrow ideas of local government to broader ideas of community governance”, where communities are not mere recipients but active agents in realising their right to be consulted and included in decision-making processes (Gaventa et al, 2007: 1).

Local authorities need to be creative in facilitating community participation, and to explore and employ the most appropriate methods of ensuring that the voices of affected communities are heard. While the legislation provides for specific spaces such as IDP forums and ward committees, local authorities have the flexibility to determine their own participatory mechanisms that would allow communities to participate meaningfully in local decision-making processes. This includes implementing proactive measures that will enable communities to take advantage of the opportunities created for public participation.

**How to Break the Equilibrium**

In summary, participatory governance in South Africa is characterised by little innovation or participation. Little innovation in the practice of participation leads to poor results, and those poor results in turn validate an absence of the effort required to innovate and learn. Breaking out of such a situation will be difficult but is possible, as the following case studies illustrate.

**Embracing, rather than fleeing, democracy: Cities in Japan**

Japan’s reputation is often one of top-down industrial policy, and of economic transformation that is planned and delivered by far-seeing officials in central ministries. However, during the period of Japan’s most rapid growth, very different mechanisms played at least as great a role as central planning. In the 1960s–1970s, Japan’s cities faced acute stress, similar to any faced by cities today in the developing world, and transformed themselves by innovating new methods of participatory governance.

Yokohama was the origin for many of these practices (World Bank, 2018). In the early 1960s, the city was still developing, its population growing by 100,000 every year. It was experiencing political turbulence, heavy pollution, congestion and overwhelmed services. On the horizon loomed containerisation, a risk to the port, and the end of Japan’s heavy industry phase of growth. With almost no formal policy levers, the city seemed on course to become the worst of all worlds: a dormitory city and a rust-belt city. However, what happened in Yokohama was quite different.

From the 1960s, the city transformed itself, while absorbing a massive increase in its population and repeated waves of technological change and economic restructuring. Yokohama went from a “dirty port city that no one wanted to move to” to a city with a higher quality of life than Tokyo. Although tightly interwoven with the wider...
metropolitan economy, the city has a distinct economic structure that has increasingly shifted towards frontier research and development. Yokohama's participatory governance had two aspects:

- Significant, meaningful and structured decision-making at local level through “moni-district councils” (MDCs) that brought together local citizens, community members, and planning officials.
- A deeply participatory planning process that stretched over two years, run by the city administration and related to six multi-decade projects.

The first aspect, the MDCs, took place at the scale of a community, a few thousand people at most (Dimmer, 2012). Their role was to make decisions on “incentive zoning”. The city had a policy that allowed developers to request exemptions from zoning rules if they made compensating investments in public goods. For example, the developer could request a higher floor-area ratio or exemption from light protection regulations, and in return build a public square or rehabilitate a nearby park.

Although such a scheme is no longer remarkable, in many cities deciding which investments lead to which exemptions is made by formula or by a central department. In Yokohama, and then other Japanese cities, the MDCs made these decisions, so that results were immediately felt by citizens and all decisions directly structured the built environment in which people lived. Citizens could see the effect quickly, as private developers hurried to build what was required for their exemptions. The decisions were meaningful and specific (this place, this investment, for that height of building) but were only possible with the intervention of the state. Without state intervention, the very idea of needing the exemptions would have been moot, and the instrument of exchanging public goods for such exemptions would not have existed.

The state, in the form of government officials, sat at the table and deliberated with citizens. The city also paid for consultants to advise MDC members. Community members nominated these consultants, but city officials had a veto. Importantly, these consultants were not narrowly technical (i.e. not planning or analytical consultants, as they might be conceived in South African cities) but were selected for their skill in both technical work and in leading the decision-making away from entrenched ideas about what square or park to build, towards deep deliberations on what kind of city each side of the table envisioned. Deliberation on the future was not just a desirable aim of the process but was a specific outcome of a continuous stream of substantive decisions, framed by local government in a meaningful way for each community.

The second aspect was much larger in scale. In 1963, the city’s new mayor was elected on a promise of “returning the city to its citizens”, including a promise of holding a “ten thousand citizens convention”, and transforming the city, physically and economically (Jordan, 2017: 9). The new administration conducted a two-year planning process that selected six multi-decade projects. The process was transparent and honestly conducted, with the final plan making a bold statement: “The existing city has no good futures”. Most importantly, the administration’s goal was to produce a plan that was so firmly expressive of, and embedded in, citizens’ preferences that it would be independent of any specific political leaders or any wholesale change in officials. The projects were:

- so large that they took several decades to complete;
- so clear and meaningful that schoolchildren could (and did) grasp them; and
- so legitimate that, while the specifics of the plan – from the routing of subways to the housing mix of new areas – changed, sometimes by as much as 80%, the architecture remained part of the city's overall direction for 30 years, and all six projects were completed.

The specific projects were a new subway, a new highway system, a huge bridge across the bay, two very large new industrial and residential agglomerations, and the transformation of the city centre. Some were only completed in the 1990s. Today, these projects have defined the city and were instrumental in enabling the city to escape the fate of similar industrial ports in the US and Europe. They transformed the city from a place where “no one wanted to live” to a city that is consistently ranked among Japan’s highest quality places to live.

To achieve this transformation required several intertwined practices:

(i) Reorganisation of the administration: The departments of planning and community welfare were given the responsibility of coordinating across the other line departments, and reported directly to the mayor. Participation and aggregation were not isolated, single-function departments but were placed at the centre of governance.

(ii) Conscious change in the culture of the administration: The head of planning renamed his department “the Department of Community Building”; meeting rooms and formats centred on round tables with maps of the city used to constantly reference the lives of citizens; and the core skill of how to conduct participatory meetings was emphasised, with city officials trained repeatedly in it. It was not assumed to be a matter of common sense.
The focus was on long-range goals, not the specific instruments to achieve the goals. Projects were selected based on their support among stakeholders, i.e. how legitimate they were to citizens, and how strong their supporting coalition was. The core role of the administration was to articulate the legitimacy of and give support to specific projects, and to undertake a selection process from among the dozen or so possible projects.

The administration was not a passive instrument of participation, nor was participation a rote process to rubberstamp officials' own ideas. Instead, a continual dialogue aggregated citizens' preferences and translated them into meaningful, significant decisions that citizens remoulded and ratified, and the state then executed.

By changing its organisational structure, its processes and culture, and the way in which it selected and executed large-scale projects, Yokohama was able to transcend what are often considered limitations of democracy by embracing – not fleeing – democracy.

Organised sites of problem solving and meaning: Brazil

Participatory budgeting is commonly thought to have begun in Porto Allegre, Brazil and was adopted in 1989 by just over a dozen cities. Since then, it has spread globally and was a source of inspiration for South Africa's Local Government White Paper (Sintomer et al., 2013). Since the 1990s, participatory budgeting has spread throughout Brazil, which means that a large body of comparative experience exists outside of Porto Allegre. Comparative studies have been conducted of twinned cities – cities where demographic and economic factors can be equalised and hence the effect of participation isolated (Biaocchi et al., 2011).

Several lessons have emerged from the experience of cities in Brazil:

(i) The importance of developing new models or methods of involvement in response to local organising realities and the city's needs. For example, some cities introduced sectoral councils, such as Community Health Councils, to complement participatory budgeting. Initiated in Rio de Janeiro by a movement of neighbourhood associations, by the 1990s these councils had spread to most municipalities, providing a training ground for local participatory control over Brazil's lauded social grant scheme, the Bolsa Familia Programme.

(ii) A narrow and detailed focus that is suited to the city's community and official capacity. For example, in Gravatai, participatory budgeting focuses almost exclusively on local capital projects, whereas in Camaragibe such participatory health policy is more important than capital projects. The cities that had successful processes all experimented and innovated within a substantive goal of meaningful, binding participation. A strong set of common principles allowed for local responses to develop in context, which enabled these cities to overcome some of the predictable problems of participation.

(iii) Introducing formal participatory methods alone achieves little and can sometimes have a negative effect on participation. For participation to improve substantively, decisions taken in participatory processes had to be binding. For example, in Quixada, the formal processes were non-binding and participatory forums were carefully controlled. Research found that during the years when formal participation processes increased, the administration became “more closed to citizen influence than before” – there was a deliberate effort to close down channels of direct communication and “budget preparation was outsourced to a consultancy in Fortaleza” (ibid: 1580). Similarly, in Timoteo and Sapucaia, delegates on local “participatory” councils were carefully controlled, usually through neighbourhood associations tied to local political machines, while meetings were absent of deliberation, and merely recognised lists of demands.

In all the cases where participation was successful, the decisions of participatory structures were binding rather than consultative, i.e. decisions made in participatory assemblies or councils could not be set aside.

Echoing a theme throughout this paper, the strictly necessary condition for a successful participatory process is that citizens' inputs are consequential and have meaningful results. Beyond that, the means of deliberation are strikingly diverse. As the authors of the twinned cities case studies note, "what is most striking about our findings is that change appears to be the norm" (ibid: 78). This contrasts quite starkly with the situation in South Africa, where modes of participation seem to have changed little in the 15 years since the introduction of the Municipal Systems Act.
Expanding the limits of the possible: Spain

Since its transition to democracy in the late 1970s, Spain’s governance has become progressively more decentralised. By the mid-2000s, local governments were the principal agents of service delivery – as in South Africa – and were intended to be the focus of accountable and transparent government, particularly after the Modernization of Local Government Law passed in 2003. However, most of the instruments of participation were not taken up. For example, the Spanish Constitution allows for citizen initiatives, but in the last 30 years, only 142 were submitted – and the legislature rejected all but one of these submissions.

In the early 2000s, Spain’s two biggest cities, Madrid and Barcelona, started to use participatory budgeting and planning. After the passing of several regulations and laws on transparency and the use of ICT in government, in the early 2010s the cities embarked on a range of exercises in participatory budgeting and citizen participation in strategic planning. However, the results were underwhelming, and several of the bolder initiatives, such as radical decongestion measures, failed to gain much traction among citizens (Pena-Lopez, 2016).

In May 2011, protests known as the Indignados movement spread throughout Spain. Centred on demands for significant and substantive changes in governance, the protests involved millions of people who demanded direct, deliberative and participatory democracy. New political movements emerged from the protests, including two local parties – Ahora Podemos in Madrid, and Barcelona en Comu in Barcelona – that both won elections in 2015 and took control of their respective cities. Given their populist origins, from the beginning both new administrations focused on participatory democracy. Madrid created a new platform, Decide Madrid (“Madrid decides”), using open source technology. The city’s initial vision was that it would build, but not seek to own, the platform (as its own app). That commitment to openness infused the processes and the platform’s design, including transparency of results, i.e. what happened to citizens’ inputs and how precisely those inputs influenced final outcomes.

The most forceful and effective changes came in Barcelona. The city had already had some practice with ambitious participatory planning during its 2012–2015 strategic planning cycle, which used technology intensively: a third of citizen inputs were submitted online. However, the focus remained on proprietary tools and raw numbers of proposals, rather than deliberation. The new administration in Barcelona decided to learn from and extend this prior experience, and to use and extend Madrid’s platform. Barcelona entered into a deliberate dialogue with the other city about both the technology itself and how it could be used. This decision would later enable even more cities to adopt and reuse the technology, investing in enhancements that the original cities could then reuse themselves. It would eventually lead to the cities engaging in peer-to-peer learning, not through artificial forums, but on the basis of shared investments and a shared platform that they adopted and built together.

Barcelona’s version of the platform is known as Decidim (“We decide”) and was first used for Barcelona’s strategic plan of 2016–19 and subsequently extended to the annual and ongoing municipal processes. Other cities – in Catalonia, Spain and other parts of Europe and in Latin America – have adopted the platform. Decidim’s focus is on enabling deliberation much more than merely submitting proposals or voting on the proposals of others. Specifically, the platform enables users to find similar proposals, which they can either debate, counter or support. Every input by a citizen is fully transparent, even those inputs that are not accepted into the final plan. And, while the platform captures every single input in the process, it is not the only means of participation. The administration still conducts all the offline and stakeholder engagements of the past, in fact more so, and all the minutes and records of those processes were captured in Decidim. In total, the administration conducted over 400 face-to-face meetings, involving over 13 000 people. Lastly, the debate and participation happened with equal content and input from the state and from representatives – the City Council itself entered over 1300 proposals, which were tracked, debated and considered alongside those of ordinary citizens.

The result was a huge increase in the content, quality and effect of participation: more than 42 000 citizens participated (compared to a City of Johannesburg target of 6000, for a population three times larger than Barcelona’s). The participation figures were a 50% increase over that for the 2012–15 planning cycle. However, the true measure of success was not just raw numbers – after all, many wooden or empty participation processes label themselves a success based on a mere increase in turnout – but the more substantive and constructive participation compared to the past. Fewer proposals were submitted, dropping by 40% between 2012 and 2016 (from nearly 18 000 to just under 11 000), and the number of proposals per person almost halved, with at least three quarters of participants not making a proposal, but rather deliberating, debating, supporting or opposing others’ proposals. In total, 200 000 interactions occurred, feeding into fewer (if still a larger number) and better quality proposals. More than 70% of the proposals were accepted in one form or another into the final plan.
Perhaps more importantly, the intensity and quality of the participation expanded the bounds of the possible. At the centre of the new plan is a radical decongestion of the city centre and spatial reconfiguration. In prior planning cycles, forms of this idea had been mooted but were never able to pass the concentrated resistance of vested interests. However, in the 2016–19 cycle, the scale and quality of participation created a strong sense of ownership in the tens of thousands of participants, and in the depth of political support that is currently carrying the plan forward. As with the Japanese case, a supposed defect of democratic governance – the ability of concentrated vested interests to veto action – turns out to have a remedy in the deepening of democratic practice.

Lastly, while the use of technology is the most visible element of this case, more important was the change in how the administration conceived and executed its role. Just after it came into office, the administration articulated its goal as fostering the self-organisation, autonomy and empowerment of the citizen (Pena-Lopez, 2016). It created a new office, made up of delegates from each region in the city and each cluster in the administration, that hosted a technical commission and intensively trained a corps of facilitators. Managing participatory processes was not considered folk wisdom or common sense, but was seen as a difficult, technical art that needed intense training and was regarded as a core competence of the state. More generally, the role of officials shifted from an internal (within the administration’s offices) to an external focus (marshalling the participation and energy of the broader body of citizens) that resulted in politically and technically stronger results.

The Role of Technology

Technology holds alluring promise, since much of the drudge work in participation involves information flows: alerting large numbers of residents about public meetings, distributing the agenda and documents for those meetings, and obtaining and recording participants’ inputs, etc. However, the record of technology in solving participation problems has been mixed. One person has said it is susceptible to a “1%/2%” rule, i.e. 2% of a target audience know about a piece of technology, and only 1% use it. Even when uptake is substantial, a review of over 20 projects using technology to enhance citizen voices in the developing world found at best a mixed record. Almost two-thirds of the projects were classed as failures, and at most a quarter were successes, in generating an institutional response (Peixoto & Fox, 2016).

South Africa has seen a litany of failures, from service delivery reporting applications, to largely unused or duplicated “contact a councillor” apps. In general, two problems are the root cause of low uptake or poor results:

(i) The technology is designed to address the wrong problem. If citizens are not participating because they do not find meaning in participation or feel their deliberation has little to no effect, then using technology to better publicise meetings will not improve results.

(ii) The technology is badly built. In the last decade, the standards for designing and executing consumer-facing technology have risen significantly, while ordinary people’s tolerance for badly designed and implemented technology has fallen. The development of consumer-facing technology has shifted to emphasise design, the reuse of open source components and existing platforms, and rapid iteration. Traditional public-sector procurement, with its emphasis on ex-ante quantitative specification and hard and fast delivery, does not suit these trends. The result has been one city after another conducting repeated, redundant procurements for their own internal apps, each as badly designed and executed as the other. After an initial spurt of use, as government engages significant resources to raise awareness, use sharply drops off.

An example in Spain was the Consensus system that pre-dated the development of Decide Madrid and then Decidim. Localret, a consortium of local governments in Catalonia, developed and ran Consensus, which was built in a traditional mould. It emphasised vertical communication between city and citizen, with the city publishing plans and citizens able to respond, but not much more, and it was not built iteratively. As a result, only 2% of the local committees in Catalonia adopted it (Pena-Lopez, 2016). In contrast, Decidim was clear about its priorities; its focus was on “full traceability of inputs”, i.e. showing citizens exactly what happened to their input. Its second focus was deliberation, allowing citizens to respond to other proposals and to communicate with the administration. In other words, only after making participation meaningful were modules added for functions such as scheduling meetings or voting online.
From the beginning, Decidim built itself as open source, reusing the work already done for Decide Madrid and many components from open source libraries, and focused on design. It was also consciously built to iterate and improve over time, using a modular design that could plug in new functions. The result was high quality standards from the beginning and improving quality over time. For example, a group of smaller cities in Catalonia, with more limited resources, decided that the platform’s administration panel needed to be easier to use. They jointly sponsored an overhaul of the administration module’s design, making it far easier for officials to use. That overhaul is now part of the core platform, benefiting both Barcelona and cities that have since adopted Decidim.

An example from Brazil is the Digital State Participatory Budgeting platform, which was created for state-wide participatory processes in Rio Grande do Sul in Brazil. It was tightly interwoven with a participatory process that already carried significant local legitimacy. The technology was built to support a process that, through a long period of investment and iteration, had meaning. It also drew in almost 15 000 new participants who would otherwise not have taken part. Importantly, the process was part of a “multi-channel democratic innovation”, so the offline processes continued to mobilise lower income participants, while online channels reached previously disengaged or apathetic participants. The entire process is open and iterative, with the government providing monthly project status to assemblies comprising representatives from multiple stakeholders (Spada et al., 2015).

In South African cities, participation is failing because the processes are overly rigid, top-down, focused on wooden compliance with quantitative targets, and conducted in a fashion that is linear and heavily focused on “doing it our way”. Therefore, it is unsurprising that the result is technology that fails to have much effect on participation. The process of building the technology to support participation cannot be divorced from the principles of meaningful participation. If built the old way, the technology will fail – it must be built in a manner that embodies the kind of participation that an administration wants to conduct.

Conclusion: Outcrops of Promise

These cases provide a rich set of resources for participation in South Africa. The case of Yokohama suggests that state processes can be made meaningful by framing decisions on specific trade-offs that affect citizens’ daily lives, and by anchoring participation to clear and credible long-term goals with deep legitimacy. The cities in Brazil show how to overcome capture and unlock innovation through the detailed structures and processes of participation, from the structure of citizens’ councils to the rhythms of planning. The cities in Spain illustrate that technology can be used to solve the real problems of participation by making citizens’ inputs transparent and meaningful to them.

At present, in most city planning processes, officials present aggregate budgets and then wait for citizens to respond. Citizens try to make the process meaningful by proposing local projects, which officials then consider “wish-lists”. A reconfigured process would have officials present with some context, but then focus on specific trade-offs available in a community or ward, and manage a deliberation on those specific options, leading to a vote on which of the trade-offs to pursue. At the wider city and macro levels, such a process would focus on
aggregating a handful of highly concrete, unambiguous, measurable and transformative programmes that would define the future of the city, and then manage a continuous process of pursuing, reporting on, and disaggregating them.

The evidence suggests that this is the only way to break the cycle of short-term changes in goals whenever political heads change. Such processes are clearly demanding on the time and capacity of officials. The need for “capacity building” among local government officials is hardly new, featuring prominently in the literature on participation (Ray, 2016). Too often, however, “capacity building” has meant training conducted by consultants, detached from reality and devoid of much impetus for creating real change.16

The examples from dozens of cities across Brazil and in Spain show that capacity can be built through the creative use of new institutional forms. The menu is quite wide: sectoral councils, sectoral target-setting, transparent proposal-tracing, deep democratic deliberation, or the use of new technology. In a slightly different but cognate context, in Malaysia and elsewhere, such incremental institutional innovation in the pursuit of substantive and meaningful goals is known as “changing being through doing” (Sabel and Jordan, 2014). Although outcomes are not guaranteed, such building of capacity through practice can be far more effective than isolated, catered workshops. Most importantly, it both removes the excuse not to try and prevents an equally misguided attempt to implement major changes based on theory, in full and all at once.

Finally, among the disappointments can be found outcrops of promise for breaking South Africa’s vicious equilibrium in local state/society participatory processes. For example, although more research is needed, meaning and dignity seems to play a central role in the participation of low-income and marginalised citizens in democratic deliberation on matters of public concern. Dignity is central to South Africa’s constitutional, legal and policy framework. The country also has a long tradition of public councils and deliberative decision-making, and of dense local organising in the struggle against apartheid. Yet all these traditions, and the search for dignity, will only sustain a failed equilibrium for so long – they are already being diverted into extra-legal forms of community action, into “the smoke that calls” (von Holdt et al., 2011). The choice is therefore clear: either local governments draw on South Africa’s own best traditions and merge them with sustained institutional innovation to transform the practice of local democracy, or democracy and the framework of legality that sustains it will continue to be drained of legitimacy, overwhelmed by one crisis after another.

References


16 See, for example, the review reported in: https://pmg.org.za/committee-meeting/11849/


South Africa’s Tools for Urban Public Participation

Kevin Foster

South Africa has a world-leading framework for citizens to participate in governing their lives, including the Local Government White Paper (1998), the Constitution (Act 108 of 1996), the Municipal Structures Act (No. 117 of 1998), the Municipal Systems Act (No. 32 of 2000) and the Municipal Financial Management Act (MFMA) (No. 56 of 2003). However, over the last 15 years, this framework has been reduced to a compliance exercise for municipalities. Engagement with citizens is superficial: meetings are held, having been advertised beforehand, and representatives are appointed, but little is done to ensure substantive engagement with community concerns and performance monitoring by citizens.

This paper explores some of the shortcomings of the formal public participation processes used by municipal administrations, the reasons for these shortcomings, and what makes them work when they do. It then explores other innovative tools that civil society uses to encourage substantive public participation, including procedural methods and tools, and technology-based tools. The paper is informed by the existing literature on public participation in South Africa, civil society tools and experience of civic technology, as well a series of interviews with members of civil society organisations that use these participatory tools and technologies.

Why have public participation?

The purpose of public participation is “to build inclusive citizenship by making a once-exclusive state inclusive, open, and responsive to the needs of the majority previously excluded and discriminated against” (Oldfield, 2007: 488). Meaningful public participation has two primary uses:

(i) To strengthen citizen rights and voice, through influence over local policy-making, accountability and responsiveness of institutions, thus allowing communities to achieve a degree of self-determination (Taylor & Fransman, 2004).

(ii) To ensure better allocation of resources at local level, with decisions made in a fuller understanding of the context of communities (Blair, 2000).

Furthermore, fulfilling the objects of local government, as laid out in the Constitution of South Africa, “depends not only on availability of skilled personnel and financial resources but also on the role played by communities in the structures” (Mathekga & Buccus, 2006: 12).

Formal public participation

The Constitution requires local government to “provide democratic and accountable government for local communities” and “encourage the involvement of communities and community organisations in matters of local government”. These requirements manifest in local government legislation – the Municipal Structures Act, Municipal Systems Act and the Municipal Financial Management Act.

The primary means for formal public participation envisioned for local government are ward committees, integrated development planning and performance management.

- The Municipal Structures Act requires a council to “develop mechanisms to consult the community and community organisations in performing its functions and exercising its powers” [Section 19(3)] and makes provision for the establishment of ward committees, as a possible mechanism, along with rules for establishing ward committees [Sections 72–78].
- The Municipal Systems Act requires public participation in the preparation and review of municipal budgets, integrated development plans, performance management, annual reports and strategic decisions related to the provision of municipal services. This should occur within a culture of community participation fostered by the local council [Section 17].
- The MFMA requires that municipalities “consider any views of the local community” and “after considering all budget submissions, the council must give the mayor an opportunity to respond to the submissions; and if necessary to revise the budget” [Section 23].

