



THE CHALLENGES AND ISSUES FACING LOCAL GOVERNMENT

The ideal and reality of the cooperative governance system

Despite the ideal of cooperative governance and the urgent need for all three spheres of government to work together to achieve local government's developmental goals, the past 25 years have revealed a disconnect between political governance and the economy, and a weakening of local government.

Disjuncture between constitutional and political arrangements

The Constitution considers local government as an equal and autonomous partner within a non-hierarchical structure of government 'spheres', but this has been diluted by political arrangements and party structures, which are hierarchical by their nature. The result is a general weakening of the local 'voice', with more importance given to provincial (rather than local) leaders and officials; many highly qualified politicians and experts moving out of the municipal system into provincial and national departments; local issues being 'nationalised', when national and provincial government determine programmes and are involved in the detail of local provision; and a lack of fiscal decentralisation, leaving municipalities under-resourced and unable to sustain themselves financially.

Concurrent and overlapping responsibilities among government spheres

Cooperative governance requires a regulatory environment that is clear and appropriate in respect of the functions of local, provincial and national government, as well as effective implementation of these various functions within each sphere of government. Schedules 4 and 5 of the Constitution set out the concurrent and exclusive functions for local and provincial government. The allocation of powers and functions was decided during negotiations in the early 1990s, resulting in certain decisions that are not currently as logical or practical as they might have been. For instance,



CORE PRINCIPLES OF LOCAL GOVERNMENT – IN BRIEF

- Local government is one of three distinctive, interdependent spheres of government with its own legislative and executive powers.
- Local government is – and must be – a primary driver of growth and inclusion.
- Local government is responsible for governing the local affairs of its community, subject to national and provincial supervision. It governs in a transparent and accountable manner and in the interests and for the development of communities.
- Planning and governance are participatory and from the bottom-up, with communities driving strategies and programmes based on their localised, developmental needs.
- Local government fiscal arrangements recognise the link between paying taxes and receiving services, and the need to strengthen local control of public services. However, the basis for redistribution (to address inequalities) is national, which constrains the extent to which the fiscal system can be decentralised.
- All citizens, especially the poor and other vulnerable groups, have the right to basic services and amenities that must be delivered by municipalities within the limits of their resources.

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KEY QUESTIONS

- Is the structure of South Africa's political system, as set out in the legislative framework, still appropriate? What is needed to enable local government to fulfil its core functions within a coordinated system of cooperative governance?
- What does strengthening the 'local voice' mean? Which practical measures need to be put in place to give municipalities more prominence in local and national issues?
- Is provincial government's role sufficiently clear, or does it need to be revisited?
- How can local government be given more authority over issues that directly affect local communities, in particular a more prominent role in planning and defining priorities related to functions that currently sit at the provincial and national level?
- In devolving cross-cutting functions (e.g., transportation), should there be differentiation between provinces?

the Constitution makes provision for provinces to take over municipal functions when a municipality fails to fulfil its obligations, which blurs the lines around municipal autonomy given the discrepancies between well-functioning and struggling municipalities. The Constitution also envisages that many functions (e.g., housing and transport) would devolve to municipalities that have the capacity to manage them. However, while devolution has taken place, it has only been partial, and municipalities have not been given the necessary funds, scope of responsibilities or clear performance and accountability guidelines.

The structure of local government and the role of cities

Discrepancies across municipalities

The wall-to-wall approach was intended to create inclusive, integrated, developmental and accountable municipalities, but it has not lived up to this vision. It has resulted in overbounded regions with little connection and few linkages between areas, towns and the communities they serve. Recent amalgamations have produced enlarged municipalities that contain prosperous urban areas and marginalised outlying township and rural areas. Most of the many municipalities in financial distress are found in rural areas, which are becoming centres of poverty, inequality and unemployment, and not all municipalities have the capacity to deliver on their constitutional mandate. The different categories (A, B and C³) of municipalities have huge discrepancies in taxable income, per capita spend, grant dependency, skills and capacity. These discrepancies exist even within a single category. For example, Category A municipalities (metros)⁴ are not homogenous and, while they may have a similar composition, their socioeconomic profiles are different.