In addition to the suite of local government legislation, the Promotion of Administrative Justice Act (PAJA) (No. 3 of 2000) establishes the right to public participation in the administration of government, and requires an administration to ensure that administrative action is fair when it materially affects the rights of the public [Section 4]. This can be done through a public hearing, or a notice and comment process, or another appropriate procedure.
Ward Committees and IDPs

As stated earlier, the Municipal Structures Act allows for the establishment of ward committees to enhance participatory democracy in local government. The Act outlines the basic structure and powers of a ward committee, but leaves some power in the hands of the local council. The Act prescribes that a ward committee must be chaired by the ward councillor and have a maximum of 10 members, but the council decides on the rules for electing members and the frequency of meetings. In terms of the Act, ward committees may only make recommendations to the ward councillor and to the council through the ward councillor. Here the council designs the participation, which is limited to recommendations, and has considerable power over who will sit on the committee, i.e. who can participate. Councils may also (but are not obliged to) allocate a budget to ward committees for development within their wards [Section 9].

Ward committees play a primary role in the consultation process for IDPs, particularly in smaller municipalities. In larger metros, the regional-scale public participation tends to happen at subcouncil-level meetings, into which ward committees are poorly integrated (EU, 2011). The Municipal Planning and Performance Management Regulations (2001) require that a municipality establishes an IDP forum to enhance the drafting, implementation and monitoring of the IDP. This forum should include representatives identified by the local community, “including representatives from ward committees” (South Africa, 2001: 16). Outside of these processes, public participation in the IDP primarily takes place through the holding of public meetings and inviting input on draft documents.

State of ward committees in South African cities

Within five years of the publication of the White Paper and the promulgation of the Municipal Structures Act in 1998, the role of ward committees was already being questioned. Since then, their usefulness has been regularly reviewed by a broad spectrum of stakeholders.

The initial concerns were around the resources available for ward committees and support from community development workers (DPLG, 2004). By 2009, the concerns had deepened and were no longer about resources, but about substantive issues, such as the dependence of ward committees on the ward councillor, the influence of political parties on ward committees, and committees’ dependence on the council (Piper & Deacon, 2009). A study of ward committees (ibid) found that ward committees in South Africa deepen local democracy provided three conditions are met:

(i) The ward councillor who chairs the ward committee is competent.
(ii) The ward committee is not undermined by party political agendas.
(iii) The ward committee is materially and institutionally supported.

However, only about one third of the ward committees included in the study were considered to be working well, suggesting that all three of these factors are rarely present.

More recent research into ward committees in South Africa suggests that, for the most part, ward committees are established and meeting (EU, 2011; PDG 2016). However, the extent to which South Africans are aware of ward committees and the ward committee system is less clear. Some research (EU, 2011) suggests that they generally know about committees, the ward councillor and key members, while other research (PDG, 2016) suggests otherwise. The implication is that public participation is not as wide as envisioned in the White Paper and the Constitution. Municipalities have put in place ward committee policies and have a level of compliance, but the delivery of tangible democratic outcomes has been shown to be limited to functional ward committees (EU, 2011). This functionality centres around the buy-in of the ward councillor, the holding of regular meetings, the types of issues discussed, the management of committee documents and the development of a workplan (EU, 2011). In particular, a competent ward councillor is necessary for a functional and effective ward committee, but this is missing in a substantial number of cases.

For ward committees to work successfully within the rules prescribed for them by the Municipal Structures Act depends on several factors, some of which are beyond the ward committee’s control. Successful ward committees have regular meetings, start on time and have good attendance; engage in open, inclusive and constructive debate; employ collective decision-making and the collective implementation of decisions; keep minutes and have good communication with the municipality; and hold regular engagements with the community. These ward committees are more likely to see their needs met through the IDP (EU, 2011).

There is low representation of interest groups, other than women, on ward committees; widespread low levels of deliberation in ward committee meetings; and generally poor levels of document management (EU, 2011). Actual engagement with the public tends to be limited mostly to public meetings. While “ward committees are more likely to matter to less educated, and poor, black communities than to well educated, wealthy, and white communities” (ibid: 7), poor and black communities also experience their ward committee as being less effective than others do.

Nationally, ward committees appear not to be delivering (EU, 2011), although the experience varies in certain parts of the country. For instance, in the Western Cape, ward committees are perceived as somewhat more effective but still lack accountability to the community (PDG, 2016). The IDP process is the most significant channel through which ward committees can affect municipal government (EU 2011), but this impact is limited, often confined to small infrastructure projects within the ward boundaries or wish-list items. Indeed, while many South Africans have not engaged with ward committees, those that have engaged tend to have lower regard for ward committees than those that have not (ibid).

There is also poor representation of the public in ward committee meetings; widespread low levels of deliberation in ward committee meetings; and generally poor levels of document management (EU, 2011). Actual engagement with the public tends to be limited mostly to public meetings. While “ward committees are more likely to matter to less educated, and poor, black communities than to well educated, wealthy, and white communities” (ibid: 7), poor and black communities also experience their ward committee as being less effective than others do.

The state of ward committees suggests that they are not particularly effective at delivering meaningful public participation through the influence that they are supposed to have in council, through the ward councillor or through the IDP processes. If two-thirds of ward committees are ineffective, then they are neither increasing the voice of the public in local decision-making, nor improving the efficiency of resource allocation in local government.

**State of IDP participation in South African cities**

In terms of the Municipal Systems Act, municipalities must consult local communities on their development needs and priorities, and allow local communities to participate in the drafting of the IDP. At the beginning of the electoral term, each municipality prepares an IDP that plots the administration’s developmental path for the term. The administration reviews and updates the IDP every year. The typical instruments to enable participation in IDP development are regular public meetings, ward committees, mayoral road shows and “listening campaigns” (Marais et al., 2007: 11). Typically, the municipality will hold several meetings in each ward to develop a set of IDP priorities for that ward, usually as a public meeting of the ward committee.

Ward committees are a lynchpin of the IDP public participation process, acting as neutral interlocutors for the public’s ideas. Therefore, issues that affect the effectiveness of ward committees, manifest themselves as problems for the IDP process. Public participation in IDP meetings varies dramatically across wards. Attendance at meetings can range from a handful of people to over 500 (Marais et al., 2007:19). The IDP is prepared over the period of 8–10 months, but the public participation part of the process exists at only a few points in the process, when public meetings are held (ibid) and members of the public can make inputs into the plan. Community organisations can, and sometimes do, deepen their participation by engaging outside of the municipally arranged meetings, and developing their own inputs. However, the extent to which these inputs can be adopted is limited because their input is made as just one extra voice in the IDP meeting (ibid).

From the perspectives of officials, successful participation is often judged based on the turnout at meetings, while the quality of inputs into the process is only a secondary consideration. The facilitation of meetings also varies and depends on the skill of the officials or councillors presiding (ibid). This is clearly a superficial state of participation, as the administration can consider its public participation obligation fulfilled so long as it can demonstrate that it has met with the public.

Under the current arrangement of public participation in IDPs through intermittent community meetings, the result is the creation of a wish-list of inputs, rather than influence on policy-making and actual decisions around resource allocation or holding government to account. This suggests that the approach requires revising to deepen the level of engagement, through more discussions about decisions that affect communities and better information-sharing between government and communities.

**Barriers to the effectiveness of current public participation processes**

Some of the factors limiting the effectiveness of the current processes are quite mundane and, theoretically, easy to fix. For example, better advertising of ward committee and public meetings, simpler presentation of IDP information, more convenient meeting times, better management of ward committee information and ward document (minutes, agendas, budgets, etc.), and better reporting back to communities (Marais et al., 2007; EU, 2011). However, there are other factors that are inherent in the design of the system, which make fixing the simpler problems more difficult.
The factors inherent in the design of ward committees and other participatory forums that can act as barriers to their effectiveness are threefold.

(i) **Ward committees are designed around the ward councillor** and can only make recommendations to the councillor – the councillor chairs meetings, sets the agenda and acts as the conduit of information between the ward committee and the council (Piper & Deacon, 2009). Therefore, the ward committee relies on the ward councillor not only for its functioning but also to be its conduit and to advocate its recommendations within the participative process. Thus ward councillors have significant power over ward committees and are the key determinants of success. A ward councillor who sees little value in their ward committee, or has no faith in its ability, has little incentive to put much effort into the ward committee project. In the past, it was common for ward councillors to find ward committees “useless and thus a burden, or as competitors for their position” (ibid: 6). Equally, an incompetent ward councillor is a real risk to ward committees. The ward committee will not be able to be an effective representative structure if the ward councillor is not capable of managing its administration or creating the appropriate environment, as its chair and advocate in council.

(ii) **Forums such as ward committees can be captured by party politics**, which can weaken the citizens’ voice in favour of party lines. Inter-party competition can lead to forums becoming subject to a party’s control, with the agenda and committee composition being aligned to the ward councillor’s party. This results in an uneven distribution of voices in forums and a loss of trust in public participation processes.\(^{18}\) The information shared may also be used for political purposes rather than for the benefit of the community, and thus risk alienating important role-players.\(^{19}\) In some instances, ward councillors from certain parties have chosen not to adhere to the municipal-wide approach for managing ward committees, and instead manage the ward committee in their own way (ibid). Alternatively, a would-be ward councillor from a rival party may find a way onto the committee and undermine its work, as well as the ward councillor’s faith in the ward committee, in order to create a divide between the ward councillor and the community (PDG, 2016).

(iii) **Intra-party competition can be more insidious**, with ward committees becoming highly politicised and aligned, resulting in party factions purging ward committees of members of certain factions and loading them with others. Political parties can play a significant role in ward committee nominations, resulting in party-aligned committees (DPLG, 2005 in Piper & Deacon, 2009) and partisan distribution of the resources that public participation should distribute more effectively. For communities to collaborate in the determination of their future, there needs to be equality in the forums that develop these plans, and a non-partisan approach overall,\(^ {20}\) in order to get widespread participation and buy-in, and for these plans to succeed.

(iv) **Ward committees and IDP meetings and forums rely on the municipal council and administration.** They rely on them for their establishment, for who sits on them and for the definition of their role in the council’s decision-making. Councils and administrations also provide for logistical, administrative and training support. This means that, to a large extent, the quality of the ward committee and formal public participation will depend on the quality of the municipal administration. The quality of input on planning issues will depend on the quality of training provided by the council, and even the committee’s ability to meet may depend on the provision of venues and transport for members (EU, 2011; Marais, 2007).

Given these factors, the current formal processes run the risk of being non-representative, are subject to political sea-changes, and are reliant on the very authority that they are supposed to negotiate with and hold to account. This suggests that the odds are stacked against these processes being an effective mechanism for community representation, except in ideal conditions.

### Other Tools for Public Participation

Despite the limited effectiveness of formalised processes for public participation in local government, for both procedural and structural reasons, alternative approaches to public participation are being tested, mostly initiated by non-governmental organisations. These approaches are sometimes designed to work with the existing formal processes, and sometimes designed to work in spite of them.

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\(^{18}\) Interview with Mike Makwela, Planact (21 September 2018).

\(^{19}\) Interview with Ryan Fester, Development Action Group (14 September 2018).

\(^{20}\) Interview with Mike Makwela, Planact (21 September 2018).
Participatory budgeting

Participatory budgeting is a set of tools being used by several civil society organisations in cities and towns in South Africa, both those that collaborate with and those that act antagonistically towards local government. Collaborative organisations work with government, sharing information and supporting government processes, while organisations that operate antagonistically tend to work without a relationship with government, often seeking to hold government to account publicly through whatever means are available. This can be a result of government refusing to work with them.

Based on the approach pioneered in Porto Alegre in Brazil in the 1990s, participatory budgeting involves the opening up of the public budget to binding decision-making by the general public and has five characteristics (Johnson, 2017):

(i) Funding decisions are formally binding or credibly committed to by government officials.
(ii) Decisions are open to all members of the community.
(iii) The process includes public discussion and public reasoning.
(iv) Spending ideas and priorities come from members of the public rather than from officials.
(v) Members of the public are involved in the design and implementation of the projects and can hold officials accountable for implementation.

Planact has tested elements of participatory budgeting in the Makhado Local Municipality and sought to demonstrate a model in which ward committees can play a meaningful role in the municipal planning, budgeting and performance monitoring process. Three communities in Makhado were organised into two structures: the community leadership and all members of the community. All members in the communities were trained on the workings of local government and the participatory budgeting tool (Kusambiza-Kiingi, 2018). The tool that was used was specifically adapted from the tool used in the Porto Alegre case.

The Makhado Local Municipality did not have a track record of adhering adequately to its legislative mandate in respect of citizen participation in planning, budgeting and assessment. The ward committee system was not functioning optimally, the IDP did not reconcile with the municipal budget, and traditional leaders did not recognise the authority of the local council (ibid). Planact’s tool sought to enable citizens to be involved in budgeting processes, to provide them with knowledge to assess whether the municipality was using funds for their intended purpose, and to increase transparency and accountability of the municipality by making all budget process information publicly available (ibid). Through the tool, communities would discuss their key priorities at village and neighbourhood level, which were then taken to area-based planning at ward level and to regional level. At this point, the performance monitoring committees of the council joined discussions to formalise the process and incorporate the outcomes in the IDP. Priorities were presented to the finance committee, the councillors and the mayor.

The use of participatory budgeting processes led to improved cohesion between councils and communities. There was a noticeable change in the municipality’s receptiveness to input from communities, and improved understanding within the communities of budgeting in relation to prioritisation processes (Makwela, 2012). The participatory budgeting experience also improved the communities’ understanding of the need for services in the broader municipal area, and how a neighbouring community’s needs might need to take priority in the short term, and what prioritisation means in the context of scarce resources. For instance, the community members of one settlement, which had already been electrified, were prepared to accept that their other projects would be a lower priority until a neighbouring settlement was electrified21.

The Social Justice Coalition (SJC) has also used participatory budgeting processes to mobilise activism for increased spending on sanitation in informal settlements in the City of Cape Town. From 2014, the organisation began to interrogate the city’s budget for sanitation in informal settlements, as inadequate access to sanitation was making communities vulnerable to violent crime and illness (Kramer, 2017). Few people had toilets in their homes, and so residents had to walk long distances at night to toilets, which resulted in them being attacked and forced to use bushes, and sewage was running through homes (ibid). Having acquired resources and skills to examine the budget, the SJC did a deep analysis of the city’s budget and began educating and organising members of the public about the city budget. After two months of workshops and a “budget camp”, over 500 residents of Khayelitsha wrote individual submissions to the city’s budget process in 2015 (ibid).

21 Interview with Mike Makwela, Planact (21 September 2018).
Initially, the city declined to accept the residents’ responses individually, as required by the MFMA, but ultimately did accept them. However, the city failed to acknowledge each response individually in its official public participation report, choosing to identify the responses as a collective submission. Later, in 2016, the city was forced to individually acknowledge the responses retrospectively, after the deputy mayor admitted that they were individual submissions (ibid). In 2016, over 3000 residents of Khayelitsha and Gugulethu made submissions to the process – in total over 4000 submissions were received. In this instance, the submissions were properly and individually acknowledged (ibid). According to the then Deputy Secretary-General of the SJC, the City was ill-equipped to deal with the volume of submissions it was suddenly receiving on the budget, and within a year had begun to adapt its process (Kramer, 2017). However, it was still struggling to deal with the large number of submissions when over 60 000 responses were submitted related to the proposed “drought levy” in 2018.

### Social audits

A social audit is a “community-led process of reviewing official documents to determine whether the public expenditure and service delivery outcomes reported by the government really reflect the public money spent and the services received by the community” (SJC, NU & IBP, 2015: 15). Community members collectively participate in the process of verifying documents from government or their services providers, and comparing them with the realities on the ground. Then, the evidence collected is reported to the responsible authorities, with the intent of securing a commitment from the authority to address the shortcomings. In its current format, the tool emerged from experiences in the state of Rajastan in India in the 1990s (ibid).

Planact has also tested social audit approaches through their Municipal Accountability Tool, which was piloted in Ekurhuleni Metropolitan Municipality. The tool’s objectives are for communities to learn about legislative process for citizen participation in council processes, to enable community members to properly read and analyse local plans and budgets in relation to service delivery, and to foster understanding of the mutual responsibilities of the council and citizens. The communities were trained in social audit methodology (Kusambiza-Kiingi, 2018) and then carried out assessments of the council’s performance against the council’s own set performance objectives and goals. The findings were presented to the administration and council, with the intention of getting a concrete commitment from the council to rectify the issues presented to them (ibid).

The Municipal Accountability Tool pilot produced three key results (ibid):

(i) The municipality recognised its responsibility to three settlements that it had previously ignored.

(ii) The municipality accepted that community members would carry out an assessment of the sanitation servicing and maintenance contract, including failures of service providers.

(iii) The municipality agreed to provide information on maintenance contracts, in order to enable communities to assess based on true information.

The SJC and Ndifuna Ukwazi have used social audits extensively in the City of Cape Town, particularly in relation to sanitation and refuse services in Khayelitsha, and adequate housing in Wolverivier. With the support of SJC, community members have produced sophisticated reports assessing the services that they receive (SJC, 2013a; SJC, 2013b; Wolverivier, 2015). The SJC’s antagonistic relationship with the City of Cape Town (Kramer, 2017) has perhaps compromised the extent to which the communities they work with are able to get commitments from the city to address the shortcomings that they identify through social audits. This is

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**THE VALUE OF PARTICIPATORY BUDGETING**

These cases suggest that participatory budgeting tools can add particular value to the public participation requirements of an IDP and budget process. Ways should be found to incorporate these tools into these processes, as they engage citizens on a scale that is far more significant than current formal processes.

To navigate the tricky relationships between communities and cities, which may occur when adopting newer, ground-up participatory processes, intermediary organisations should be used that have the ability:

- to develop the skills within communities to engage in participatory budgeting processes, and to build their trust;
- to build the trust of the city in the information produced by the communities and the processes for addressing those issues.

Cities need to be open to trusting the information received from communities when it has been developed according to a rigorous process.

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22 Interview with Rob Hutchinson, DearSouthAfrica (11 September 2018).
demonstrated in their social audit reports, which (unlike Planact’s social audit reports) do not include a section on commitments from the municipal administration – their reports only include a report on public hearings (which city officials sometimes attend, and service providers rarely attend), as well as lists of demands to be addressed by the city or other mandated administrations, such as provincial departments. The social audit reports include no commitments from any of these role-players. This antagonism appears to be due to political dynamics within the City of Cape Town administration (ibid), where a once-productive relationship – which produced a commitment from the city to take responsibility for janitorial services for toilets in informal settlements – soured when members of the political administration changed. The SJC’s work is perceived as politicised, deepening the defensiveness of the administration in engagements such as social audit public hearings (ibid).

THE VALUE OF SOCIAL AUDITS

Social audit tools are a specific approach to meeting the Municipal Systems Act’s requirement for public participation in municipal performance management and ensuring accountability and responsiveness from cities. Again, these processes should be managed by an intermediary organisation or organisations, to avoid a city leading its own assessment. A social audit approach offers two specific benefits:

- It enables citizens to engage meaningfully in assessing the quality of the basic services that they are provided with, compared to what was planned.
- It is an excellent tool for understanding local conditions, which will lead to better resource allocation.

Web platforms

Web-based platforms offer tools that can work well for “notice and comment” type public participation processes that local government uses for legislative, bylaw and development processes. They provide citizens with accessible information and a way to manage their municipal accounts. The information includes details of the participatory processes, adverts and contextual information, and demographic, infrastructural or service information provided by independent organisations, relevant to various communities and areas.

Web platforms have the ability to facilitate a far deeper engagement process in notice and comment processes. For international examples, see decidem.barcelona (discussed by Luke Jordan and Nazreen Kola elsewhere in this paper series), where whole development planning participation processes are managed through a web-based platform, allowing for debate and the synthesis of tens of thousands of submissions.

In South Africa, the DearSouthAfrica platform provides the ability to submit individual comments directly to a municipality (in the Cape Town case, via the City’s web-based comment form). The DearSouthAfrica website is an online platform for public submissions on legislative and local government issues, and PAJA is the basis for its activities. The innovation of the DearSouthAfrica platform is its ability to deliver large numbers of individual comments digitally to the administrator. For instance, in response to the first notice about the City of Cape Town’s proposed drought levy in 2017/18, about 61 000 comments were submitted individually through the platform, compared to the expected average response rate of between 500 and 800.23

The DearSouthAfrica platform is different from the typical mass participation process in South Africa, where an organisation or coalition of organisations will develop a response and create a petition to support it. While a petition may acquire a large amount of support, with thousands of signatures, the administration treats it as a single submission by the administrator. The DearSouthAfrica platform allows for far more individual voices to be heard, but places a larger burden on the administrator who has to consider all the comments.

The platform uses linguistic analysis to ensure that the same individual does not submit multiple comments on a single issue, and to compile reports about the comments received. This linguistic analysis can draw out themes and the level of support each theme enjoys, assisting the analysis of large-scale submissions in public participation processes. Alternatively, these reports can provide a record against which to test the administrator’s response or report on a public participation process.24

The platform is successful in achieving widespread usage, as it leverages social media effectively to get members of community groups, activist groups and armchair activist groups to respond through the platform.25

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23 ibid
24 ibid
25 The founder garnered a significant following on Facebook and Twitter through his activism against e-tolls. This following included a network of groups, particularly on Facebook, which would receive information about other campaigns that the founder was involved in. This lead to the establishment of the DearSouthAfrica web platform.
Campaigns are initiated by identifying public participation processes undertaken by parliament and local councils, which are then circulated through this network of social media groups, covering either the entire network or smaller community pages. All comments received are published on the website, increasing the space for deliberation in public participation processes, and widening the discussion beyond a two-way engagement between the city and a commenter. This approach strengthens the citizen’s voice in policy-making and demands a response from administrations, as they are bound by law to consider all submissions and respond to them.

OpenUp is another organisation that offers web-based tools to aid public participation, as they believe “that an equal society starts with equal access to information, and that access to relevant information creates an active citizenry.” It provides useful data for public decision-making and accountability in an easily understandable, accessible and usable format for communities. The organisation has several websites, each of which makes a specific type of information about local government available. Three of the websites are:

- Municipal Money, which provides a breakdown of the most recent audited financial position of the municipalities, and their budget spend and audit status;
- Wazimap, which provides easily understandable demographic information for an area, down to the ward level, based on StatsSA data;
- OpenByLaws, which collates the bylaws of municipalities online and provides assistance with frequently asked questions and issues relating to the bylaws.

The organisation also offers training in how to use data to tell stories in an easy-to-understand way and collaborates with several municipalities in an effort to improve access to information and the ability of communities to communicate their needs and understand their legal rights.

There is an increasing body of learning on web platforms developed for government services, with some expensive failures to learn from. In the United States of America, the failure of the initial rollout of Healthcare.gov, the web platform for President Obama’s Affordable Care Act, provides useful lessons on how government should develop its web interfaces, including the need for clear leadership, policy that aligns with technical solutions, disciplined change management, adequate software testing (ideally with users) and efficient service provider management (Lee & Brumer, 2017). This suggests that if local government chooses to pursue web-based options for public participation, it should put in place appropriate project management with high-level, skilled leadership, have appropriate contracting arrangements that avoid wasteful, over-specified tenders, and ensure that the usability and usefulness of systems are adequately tested with public users.

**Mobile platforms**

Mobile phone penetration is very high in South Africa, where nearly 70% of the population have a cell phone – a far higher level of access than for other information technologies. Various approaches are available to make use of mobile phone coverage.

**A bulk SMS system** is a one-way channel, which sends information to residents of an area, but does not receive information from them. For instance, many municipalities in the Western Cape use bulk SMS systems to communicate to various groups within their jurisdictions. Such systems carry quite high costs for each usage but offer cheaper prices for higher numbers of messages sent. However, costs per message rarely drop below 20 cents. In large municipalities or wards in cities, this entails a very high cost if used regularly.

**Amandla.mobi** is a mobile platform for submitting petitions to notice and response-type public participation processes, and for submitting unsolicited petitions on important public issues. The platform operates two types of campaigns: those initiated by the organisation and those initiated by members of the public. Campaigns are mostly on issues that predominantly affect women and attract thousands of signatures, with the largest currently running campaign attracting over 40 000 signatures. The platform has over 230 000 registered users. To join, an individual adds their cell phone number to a list, through either an SMS, a “please call me” message, or

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26 ibid
27 https://openup.org.za/about.html
28 https://municipalmoney.gov.za
29 https://wazimap.co.za
30 https://openbylaws.org.za
31 https://openup.org.za/trainup/
33 https://awethu.amandla.mobi
34 https://awethu.amandla.mobi/petitions/bring-the-cost-of-data-down
dialling a join code. The individual will then receive messages from the organisation asking them to sign their name to new campaigns, when they come on line and as far as they are relevant to that individual. The organisation also has a website, where people can sign campaigns, and calls for signatures through a mailing list.

Although the tool does not provide for individual responses to an administrator in a notice and comment-style public participation process, it does allow for petitions to be run at scale much more efficiently, for those who have limited access to technology and resources, than is possible through traditional approaches to petitions. While online petitions are not a new tool, Amandla.mobi offers a new approach to making them widely accessible to anyone with access to a cell phone.

**Mobile applications** offer an alternative to an SMS-based approach. This is where a distinct piece of software is downloaded onto a user’s device, which the user then interacts with rather than simply receiving a message. Some government institutions use these applications to engage with the public. The provincial government of Mpumalanga has developed a mobile application and USSD-based mobile system for reporting service delivery failures. In the Western Cape, the Department of Local Government has developed a mobile application for municipalities in the province to customise for their own use. The application offers a fair amount of functionality to residents of the municipality that adopt it. Users receive notifications of useful information, such as road closures or planned power outages, and can log faults with the municipality with a photo and geo-locations, provide feedback to the municipality and see its social media feeds. This approach allows significant interaction between its users and the administration, but appears not to have been used for formal public participation processes. George Local Municipality\(^35\) uses the app primarily as a notification tool, but less so for calling for comment on council matters, ward committee issues, IDP issues or performance management. Knysna is also a user of the app, while Buffalo City, in the Eastern Cape, has a similar app that was created by the same developer.

These municipal apps have garnered only limited usage, with download numbers of between 1000 and 5000,\(^36\) despite having been available for about a year, and despite periods of being marketed heavily, as was the case in Knysna following the devastating fire in the area.\(^37\) These numbers suggest that the penetration of these apps into the market is fairly low, as the population in these cities ranges from 70 000 (Knysna\(^38\)) to nearly 1 million (Buffalo City\(^39\)).

**Grassroot** is another mobile approach to public participation that does focus on interaction between citizens, and between citizens and government. Grassroot is an NGO that builds tools for participatory democracy, with its main tool being an application that can be used to organise communities, particularly those who struggle to afford smartphones, airtime and data. It allows for five main functions to be conducted free of charge: organising meetings of groups; taking votes; calling for and sharing information (action items from meetings, volunteers, contact details); broadcasting information and publishing media releases; and emergency alerts. The system has over 160 000 users, including organised groups as large as 40 000 people,\(^40\) and is used by a number of community activists and political parties to organise members. It has been tried in several municipalities, particularly in the Western Cape, for parts of the formal public participation process, mainly for organising ward committees. It is largely untested for these uses but has the potential to contribute to the process of developing IDPs and performance management, by prioritising the needs of communities through its vote-taking capabilities, and rating performance of the council by surveying residents.

The tool is most effective when there is iterative organising and habit forming; it succeeds under the same circumstances in which traditional organising succeeds, i.e. when contact is regular, repeated and the processes are learned by use (Foster, 2018). Similarly, it fails for the same reasons that public participation might fail, i.e. a lack of support, a champion, dependence on the council to support and adopt the system, and dependence on the ward councillor to use it appropriately and properly. The experience of Grassroot in local government resonates with other experiences of civic technology in participatory processes, and indeed technology in public

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\(^35\) [www.george.org.za/george-municipal-app](https://www.george.org.za/george-municipal-app)

\(^36\) [https://play.google.com/store/apps/details?id=za.co.community.george](https://play.google.com/store/apps/details?id=za.co.community.george)


\(^38\) [https://play.google.com/store/apps/details?id=za.co.community.knysna](https://play.google.com/store/apps/details?id=za.co.community.knysna)


\(^40\) Interview with Luke Jordan, Grassroot (28 September 2018).
management. If participatory processes do not work well, then technology, in particular mobile apps, can make participatory processes work better, but they cannot help if existing processes do not work at all.

The keys to success when considering a mobile tool are: building the app in consultation with one’s users, reusing existing technology as far as possible, staying adaptable to one’s users’ needs, and keeping the tool simple to learn and use. Sticking to these principles should allow for the efficient development of tools that will actually be used by the public, rather than become expensive white elephants. However, this can be difficult for the public sector, as relatively inflexible procurement regulations, demanding a high level of specification of deliverables, make adapting and being responsive to users’ needs very difficult. However, mobile tools do offer a significant opportunity to strengthen the voice of citizens, through organising and gathering information.

Conclusion

There are no shortcuts to meaningful public participation, but new tools can make the process easier. They offer a way to obtain better results, more financial efficiency in delivery and more efficient gathering and handling of public participation information. However, the process will always require intensive engagement from administrators, since public participation using innovative tools will succeed or fail for the same reasons that traditional public participation approaches succeed or fail. Failure is almost guaranteed where there is a lack of trust between administrations and communities and in one another’s information, and where there is irregular engagement, destructive politics or complete dependency on administrations for functionality.

To address each of these sources of failure requires iterative processes, where administrations and communities engage with each other regularly, and where trust can be built between administrations and communities. Iterative engagement processes can create an environment where the community is prepared to learn from an administration, and can understand and trust an administration’s information. However, perhaps more importantly, success requires an administration that can learn from its communities, understand and trust their information, and make only promises that it will keep. This is particularly complex in the case of South Africa’s metros, and in particular its bigger metros, which have very large wards, each with multiple communities that have their own sets of community dynamics. In this context, intermediary organisations have an important mediation role to play, allowing for neighbouring and competing communities to develop a mutual understand of what they want and what is possible in their development plans.

Technology can play an important role in making each of these conditions possible. It can assist in managing large amounts of information in a useful and democratic way, collating information from a large number of people, analysing that information and presenting that information in an easy-to-understand way. It can also make information about their rights and responsibilities much more accessible to the public and equip citizens with the means to give immediate feedback on service delivery. This will require technology that is convenient, cheap to use, regularly and consistently used and widely accessible. Without ensuring these conditions, technology risks becoming an additional barrier to broad-based participation.

References


Ibid.
Ibid.


Lost in the Afrikan City: The role of youth in decolonising Afrikan urban development

Baba Amani Olubanjo Buntu, Executive Director, eBukhosini Solutions

In the shaping of Afrika’s urban development, the voices of young people are rarely considered or taken into account. Reports such as the Global Urban Millennial Survey (Youthful Cities, 2016) state that young people are relatively content with urban life, yet largely ignore the fact that the majority of youth have little or no say in the current and planned development of Afrika. The United Nations Human Settlements Programme (UN-Habitat), African Centre for Cities, United Cities and Local Governments of Africa (UCLG Afrika) and other international bodies increasingly mention the challenges facing the youth in Afrika and the need to engage with youth communities, but young people are far from playing an inclusive role in actual decision-making, especially at national level. In South Afrika, the government’s national urban policy – the Integrated Urban Development Framework (CoGTA, 2016) – mentions youth but includes no strategy for how young people may have a direct impact on urban development.

Restricting young people from influencing urban development in Afrika may prove to be a detrimental mistake. Afrika has the largest youth population in the world – more than 60% of people living in Afrika are under the age of 25 years (UN, 2017) – and its urban population is growing and expected to double by 2050, when 60% of Afrikans will live in cities (CoGTA, 2016: 11). Therefore, actively excluding the majority of its citizens will not serve the needs of future urban development. Discussing Afrika’s urban development without a dedicated focus on involving young people is symptomatic of a general lack of prioritising young people in governance. It constitutes a huge challenge.

Young Afrikans are demanding change and raising critical questions about space, power, ownership, education, coloniality and hegemony. This is reflected in the student protests in countries across the continent, from Cameroon to Nigeria, Kenya, Egypt and South Afrika (the Fallist movements), and in the Black Lives Matter campaign started by Afrikan-American youth. Young people are demanding unapologetic Afrikan-defined space, innovation, construction, sustainability, identity, leadership and equity, as a norm – not as a controversial and revolutionary cause. Such demands were effortlessly accepted as a premise in the recent superhero film Black Panther (Marvel Studios, 2018), which was a huge success among young people of Afrikan descent. The film conveyed an underlying message of Afrikan empowerment and self-sustainability, through aspects such as Black aesthetics, Afrocentric themes, complex storylines and Afrofuturistic technology, all quite unlike the usual shallow and stereotypical depiction of Afrika in Hollywood movies.

While Black Panther was a work of fiction, the many grievances articulated by young Afrikans remain painstakingly real. Against this background, it becomes relevant to ask how young people fit into urban development in Afrika, and what they can bring to the highly technical planning profession.

Young people have a critical role to play in helping to rethink, re-envision and rebuild vital concepts of Afrikan urban development. What should the Afrikan future city look like? To what extent should Afrikan urban development emulate an Afrikan aesthetic and functionality? And how can the ideas of de-Westernisation and decoloniality shape such processes?

This paper briefly explores young people’s role and contribution in urban development, referencing lessons from the recent radicalisation of youth in South Afrika, and looks at what decolonisation means for the Afrikan city. It seeks to establish a youth perspective of rethinking, re-envisioning and rebuilding the concept of an Afrikan city, based on sustainable values and cultural identification, bringing in contributions from conversations with young architects and designers in Johannesburg. The “Afrikan city” is used as a philosophical reference, pointing to indigenous, well-organised urban settlements in ancient times, the particular positioning of oppressive city-developments during colonisation and the possibility of liberating city planning. Although the discussion centres on particular events that may be specific to South Afrikan dynamics, there is also an underlying attempt to position the discussion within a Pan-Afrikan perspective, in defiance of – and leaping right over – the borders of colonially defined territories.

43 The reader will note that the name ‘Afrika’ is spelt with a ‘k’ instead of a ‘c’. This comes from an Afrocentric tradition, and reflects how the name ‘Afrika’ is written in all Afrikan languages.
Afrikan Youth and Lessons from Fallism

There are many strong reasons for prioritising youth in discussions about urban development. As mentioned, Afrika is the youngest continent in the world, with 60% of its population aged below 25 years (UN, 2017; Adegoke, 2017), many of whom will be expected to take up leadership very soon. Yet the majority of Afrika’s youth struggle for basic survival: 60% of them are unemployed (Jalata, 2014), and they are disproportionately affected by poverty, health and lack of access to education. Youth are spoken about as a great resource but in reality are ignored, taken for granted and spoken to – not conversed with. Of concern is that young people across Afrika are not adequately involved in policy development, decision-making and leadership structures (Ntsabane & Ntau, 2016).

In 2015, the idea of Fallism emerged in South Afrika (Mangcu, 2016). Loosely defined as campaigns against structures, concepts or positions that must be rendered invalid and “fall” (Moya, 2016), Fallism developed into radical, uncompromising efforts by students to challenge university policies (Xaba, 2017). The Fallist movement can perhaps be traced back to smaller movements, largely spearheaded by Black youth in townships, such as Blackwash and September National Imbizo, which in 2009–2010 started mobilising youth around Black critical thought (Tafira, 2013). Inspired by iconic leaders such as Steve Bantu Biko, Frantz Fanon, Thomas Sankara and Chinweizu, these movements brought about radical interpretations of political ideas previously advocated in the 1960s by Pan-Afrikan and Black Consciousness movements in South Afrika.

Drawing from the country’s rich history of youth uprisings, students popularised a currency of critical thinking and radicalisation that was brought to national attention. In 2015, the Rhodes Must Fall movement led to Fees must Fall, and in a matter of months, the whole country saw protests by students who demanded to be heard. These uprisings became channels for students to protest against the colonial residue, discriminatory fee structures, living conditions for Black students and Westernised curriculums on South Afrikan university campuses. Fallism became a series of many co-related actions that aimed to highlight, denounce and end oppression against Black people (Taghavi, 2017). The campaigns were not only directed at universities, but also addressed the colonial nation-state as an instrument for inflicting structural violence on poor Black South Afrikans on a daily basis (Xaba, 2017). The student movements, founded in Black Consciousness, Pan-Afrikanism and – to a certain degree – Black Radical Feminism, brought to the fore uncomfortable and sensitive questions that South Afrika had not fully discussed in public, at least not outside of party politics. Concepts such as anti-Black, Black non-being, white privilege, decolonising education, land repossession and ending patriarchy were widely discussed and created a broader national consciousness, reflected on social media platforms, radio and in newspapers.

In 2013, Julius Malema started a new political party, the Economic Freedom Fighters (EFF), after being expelled from the ANC where he had been President of the ANC Youth League in 2012. The EFF quickly gathered a substantial following and came third in the 2014 general elections. Suddenly, young, politicised voices were speaking unapologetically and in newspapers. Of concern is that young people in government were no longer prepared to remain silent and be ignored. The articulations of these young protestors inspire three positions on urban development, where there is a need to:

- **rethink** (to oppose status quo and what is considered normal, classic, standard etc.; to position de-Westernisation and to draw knowledge from outside of what has been posited as the main theoretical frame)
- **re-envision** (to draw inspiration from Afrikan sources, to “see with different eyes” and unmute indigenous voices within places of research, conceptualisation, policy-making and planning)
- **rebuild** (to dismantle what has been colonised and build with new enthusiasm that which empowers, liberates and enables).

These positions may serve as guidelines for Afrikan youth in shaping their influence on processes of leadership and innovation, and are explored in this paper.
Coloniality in the Afrikan City

Afrika’s urbanisation is unique both in scale and speed. In 1950, Afrika contained not one city with more than one million inhabitants (Kebede, 2018); today, Afrika is home to almost 50 cities with more than one million inhabitants. Afrika has the highest rate of population growth in the world – 28 countries will see their populations more than double by 2050 (UN, 2015). By 2035 Johannesburg, Lagos, Kinshasa, Luanda and Dar es Salaam will join the ranks of the world’s 41 megacities, with populations in excess of 10 million (Bello-Schünemann & Aucoin, 2018). This growth has the potential to expand economic and social development or, with too-slow structural transformation, lead to poverty, inequality and urban violence.

The political views expressed through the Fallist movement lend themselves to a confrontational critique of what urbanism means in Afrika. The current basis of urban development is the same hegemonic power dynamic which laid the foundation for exclusion and oppression in academic institutions. Most Afrikan cities have developed under (or been drastically affected by) invasions, enslavement, colonialism and apartheid, which are reflected in their planning, spatial development, theoretical views, architectural designs and governance. The Afrikan city can be viewed as an extension of the colonial experience, Western imposition, the glorification of Eurocentric aesthetics and imperialistically designed power concepts.

To creatively develop new concepts for urban city planning in Afrika, memory becomes important. In redeveloping Afrikan architectural and design concepts, what older templates may be drawn from? What did cities in ancient Afrika look like? Most textbooks do not evoke the memory necessary for reimagination, as Afrikan history is reduced to small, selected components that do not fully represent its magnitude. Yet, while Afrikan history may not be part of the our memory, Afrikan urban development has a long pre-colonial history, and many Afrikan scholars have devoted their research to correct the deliberate falsification and misrepresentation of ancient Afrikan history (Diop, 1974, 1981, 1987; Rashidi, 1995; Van Sertima, 2004; Walker, 2006; Asante 2007).

In the Nile Valley, an impressive number of architectural designs date back to approximately 6000 BC (Walker, 2006). From the very early kingdom of Ta-Seti through the dynastic history of Kemet (Egypt), temples, pyramids, palaces, houses, sculptures and cities were created with great architectural precision. The world’s first planned city was Kahun (around 3000 BC) and contained intersecting streets, gutters, arched doorways, 70-room mansions and courtyards. Other impressive cities sprang up in other parts of the continent: Merê (Sudan), Axum (Ethiopia), Timbuktu (Mali), Djenné (Mali), Mbanza-Kongo (Kongo Empire), Edo (Nigeria), Ryamururi (Rwanda), Kiguba (Uganda), East Malindi (Kenya), Zanzibar (Tanzania), Monomotapa (Zimbabwe) and Mapungubwe (South Afrika). Studying the planning, distribution, governance and sustainability of such cities would be of great interest for contemporary designers and serve as inspiration for new innovations.

Afrikan history is full of rich and complex art, design, architecture and planning. Scholars have explored the significance of spirituality in architectural designs (Opoku, 1978); the importance of patterns, motifs, forms and aesthetics in crafting and building work (Williams, 1971); and the centrality of the extended family and its impact on urban planning (Falola, 2000). Such work provides meaningful theoretical foundations and techniques that can inform Afrikanised architecture and design, although extensive research and timeous dedication may be required to excavate and interpret findings.

Ancient Afrikan urban settlements crumbled under the weight of invasions and attacks from Asia (Williams, 1987), the establishing of Arab-led slavery (Lovejoy, 2000; Anderson, 2002) and the intensified slave trade led by Europeans (Rodney, 1981). These volatile times led to massive migrations, the disintegration of societies and political chaos. The autonomous Afrikan city increasingly became extinct, and cities would soon become outposts for foreign interests. The colonial city in Afrika developed following the Berlin Conference in 1884–85, when European nations split Afrika into colonies. In the 1940s, European nations imposed urban planning on Afrikan countries; a planning shaped by a colonial worldview in which segregation, spatial racial violence, discriminatory practices and designs of hierarchy and inequality were the main ingredients (Nunes, 2015).

In the aftermath of independence, the post-colonial city often retained its form – a physical symbol of colonial power, domination, inequality and exclusivity (Myers, 2010), and many people flocked to urban areas. Western orientations have also shaped architecture, planning and economics. Although the modern Afrikan city is not a uniform construction – there are many differences and overlapping realities, affected by economy, migration, political climate and a variety of social indicators (UN, 2014), the overarching problems remain ubiquitous. These problems can be traced to historical injustices and include urban poverty, unemployment, housing, as well as political instability and inability to manage the many transitions in demographics, politics and technologies.
Decoloniality in the Afrikan City

Colonial history not only informs, but consumes, the Afrikan city; it is evident in the challenges it faces, its political leadership, its orientation and make-up, its policies, the curriculum that develops its expertise, and its management and development practices. The many problems related to oppressive human experiences and a Eurocentric orientation pose critical questions to Afrikan urban development. To rethink, re-envision and rebuild Afrikan cities will require a profound reimagining in shaping the road towards sustainability. For this to take place, the decolonisation of urban theory, imagery and praxis must be seriously considered.

Rethinking: decolonising the Afrikan city

Urban theory often describes city formation in relation to economic criteria and wealth generation, with factors such as symbolism, cultural pride and human wellbeing taking a back seat. Urban theory is often polarised between deterministic positions within economy, technology and culture (Edensor & Jayne, 2012) and expressed through social theory anchored in classical, neo-classical or modern disciplines. Theories expounding conceptual frameworks such as agglomeration, assemblage and planetary city planning are criticised for being narrow, one-dimensional and lacking critical substance (Storper & Scott, 2016; Araabi, 2016; Dovey et al., 2018). Urban theory is marked by Western bias and has been slower than other disciplines to transform (Edensor & Jayne, 2012). A few, selected cities in North America and Western Europe are used as templates against which other urban areas are measured. A colonial echo still exists in the contemporary perpetuation of Western hegemony through generalisations, universalisation, developmentalism and ‘othering’. The Afrikan city has been a neglected subject, even by most scholars who are seen to be of significant influence (Myers, 2011).

The conventional monographic approach needs to be challenged. Instead of continuing colonial legacies, Afrikan architects and planners must situate themselves in their cultural traditions and revise city development through the Afrikan experience. Categories such as order vs disorder, formal vs informal, static approach vs interconnectedness, materialistic vs spiritual must be re-evaluated and applied within a people-centred view. Critical architecture and decolonised city planning must consult and capitalise on cities as places for developing revolutionary politics, protest and radicalisation (Harvey, 2013). A framework for understanding and changing the colonial aspects implicit in urban theory can be found in decoloniality (Ndlovu-Gatsheni, 2013:11):

Decoloniality is born out of a realisation that ours is an asymmetrical world order that is sustained not only by colonial matrices of power but also by pedagogies and epistemologies of equilibrium that continue to produce alienated Afrikans who are socialised into hating the Afrika that produced them, and liking the Europe and America that rejects them.

Deccolonial thought differs from postcolonial studies and theories of decolonisation. Although the three are related, decolonial thought refers to a specific focus associated with critical research on modernity and coloniality. Honest scholarship acknowledges that the academic world has been built on a Western premise, filtered through a colonial matrix of power, conceptualised through a racial system of social classification and compartmentalised through a remapping of the world into first, second and third (Mignolo, 2009). Two directions of epistemic disobedience can be found within global knowledge production and social development: de-Westernisation, whereby Western players and institutions no longer define the rules in a capitalist economy, and the de-colonial option, which includes various ideological streams that are all based on a definitive rejection of the idea of “the other” and a reorientation of European-centred modernity.

Decoloniality is premised on three concepts (Ndlovu-Gatsheni, 2013):

- coloniality of power: studies the asymmetrical power structure of current global politics
- coloniality of knowledge: questions who generates knowledge and for what purpose, and how it has been used to assist imperialist development
- coloniality of being: investigates how whiteness has gained extreme ontological density and the dehumanisation of “the other”.

Decoloniality poses a challenge to the Afrikan architect and city planner because it is about going against the stream, disrupting the discipline and revolutionising the practice. To decolonise is to attack oppression fearlessly, which is always violent because it opposes the framework of possibility and moves the native from her/his colonial position of “repetition without difference” and existence “outside of time” to rescript new meaning, presence and action (Fanon, 1968).
What this means is that to rethink urban theory, in a decolonial sense, requires a complete paradigm shift. Such decolonial thought must not only cast doubt on the coloniality of knowledge embedded within Eurocentric academic institutions and modernist narratives, but also aim to bring about another world (Banazak & Ceja, 2008). It stands in opposition to international power designs that claim to be of universal validity and attempt to make visible a multitude of knowledges, forms, visions, concepts and approaches in the world.

Re-envisioning: decolonising the Afrikan city

What makes a city “Afrikan”? Over the last 100 or more years, Afrika has gone through many stages of grappling with identity, with many different opinions of what constitutes distinct Afrikan-ness. Identity politics contains many traps: getting stuck in essentialist views that may be nurtured by racist connotations, having rigid definitions that belittle through generalising (instead of describing) people and culture; or ending up with terms that are so loose that they no longer have meaning.

Does a city become Afrikan because it is located within Afrika, or because it was built by Afrikan people, or because it is built by architectural design, materials and infrastructure that represent Afrikan culture and technology? The answer probably lies in a combination of these components but, for the sake of this article, Afrikan-ness is defined as the re-envisioning of indigenous ideas, values, symbolisms and intentions that can inform city development.

Afrikan philosophy expresses the worldviews, aspirations and meaning-making produced by Afrikan people and so helps in understanding what being Afrikan means. Afrikan philosophy is expressed through a series of social, moral, religious, political, aesthetic and economic values in which communalism, spiritual reverence and interconnectedness feature strongly (Idang, 2015). A less static understanding is Afrikan philosophy as a form of methodological inquiry that relies on rational justification and interpretive argumentation, with the intent of transforming Afrikan thought and practice – authenticity and purpose are central (Hountondji, 2002). Afrikan philosophy positions education as a process of mediating through deliberative inquiry – a structure of dialogue which allows for a combination of critical reflection, active listening and inclusive logic, as it aims to reconstitute “Afrikan-ness” (Waghid, 2004).

Therefore, “being Afrikan” is both a process of reconnecting with what “has been” (tradition, legacies and heritage) and a movement towards what “shall be” (modifications, navigating new experiences and responding to new needs). The question of groundedness – as a firm place to view, interpret and act from becomes essential. This can be expressed through Afrocentricity, which is a paradigm that suggests all discourse about Afrikan people should be grounded in the centrality of Afrikans in their own narratives (Yancy & Asante, 2015). Similar ideas inspired the forerunners of Afrikan approaches to architecture and design, such as Demas Nwoko (1979) and David Hughes (1994), and can be found in new, creative forms such as Afrofuturism.

Afrofuturism is described as a combination of fiction, Afrocentricity and magic realism that positions ancient Afrikan civilisations as a reference point to imagine a future that brings together advanced technology, liberation and spiritual elements through a Black cultural lens (Sisson, 2018). It is a visualisation that “suggests what could be possible if the ambitions of Black architects and designers are realised” (Eshun, 2018: 1). This is not only a process of fantasy but represents a direct challenge to the world as it exists in the present. In fact, it is a prerequisite for innovation, the dismantling of impossibilities, the creation of pathways for never-heard-of solution-concepts and navigations towards a more balanced world – a world far from the confines of Westernised thinking, centred in Afrikan thoughts, ideas and aesthetics.

Rebuilding: decolonising the Afrikan city

Decolonisation cannot just be about de-Westernisation. Although theories of critique are necessary and powerful in helping to articulate new approaches to scholarship, discourses and political ideas, decoloniality is much more: it is about imagining what a decolonial world will look like and then creating the instruments to build it (Moya, 2016).

A sense of “home” and of belonging is important because the Afrikan city is currently a place of estrangement and outsider-ness; decolonising buildings and public spaces is not an act of “decoration” (Mbembe, 2015). Transforming Western power cannot be a process of seeking permission or negotiating, but needs interruption and occupation (as demonstrated by the Fallist movement), which is not vandalism, violence or invasion; it is “pedagogy of presence” (ibid).
The word “pedagogy” lends itself to ideas about how to plan for Afrika’s future (Wilson, 2014:130):

The future of the Afrikan world must begin with a confirmed sense of Afrikan nationality defined within the universe of Afrikan spiritual, moral and philosophical traditions and committed to the material and spiritual development and independence of the Afrikan world. Only an unambiguously Afrikan centred education can possibly accomplish this goal.

A de-learning and re-learning process is needed before a relevant plan for Afrikan development can be made. Afrikan city planners, policy-makers, urban scholars, architects and politicians have been tied to external world views for so long that their minds need to be educated completely outside of “ordinary education”, especially as “ordinary education” institutions are not intended to prepare the Afrikan mind for Afrikan-centered operations. Even “Afrikan Studies” cannot be trusted, as they are often founded on European interests, and further disempower and influence Afrikans (Amadiume, 1997). Afrikanisation should then be positioned as a simultaneously specific and broad framework for practice. In the words of Maluleka (2015:1):

Afrikanisation is the re-orientation of persons, institutions, products, processes and ideas towards a fresh, creative and constructive imaging of Afrika and Afrikan contexts which take past, present and future Afrikan reality and Afrikan potential seriously, consciously and deliberately.

In an Afrikan approach to urban planning, this would mean starting with learning and education, which is an integral part of the transformation essential to making plans relevant to Afrikan needs. The primary concern of Afrikan-centred education is to “sever irrevocably the pathological and slavish linkage of Afrikans to the European and Asian ethos” and to “enable the Afrikan person with nationbuilding, nation management and nation maintaining abilities” (Wilson 2014:130). The dual focus on “tearing down” and “building up” as complementary processes requires a critical outlook and robust vision.

Advancing such a learning process means the parting of ways with a one-dimensional understanding of theoretical positions. Indigenous knowledge systems (IKS) must be included, which means that Afrikan urban development students, practitioners and experts must also master cultural and spiritual literacy (Akoto, 1992). IKS refer to the systems of knowledge that are embedded “in the cultural web and history of a people including their civilisation and forms the backbone of the social, economic, scientific and technological identity of such people” (Odora-Hoppers, 2001:4). It positions the lived experience of culture as both a source of creation and a product in itself. Holistic immersion, rather than selective pick-and-choose, can then be seen as a deliberate process of establishing IKS as a foundational worldview and a totality of practice. To achieve this will require designing a radical transformation of the university, especially curriculum, through partnerships, including with practitioners in the lecturing cohort, and making relevant resources available so that students can conduct meaningful research.

**Conversations with Young People about Urban Development**

Although South Afrikan urban development policy documents mention young people, little documentation exists on what young people think and suggest about their Afrikan city experiences. To gain insights, young people – practitioners and students in the fields of architecture, urban planning and design – were invited to participate in a conversation about “Questions of Decolonisation and Re-Afrikanisation in Afrikan Urban Development”.44 The objective was to further explore the role of Black youth in urban environments and to obtain their views on issues such as decolonisation and Afrikan-centred urban development.

**The concept of an Afrikan city is unclear**

Even among those who work with architecture and city planning on a daily basis, the concept of an Afrikan city is not clear. Yet all participants agreed on the need for Afrikanised city planning on all levels. This inability to “see the vision” perhaps exposes the narrow-mindedness of the study, practice and management of urban development.

Most of the views on why it is a struggle to envision and develop the Afrikan city were linked to institutionalised Westernisation, anti-Afrikan political systems, white domination and lack of resources to self-fund. Also highlighted were the overwhelming tendency to replicate “established” (read: Western) architectural culture, fear among Afrikan architects to think and construct “outside the box” and lack of vision.

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44 The two conversations were held in March 2018. One was held in Braamfontein – with practitioners and scholars – and the other one was held at Wits University, hosted by BlackStudio, a collective of students within architecture and design who are seeking to transform studies and practice within the profession.
The importance of values
Participants spoke of a city that inspires entrepreneurial activities and is not led by consumerist lifestyles; a city that reflects Afrikan values on all levels – values of pride, authenticity and self-expression – and not meekly a copy-cat of external influences. An Afrikan city is the result of an organic, collective building process. Throughout the conversations, the human element featured strongly, and the long history of oppression and invasive politics served as a stark reminder of lessons that must not be repeated.

The need for a decolonial orientation
Participants pointed out that Afrika’s colonial past has laid the ground for poor management of urbanisation, political manipulation and a people-hostile approach to city planning. The common concerns that emerged from the conversations related to how the Afrikan city is not only informed, but seems consumed, by its colonial history. This shows in the challenges it faces, in its political leadership, in its orientation and make-up, in its policies, in the curriculum that develops its expertise and in its practice of management and development. The many problems related to oppressive human experiences and Eurocentric orientation pose critical questions to Afrikan urban development. Considering the lessons drawn from the Fallist student movements in South Afrika – to rethink, re-envision and rebuild – Afrikan cities are in dire need of a profound reimagining of the road towards sustainability.

Recommendations for Involving Afrikan Youth in Urban Development
If young people feel “lost in the city”, what impact can they have on a decolonisation process of Afrikan urban development? And what must politicians, planners, architects and designers become aware of in such a process? This is a vast field of inquiry that will need more research and attention. Based on the concerns and views expressed in this paper, illustrated by points raised in the conversations, some practical recommendations are offered. Put simply, the premise is that the Afrikan city represents colonial experiences, and its decolonisation will require drawing on existing templates, as expressed through Fallism and radical youth mobilisation. The dual focus of “tearing down” and “building up”, along with perspectives that seek to rethink, re-envision and rebuild the Afrikan city, create a fertile ground for transformation.

Radicalisation of professions
The Western worldview continues to dominate the studies and practices of policy, theory, architecture and design. The colonial ghosts of the past live on and have created a fearful profession, where practitioners feel forced to emulate that which already exists. This has created an anti-Black environment, which undermines the Black researcher, infantilises the Black practitioner and invalidates the Black city resident. “Architecture is an instrument of domination. It organizes bodies in space with a varying degree of coercion from what may appear as voluntary to the most extreme instances of violence” (Lambert, 2016:1).

A huge challenge for urban development as a discipline is de-westernising the concepts of domination, white supremacy, hegemony and anti-Afrikan sentiments. A radicalisation of professions must be bold and not afraid of being viewed as controversial. A new, critical understanding of urban theory as liberation, not control, must
be developed. Young people should initiate and coordinate dialogues, research and design development, with support from government structures that will help ensure an integrated youth focus. A priority must be to encourage perspectives that question and interrogate prevailing practices, reconceptualise the study fields, redefine modernity and are unapologetically Afrikan. Active collaborations between Afrikan-centred students, practitioners, policy-makers, knowledge holders and community members will play a critical role here.

Cultural anchoring

The call for the Afrikanisation of urban development will be meaningless if it is reduced to sprinkling ethnic designs, throwing around indigenous phrases and making shallow attempts to recognise multiculturalism. The expectation of cultural literacy must be vastly amplified. This is a process that must affect all aspects of society – the old as well as the young. Afrikan culture is founded on educational values, and traditional education helps to bridge the gap between the young and old through cultural transmission and intergenerational communication (Boateng, 1996). This is a powerful concept, both for learning instrumental social values, and for restoring, protecting and further developing cultural knowledge, as a universe of meaning-making influencing society’s development.

In practical terms, this is both a “tearing-down” and “building-up” process that includes dismantling oppressive architecture, buildings, monuments, street names and spaces; and promoting ceremonial spaces, artistic development, new knowledge creation, the presentation of representative information, the preservation of historical memory, relevant education curricula and the positioning of culture as a basis for solution making.

To anchor knowledge in culture means to develop a holistic perspective that not only criticises a Eurocentric, patriarchal, capitalist and oppressive orientation, but also replaces it with a liberating process orientation. This means anchoring cultural knowledge and practices by positioning indigenous knowledge holders at the highest levels of both study and practice; drawing from – and centring – all analyses, perspectives, values and approaches in Afrikan IKS; and ensuring that in-depth knowledge of history, cultural philosophy, spiritual practices, linguistics and identity inform technological and strategic innovation.

Unrestricted innovation

Understanding innovation through an Afrikan lens does not necessarily mean not recognising that other cultural systems are innovative. Instead, it is a principled refusal to allow the dominance of non- and anti-Afrikan creativity, to see Afrika as redundant and non-modern, or to expect Afrikan perspectives to assimilate in places of knowledge and innovation. It is an “obligation to dream and radically imagine the world we want and need”, and a duty to “embrace creativity, innovation and a fail-fast-to-learn-fast approach – a duty to yield ego and build collective power” (Matthews, 2017:1).

Afrofuturism, with its eclectic vision, bold statements and refusal to bow down to impossibilities, holds an important cure for a political climate shaped by Afro-pessimism (Okoye, 2016). To a certain extent, the collective psyche has absorbed opinions about Afrika being unable to stand on its own, dependent on foreign investments and unable to retract from Westernisation. The unapologetic universe of possibility imagined through Afrofuturism provides direction for urban visualisation and technological advancement based on an Afrikan worldview and Black aesthetics. The multi-focus on past, present and future, linked with an understanding of diversity as resourceful (and not restrictive), means that many contradicting needs can be catered for simultaneously. In decolonial thought, this is referred to as pluri-versality: an attempt to make visible and viable a multiplicity of knowledges, forms of being and visions of the world (Grosfoguel, 2012).

A holistic approach to innovation must have a courageous attitude towards spirituality and oppose destructive patriarchal gender-concepts. This means that arts practitioners, poets, writers and non-conforming technology developers are given priority-seats at the table of Afrikan innovation development. Although unrestricted innovation does not mean that everything imagined can be implemented, when all possibilities are encouraged to be imagined, openings appear for reflections that can provide unexpected solutions.

Humanisation

The current technocratic approach to urban development is marked by rigidity, division, domination, formulaic concepts, invasive approaches and conformist expectations. The Afrikan human being experiences dehumanisation as an integral part of urban life through poverty, displacement and exclusion from decision-making processes. The experience of being disposable and unwanted creates psychological responses that normalise antagonism, social decay and violence.
The experience of structural violence enforced by colonially infused power systems creates the need for self-ownership; the struggle to repossess, take back – if necessary by force – that which belongs to the dispossessed (Mbembe, 2015). As many young Afrikans struggle with fundamental questions of identity and having their humanity denied, decolonisation must be based on owning, appropriating and being able to create a sense of self. In other words, a process of becoming human again. Therefore, urban studies must encourage reflection and make meaningful information available, and project history, policies of belonging, and symbolism that speak to existential self-healing. Included are practical ideas for communal housing, efficient transport systems, entrepreneurial incentives, affordability of public services, safety, functional justice systems and the integration of urban farming – with special emphasis on youth communities.

People-centeredness, as a value in urban theory and practice, starts with decolonising exploitative power concepts in leadership, governance and institutions. The premise of oppression and segregation cannot just be toned down but must be eradicated. It must give way to an understanding of urban development as a collective value and responsibility; an anti-oppressive, non-invasive co-creation process where humanity is foundational, not accidental.

**Conclusion**

Radical transformation must be a top priority, if Afrikan urban development is to be meaningful and liberating to its youthful populations. In fact, a revolution is needed. No one can expect this to be an easy process. Demands for change in relation to real youth leadership. Westernisation, white supremacy, Black perspectives and Afrikan IKS, just to mention a few, are already seen as contentious, divisive and sensitive. This means that great courage must be requested from key stakeholders. Young Afrikans must take up the responsibility of unpacking decolonisation and de-westernisation, and continue to awaken, provoke and challenge governing institutions, places of learning and the rest of society. Transformation should not be reduced to a trending hashtag disruption.

Although the youth-led decolonisation process envisioned here is a monumental task and will need concerted efforts by a variety of stakeholders, three actors must be singled out as the ones to take the first step:

1. **Government** – on all levels – must change their Eurocentric, restrictive, rigid, difficult-to-influence and hard-to-implement policies and practices, into processes of real empowerment, youth- and grassroot-led change and representative leadership guided by Afrikan values.

2. **The study of architecture, planning and design** must revise the understanding and practice of urban planning, from being dominated by a Western-centric curriculum to becoming rooted in Afrikan art and innovation that equips students and professionals with the knowledge of how to infuse Afrikan perspectives. Practitioners of indigenous knowledge, elders and politically aware students can help to formulate a new direction.

3. **Civic society** – including student organisations, workers’ movements, knowledge holders and community organisations – must lead the development of community education and collective ownership, and insist on guiding urban development in all its facets.

A holistic approach to Afrikan urban development is necessary, through “cultural planning”, in which creative industries, communities, traditional knowledge holders and technical experts work together to resolve challenges and develop innovative designs in urban spaces, and new and sustainable practices (Sirayi, 2017). Linked to this, a decolonisation process must eradicate oppressive, westernised and racist realities (Mbembe, 2015). This will mean an all-inclusive attempt to seek a new understanding of ontology, epistemology, ethics and politics. The perspectives articulated through Fallism must now be implemented. Afrofuturistic ideas will complement this process, as a visual compass for innovative emergence. In the final instance, ideas must be put in practice, which means putting in place a bold, innovative, rigorous and inclusive process. Unsurpassed courage must be expected from all levels because following through on this means that the roles of bureaucrats, politicians, economists, policy makers, planners, designers and business leadership may never be the same again.

Decolonisation cannot happen in isolation. For the Afrikan city to become a liberated, youth-governed, Afrikanised and empowering reality, processes must be aligned with an over-arching commitment on all levels, throughout all disciplines. The Afrikan city is a reflection of the concepts of power, law, economy and knowledge that govern all other aspects of society. So, the project is ambitious and must not be dismissed because of its intimidating magnitude. Rather, we must commit to develop, build and support a youth-led, integrated process of “tearing everything down” and “building everything up”; strengthened by the ancient wisdom of our ancestors, motivated by the necessities expressed by our youth, and inspired by the needs of our future children to inherit an Afrikan world they truly and proudly can own – on their own terms.
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ADMINISTRATION, FINANCE AND GOVERNANCE
Building Capacity for the Governance of Space: the case of Johannesburg’s BRT

Jesse Harber

Transit-oriented development (TOD) holds a large and growing place in South Africa’s urban policy, as a theory of and approach to planning that aims to tackle the inequities and inefficiencies of the apartheid spatial form. Even when it is not directly referenced, the logic of TOD has shown up in documents for transport, spatial and long-term financial planning. It also directly and explicitly underpins the National Treasury’s Cities Support Programme (CSP) and its associated reforms, including the Built Environment Performance Plan (BEPP) and the Integrated City Development Grant (ICDG).

However, TOD is more than merely an approach to planning; it represents and requires a new paradigm of urban governance in South Africa. Pieterse (2014), writing about Johannesburg’s articulation of TOD, goes so far as to call it a “governance technology”. TOD requires coordination across state functions, both horizontally and vertically. It requires not only an efficient and attractive public transport backbone, but inducements to development along that backbone, ranging from bulk infrastructure upgrading (e.g. water and sewage reticulation, electricity substations), to higher standards of servicing (e.g. solid waste collection) and better urban management (e.g. by-law enforcement and public safety). Crucially, and to a degree that is underappreciated, it requires a planning department that not only facilitates development and densification along the TOD corridors but also actively discourages development in other areas, in order to shift the behaviour of private developers. TOD requires a wholesale reconfiguration of the city’s land market – the “urban land nexus” (Storper, 2014).

This paper argues that policy-makers underappreciate and neglect the governance implications and requirements of TOD. Using case studies, it reviews the development of the present governance arrangements of South African cities – both internal and intergovernmental – and the rationalities that informed them. It shows how these arrangements enable and constrain certain approaches to urban planning and development. It argues that TOD, or indeed any major intervention into the urban space economy, requires genuine reform of the way in which cities approach their internal governance, their structures of decision-making and planning, and – as importantly – genuine reform of the intergovernmental system of policy-making, grant-making, and reporting in which the cities operate.

Spatial Context: Apartheid and the Governance of Space

The economic and social forces that emerged under apartheid did not suddenly expire with the advent of democracy. The legacy is embedded in conservative institutional and social practices that continue to have powerful effects, overriding many current policy aspirations (Turok, 2001: 2350).

South African cities are frequently characterised as exhibiting the “apartheid spatial form”. This is accurate, but inadequate: apartheid had specific, varied, and sometimes contradictory effects on urban space. Crucially, the spatial dynamics of apartheid shifted dramatically over the second half of the twentieth century. It may in fact be more accurate to say that the “post-apartheid spatial form” is the product of dynamics that emerged in the two decades before the end of apartheid.

Although a number of the dynamics, institutions and policies were at least partially in place before 1948, the introduction of formal apartheid in that year represented the formalisation and deepening of spatial segregation in South Africa. It involved, first, the systematisation of segregation through (for example) the Group Areas Act (1950), which determined where different races could live in urban areas. Second, it involved a newly bolstered and refined repressive apparatus for the state to enforce segregation; for example, through the Abolition of Passes and Coordination of Documents Act (1952), which (despite its name) extended colonial pass laws to every African. Much of Grand Apartheid was explicitly spatial (Smith, 1992) and explicitly aimed at managing the supply of black labour for the purposes of white capital (Posel, 1991, cited in Worden, 2000). “Influx control”, as these laws and measures were collectively known, sharply limited urbanisation in order to maintain an impoverished rural workforce for the National Party’s main constituencies: farmers and miners (Lipton, 1988; Lundahl, 1989).

The result was a set of dichotomous spatial effects. At a national level, urban centres became economically significant (despite the relative scarcity of labour), while large numbers of people were confined to distant labour reserves. This was strongly paralleled at the urban level, where city centres were concentrated sites of economic...
activity and employment, while a large portion of the urban population lived in far-flung dormitory settlements. At both levels, the rationale was the same: to have a black workforce that was economically available, but kept at the maximum possible distance from the white metropole. The rural labour reserves additionally served to cross-subsidise the wages of migrant workers by sparing capital the costs of reproduction (Wolpe, 1995).

Distance was central to this system; indeed, it was somewhat the point; to enforce separation between races. As such, it depended on “regular, efficient and inexpensive public transport […] to ensure that the massive displacement of the workforce did not interrupt the smooth working of the economy” (Pirie, 1992: 173). This applied at both the national level, for the purposes of labour migration, and the urban level, for the daily movement of people between peripheral dormitory settlements and employment centres. The system served a large number of people but at significant personal cost to commuters, and significant financial costs for the state. It is an instructive example of the problems – both financial and principled – that inhere in the combination of spatial fragmentation and poor commuters.

The twin crises – economic and political – that beset the South African state from the 1970s prompted a change in the spatial dynamics of apartheid. Increasing capital intensity led to rising unemployment and greater worker militancy (Marais, 2010), accompanied by a gradual shift in dominance from rural mining and agriculture to urban manufacturing. Rural unemployment and growing demand for labour in the cities led to progressive breakdown in influx control: “The reality of an exponentially growing, permanent, urbanized African population had become irreversible” (Marais, 2010, p. 32). An economic crisis led to an IMF loan in 1982, the conditions of which included elimination of consumer subsidies and tax hikes, which further exacerbated unrest.

The response in spatial policy was at first “to tighten, not relax, the mechanisms of influx control” (Gelb & Saul, 1981: 49). After 1979, the Rieker reforms formally accepted the fact of African urbanisation (Hindson, 1991) but attempted to manage it according to skill levels. This was short lived, and mass urbanisation continued. By the mid-1980s, influx control had lost the support of large and influential sections of capital, including those (such as the major mining houses) which had benefited the most, and it was subsequently abandoned by the state.

Urbanisation was thus at its greatest levels, but the state lacked the wherewithal and inclination to either manage it or service it. Both state housebuilding and public transport subsidies had been dramatically cut in the fiscal crisis, which led to both worse experiences and higher costs for commuters (McCarthy, 1992; Turok, 2001). The state deliberately turned to the informal sector to fill the gaps: directing poor, urbanising Africans towards peripheral informal settlements, and encouraging the hitherto small and regulated minibus taxi industry to grow into the dominant mode of commuter transport that it remains.

As cities grew both economically and in population, their centres declined. Turok (2001) identifies the dynamics of this late-apartheid period as decentralisation, deconcentration, and drift away from central business districts (CBDs): suburban malls and office blocks shifted economic centres of gravity outwards, and suburbs became more class-stratified. Cities became characterised by multiple, dispersed CBDs. During this period, there was a dual spatial shift: on a national scale, it centralised in a handful of major cities, while on a local scale it decentralised into the urban periphery.

This is ‘spatial mismatch’ (Budlender, 2016): ‘Jobs and economic opportunity are concentrated around city centres while the majority of the urban poor and unemployed live in dense settlements on the urban periphery’ (Budlender, 2016, p. 23, citing Götz & Todes, 2014; Sinclair-Smith & Turok, 2012; Todes, 2012; Turok, 2001 and others). Spatial mismatch is enormously costly, especially for the poor, for whom travel consumes a significant fraction of income. Although spatial mismatch was recognised early in post-apartheid urban policy, it has nonetheless deepened significantly, with post-apartheid housing policy being a major cause of that deepening.

In the 1990s, the most significant spatial intervention was the reintroduction of mass house building. However, this intervention was constructed in a way that reinforced and deepened the apartheid spatial form, and undermined the emergent national urban policy (Todes, 2006). The principle of allocating subsidies to individual households, and the institutional and political incentives to maximise the number of units built, led to the construction of enormous numbers of freestanding houses on the cheapest available land, which almost exclusively meant land on the urban periphery with no economic activity or connection to urban centres (Cross, 2013).

Exacerbating this situation were grant conditions that limited money spent on land, minimum house sizes, and, fundamentally, the construction of the system as “state-supported, market-driven” (Khan & Ambert, 2003: v) based on generous subsidy schemes for private developers. “Thus, as cities were decentralizing economically
they were also decentralizing and deconcentrating residentially, but these movements were to different parts of the urban periphery” (Harber, 2018: 164, emphasis in original). On this topic, Siholonganye is damning:

Planning in the post-apartheid era [...] has tended to be a facet of the completion of the apartheid project; the combined effects of a neoliberal economic logic with state interventions that tend to follow a spatial logic [...] reproduce fragmentation and sprawl, rather than promoting transformation in the interest of creating an integrated urban form. (2015: 39, 55)

The overall effect is of sprawling cities with dispersed residential and employment nodes, and drastically inadequate housing supply and public transport – with the informal sector (informal settlements and minibus taxi) filling both gaps.

Spatial Mismatch and Public Transport

Land use and transport are deeply intertwined in urban space. They form a strongly mutually reinforcing cycle, where (for example) low densities and spatial mismatch make public transport costly and inefficient, and encourage car use. This in turn encourages ever more sprawling and mismatched land use. As Bertolini (2012, fig 19) describes:

Patterns of land use determine the places at which people carry out activities, namely where they live, work, engage in leisure pursuits, etc. Movements between these different locations of activity have to be taken care of by the transport system and transport system developments are intended to be adapted accordingly. In turn, transport developments determine the accessibility of locations and, with that, their attractiveness as a location for certain land use developments.

In addition, the built environment represents large sunk costs, and takes significant time to change in form (Rode et al., 2014; see also Bertolini, 2012). This strongly reinforces the status quo, even if the status quo is highly inefficient, as is the case in South African cities. “Where urban form and transport infrastructure is too biased towards sprawling, automobile-dependent patterns of development, it can in turn lead to a change-inhibiting cultural and political equilibrium” (Rode et al., 2014: 7).

A simplistic response to spatial mismatch would be to improve public transport, which has the potential to move the urban poor from where they live to where they (currently or potentially) work, and even potentially recruit some erstwhile private vehicle drivers to be riders (although the latter is particularly difficult). But running a high-frequency, high-quality public transport service with low densities is extremely expensive: as the apartheid government learned in the 1980s, and Johannesburg and other cities are learning now, public transport requires significant subsidy in the absence of high densities, bi-directional travel, and other supportive conditions.

Furthermore, public transport alone does little to solve the underlying problem of spatial mismatch. Improving public transport alone may prompt land-use change: for example, densification around transport stations. This was once routinely the case: in the 19th century, developers would lay tramlines to create demand for development along them. This is “development-oriented transit” (Carlton, 2007), and is only possible in contexts where urban residents are already highly dependent on public transport – for example, because cars have not been invented yet, or because car use is unaffordable or otherwise inconvenient. It requires, in other words, a different equilibrium.

In South Africa, the policy agenda to create a different equilibrium is usually called “spatial transformation” and usually takes the form of “transit-oriented development”. This concept arose in the 1980s, out of the pedestrian pocket, a “simple cluster of housing, retail spaces and offices within a quarter-mile walking radius of a transit system” (Calthorpe & Fulton, 2001: xix, quoting Calthorpe, 1986). The pedestrian pocket was intended to create sufficient local demand for public transport to support a single node. Several pedestrian pockets strung along a transit line could support a public transport route. This is the germ of the idea of transit-oriented development (TOD): that development can be directed in support of public transport. In this way, it is the logical inverse of development-oriented transit: TOD holds that public transport is a necessary, but not sufficient, condition for compact development, but that compact development is a necessary condition for public transport. It is “development oriented towards transit, rather than the other way around” (Harber & Bryer, forthcoming, emphasis in the original).
What exactly constitutes such development is not entirely settled, but Bickford and Behrens (2015: 377) find that most literature on TOD calls for:

- an efficient, integrated and reliable public transport system;
- a high quality public realm which prioritises pedestrians and cyclists over vehicles and ensures high accessibility of the public transport station;
- a mix of residential, retail, commercial and community uses;
- medium- to high-density development within comfortable walking distance of the transit station (i.e. the TOD precinct), and reduced rates of private car parking.

These and other factors combine to ensure that any given node internally supports short-distance travel (through mixed use) without cars (through pedestrianisation and cycle infrastructure) by large numbers of people (through density). In economic terms, pedestrianisation, public transport, density, and mixed land use are complements, while cars and their infrastructure are a substitute to all of those. The logic of TOD can be framed as increasing ridership by making the complements of public transport more ubiquitous. This implies that another viable strategy is to make the substitute – driving – more expensive or inconvenient.

**TOD and governance**

TOD represents an approach to the governance of space that supports public and non-motorised transport, for which density and mixed-use development are key tools. But TOD is not simply a concept that can be dropped into existing governance arrangements. It entails, and requires, a particular set of governing institutions, arrangements and approaches that may or may not exist – or be possible – in any given city.

The foundational premise of TOD is the deep mutual intertwining of land use and transport, of space and mobility, as discussed above (and covered explicitly in Bertolini, 2012). Patterns of mobility determine how space is accessible and accessed; transport systems activate or deactivate land for various uses. In turn, space drives individual and policy decisions about how people move; land use enables or disables transport systems. And in turn, each of these systems – transport and land-use – are situated within larger socio-technical systems and so on (on which see Morgan, 2018). For example, land use is inseparable from the infrastructure systems that enable and constrain development, not just transport but electricity, water, sanitation and waste, and so on.

Therefore, what is required is an approach to governance that is capable of managing these mutually embedded systems; one that is responsive to, and capable of dealing with, a concept of the urban form that denies the distinctions between “sectors” such as transport, housing and bulk services (among others). This is a core governance challenge of TOD: to orient a city’s administration towards the complex city as it exists, rather than the fragmented city as it has previously been governed.

**Metropolitanisation, Unicities and the Governance of Space in South Africa**

Space and its governance were central to the apartheid project; as such, reconfiguration of this area of policy has been a major preoccupation of policy-makers since at least 1990.

The Local Government Transition Act (1993) responded to, and acknowledged, the civic struggles that had broken out in the 1980s, and the emerging concept of “developmental local government”: “Local government was to play a lead role in reducing poverty, providing services to meet basic needs” (Powell, 2012: 13). The Act provided for a flexible approach to metropolitan governance under the name of Transitional Metropolitan Councils “which resulted in different models being negotiated locally in each of the metropolitan areas” (Gotz et al., 2010: n.p.) and established in 1995/96. However, this two-tier structure was an insufficient break from the segregated local authorities of before.

Between them, the Constitution of 1996 and the Local Government White Paper of 1998 established the “unicity” model, which was to consolidate formerly segregated city governments into single, unitary structures able to distribute and redistribute resources across historical racial and spatial boundaries: “Where the Metropolitan Council has sufficient fiscal powers and effective mechanisms to enable redistribution across the metropolitan area, metropolitan government can significantly enhance equity and promote social justice in the city”. (DPLG 1998: x). The unicities were introduced with the local government elections of 2000, with “establishment” (2000–2002), “consolidation” (2002–2005) and “sustainability” (from 2005) phases (Powell, 2012).
To Powell,

The contradictions in local government policy had deepened [over this period]. National policy had created heightened expectations about local government’s contribution to poverty relief, setting firm targets for universal access to basic services. But municipalities were still struggling with basic problems of establishment, and the policy, legislative and fiscal frameworks regulating municipal systems were yet to be completed. (2012, p. 17)

The story of Johannesburg’s amalgamation, the process of which was influential on the establishment of the broader local government system, is told extensively by Tomlinson (1999) and Gotz et al. (2010). For the purpose of this paper, it is enough to note that the establishment of the City of Joburg united and flattened a complex and volatile set of local governments at multiple scales. The governance of space in Johannesburg could now begin in earnest.

The Case of Johannesburg’s Rea Vaya

Transport from SPTN to BRT

Almost immediately upon its formation, the City of Joburg – mandated by various national legislations – undertook a process resulting in a long-term economic plan, Joburg 2030 (2001), a Human Development Strategy (2005), a Growth and Development Strategy (2006) and a five-year Integrated Development Plan (2006). In principle, these high-level plans were supposed to precede and inform more detailed spatial and sector plans. However, in 2003, a small but energetic directorate in the Town Planning Department, responsible for transport, produced the country’s first Integrated Transport Plan (ITP). At the time, transport planning focused almost entirely on roads, and the directorate’s mandate was largely confined to the administration of taxi ranks.

The ITP established a bold vision for transport in Johannesburg. The document is enormous and resists summary, but presents a broad plan for rationalising the chaotic and neglected public transport system. Its primary goal was to improve access and service quality for public transport users – uncontroversial today, but a significant departure at the time, in a country and city fixated on private cars. It outlined a “Strategic Public Transport Network (SPTN)”, which was a unifying concept for all public transport in Johannesburg that would bring together existing buses and minibus taxis with new infrastructure (such as dedicated lanes) into a single coherent service. The service would be subject to demand-based routing, as opposed to the apartheid legacy of supply-based routing, which entails running buses where you want people to go rather than where they need to go.

Importantly, it was the first major plan to explicitly link transport to broader questions of space. The “land-use restructuring” section invokes concepts that are recognisable as TOD: “corridor densification and infilling” and “rationalisation of transport and housing strategies” (CoJ, 2003: 337). It also discusses pedestrianisation. The principles espoused in the ITP reflected and advanced a growing discourse in the South African state, at all levels, on the significance of transport and the potential of TOD (or related concepts) to address South Africa’s spatial problems.

In 2006, a confluence of events – including the influence of international consultants, and specific local policy entrepreneurs (on which see Wood, 2014; 2015, among others) – resulted in the City Council adopting bus rapid transit (BRT) as the mode of choice for the SPTN. This marked a significant shift, albeit one that was possibly underappreciated at the time: the SPTN was ostensibly mode-neutral and represented a rationalisation and expansion of existing systems, whereas the BRT was a specific mode, with both advantages and disadvantages, requiring wholesale introduction and enormous new infrastructure. Notwithstanding its virtues, BRT was the answer to a somewhat different question than that posed by the ITP. Nonetheless, BRT rode a wave of national political support and, in March 2007, a significant capital grant was established by the national Cabinet, partly to help Johannesburg meet the transport needs of the World Cup.

Building rapid transit

The undertaking to build the BRT – quickly named “Rea Vaya” (“We Are Going”) – was significant. It represented the first city-wide project of the new Johannesburg, one that intended to draw not only on the transport department but on almost every function and agency of the City.

In a sense, it was the first major test of the City’s highly decentralised structure. The City had been constructed according to the prevailing wisdom in the South African state: the ideas of new public management (NPM) that
were dominant in Australia, New Zealand and the United Kingdom. NPM involved taking “private sector management processes and ideas to public services, with the use of tools such as performance management, competitive incentives, output controls, service-delivery partnerships, and goal-directed budgeting” (Harrison, 2002 n.p.). In Johannesburg, NPM’s principles of decentralisation and corporatisation (Cameron, 2009) entailed (among other things) the creation of a large number of municipal-owned companies with their own management structures, their own mandates, and little relation to one another. In short, from the beginning the City of Johannesburg was constructed with a silo holding each function.

In principle, the Rea Vaya BRT was intended to traverse these silos. To a degree it did. At the level of concept, as a version and extension of the SPTN, and in its early planning, it represented a grand unifying vision for the city, both spatially and in governance terms: it was to be a project that the entire city got behind. At the level of oversight, it was reasonably transversal, with an Interdepartmental Steering Committee consisting of many of the City’s department heads. However, the implementation of BRT fell largely to the management of the Public Transport Department (elevated in 2005 from the small transport directorate) and the execution of the Johannesburg Development Agency (JDA).

The JDA’s involvement shows both the strength and the weakness of the City’s structure. The JDA had a reputation for effectively delivering capital projects with relative agility compared to the rest of the City. However, the project fell formally outside of the JDA’s mandate, and within the mandate of the Johannesburg Roads Agency (JRA) – another municipal-owned company. To get the JRA to concede the project, significant portions of the BRT were given to the JRA for procurement and contracting, including the centralised technology and smart ticketing systems. These were some of the most poorly executed elements of the project that function poorly (if at all) to this day, with direct costs to the ridership of the system.

The Project Management Unit (PMU) was another element of the BRT’s implementation that had both costs and benefits. A PMU is a typical model in large South African capital projects and involves contracting external consultants to manage delivery. In this case, the advantage was clear: the Public Transport Department had neither the experience nor the capacity to undertake a capital project of this type or magnitude, and the PMU allowed both to be procured quickly. The disadvantages, here and elsewhere, are that the PMU is very expensive (consultants are paid high fees, full time, for years on end), and that limited experience or capacity accrue to the City. As the BRT was intended to be the future of transport in Johannesburg, relying on a PMU meant that the City left valuable capacity on the table, as it were.

The Corridors of Freedom

By 2013, three BRT routes were running: two from Soweto to Johannesburg, and one around the CBD. Planning was underway for a third, running to the north-east. In that year, newly-elected Executive Mayor Parks Tau, a longstanding and significant political champion of transport reform and spatial transformation in Johannesburg, announced a new policy programme that he named the “Corridors of Freedom”.

There is some disagreement over whether the Corridors of Freedom represented policy continuity or change. Certainly they represented the strongest, most coherent articulation to date of densification along transit corridors, with the BRT as a catalytic capital investment. It is also true that many of the key elements can be identified in the City’s ITP and Growth and Development Strategy from the previous decade. Nonetheless, the announcement of the Corridors represented a major milestone in the City’s approach to the governance of space.

Three Corridors of Freedom were announced. Both Empire-Perth, which runs from Soweto in the south-west to the CBD, and Louis Botha, which runs from the CBD to Alex township in the north-east, correspond to existing or then-planned BRT routes. Empire-Perth is primarily a commuter corridor, with limited TOD potential, while Louis Botha is an existing mixed-income, mixed-use corridor with much greater potential; it is also benefiting somewhat from lessons learned on the earlier implementation of Empire-Perth’s BRT route. The third “Corridor” is not really a corridor but an oblong industrial area south of the CBD, with no obvious TOD potential or use for a BRT. Its inclusion in the policy is peculiar.

Insofar as the Corridors were a significant policy announcement, it is because they represented a redoubled focus on area-based investment and planning in the city. Each area received a Strategic Area Framework (SAF), a document articulating a broad strategy for densification and promotion of TOD. The SAFs were united by a high-level vision for changing the spatial form of the city, which drew explicitly from the concepts of TOD. However, the Corridors did not represent a significant shift in policy: to a large degree, they brought together and articulated in a more coherent package ideas that were increasingly well-established in the City, although the coherence was neither total nor straightforward: Bickford (2016) and Bickford & Behrens (2015) both find...
disagreement within the public sector, and between the public and private sectors, on the significance and implications of the Corridors of Freedom.

Nonetheless, the Corridors of Freedom brought a version of TOD into public consciousness and, by nailing the City’s flag to the mast, made it possible to marshal significant resources. Various capital projects were undertaken under the banner of the Corridors of Freedom, most particularly by the JDA, but the policy largely failed to unite the various components of the city behind a coherent spatial vision, as intended. In the municipal elections of 2016, the ANC lost control of Joburg and, under the new administration, the Corridors – and the spatial vision they represent – are all but defunct.

The Consolidation of Urban Governance

The story of the Rea Vaya remains the ongoing story of Johannesburg, of how one local government has grappled with issues of space almost since its inception and, importantly, a story whose epilogue is still being written. Construction of the BRT is ongoing, almost entirely due to national grant money, as local budgets have been diverted from major capital projects whose electoral payoff is too slow and uncertain.

Early in their existence, Pieterse (2014) called the Corridors of Freedom a “governance technology”, representing a way of rallying the city’s strongly siloed departments behind a coherent spatial agenda. In this, they were somewhat successful. Partly because of the Corridors agenda, and partly because of the maturation of the BRT’s implementation, the City has increasingly strong links between previously unconnected departments. There are institutionalised relationships between Public Transport, the Metro Police, the Johannesburg Property Company, the Johannesburg Roads Agency, and others, for various BRT-related services. To this end, the BRT has been both an opportunity and a driver for the City to overcome the strong silos built into its structure.

This will be the lasting legacy of the Rea Vaya, and to an extent of the Corridors of Freedom. Not the infrastructure – as impressive as some of it is. And probably not wholesale spatial transformation of Johannesburg; its efforts are too modest. Instead it will be the incremental subterranean reconfiguration of the City, from a set of strictly sectoral silos, into an organisation better-equipped to manage – and intervene in – a complex set of interlocking urban systems.

Furthermore, the logic of TOD has been increasingly institutionalised into the core operations of the City of Johannesburg. For example, the Capital Investment Framework is built directly on TOD principles, which have been strengthened over successive iterations. It will have long-lasting influence over how the City makes all capital investments, probably for decades to come. This has not been driven directly by the implementation of the Rea Vaya, but both are the result of an increasingly holistic understanding of, and approach to, the governance of space, and of the growing mandate and capacity of cities to take the lead in that governance.

A parallel process and effort is observable in the national government. Most notably, in 2012 the Cities Support Programme45 (CSP) of the National Treasury was established, after several years of planning. This unit, tasked with the broad remit of improving the fiscal and financial sustainability of cities, adopted a full-throated articulation of TOD. The CSP has been responsible for propagating TOD and related ideas pioneered in Johannesburg to other cities in South Africa, using the planning instrument of the Built Environment Performance Plan (BEPP) and the conditional grant of the Integrated Cities Development Grant (ICDG). More recently, a renewed Integrated Urban Development Framework unit in the national Department of Cooperative Governance (responsible for relationships between national, provincial and local government) has also adopted many of these ideas. Previously, the national government’s primary interactions with cities were the downward flow of grants and the upward flow of data for reporting purposes. There is increasingly a more collaborative, more horizontal involvement of national government in urban governance, based both on relationships and institutions such as the City Budget Forum, which brings national and city officials together for regular, routine interactions.

These developments are positive; they are a consolidation of the local governance system in South Africa. Emerging, as it has, from a period of radical transition, this consolidation represents a collective adjustment of structures and relationships in response to specific policy needs. As such, the nature of the consolidation was contingent on those needs and how they were articulated. Thus the Rea Vaya is significant as the most visible

45 Disclaimer: the author was a long-term consultant for the CSP from 2014-2015.
articulation of a policy problematic that shaped the consolidation of much of the local governance system in South Africa.

This is not to say that this consolidation has been straightforward, or that there is universal agreement on what the major policy problems are. An area of significant challenge, and where reform has often been unsupportive, is in the Gauteng Provincial Government (GPG). Since the mid-2000s, the GPG has been articulating the concept of the “Gauteng Global City Region” (GCR), with several associated policies ostensibly aimed at improving coordination and governance between Gauteng’s three metropolitan and various smaller municipalities. An early building block in this programme was the Gautrain rapid-rail system, running between the three metros; another is a long-proposed Gauteng Transport Authority/Commission. Coordination is obviously needed between Gauteng’s three adjacent metropolitan municipalities, especially with regard to transport. Both Johannesburg and Ekurhuleni run bus services across each other’s borders, and all three metros have now established BRT services with no route, ticket, or other integration with one another or with the provincial Gautrain system that connects them.

Nonetheless, the Province’s agenda has failed to introduce any significant coordination, and instead has had at least three major problems. First, despite focusing on coordination, both in rhetoric and policy, the provincial government has exhibited strong centralising tendencies, which although yet-unrealised have led it to resist Johannesburg’s attempts to rationalise transport, either outright or unless done on Province’s terms. Second, the Province lacks the internal capacity to plan or manage public transport. This has changed, to some degree, with the implementation of the Gautrain system, but not entirely. The Gautrain is very much a train service designed by road engineers, with little to no regard for the greater needs or purposes of public transport. Thirdly, finally, and perhaps most importantly, the Province has a completely different and utterly antagonistic spatial vision for Johannesburg, a strongly centrifugal one: the development of large settlements on the provincial periphery, and the servicing of old and new peripheral settlements with public transport. This is perhaps understandable given the electoral concerns of provincial rather than municipal politicians, but means that the provincial government has been very little help, and often a hindrance, to the agenda pursued by Johannesburg and (most of) national government.

Conclusion

This paper set out to understand the governance of urban space in post-apartheid South Africa, through the case of Johannesburg’s Rea Vaya BRT. It argued that spatial mismatch is in some sense the central post-apartheid urban challenge, and can neither resolve itself nor be addressed in a patchwork, sectoral manner. The strong path-dependencies of urban space, made up of complex interconnected systems, require a concerted and integrated approach. TOD is one such approach. It accounts for the complexities of urban space and offers a path to a more integrated, denser, more sustainable and more just city.

However, as the case of the Rea Vaya shows, transit-oriented development itself represents a significant governance challenge. It requires a shift away from the strong sectoral silos into which Johannesburg is organised (along with other cities). TOD requires not only alignment, but active integration of these sector departments, which is a core challenge for the governance of urban space.

Another challenge, also illustrated by the difficulties of the Rea Vaya, is the need for intergovernmental alignment or integration. The newness of South Africa’s intergovernmental arrangements combines with significant historical baggage to produce tensions and ambiguities that are unproductive at best and frequently outright detrimental. Some level of this conflict is probably unavoidable but, in order to take the large policy and implementation steps required to address spatial mismatch, all spheres of government need to make a concerted effort to align behind a single, overarching spatial vision – one that has the potential to deliver spatial transformation. That vision does not have to be transit-oriented development, but it needs to be something comparably coherent.

Spatial transformation will need to be paid for – if it were costless or uncontentious, it would not be half the challenge that it is. This requires aligning the grant system behind a more integrated spatial vision. The Integrated Cities Development Grant is one small step in this direction, but is still countered by the structure of other grants, most particularly those for the construction of housing. Similarly, the fiscal gatekeeping role played by provinces for several key national grants disrupts the ability of cities to govern urban space in a focused way, by making them account to institutions whose remit is (appropriately) much wider.
Finally, the case of the Rea Vaya shows that the most significant effects of interventions into urban space might be much less visible than infrastructure: the (metaphorically) subterranean relationships and structures of governance developed in response to ambitious projects might be much more valuable in the long run. This suggests a promising approach for cities, who might choose to select and design projects and programmes not only for their direct effects, but for the opportunities such projects represent to build internal and intergovernmental capacity. In this approach, each bus route should be planned and implemented so as to build and institutionalise the internal capacity to deliver and manage future bus routes. If that requires greater upfront cost, by bringing in-house functions that would otherwise be contracted out, then that may be a cost worth paying.

References


Power Dynamics in Municipal Governance: Insights from the City of Johannesburg

Colleen Lethu Masango

The fourth local government elections of 2016 were widely labelled a watershed moment in South Africa’s political landscape. The elections brought about monumental political changes to several metros across the country, most notably in Johannesburg, Tshwane and Nelson Mandela Bay, where the African National Congress (ANC) lost political control to the Democratic Alliance (DA). These shifts in political power not only signified a growing dissatisfaction among communities at the pace of spatial transformation, economic emancipation and standards of service delivery, but also brought to light the power dynamics at play in the management of local municipalities.

This paper explores the omnipresent power dynamics and tensions between the political leadership and appointed officials within the City of Johannesburg. It explores some of the underlying causes of these frictions and the lessons that may be drawn regarding governance and the political/administration interface in South African municipalities. The paper analyses the workings of the ANC’s Regional Economic Transformation Committee (ETC) in order to gain a deeper understanding of the power dynamics between administrators and politicians during the period leading up to the 2016 elections.

A lack of political and administrative synergy contributed to the ANC’s loss of the Johannesburg municipalities, according to post-election conversations among members of the Johannesburg ETC, with some members feeling that the city administration had let the party down. The question is to what extent the ANC’s results at the polls reflect a lack of effective management of municipalities, including the appointment of officials whose task is to administer service delivery and implement policies advocated by political parties.

The primary source material for the analysis presented in this paper is the author’s personal experience and records of both formal and informal engagements undertaken over 11 years. He was strategic advisor in the Economic Development Department of the City of Johannesburg, and the primary interface between the political office and the administration. He also had oversight of the ETC between 2014 and 2016, and incorporates the views of former ETC members in this analysis.

After a theoretical account of the relationship between elected politicians and the bureaucracy, the paper explores this relationship further from a developmental state perspective, given South Africa’s stated intention to be a developmental state. The paper then illustrates how the political-bureaucratic relationship played out in the work of the ETC in the City of Johannesburg. Lessons and considerations are drawn for the future of local governance in South Africa.

Politicians and Bureaucrats

The political and bureaucratic interface is a central concern of the Weberian model of bureaucracy, which defines the relationship and articulates a clear distinction and hierarchy of labour between politicians and bureaucrats (‘T Hart & Wille, 2006). In the hierarchy, the politician is seen as a sovereign representative of values and interests, while the bureaucrat is seen as “the subordinate ‘expert advisor and policy executor’, whose major concern is efficiency” (ibid: 124). The relationship is by no means static or confined to a single model; rather, it is shaped by ideologies of specific governments and transposed across nation states. For instance, other countries have used the British pattern or “Whitehall Model” to shape their own relationships (Wilson & Barker, 2003).

46 Masango held several key senior positions in the City of Johannesburg. As strategic advisor to the political head in Economic Development from 2012–2016, he assisted the Member of Mayoral Committee (MMC) in setting the strategic direction of the department and monitoring its performance against political objectives. He continued in this position under the DA coalition government from 2016 to 2017. Under both administrations, he was the primary interface between the political office and the respective departments, and his role was to build relations and synergy between the political office and administration. As the most senior official in the political office, between 2014 and 2016, Masango facilitated engagements and workshops of the ETC, and monitored and reported on the implementation of ETC programmes and objectives.
Although unchallenged for several decades, the Whitehall model has been the subject of criticism from various quarters in Britain since the 1970s. This criticism includes dissatisfaction by political leaders over policy advice and a civil service that is perceived to be ideologically inflexible and ill-equipped to serve the political needs (ibid). Across any government structure, tensions between politicians and bureaucrats may be expected to arise in day-to-day interactions. However, frictions are more likely when there is a political imperative to deliver results, and political leaders may not be prepared to “adhere to the distinction between politics and administration”, as they are ultimately answerable to the public when plans and policies fail (“T Hart & Wille, 2006).

A model for sound political/bureaucratic relations

While acknowledging the dichotomy in the political and administration model, Svara (2001) points out the “complementarity” of the relationship, based on the premise that elected officials and administrators share the common purpose of sound governance: the two are separate yet come together to form a whole, are independent yet compliant, and accept political control along with a commitment to shape and implement policy in the public’s interest. Complementarity provides a balanced view from which to delve deeper into the political and bureaucratic relationship and understand how both sides contribute to the task of public administration. As Figure 1 illustrates, complementarity is achieved when politicians have high levels of control and bureaucrats have high levels of independence. This requires politicians to respect the administration and bureaucrats to be accountable and responsive to political imperatives.

Figure 2: Degrees of control between politicians and bureaucrats

<table>
<thead>
<tr>
<th>Elected officials: degree of control</th>
<th>Administrators: level of independence</th>
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</thead>
<tbody>
<tr>
<td>High</td>
<td>Low</td>
</tr>
<tr>
<td>Political dominance</td>
<td>Stalemate or laissez-faire</td>
</tr>
<tr>
<td>Complementarity</td>
<td></td>
</tr>
<tr>
<td>Politicians respect administrative competence and commitment*</td>
<td>Administrators are committed to accountability and responsiveness*</td>
</tr>
<tr>
<td></td>
<td>Bureaucratic autonomy</td>
</tr>
</tbody>
</table>

*Reciprocating values that reinforce the position of other set of officials.

Source: Svara (2001: 179)

Following extensive interviews and engagements with bureaucrats and ministers in the Netherlands, over an extended period, “T Hart and Wille (2006) identified what officials in the administration expect from political leaders, and what political leaders expect from officials in the administration (see Table 1).

Complementarity or growing apart?

A complementary administration is characterised as being trustworthy, loyal and supportive of its political principals. It provides sound policy advice that advances the interests, objectives and priorities of the political organisation in office. In return, the political leadership must direct and prioritise policy, and provide sound, consistent political guidance to the administration on developmental choices. Officials agree on programmes, with clear delivery timeframes, while the politicians lend the necessary political support to execute, canvas for departmental budgets and prioritise within political circles.

Although the Whitehall Model clearly separates roles and functions, the relationship between political leaders and the administration hinges on subjective elements, such as loyalty, trust and leadership. These are often contextual issues, products of local country dynamics (including the political system in place), development strategies and the various interests shaping governance systems. South Africa has adopted a developmental
state model, similar to other developing countries, that brings its own set of challenges and strains to the relationship between bureaucrats and politicians. To better understand the contextual issues applicable to Johannesburg and South Africa requires unpacking the relationship between bureaucrats and politicians under this developmental state model.

Table 3: Expectations of Administrators and Political Leaders

<table>
<thead>
<tr>
<th>What Administrators Expect from the Political Leadership</th>
<th>What Political Leaders Expect from the Administration</th>
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<tbody>
<tr>
<td><strong>Policy development and internal leadership</strong></td>
<td><strong>Effective policy advice and programme delivery</strong></td>
</tr>
<tr>
<td>Political leaders need to articulate political preferences and transform these into public policy. Politicians are either able to initiate policies that change the direction of a department/sphere of government, or they become passive recipients of policy from the departments they lead or from external stakeholders.</td>
<td>The expert and informed administration is expected to provide solid and timely advice. Politicians acknowledge that they cannot develop an entire “shadow bureaucracy” over the departments they lead, and so look to the administration to roll out policy and to deliver against set programmes. Politicians identify policy rehash, which is an underhand tactic of bureaucrats, as a hindrance to service delivery and implementation of programmes by incumbent governments.</td>
</tr>
<tr>
<td>The leadership style of politicians is important in determining the overall outcome of policy initiatives, in how they relate to departmental officials and the extent to which they listen to advice from the administration. To avoid a leadership vacuum, policy intent must be clear and consistent, so that officials know what is expected of them.</td>
<td></td>
</tr>
<tr>
<td><strong>Visioning and dedication to delivery</strong></td>
<td><strong>Political antennae</strong></td>
</tr>
<tr>
<td>Officials expect political principals to provide a clear and articulate vision of what they intend to achieve in their tenure, and explicit choices about what to prioritise. The absence of clear priorities leads to fragmented attention and energy scattered across too many topics and policy areas. The administration of specific departments expects political leaders to exercise political craftsmanship in how they engage with their political counterparts, party members and interest groups in advocating the department's vision and priorities. This ultimately determines the extent to which departmental policies and budget requirements are satisfied in political struggles.</td>
<td>Officials should be able to gauge political pressures and advise political leadership accordingly, and be able to both avert problems and identify opportunities. The specific observation and critique by Dutch politicians is that officials are overly technical or academic in their policy development, at the expense of political expediency.</td>
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<tr>
<td><strong>Running the departmental machine</strong></td>
<td><strong>Loyalty</strong></td>
</tr>
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<td>Officials expect political leaders not to interfere in the management of departments. In instances where incoming governments seek a reform agenda, politicians are likely to encourage officials to “move on” and to replace these officials with officials of their own choosing, at times based on perceived political loyalty.</td>
<td>A widely held view is that politicians and bureaucrats ought to operate on a trust relationship. “The norm translates into a widely shared conviction that departmental officials should adhere to a civil service ethic of serving any minister and working with equal vigour for any government, irrespective of its political identity” (ibid: 132). Furthermore, the personal views and political affiliation of officials should not interfere with their job performance. Tied to this is the concept of “mutuality, reciprocity and chemistry”, which refers to the relations between politicians and the administration in the boardroom and in the public arena. In the boardroom, the two parties can debate frankly and disagree, but the parties need to agree and support one another when in the public domain. For this to happen, the politician–bureaucrat relationship must be founded on trust.</td>
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Bureaucrats, Politicians and the Developmental State

A developmental state is “a state that puts economic development as the top priority of government policy, and is able to design effective instruments to promote such a goal” (UNECA 2010, cited in Shaw, 2012:838). The developmental state debate has led to two schools of thought, the political and economic (Ayee, 2013). The political school is focused on the state’s capacity for development and the ability to formulate and implement appropriate policies and programmes to promote development, while the economic school is preoccupied with appropriate economic policies, market imperfections and the necessary interventions to resolve these (ibid). Of particular interest for this paper is the political school, especially two elements: the context, which gives rise to a developmental economy, and agency, insofar as it defines the motives of various actors in the developmental state.

Context matters

The bulk of literature about the East Asian developmental state is overly biased towards state capacity at the expense of nuanced contextual matters (Yeung, 2017). In formulating a state-driven response to developmental challenges, context is crucial. External and internal structural circumstances not only form context but also propel institutional responses by the state in its development endeavours (Leftwich, 2010).

Furthermore, in a “structure-agency” relationship, structural (contextual) issues relate to the material circumstances of the state, consisting of external geopolitical circumstances, formal and informal institutional relations, and power distribution within these relations (Leftwich, 2010). More importantly, structure also relates to the socio-economic and prevalent social relations and formal institutions that govern laws and regulations within the subject state. Marx’s perspective of a societal system made up of an economic base upon which rests a superstructure, augments this emphasis on context. The elements of the superstructure, as advanced through Marxist theories, include the culture, politics and ideology of the nation state, which are vital in determining the country’s response to its development challenges.

Agency matters

Developmental studies also need to pay close attention to “agential factors”, which are the nexus of the different developmental states throughout the world. Agency refers to the capacity of role-players (individuals, groups, organisations and coalitions) to consciously shape institutional arrangements to suit the local sociopolitical environments (ibid).

The developmental state, or any other state for that matter, comprises both political and official agents who act and respond to contextual matters in accordance with their epistemologies, cultures and ideologies. Developmental states are characterised by strongly committed leaders who place national interests above personal enrichment and short-term political gains (Fritz & Menocal, 2007). They also have a rational bureaucracy characterised by “meritocracy and long-term career prospects” (ibid:535). These officials are said to function professionally, devoid of the agendas of certain groupings.

Like any other form of agency, leadership needs to be seen within a context, “occurring within a given configuration of power, authority and legitimacy, shaped by history, institutions, goals and political culture” (Leftwich, 2010: 103). The state is not completely insulated or seen as a “strategic thinker”, able to achieve industrialisation on premeditated national grand designs (Yeung, 2017).

Political appointments and representative bureaucracy

In many countries, politicians appoint senior officials to carry out their political mandates (‘T Hart & Wille, 2006). When political changes occur, politicians typically have the prerogative to appoint administrators, especially at senior level. In many instances, such positions are fixed-term, allowing political leaders to institute changes where they so wish. The theory of representative bureaucracy refers to the relationship between a demographically representative public service and policy outcomes: “The idea is that social backgrounds and status of public administrators have the potential to enhance performance and make governments more responsive, based on their different perspectives, experiences and socialisation” (Clark et al., 2013: 77; Mikalaukas, 2015). A public service must reflect the demographic composition of the communities it serves. Passive representation is about how bureaucracies demographically represent their constituencies, while active representation is about bureaucrats advocating for policies that affect the populations and communities they serve (Clark et al., 2013). Active representation is neither automatic nor a guarantee that the interests of communities will be fulfilled. The administration has to actively drive towards the desired objective of achieving community needs.
Public servants are not objective policy implementers. They protect the public interest and share the same values and worldviews as those whom they represent, and so “it is particularly relevant to ask who fills administrative positions in the public sector and how those holding them can ensure equal distribution of society’s values” (Mikalaukas, 2015: 61). Therefore, beyond senior political appointments, the public service must be representative of the demographics, and officials must have the requisite skills to deliver on the tasks at hand, in the best interests of the target communities. The success of the Asian Tiger states was in part driven by a bureaucratic system closely aligned to incumbent political regimes. This was most prevalent in Singapore, where the state bureaucracy was closely aligned to the People’s Action Party, a direct contrast to the Weberian notion of embedded state autonomy (Yeung, 2017).

The developmental states of East Asian countries emerged through a unique set of circumstances, firmly rooted in their regional dynamics and global political contexts, with very clear development trajectories adopted and upheld by their politicians. A defining characteristic of these politicians was their commitment to agency, which was effectively mirrored in the actions of the administrators that served in these developmental states. To emulate these outcomes, numerous countries are pursuing the developmental state as a concept. The seven features of the developmental state are: transformational or development-oriented leadership, state autonomy, developmental public administration or public service, production-oriented private sector, effective national development planning, expansion of human capacity and good governance (Ayee, 2013).

The South African developmental state

South Africa is a self-proclaimed developmental state, which the National Development Plan (NDP) affirms as necessary to deal with the deep social and economic divisions that characterise South African society: “This requires well-run and effectively coordinated state institutions with skilled public servants who are committed to the public good […] while prioritising the nation’s developmental objectives” (NPC, 2012: 409).

In 1998, the White Paper on Local Government laid out a vision for developmental local government to bring about the rapid transformation of previously disadvantaged communities. The White Paper gave local authorities leverage to deploy innovative and ground-breaking approaches to overcome the skewed development patterns of local settlements. It identified four inter-related characteristics of developmental government:

- Maximising social development and economic growth
- Integrating and coordinating
- Democratising development
- Leading and learning

Local authorities have specific tools at their disposal, including the ability to change existing procedures, to introduce affirmative procurement policies, to coordinate services and regulations, to develop unique programmes to empower the poor and ensure redistribution of resources, and to build social capital and the collaboration of role-players towards common objectives.

The record of developmental government has not been good. Over the past two decades, the level of basic service delivery has deteriorated, with service delivery backlogs, breakdown in Council communications and accountability with communities, corruption, political interference and factionalism within political parties (SALGA, 2015). The deterioration of service delivery can be attributed to the lack of competent human resources, poor performance culture, political interference and poor financial management (Kariuki & Reddy, 2017). In the years following the first local government elections of 2000, a range of amendments and regulations were passed to strengthen the legal framework, structures and system of local government47 (SALGA, 2015), which was an acknowledgement by government of observed shortfalls in the system. Significant milestones in the path of strengthening local government include the in-depth assessment and subsequent Local Government Turn-Around Strategy in 2009, a specific focus on the political/bureaucracy interface through the NDP, and the Back to Basics Strategy launched in 2014.

The NDP puts forward eight areas where targeted actions are required in order to achieve a democratic, capable developmental state (NPC, 2012). One of these focal areas is the political/administrative interface, as identified by Ayee (2013) and which the NDP expands on. The NDP acknowledges the dangers of an administration that is too insulated from political influence, as this could result in the administration failing to serve the interests of the government of the day. On the other hand, an administration that is insufficiently insulated can be

47 This includes the Municipal Systems Amendment Act (2003), Municipal Finance Management Act (2003), Division of Revenue Act (2009), Municipal Property Rates Act (2004) and Municipal Systems Amendment Act (2011).
compromised, through the appointment of bureaucrats based only on political affiliation, not necessary competencies. Johannesburg offers a more granular scale to understand the political/administrative interface, and provides some insights on this important aspect of the developmental state.

The Political/Administrative Interface in Johannesburg

There is no place quite like the City of Johannesburg, where the skewed spatial form and economic exclusion within South Africa’s urban areas are stark. As the historic economic hub of the country, Johannesburg was often the test site for many of apartheid’s policies. Consequently, it carries the unfortunate label of being one of the most unequal cities in the world, in a country that is the world’s most unequal society (Worldatlas, 2019).

Since the advent of the present dispensation of local government, four local government elections have taken place: in 2000, 2006, 2011 and 2016. Until 2016, the ANC was at the helm, led by Mayor Masando in the first two terms (2000–2011) and Mayor Tau in the third term (2011–2016). Mayor Masando presided over the most difficult phase of transition, when municipal managers and senior officials were appointed into local government positions with specific roles of transforming the administration, promoting new ideas and implementing new programmes and policies (PDG, 2013). Given that South Africa was only six years into democracy, the political/administrative interface was a particularly difficult terrain to navigate. Managing Johannesburg’s transition post-apartheid was especially difficult, as apartheid activists had to transit rapidly from struggle and opposition politics to running government, while long-standing city officials had to adapt to very different visions of the city that came about with the ANC government (Bealle et al., 2002).

The 1998 White Paper not only set in place a developmental ethos for local governments, but also ushered in a new phase of performance-based contracting for senior managers; the appointments of the first three layers of senior management (municipal managers, executive officers and heads of departments) were linked to political terms and were approved by Council (PDG, 2013). The move to fixed-term contracting was seen as a way to improve performance and to rid the administration of the permanency of senior management or the “old guard” that was entrenched in local government positions (PDG, 2013: 17). The transformation of the administration was not an overnight exercise nor an easy task. Although transformation at the senior levels of municipal management and heads of departments was achieved almost immediately, within the first term of office, the rest of the administration remained largely untransformed. To deal with the racial imbalances in the rest of the administration, the city established an Employment Equity Forum, in terms of Employment Equity Act of 1998, consisting of departmental forums that were mandated to actively pursue the transformation of the administration through recruitment. Up until the end of Mayor Masando’s tenure, the racial imbalance in certain city departments was still a cause for concern, particularly in middle-management positions where core decisions are made.

Even in this context of transition, the political/bureaucratic interface showed little visible friction. Senior officials, most of whom were appointed under the ANC administration, were a regular feature at party political events, including the ANC’s Caucus meetings where the administration would be invited to present and partake in some of the discussions. Similarly, ANC structures would also partake at Mayoral Engagements (lekgotla), alongside the city political leadership and senior management. The various elements of a complementary political/bureaucratic relationship were actively displayed by both sides, allowing for a conducive environment in which to collectively develop policies and deliver services. Much progress was made during the tenure of Mayor Masando, with the administration completing the ambitious target of tarring Soweto’s gravel roads, arresting the further decline of the inner city through the Inner City Partnership Forum and encouraging a dedicated drive to bring business back into the CBD. Effective urban management was implemented across the city’s regions, and the standard of service delivery in formerly marginalised spaces was lifted.

With the DA transition in 2016, conflict appeared within the bureaucratic/political interface. Senior management changed rapidly, as new appointments were made under Mayor Mashaba, who ushered in a new political allegiance in the city. The appointment of senior management is the prerogative of political leaders (as was the case with previous administrations) and through the provisions of South Africa’s legislation (T Harte & Wille, 2002). However, the leadership style of Mayor Mashaba was a fundamental shift from the diplomatic style of Mayors Tau and Masando, earning him the title of a “firebrand mayor”. The Mayoral Committee became a tense environment with open confrontations over policy issues, procedures or functional responsibilities, and officials accusing the mayor of political overreach. Several senior managers and heads of departments left the employ of the city for various reasons, including expired/unrenewed contracts, early terminations, resignations and

some suspensions and dismissals. Mayor Mashaba was widely accused of purging senior officials, claiming they were linked to the ANC (Mathope, 2017). He pushed back at these accusations, arguing that he was getting rid of the corruption that the ANC leadership had supported during its tenure at the helm.

Having been visibly complementary over the previous three political terms, the Johannesburg political/administration interface changed, and politicians and officials suddenly found themselves at opposing ends of the boardroom table. While these differences between the mayor and the city administration were evident and greatly pronounced, tensions between the administration and political leadership had existed during Mayor Tau’s term of office. Leading up to the 2016 local government elections, the ANC leadership felt a growing discord in the political/administration relationship. Some insights of this hidden fractured political/administrative interface can be found in the ETC during Mayor Tau’s era.

Case Study: Johannesburg Economic Transformation Committee

Following the 53rd ANC Policy Conference in 2012, the ANC announced a policy shift for the second phase of the democratic transition. Having assessed progress since 1994, the ANC asserted that the system was reproducing racialised poverty and inequality because of the absence of structural interventions. ANC members felt that the party was losing ground and credibility among the electorate and that drastic steps were needed to alter the situation (ANC ETC, 2016). Acknowledging the persistent challenges of unemployment, poverty and inequality, the ANC identified “radical socio-economic transformation” as the primary task of its second phase. To ensure that the party remained relevant, the policy conference recommended that ANC structures exercise greater political and strategic oversight without seeking to micro-manage municipalities.

Rationale for a Johannesburg ETC

The national ETC is one of the ANC’s National Executive subcommittees, constituted to serve as an economic transformation think-tank. Resolutions that emerged at the Policy Conference included promoting growth and development, and eradicating the triple challenge of poverty, inequality and poverty; promoting youth employment, small businesses and cooperatives; and building a developmental state with the technical and political capacity to lead development and transform the economy. Most of these resolutions were not new to the ANC policy discourse, but many of the issues remained unresolved and a stumbling block in the eyes of the party.

In 2013, the Johannesburg region responded to the national political directive to enhance political oversight and accelerate economic transformation by establishing the Johannesburg ETC, under the political banner of “changing the structure of the economy”. The underlying objectives of realising economic transformation included identifying bottlenecks and remedial steps to the slow rate of policy implementation, and seeking effective transformation of the state in order to advance the revolutionary economic objectives of the ANC (ANC, 2013). The Johannesburg ETC had a similar composition to the national structure, being made up primarily of ANC members who were active in political structures of the organisation (local and provincial), ANC-aligned academics and private sector business representatives. In addition, the ETC included a select number of government officials, hand-picked from different city departments, who were active members of the ANC.

Like the national structure, the ETC was an oversight structure, tasked with ensuring the implementation of ANC policies. It functioned in addition to the existing council structure – the ANC appointed Members of Mayoral Committee (MMCs) who were legislatively required to account to both Council and the Section 79 Oversight Committee. The ETC was to function as an overarching body to oversee the implementation of ANC policy directives, specific economic development programmes and interventions as advocated by the ruling party. The ETC exerted itself without specific terms of reference to guide its integration with existing governance systems in the administration.

In 2013, at the inaugural ETC Indaba, several resolutions were adopted aimed at binding the state machinery to some of its deliverables. The resolutions ranged from interventions to address identified supply chain challenges, focused support to the township economy, reservation of state contracts for SMME and cooperatives, legislative and policy changes where necessary, and deliberate actions to disrupt monopolies affecting identified sectors.

Stewardship of the ETC was assigned to the MMC for Health and Social Development in the city. As a senior member of the ANC regional executive committee, serving within the mayoral committee, the incumbent MMC was thus afforded powers to summon fellow MMCs and hold them to account against set economic
transformation targets. There was a deliberate intention to separate roles and accountability by not assigning the task to the MMC responsible for economic development. Instead, the MMC for Economic Development would be accountable and answerable to the ETC, and was required to appear before the committee on a quarterly basis, to report back on the department's performance. This had the net effect of shifting political power away from the MMC for Economic Development towards the head of the ETC. In terms of party political positions, this also elevated the political head of the ETC within the region.

Two years later, in 2015, the responsibility was reassigned to the MMC for Economic Development. This was a surprise departure from the previously held notion of separation of roles and accountability lines. The changes also came after the 2015 Regional Conference, at which the incumbent political head of economic development had been re-elected onto the executive of the Johannesburg Region.

**Tightened political control**

The primary reasons advanced for the leadership change in the ETC was the pressing need to align the political office (MMC) and the city administration closer to the needs of the party and the duties of the ETC. In the two years of the ETC’s existence, little progress had been made in delivering the expected radical transformation. There was growing concern that the ANC was not doing enough to advance economic transformation within communities leading up to the 2016 local government elections.

With the ETC now under the control of the political head of economic development, certain pronouncements were made to strengthen the monitoring and evaluation of the department’s performance and that of city departments against ETC deliverables.

- The executive head of economic development was appointed immediately as a full-time member of the ETC, allowing for ETC decisions to find expression in the deliverables of the department.
- Relations were to be built from the office of the executive head with other core departments and municipal entities in the city. This would give the ETC a clear interface with the entire administration in the city and allow economic programmes to be prioritised across the city.

In the months that followed, the work of the ETC intensified and evolved through regular engagements of the committee, and workshops with consultants and targeted officials from city departments. It culminated in a programme of action aimed at implementing the 12 resolutions of the ANC Regional Conference of 2015.49

Administrative red tape and procurement legislation were identified as a direct hindrance to the transformation imperatives sought by the party, and especially detrimental to small- and medium-sized enterprises seeking economic opportunities through state procurement – the cumbersome legislative requirements had the effects of gatekeeping their participation. Therefore, the ETC proposed specific steps to amend procurement procedures in the city. In consultation with city departments and the private sector, the ETC produced a supply chain position statement, which was subsequently submitted to the ANC National General Council in 2015. The submission drew on constitutional levers available to government to seek amendments to the Preferential Procurement Policy Framework Act 2000 and would effectively pave the way to set aside 60% of the city’s envisaged R10-billion infrastructure spend for SMMEs. In all of these interventions, the ETC relied on the political antennae and loyalty of senior leadership within the city administration. However, the good relations were short-lived, and the relevance of the ETC was soon put to the test.

**Analysing the Failure of the ETC: Lessons for the Bureaucratic/Political Interface**

The performance of the ETC is analysed using the same lens with which the characteristics of a complementary relationship may be understood. This framework is used to look at both the administrative flaws and political shortcomings that were factors in the failure of the ETC.

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49 The programme of action identified several activities for the ETC, such as the need to deploy capable and qualified cadres in all strategic positions within the city, direct engagement with city departments such as supply chain towards legislative reforms, and set-asides for SMMEs.
Cracks in the “loyalty” relations

The effective monitoring of its programmes was part of the task assigned to the ETC, which developed a programme of action, with clear deliverables and timeframes linked to activities. However, a year into the intensive schedule of the ETC, clear signs appeared of a gradual breakdown in the relationship between the party and officials expected to deliver on the work. Several months before the local government elections, the fatigue around compliance and adherence to the demands of the ETC became increasingly apparent. Officials within the city administration gradually undermined the work of the ETC, snubbing key events of the committee. In January 2016, the ETC held its annual strategic planning session to chart its programme of action for the year ahead. National and provincial structures were present in strong numbers, as were the national ETC head (Enoch Godongwane), invited ministers in the economic cluster and MPs, whereas not many city officials participated – absent were the departmental heads for economic development and finance, the two departments tasked with consolidating and presenting the city's radical economic transformation policy.

The transformation policy document was to form the basis of engagements, presenting the Johannesburg Region's progress in radical socio-economic transformation. The no-show by officials led to members questioning the ETC's powers and why it lacked the necessary teeth to bring officials in line with political instructions. While officials had demonstrated loyalty towards the political leadership in the initial stages of formulating the programme of action, they had hesitated or resisted carrying out the requisite activities and delivering against stated programmes.

Resistance and power dynamics

Resistance to the ETC is a key part of the discussion on the ANC in government versus the ANC in Luthuli House. The response from former ETC members, to the question of why the ETC was established and whether it served its purpose, was mixed. Some felt that the structure was formed out of a genuine desire to advance party political objectives, citing the eventual amendment of the Preferential Procurement Policy Framework Act as an area where the ETC played a crucial contribution through its submission to the ANC General Council in 2015. They also pointed to the ETC's initial success in disseminating information to ANC branches, which empowered ANC members and communities on the range of economic opportunities available to them and the ways in which communities could access these opportunities. This was important groundwork that demonstrated the relevance of the ANC in creating economic opportunities for its constituency.

The other viewpoint was more scathing of the ETC, which was seen as a failed attempt to increase the power of the ANC against an increasingly hostile administration. Holders of this view felt that the ANC leadership had been weak in addressing management and acting against the dissenting attitudes of its own deployees. They challenged the relevance of cadre deployment and argued that the administration was filled with individuals whose self-interest outweighed their allegiance to the ANC. In their view, the true cadres of the ANC were rooted in communities and had a genuine inclination to solve the various challenges facing communities but were often overlooked for individuals who serve as vehicles for corruption. There was also a unanimous viewpoint that the ETC was a clear barometer of the ANC's diminishing power in driving transformation, particularly its failure to manage senior officials in the city.

Weakened management tools

Following the no-show and embarrassing outcome of the ETC's flagship event of 2016, the ETC followed various avenues to hold the administration to account. However, after several unanswered letters and failed engagements with the responsible officials in the administration, the ETC realised that it was incapable of holding respective officials to account, other than through the management tools in place in the city administration. As reflected by Jacobsen (2011), bureaucrats yield significant power and have the potential to undermine the role of politicians. Where it suits the administration, they could simply revert to Weberian principles of administrative autonomy or the separation of powers as advanced through legislation (RSA, 2000) and refuse perceived political overreach. The ETC's work had effectively been downscaled to side activities and was not prioritised in any of the administration's deliverables. In addition, fundamental institutional changes that had occurred during the third term of office increased the challenge of running the political office.

Between 2006 and 2011, during the second local government term, the city had a solid performance management system in place. Newly appointed officials in the city were inducted and quickly received training on the performance management system. A culture of reporting, coaching and appraisal was well established in the city as far down as junior-level employees. Senior management positions in the city, from assistant director and above, were largely fixed-term contracts, with performance management linked to financial reward.
Naturally this elevated the performance and drive of the city’s senior managers. They in turn instituted performance management systems in the various structures reporting directly to them.

Following the 2011 local government elections, the city introduced institutional changes as part of the new administration’s priorities. The bulk of fixed-term contracts for senior managers were phased out, and the majority of positions converted to permanent positions, with the underlying intention of reducing the public sector salary bill. By the end of 2012, the institutional review process had been concluded and the bulk of contract positions absorbed into line functions.

While the primary objective of saving the city resources was achieved, the process led to an administrative nightmare on a number of fronts.

- The new institutional structure was established hastily, with new departmental structures concluded without due consideration of all employees that were being absorbed into departments. To illustrate, for the duration of the political term (2011–2016) after the institutional changes came into effect, departments such as economic development sat with significant proportions of employees in “reserve pools”, where they were not officially recognised within the departmental structure. These employees were effectively without position and subsequently performed functions assigned to them by the head of department.

- Absorbing fixed-term employees into permanent positions meant that the performance bonus system and annual increments were normalised to those of other permanent employees within the city. The only employees to remain on fixed-term contracts were heads of departments, appointed under Section 57 of the Municipal Systems Act, and senior staff within political offices. This had the unintended consequence of eroding the performance management system as an accountability tool among the majority of city employees. When employees were on performance contracts, they were compelled to go beyond their core deliverables to be eligible for the financial rewards linked to their performance. These “stretch targets” recognised the efforts of employees over and above the mandatory responsibilities tied to their positions. With the move away from contracts to permanent positions, the impetus for performance was lost; emphasis shifted from the financial reward of excellent performance to merely fulfilling obligatory duties as public servants, or the “loyalty” dynamic. Gradually performance management was reduced to a compliance matter, with inertia settling in the institutional culture of the city.

- A more detrimental consequence of the evolving institutional culture was the increasingly difficult task of political oversight. Without an effective management tool, and without employees who genuinely engaged with the tasks assigned to them, service delivery and tangible changes on the ground were increasingly frustrated. Employees in key decision-making structures could silently resist political instructions but were still seen to be performing in accordance with their scorecards.

### Agency and the misrepresented bureaucracy

The agency dynamic, as articulated by Leftwich (2010), holds true for the ANC’s cadre deployment policy and the general orientation of officials in office. There was a common and deeply held belief among ETC members that officials unsympathetic to the party’s cause were stifling the bulk of policy changes required to realise the prescripts of rapid economic transformation. These concerns allude to the concept of bureaucratic representation, as advanced by Clarke et al. (2012) and Mikalaukas (2015). Although this is an extremely subjective matter and very difficult to prove, there were some instances where the administration simply ignored political instructions.

A case in point is the failure of the city’s Inclusionary Housing Policy process, with the administration failing to act on policy directives set by the mayoral committee. Admittedly, this does not point to a “saboteur” because in many instances, as the ETC conceded, large numbers of cadres employed by the city and occupying key positions had seemingly become consumed or lost purpose once they had entered the bureaucratic system. Some were known to be associated with the political party but had failed to deliver the desired policy and legislative shifts expected by the ANC.

The attitudes, agency and willingness of officials to adhere to political directives dealt a serious blow to the ability of the ETC to effectively carry out its mandate of influencing and closely monitoring ANC policy in the city. The other side of the equation relates to the ANC itself and what internal party issues may have contributed to the failure of the ETC.
Internal political limitations

An analysis of the inner workings and internal political relations among the ETC reveal some limitations to its success. In brief, the ETC’s work was drowned in both the bureaucratic system and its contestation for political relevance and prioritisation.

- **Power dynamics within the executive political leadership were rife.** Tensions and territorial egos existed among office bearers, which affected the performance of the ETC. At times, the secretariat had to conform to different demands and preferences of political heads of departments. In one instance, the secretariat was rebuked for having invited officials to engagements of the ETC without having “cleared” this with the respective MMC of a department. These senior officials had been part of previous engagements of the ETC and were considered loyal deployees of the ANC.

- **Imposing additional procedures on the ETC was a self-defeating process.** In the midst of urgent action towards radical economic transformation, the ETC had to deal with additional protocols, over and above the already bureaucratic system of government. Municipal departments are notorious for their inward and silo approaches to development, and the City of Johannesburg is no exception – achieving interdepartmental cooperation requires protracted processes. These additional procedures unnecessarily hampered the work of the committee.

- **There was no clear prioritisation of political activities between the different committees** of the ANC. The political leadership was pulled in different directions, with various portfolio committees established but no prioritisation from either national or regional structures of the ANC. This led to the committees functioning in silos, experiencing the same obstacles faced by city departments in the administration. Changes in the leadership of the ETC, from one MMC to another over a short timeframe, also suggest political posturing and internal jostling for leadership positions.

- **The introduction of performance scorecards for MMCs** layered more political oversight onto the MMCs but did little to enhance accountability within the administration. In 2013, this unprecedented move occurred, with the aim of placing greater controls over MMCs responsible for line functions. Scorecards were developed to manage the performance of MMCs, who were then required to report to the Executive Mayor, similar to Section 57 employees reporting to the Municipal Manager. The scorecards were closely aligned to the deliverables and functions carried out by the bureaucratic heads of department, with a few areas of political emphasis. Certain deliverables of the ANC, such as resolutions of the National Policy Conference and Regional Conference, were seen as only subsidiary components to the MMC’s scorecard. While important for building synergy between the departments and political offices, and maybe for seeking to ensure the trickle-down of delivery pressure from the MMCs to the administration, the scorecard merely shifted emphasis from the administration and placed the burden on the political leadership.

Policy and political leadership

A lack of policy consistency and several stop-start policy changes affected the functioning of the administration. Figure 2 shows the various government and party political (ANC) activities that have an impact on the city administration and political leadership within a single political term. Each year comes with its own host of important milestones and events that require some level of adjustment to existing plans and policy documentation.

To illustrate: the NDP became national policy in 2012, after the new administration had spent several months of its first year in office restructuring the city administration in line with the reworked Growth and Development Strategy. In the same year, the results of the 2011 census were announced, which effectively meant that many considerations and amendments were required in 2013, to make provision for the new sets of statistical information and policy implications. These events created policy uncertainty in the administration and muddied the prioritisation of government activities. By the time the administration had settled and was able to deliver on its mandate, two of the five years of the term of office had been dedicated to planning, alignment, amendments and finalisation of plans. Political leadership also ended up consumed in the cycle of political activity, resulting in an absent political leadership unable to effect its oversight function.
A critical look at the ANC leadership reveals that it does not reflect the principles of good leadership, as per the framework developed from T Hart and Wille (2006). The political leadership fell short in its ability to articulate political preference, choices around priorities and clear policy or vision statements. The ETC activities and programmes became another layer of administration on top of the tasks of the administration, rather than being integrated into the bureaucratic system and complementing the plethora of policies and political priorities previously assigned to the administration. No mechanisms were built into the performance management system to be able to monitor the performance of the administration against the ETC deliverables.

Conclusion: Complementary or Growing Apart?

According to Svara (2001), a complementary relationship requires politicians with high degrees of control and bureaucrats with high degrees of independence. In addition, politicians need to respect the commitment and competence of the administration, while the administration is expected to commit to accountability and responsiveness. This was not the case for the ETC:

- The relationship between politicians and bureaucrats in the city was not entirely complementary in the implementation of the ETC’s Programme of Action.
- The performance of the administration fell short of political expectations.
- The mutuality, loyalty and chemistry expected from either side was absent at some point in the lifespan of the ETC, particularly given that some of the officials were ANC deployees.
- Although city officials had initially acted in good faith and expressed support for the objectives of the ETC, their programme delivery fell short of political expectation.

The relationship between politicians and bureaucrats in the city did not lead to open confrontation, although political instructions were blatantly disregarded on numerous occasions. This raises several questions:

- To what extent was the ETC taken seriously by either the political leadership or the city administration?
- Is it possible that the political leadership was equally policy-fatigued and could not be bothered to effectively see the additional task of the ETC through to completion or, worst still, that the function was not understood?
- In the absence of a functional management system, what possibilities were there for the political leadership to have integrated the work of the ETC with the priorities of city administration?

Insights into the ETC and the experience of the ANC provides the following lessons about the political/administrative relationship.

Embracing conflicting rationalities

While accepting the tenuous nature of the relationship between politicians and bureaucrats, T Hart and Wille (2006) use normative language to describe the relationship, with terms like “teamwork” and “complementarity”. However, the reality is one of ambivalence, where the ideal of collaboration and professionalism exist in stark...
contrast with hidden conflict and hierarchy (ibid). The potential for conflict and disagreement between administration and politicians in any bureaucracy is high and ever present. Under the ANC, the political and administrative interface was publicly well maintained, but the experience of the ETC reflects that serious tensions were constantly simmering. Not long after the DA coalition took office, the politicians and administration began butting heads, openly, over policy issues. Accusations were rife on either side, with the political leadership accused of openly discriminating against officials because of their political affiliation. The political leadership has also been equally vocal about the administration being pro-ANC and resisting new ideas and political directives. This state of affairs has the potential of entrenching the principle of different regimes purging senior and critical staff with every cycle of new leadership. These conflicting rationalities are somewhat unavoidable, given the tilt of South African politics towards coalition governance. The professionalisation of the public service is one of several means to avert unnecessary administration disruptions with every political change that transpires.

Agency and politics matter

To emulate the development trends witnessed in the East Asian Tigers and other successful developmental states, South Africa needs a political/administration system that is well equipped to tackle its development challenges. The NDP states that significant progress has been made in balancing the demographic representation of the public service, and that attention should shift to ensuring the public service is adequately equipped to play its part in transforming society (NPC, 2012). South Africa’s development cannot be removed from the politics of addressing the past imbalances of development and service delivery – the notion of an independent and depoliticised public service is not workable and does not match the country’s reality (Sehume, 2018, after Mafunisa, 2003). Therefore, in addition to having the skills required for a position, agency and bureaucratic representation are immensely important in the South African workforce. This is to ensure that the political project of completing South Africa’s transition remains on track.

The tensions witnessed in Johannesburg under the ETC, and the more publicised confrontations between city officials and the new political leadership following the local government elections, are signs of a generally fractured political-administration relationship. The continued transition towards coalition governments, as demonstrated in the 2016 political outcome in Johannesburg, Tshwane and Nelson Mandela Bay Metro, suggests that South African politicians and bureaucrats are growing further apart from one another. This, in turn, points to an increasingly difficult environment in which to deliver services in an efficient manner. Combined with the current exposure of rampant corruption and maladministration, from both political leaders and government officials in state institutions, the net effect is a fractured social contract between communities and the bureaucracy.

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PRIVATE SECTOR AND INNOVATION
The Private Sector and Urban Governance in South Africa: The engagement nexus

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The end of apartheid left South Africa with huge economic and social challenges: economic growth had slowed markedly since the 1970s, unemployment was high, and labour absorption into the formal sector had plummeted (Habib & Padayachee, 2000). South Africans had high aspirations and expectations of the new ANC government, which had a dual task: to set up the right form of government to lead the country, and to develop legislative and policy mechanisms that would create a business-friendly environment in the country in order to attract investment and promote market competitiveness. Over the past two decades, numerous debates have occurred around the good governance that supports a business-friendly environment needed for economic development and nation-building.

The participation of the private sector is necessary to develop urban governance, but this remains a challenge, especially in cities. Urban centres are spaces not only for living but for economic activity. Cities may occupy just 0.5% of the world’s land, but they account for 70% of global economic activity (Avis, 2016). Similarly, more than 50% of the global population lives in cities, and this percentage is expected to grow to almost 60% by 2030 (UN Habitat, 2018). Like cities around the world, South African cities play a central role in the nation’s development path: “Metropolitan cities in South Africa have been driving economic growth and generate close to two-thirds of the country’s economic activity and contribute over 50% of national employment” (COCT, 2017). And by 2030, over 70% of South Africa’s population will live in urban centres, compared to the current figure of 60% (CoGTA, 2016).

This paper reflects on various endeavours to develop urban governance with the participation of the private sector. It looks at South Africa’s urban policy in the context of creating a business-friendly environment, and explores the engagement nexus of the private sector and urban governance in South African cities using the examples of the City of Cape Town and eThekwini. The paper identifies key lessons from the case studies for possible adaptation in other metropolitan or secondary cities in South Africa, and assesses the overall "business-friendliness" of urban governance in South Africa, with the aim of understanding urban policy and institutional transformation in the country.

The study makes use of both primary data, in the form of telephonic interviews with two officials from the City of Cape Town and eThekwini, and secondary data, through a review of the literature and the municipal practices and regulations affecting the ease of doing business in the selected municipalities. A major secondary source is the Business Climate Benchmark of Selected South African Municipalities50 that is used to illustrate some notable practices for the engagement of the private sector and urban governments in South African cities. The paper draws upon ideas from the Doing Business approach pioneered by the World Bank and its Ease of Doing Business studies that are published annually.

Literature Review

Since the turn of the 20th century, systems of production (especially in Europe) have been influenced by forms of governance, and forms of governance have changed according to the demands of production. The rise of mass production was supported by the Keynesian state-control management system that governed through state intervention, hierarchical regulation, centralised control and the function of a welfare state. Mass production was associated with rigid, hierarchical and top-down forms of government. Cities were steered primarily towards smokestack investment and operated on their own as arbiters of urban change. In the 1960s, deindustrialisation led to flexible specialisation, meaning that production was now concentrated in “footloose” and mobile small and medium firms. As a result, the nation-state lost influence because national planning no longer determined industrial location; instead, the competitiveness of locational factors became the determinant of business attraction.

50 The Business Climate Benchmark of Selected South African Municipalities is a project that was carried out in 2016 by the Centre for Local Capacity Building (CLCB). The project was a benchmarking exercise of the ease of doing business in fourteen South African Municipalities. Metropolitan and Local Municipalities were involved.
By the 1980s, centralised authority was seen as a barrier to effective and representative local government, exacerbated by the decline in national fiscal support that was illustrative of a general dismantling of the pillars of the Keynesian welfare state (MacLeod, 2002). National government began to delegate responsibilities “downwards” to local governments, “outwards” to private organisations and “inwards” to semi-autonomous state agencies (Rhodes, 1997). This shift, from centralisation and national planning to local government, was seen as a democratic move away from the highly prescriptive, traditional legislative relationship toward a relationship that fostered flexibility for local action and increased local participation.

**Good governance**

With decentralisation came a shift from government to governance. “Government” is the name given to the entity exercising that authority (Carino, 2012), whereas “governance” refers to the process through which local authorities in concert with private interests, seek to enhance collective goals. Governance involves all of society – stakeholders from the public and private sectors or civil society, and all scales, from local to global (Kraas & Mertins, 2014). The private sector’s role is to be the economic engine of society, “to create wealth for distribution, to harness the capabilities and resources of the strong” (Carino, 2012: 7). The criteria for good governance “include accountability and ethics in decision making and implementation, transparency and predictability, rule-bound decision-making and action, responsiveness, and a long-term view of the public interest” (ibid).

Good governance is a continuous process of accommodating the diverse interests of both formal and informal institutions, individuals and civil society in planning and managing the society or space economy (UNDP, 2010). In this new political landscape of good governance, policy-making processes are increasingly seen as a process of cooperation. Actors of many different kinds (public, private, and voluntary; political, social, and administrative) form “policy networks”, and policies are seen as the result of actions and exchanges that take place within these networks, rather than as authoritative and hierarchical processes within the state (Kedogo et al., 2010).

Partnership and engagement between urban or local governments and the private sector are viable and useful for city development (UN Habitat, 2015; World Bank, 2014), as investors are more willing to do business in cities that have a favourable business climate. Doing business in cities requires “good rules” (World Bank, 2015b), and so cities should ideally be investment-attractive and provide an enabling business environment (UN Habitat, 2011). Localities where businesses thrive will ultimately be cities of attraction and opportunity (PwC, 2016).

**New public management**

Cities have shifted in character, from organic cities to competitive cities, further depicting the significance of private sector involvement in the development of cities. A competitive city is a one that successfully facilitates its firms and industries to create jobs, raise productivity, and increase the incomes of citizens over time. Worldwide, improving the competitiveness of cities is a pathway to eliminating extreme poverty and to promoting shared prosperity (World Bank, 2015a). Many factors that affect competitiveness fall within a city’s purview, such as infrastructure, educational and research institutions, and the quality of public administration. The quest for competitiveness has led cities to develop “business-like” modes of governance aimed at improving efficiencies of government – an approach known as new public management (NPM) that borrows ideas, techniques and practices from the private sector (Hood, 1991).

With NPM, the emphasis shifts from traditional public administration to decentralised management within public services (e.g. the creation of autonomous agencies and the devolution of budgets and financial control). Markets and competition are used to provide public services (e.g. contracting out and other market-type mechanisms), and the emphasis is on performance, outputs and customer orientation (Larbi, 1999). This new managerialism is primarily associated with profound institutional transformations aimed at reinventing local government to free up markets and to translate service function and practices into a more effective performance-based system (Coetzee, 2010). In the 1990s, NPM was accepted as the “gold standard for administrative reform”, and NPM-type reforms were central to the ascendancy of neoliberal ideas (Kapucu, 2006).

**Urban entrepreneurialism**

In an urban governance context, neoliberalism places the emphasis on urban entrepreneurialism. The government is seen as an enabler of the private sector and civil society, through legal and institutional reforms that facilitate more effective cities (Kedogo et al., 2010). An entrepreneurial city pursues innovative strategies intended to maintain or enhance its economic competitiveness vis-à-vis other cities and economic spaces. Urban entrepreneurialism has three distinguishing characteristics:
(i) It is centred on “the notion of a public–private partnership in which a traditional local boosterism is integrated with the use of local governmental powers to try and attract external sources of funding, new direct investments, or new employment sources” (Harvey, 1989).

(ii) The activities of these partnerships are speculative, with the risk often borne by local public agencies, thus distinguishing the period from earlier phases of civic boosterism.

(iii) The effects of the projects associated with these activities can no longer be conflated with the territories in which they are located (MacLeod, 2002). An entrepreneurial regime is essentially concerned with reviving the competitive position of urban economies, especially by “liberating” private enterprise.

**Competing Models of Urban Governance**

The four competing models of urban governance are welfare, pro-growth, corporatist and managerial.

**Welfare governance**

This model includes the state to the largest extent possible, as a *provider* or as an *enabler* or both. It is not a very business-friendly model of urban governance, as it is characterised by political militancy that scares off potential private investors (Parkison, 1990). Cities that adopt this model of urban governance are seen as “the economic backwaters of the advanced capitalist societies, largely abandoned by private capital, passed over in plans for regional redevelopment, and heavily dependent on governmental spending to maintain individual and collective existence at a subsistence level” (Gurr & King, 1987: 2). Growth in the local economy is limited, and the main influx of capital into the economy comes through the welfare system, making these cities dependent on the state. In the current austere South African policy environment, welfare governance cannot be sustained in the long term.

**Pro-growth governance**

The overarching objective of this model is growth, which is ideally long term and sustained (Pierre, 1999). Pro-growth governance is the structuring of concerted, public–private actions to boost the local economy, and is characterised by powerful anti-welfarist ideology and *good urban governance*. This governance approach lends itself well to the neo-liberal development ideology, as it promotes market-led growth and emphasises the role of private sector actors in city development. Public-private collaboration rests on shared interests in economic growth between the municipal administration and the private sector (Molotch, 1976), or “the creation of a set of arrangements whereby accommodation is reached between the wielders of state power and the wielders of market power.” (Stone, 1987: 5). Pro-growth governance is increasingly associated with strategies aimed at positioning the city in international arenas and markets, and addresses the politics of local economic restructuring. This form of urban governance is prevalent in many South Africa metropolitan municipalities.

**Corporatist governance**

Corporatist governance portrays local government as a political and democratic system for including social groups and organised interests in the political process. Central to this model is the idea of participatory local democracy. Its main objective is distributive, ensuring that the interests of the organisation’s members shape urban services and policies. Corporatist models of interest representation and policy-making are typical in political cultures that are often described as consensual, such as in Scandinavia and Austria.

**Managerial governance**

The managerial governance model blurs the distinction between public and private, by portraying service producers and clients as actors in markets. The emphasis is on output performance according to private management standards, and the aim is to enhance the efficiency of public service production and delivery. A key strategy is to downplay the public–private distinction by, for instance, introducing private-sector management strategies in public service production and delivery. This model draws on a wide variety of instruments: contracts with for-profit organisations to provide selected public services, new strategies of recruitment to managerial positions in the public sector, and a redefinition of the role of elected officials. This form of urban governance has been closely associated with Western European cities.
The South African Response: Urban Policy Formulations to Promote Business-Enabling Cities

Developmental local government is entrenched in the Constitution and in the Local Government White Paper of 1998. In a developmental state, the institutional architecture “is structured and designed to facilitate growth and development in conjunction with the private sector and society”, meaning that each side uses the other in a mutually beneficial relationship to achieve developmental goals and enterprise viability (Coetzee, 2010: 22–20). Over the years, South Africa’s national government has moved from a welfare-governance model to a pro-growth governance model, and developed a range of legislation and policies to facilitate an enabling business environment. Although municipalities are not legislatively mandated to create jobs, they do have a responsibility to create enabling business environments.

In 1994, the Reconstruction and Development Programme (RDP) sought socio-economic growth and the delivery of basic needs, while addressing the legacy of apartheid injustice. Its emphasis was on democratic and participatory “people-centred development”, “integrated development” and “sustainable development” (ANC, 1994). The thrust of this programme was towards welfare governance, with the state seen as an enabler for service delivery especially for compensatory purposes. Little emphasis was placed on strengthening the role or inclusion of the private-sector in urban governance or its participation as a partner in local or city development.

In 1996, the ANC abandoned the leftist, basic-needs-oriented RDP as the popular foundation for its economic policy, and switched to a rightist, neoliberal Growth, Employment and Redistribution (GEAR) policy that stressed privatisation, deregulation and trade liberalisation (Peet, 2002). GEAR was viewed as a vehicle for fostering pro-growth governance and designed to achieve high rates of economic growth, to expand the private sector, to improve output and employment, to achieve fiscal reform and to encourage trade and investment. It marked the embrace of neoliberal policy that influenced the development of urban policy in the country. Since the advent of GEAR, various pieces of legislation and policy have been promulgated to support business-enabling programmes under the influence of neoliberal discourse.

- The Police Service Amendment Act (No. 83 of 1998) provided for cities to set up municipal police services that included: traffic policing, policing of municipal by-laws and regulations and the prevention of crime.
- The Local Government Municipal Structures Act (No. 117 of 1998) led to the development of semi-private organs at local government level in the form of utilities, agencies and companies. South Africa also embraced network governance through public–private partnerships (PPPs), which are contracts between a public-sector institution and a private party, where the private party performs a function usually provided by the public sector and/or uses state property in terms of the PPP agreement.
- The Municipal Systems Act (No. 32 of 2000) introduced spatial development frameworks (SDFs) as a means of merging spatial systems of decision-making and participatory engagement through the practice of corporate governance.
- The Spatial Planning and Land Use Management Act (No. 16 of 2013) entrenched SDFs into mainstream planning in South Africa.
- Various national policies and frameworks were geared towards fostering development along the discourse of an integrated framework and the tenets of pro-growth governance. These initiatives include the National Development Plan (especially Chapter 8) of 2010; National Treasury’s City Support Programme (in 2012) and Neighbourhood Development Programme Unit (established in 2006), responsible for managing the Neighbourhood Development Partnership Grant; the Department of Human Settlements’ National Upgrading Support Programme (August 2010) and the Urban Settlements Development Grant (March 2012).
- The Integrated Urban Development Framework (IUDF) echoes the notion of private sector involvement and partnership within the urban governance mechanisms of the country. The IUDF’s Policy Lever 6: Inclusive Economic Development, identifies the neglect of economic development in urban areas as a key challenge in South Africa cities. An additional challenge cited is the inadequate focus on creating enabling environments for innovation and economic growth within municipalities (DCOG, 2016: 84).
Private Sector-Municipal Relationships in Cape Town and eThekwini

In 2016, the Centre for Local Capacity Building (CLCB) carried out the Business Climate Benchmark of Selected South African Municipalities project, which assessed the ease of doing business in 14 South African municipalities. The intention was to identify good practices for ease of doing business within the participating towns and cities. The project focused on selected themes (Table 1), which were based on areas that particularly affect South African municipalities and were created in line with the Guidelines for Reducing Municipal Red Tape. These Guidelines were developed in 2013 by the Department of Trade and Industry (dti) in conjunction with the South African Local Government Association (SALGA) and the Department of Cooperative Governance (DCOG).

Table 1: Business Climate Benchmark of Selected South Africa Municipalities – Themes

<table>
<thead>
<tr>
<th>Theme</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Customer Service Care and Complaints Notification</td>
<td>Assessed business service excellence. When starting up or operating a business in a locality, the municipality is the first point of reference for service delivery. Businesses rely on municipalities for water, electricity and basic infrastructure. In ensuring that these services are in place, businesses often engage the local administration in one way or another (face-to-face interaction, call-centres etc.).</td>
</tr>
<tr>
<td>2. Communication and Relationship Management</td>
<td>Assessed the level of practical engagement between the private sector and municipalities through existing platforms that support engagement between the private sector and local/urban governments.</td>
</tr>
<tr>
<td>3. Legislative Frameworks (By-Laws, Policies and Regulations)</td>
<td>Assessed municipal legislative regulations that affect businesses during their start-up within a locality. Regulatory challenges, such as excessive red tape and long turnaround times, are familiar issues surrounding the ease of doing business in many South African cities.</td>
</tr>
<tr>
<td>4. Supply Chain Management Processes</td>
<td>Assessed the supply chain management (SCM) processes in the participating municipalities, in relation to transparency, equity and fairness. Section 217 of the South Africa Constitution states that organs of state, including municipalities, are mandated to implement SCM structures that are transparent, fair, equitable, competitive and cost effective.</td>
</tr>
<tr>
<td>5. Land Development Processes</td>
<td>Assessed the ease of land procurement for business operations within a municipal area of jurisdiction. In the South African context, municipalities are often faced with a challenge of municipal land ownership, as most land is either owned privately or by traditional authorities. This has an impact on the ease of doing business in a municipality due to costs of land regulation processes and time, which affect a business wanting to set up in a municipality.</td>
</tr>
</tbody>
</table>

Source: (CLCB: 2017)

The cities of Cape Town and eThekwini were selected, as they are recognised as investment destinations in South Africa (PwC, 2016; Deloitte, 2016). Both cities came out as exemplary cases in the Business Climate Benchmark. The City of Cape Town represents an ideal, even desired, ease-of-doing-business benchmark for other cities in South Africa, based on its ranking by institutions such as the World Bank and PwC. The World Bank (2015b) ranked Cape Town first for gaining construction permits and second after Johannesburg for starting up a business, while PwC ranked the city first in the African region for the “cost and ease of doing business” indicator (PwC, 2016). eThekwini represents an above average benchmark in terms of its business climate (World Bank, 2015b). The city ranked lower than the City of Cape Town and Johannesburg on some ease-of-doing-business indicators, but above the median on other indicators (ibid). The city is included because it is easily relatable to metropolitan municipalities and intermediate cities wishing to learn and improve their relations with the private sector and thus their business climate.

Two themes from the Benchmark project are relevant in highlighting the basic and foundational institutional practices necessary for good private sector–municipal engagements and an enabling business environment:

51 The following municipalities were participants: Buffalo City; Camdeboo; City of Cape Town; Ekurhuleni; eMalahleni; Emfuleni; eThekwini; Govan Mbeki; Langeberg; Mmombela; Midvaal; Musina; Naledi.

52 In the most recent (2016) Cities of Opportunity Report by PwC, Cape Town is ranked 24th out of 31 global Cities of Opportunity, number 6 in the Middle–Income Country Cities grouping and number 1 in Africa. The report indicates that Cape Town’s highest scores were in the following indicators: Cost & Ease of Doing Business, Infrastructure, and Sustainability and the Natural Environment.

53 This viewpoint is based on a summative evaluation of the city’s rankings across the board in the World Bank’s 2015 Subnational Ease of Doing Business Report on South Africa.
Customer Service Care and Complaints Notification, and Communication and Relationship Management. Their indicators are described in Table 2.

<table>
<thead>
<tr>
<th>Customer Service Care and Complaints Notification</th>
<th>Communication and Relationship Management</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A</strong> - Regulations, Queries and Complaints</td>
<td><strong>A</strong> - Effectiveness of platforms or tools for municipal-business communication</td>
</tr>
<tr>
<td>• Presence or absence of a customer care policy or service improvement charter.</td>
<td>• Municipal platforms or tools that exist within the municipality.</td>
</tr>
<tr>
<td>• Length of time taken for municipality to acknowledge receipt of a query.</td>
<td>• The perceived effectiveness of business platforms (municipal point of view).</td>
</tr>
<tr>
<td>• Method for acknowledging receipt of a query.</td>
<td>• Level of municipal representation on municipal business platforms.</td>
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<tr>
<td><strong>B</strong> - Complaints</td>
<td></td>
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<tr>
<td>• A complaints notification system present within the municipality.</td>
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<tr>
<td>• Form in which complaints received.</td>
<td></td>
</tr>
<tr>
<td>• Length of time taken for a municipality to acknowledge receipt of a complaint.</td>
<td></td>
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<tr>
<td>• Presence of a customer care centre in a municipality.</td>
<td></td>
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<tr>
<td>• Operating days of municipal Customer Care Centre.</td>
<td></td>
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<tr>
<td>• Systems in place that enable prospective business applicants to contact the municipality and enquire on the status of their application.</td>
<td></td>
</tr>
<tr>
<td>• Municipal method of acknowledging receipt of a complaint.</td>
<td></td>
</tr>
<tr>
<td>• Way in which a municipality monitors steps of decision making (internally) linked to business-related applications.</td>
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</table>

Customer service care and complaints notification

If businesses receive excellent services from a municipality, the result is increased trust, which is important for attracting and retaining businesses. Municipalities deal with customers (citizens and businesses) daily and ought to have procedures for providing and maintaining excellent services. A necessary start is to have a policy in place that guides municipal–business relationships, and to adhere to the values contained in the policy. A Customer Care Policy is one of the basic building blocks for urban governments when it comes to establishing relations and partnerships with the private sector.

Customer (business) care policy

Nine out of the 14 municipalities studied, including Cape Town and eThekwini, have a Customer Care Policy in place (CLCB, 2017). These policies define who a customer is – in most cases, customers include citizens, businesses and investors. eThekwini’s policy defines a customer as “people who live in, work in or visit our municipality and who do business with us” (Durban CCI, 2013). Another important aspect is providing quality customer care. Customer care centres (CCC) enable businesses to get answers at the first point of contact without having to go to numerous municipal departments, which increases red tape and turnaround times for receiving information or approvals. Half of the 14 municipalities, including Cape Town, open their CCC 24 hours a day, every day of the week (ibid). The other half, including eThekwini, open their centres for eight hours a day, every weekday. In addition, eThekwini opens their CCC on the second Saturday morning of each month, which is considered a good practice that smaller local municipalities could adopt.

Trust

As mentioned, trust is an important element when creating an enabling business environment. The City of Cape Town had the highest “trust” score of all metropolitan municipalities in the 2017 South African Customer Satisfaction Index for municipalities: Cape Town scored 72.4 out of 1000 compared to the national average of 64.9 out of 100. Nevertheless, Cape Town’s 2017 trust score declined compared to the 2016 score of 77.1. This decline has been attributed to the recent challenges surrounding the water crisis in the City of Cape Town (Business Tech, 2017). eThekwini ranked fifth after Johannesburg, with a trust indicator score of 63, which is below the national average. The municipality has experienced various internal political constraints, including
infighting and unqualified audits, which is likely to have had an impact on the city’s perceived risk, as felt by the business community and investors.\(^5\)

An important indicator of service excellence is the length of time taken for a business query to be processed by the municipality. Of the 14 municipalities, nine acknowledge receipt of a query almost immediately, through an electronic notification system, two acknowledge receipt after 24 hours and three acknowledge after a week (CLCB, 2017). Businesses or investors need to know when their queries have been received and expect to get swift responses from governing authorities. This helps in building trust and effective private sector-municipal engagements.

**Modes of communication, business queries and applications**

Many municipalities use conventional methods, such as email, calls or letters, to acknowledge business queries (CLCB, 2017). To acknowledge receipt of a query from businesses, Cape Town uses five forms of communication: letters, emails, sms, calls and social media, while eThekwini uses letters and emails. Electronic or digital means of communication can help to quicken turnaround times and the ease of communication between municipalities and businesses. Enhanced instant communication results in solving challenges faster, spreading information with ease and ensuring that necessary communication reaches large numbers of the intended audience.

Another service excellence indicator is the presence and use of a complaints notification system, which enables businesses to lodge complaints if they are dissatisfied with services or lack of services offered by the municipality. Cape Town’s C3 Notification system was established in 2007, as a response to the need for an efficient system that would respond to queries, requests and complaints from customers or businesses and track internal municipal responses until the query is resolved.\(^5\) The C3 Notification system generates a notification each time a service request is received, whether it is via telephone or the city’s call centre, email, sms, letter, or over the counter at the CCC. Once a request has been lodged, a reference number is generated that allows the customer (residents and businesses) to track their complaint and how the municipality is dealing with it. For many years, Cape Town has used the C3 Notification system, which is a good practice and enables the city to improve efficiency. While not all municipalities, especially smaller local municipalities, may be able to implement such a system, it is certainly recommended for metropolitan urban centres that interact with large numbers of clients, residents and businesses throughout the year.

**Communication and relationship management**

The relationships and partnerships between municipalities and businesses operating in their area of jurisdiction are strongly related to the institutional ethos and stability of a municipality (CLCB, 2017). Cape Town has in its IDP the strategic objective of making Cape Town a high-ranking global city of opportunity (COCT, 2017), and recognises that maintaining an ease-of-doing-business culture is necessary in order to be globally competitive. In eThekwini, the Durban Chamber of Commerce and Industry has prepared a business vision for the city that recognises the interdependence of the private and public sector. It includes ten strategic goals, of which three are: increased investment in the city’s economy, institutional partnerships and collaboration, and the promotion and development of a vibrant small business sector and sustainable enterprises within it (Durban CCI, 2013).

Private sector–municipal relationships are built through engagement. Platforms for such engagements should provide the space for both parties to discuss areas of mutual interest, need or improvement, and enable them to strategise, plan and co-create. Engagement platforms tell a story about the relationship between the private sector and the municipality, as Figure 1 illustrates.


\(^5\) Interview with City of Cape Town in 2018.
As Figure 1 shows, among the 14 municipalities, the most common type of communication platforms for municipal–business engagements are business dialogue forums and LED forums. Cape Town and eThekwini both noted “other” forms of engagement with businesses in their jurisdiction, in addition to the traditional platforms.

Cape Town’s “other” engagement platforms

Cape Town’s “other” engagement platforms allow the city to provide tailor-made information and support to businesses wishing to invest in the city. The Development Facilitation Service Centre (DFSC), which also includes an Investment Facilitation Office (IFO), serves as a one-stop shop for businesses and investors. Its purpose is to help businesses with scoping the local economy before investing, by providing economic and market research, risk analysis and the identification of key economic sectors with growth and investment potential. The DFSC has helped many well-known businesses to invest in Cape Town, including JP Morgan, Kimberly Clarke, HiSense and Pizza Hut. By offering a close and one-on-one approach to engaging with investors, the DFSC and IFO are able to build trust over time, understand and meet the needs of the client (private sector/business), and communicate with investors every step of the way. This instils confidence with the investor and eases the cost (time and efficiency) of doing business. Businesses in Cape Town recognise the efficacy and usefulness of the DFSC.

- The Blue Willow Aluminum Group had their business start-up plans approved within 11 days thanks to the assistance of the DFSC.
- Gestamp Renewable Industries, the largest producer of wind towers in the world, established its South Africa plant in Atlantis, Cape Town and appreciated the aptitude and knowledge of the municipal staff at the DFSC. Thanks to them, the company was able to get quick responses to queries and informed advice on the procedures and steps to follow when setting up their business.

Cape Town has recently launched an Enterprise and Investment Development Department, with the objective of creating an enabling environment in Cape Town that promotes investment, economic growth and job opportunities. A Business Support Team within the municipality specifically assists with the reduction of red tape and with SMME start-ups.

The City also has the largest SAP system among local government worldwide, allowing businesses to apply for services and lodge business applications online. Depending on the nature of service or business application, the SAP system has a turnaround time of as little as seven days. Since the implementation of the SAP system, business turnaround times have improved by up to 80% – the move to electronic systems of application and feedback have played a role in the reduction of turnaround times.

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56 Interview with Cape Town official from the Department of Enterprise and Investment Development (2018).
57 Ibid.
58 Ibid.
eThekwini’s “other” engagement platforms

In addition to the Business Dialogue Forums, the City’s Business Chamber is an important engagement platform. In November 2017, the province launched a KZN One Stop Shop (the third of its kind in South Africa), to fast-track all the regulatory processes required by investors and to enhance the process of doing business for both domestic and foreign companies.

- The Mahindra vehicle company chose to establish a new plant producing single and double cab bakkies within the Dube Trade Port Special Economic Zone. The city’s business chambers and internal business units were involved in ensuring the company’s expansion plans went smoothly. The municipality “had a dedicated team of officials whose job was to ensure that time-frames for doing business are lessened by dealing with bottlenecks and challenges that the investor may have experienced during the expansion phase”.

eThekwini’s investment attraction potential lies mainly in the logistics sector, but challenges remain, such as the stability of the political climate in the KZN region and bureaucratic red tape.

Municipal representation in business platforms

The participation of managerial staff, department heads and decision makers improves the effectiveness of engagement platforms, as decisions can be made swiftly. Figure 2 shows which officials/political principals participate in municipal–business platforms.

![Figure 2: Level of municipal representation in municipal-business platforms](image)

Of the nine participating municipalities, eight often had mayors present in their platforms, which enhanced a locality’s ease of doing business and contributed to shorter turnaround times, as business decisions could be fast-tracked in such engagements. The engagement nexus between the private and public sectors can be made effective if urban government interventions are aligned with the needs of local businesses. Such an alignment ensures that platforms are created where business needs can be communicated to urban governments (Sivaev et al., 2014).

Conclusion and Recommendations

The shift from Fordist to post-Fordist production was one of the fundamental causes for other shifts: from centralisation to decentralisation, from national to local, from government to governance, from organic cities to competitive cities, and from civic to entrepreneurial cities. These shifts have positioned the private sector as one of the central pillars of partnerships in urban governance and a major feature in policy and legislation.

59 Interview with eThekwini official (2018).
With the advent of demography, the ANC government had to put in place the form of government, legislation and policies that would attract investment and promote competitiveness. There have been many debates over the years about governance, which refers to the process whereby municipalities working with private interests seek to enhance collective goals. This collaboration is particularly the case in cities, which play a central role in the country's development path. Despite the understanding that private-sector participation is necessary for urban governance, it remains a challenge. Over the years, South Africa has adopted various models of urban governance, as reflected in various legislation and policies, that pull municipalities in different directions. But many municipalities are institutionally challenged due to various capacity challenges.

Private sector-municipal engagements hold the potential to yield economic growth and development in cities. For this to be realised, municipalities must ensure that adequate institutional practices are in place that contribute to the ease of doing business with the private sector. The private sector-urban governance engagement nexus in municipalities requires that certain basic building blocks are defined and put in place, including:

- The values with which governing authorities choose to engage the private sector.
- The level of responsiveness that urban governments strive to abide by.
- The transparency and accountability with which requests, queries or complaints are handled.

Drawing on the good practices from Cape Town and eThekwini, which other cities around the country could adopt, the research identified values that both metropolitan and local municipalities need to uphold when engaging with the private sector:

(i) Be responsive to the needs of businesses.
(ii) Establish clear relationships with business and potential investors, and facilitate cooperation and communication with businesses.
(iii) Communicate to businesses full and accurate information about the level and standard of municipal services they are entitled to receive, and inform businesses of how the municipality is managed, and who they would need to speak to in terms of decision-making.

Five good practices were indicated, within the context of the basic building blocks referred to earlier.

(i) A good customer care policy and adherence to the policy.
(ii) Clear, open and efficient communication channels between the private sector and local administration/urban government, in order to build trust and credibility among both parties.
(iii) Electronic systems for communication and information processing (where possible), as they improve turnaround times and consequently have a positive impact on the ease of doing business.
(iv) Reduction of red tape by adhering to legislation and municipal by-laws while creating internal processes which quicken turnaround time.
(v) Departments that do not work in silos and an ease-of-doing business culture throughout the municipal administration.

References


List of Acronyms

ANC  African National Congress
APF  Anti-Privatisation Forum
BEPP  Built Environment Performance Plan
BRT  Bus Rapid Transit
CBD  City Business District
CCC  Customer Care Centre
CLCB  Centre for Local Capacity Building
COCT  City of Cape Town
CoGTA  Department of Cooperative Governance and Traditional Affairs
CoJ  City of Joburg
CSP  City Support Programme (National Treasury)
DA  Democratic Alliance
DCOG  Department of Cooperative Governance
DFSC  Development Facilitation Service Centre
DPLG  Department of Provincial and Local Government
dti  Department of Trade and Industry
EFF  Economic Freedom Fighters
ETC  Economic Transformation Committee
EU  European Union
GCR  Gauteng City Region
GEAR  Growth, Employment and Redistribution
GPG  Gauteng Provincial Government
ICDG  Integrated City Development Grant
IDP  Integrated Development Plan
IFS  Investment Facilitation Office
IKS  Indigenous Knowledge System
ITP  Integrated Transport Plan
IUDF  Integrated Urban Development Framework
JDA  Johannesburg Development Agency
JRA  Johannesburg Roads Agency
MDC  Moni-district Council (Japan)
MFMA  Municipal Financial Management Act
MMC  Member of Mayoral Committee
NDP  National Development Plan
NGO  Non-governmental Organisation
NPM  New Public Management
PAJA  Promotion of Administrative Justice Act
PPP  Public-private Partnership
PMU  Project Management Unit
RDP  Reconstruction and Development Programme
SAF  Strategic Area Framework
SCM  Supply Change Management
SDF  Spatial Development Framework
SJC  Social Justice Coalition
SMME  Small, Medium and Micro Enterprise
SPTN  Strategic Public Transport Network
TOD  Transit-oriented Development
UCLG  United Cities and Local Government
UN  United Nations
UNDP  United Nations Development Programme