Centrality of cities and urban-rural linkages

Although the eight large metros account for well over 60% of economic activity and over 50% of national employment, the centrality of cities is not evident in national policy documents and economic analyses. As the drivers of development and economic growth, cities require special focus and status within South Africa's intergovernmental system. Many of the metros also include extensive rural areas, highlighting the fact that rural and urban areas increasingly coexist within South African cities and are interlinked. This is recognised in policy, with the IUDF stating: "Urban development is not an alternative

³ Category A: metropolitan municipalities, category B: local municipalities, category C: district municipalities.

⁴ Metropolitan areas are "large, densely populated urban conglomerations, often covering multiple city structures" (<https://mg.co.za/article/2011-06-21-metros-in-sa-debate-on-national-policy-choices/>)

to rural development. Rural and urban areas complement each other and coexist in production, trade, information flow and governance. They are further connected through flows of people and natural and economic resources”.⁵

The two-tier system and the District Development Model

The District Development Model (DDM), which was adopted in 2020 and is currently being piloted and refined, is the most recent of government initiatives to enhance local government. There are several conflicting views and tensions around the DDM. Some experts believe that the DDM proposes a centralist approach that subordinates the autonomy of local and provincial government, as existing municipal and provincial resources will be redirected to a collective plan and budget. A concern is that the DDM is an elaborate institutional system, which will add another unnecessary layer of committee-based planning, resulting in huge costs, a few signature projects, and a waste of time for experienced local government practitioners. Others believe that the DDM is a valuable tool for ensuring improved intergovernmental relations and cooperative governance, as its aim is to foster much closer cooperation and coordination in planning processes among all three spheres of government. Nevertheless, a regional or district-level entity is needed, to provide region-wide services and administration and to coordinate support from national and provincial government (i.e., as a deconcentrated form of national and provincial government support).

Restructuring and change

The transition to democratic local government and wall-to-wall municipalities required massive restructuring processes, which were incredibly disruptive. Local authorities and their sub-structures were reconfigured and consolidated, and later larger urban areas became metros (‘unicities’). On average, public administration takes approximately seven years to stabilise after a restructuring, and so the constant restructuring of local government has started to break down institutional stability within municipalities. Therefore, any further changes must have as little impact as possible on the administrative systems and functioning of municipalities. Furthermore, making structural changes to administrations and technical changes to legislation and policy do not – and will not – fundamentally alter the on-the-ground problems unless the underlying political and implementation challenges that continue to plague municipalities are tackled.

⁵ <https://iudf.co.za/wp-content/uploads/2020/09/IUDF-Integrated-Framework-2016.pdf>, page 28.



KEY QUESTIONS

- Are district administrations still relevant for efficient service delivery, or should an alternative structure be considered?
- Is the DDM an appropriate tool to deal with the challenges of cooperative governance? How can it be used and structured to improve cooperative governance without subverting municipal autonomy?
- As not all metros are equal, should the Constitution be amended to incorporate non-metro Category A municipalities?
- Should metros be spheres of governments with their own voices and their own relative autonomy from the local government system (as ‘city-states’)?
- How can cities be placed at the heart of South Africa’s national growth strategy?
- Is there a need to look at a new way of localising development and to move to a single-tier system of government, which could be differentiated or applied across the board to all municipalities?
- What does a more differentiated approach to local government mean? What would be the best vehicle to implement such differentiation?
- How can change be implemented with minimal impact on the administrative system and functioning of our municipalities?



KEY QUESTIONS

- What would it mean to rethink the political model of local government and to establish and professionalise an administration at the local government level?
- How can strong and resilient administrations be developed and insulated?
- What can be done to deal with coalition governments in a more systematic manner to ensure that political instability does not affect the municipality's day-to-day operations?

Municipal leadership, politics and administration

The effective functioning of a municipality (or any entity) begins with its leadership. Good leaders set the tone both strategically (in relation to a municipality's goals and objectives) and ethically (in exemplifying good moral values and taking an active stance against corruption). However, mayors are considered to have less political authority than provincial leaders and are chosen by the party hierarchy, not by communities through elected councillors. Mayors and municipal managers need provincial and national government support (through legislative instruments and other tools) that does not infringe on the autonomy of local government. Furthermore, the blurring of boundaries between the administration and political leadership has resulted in confusion over roles, and political-administrative tension and conflict. Political changes are inevitable but should not have an impact on administrative functions – changes in political leadership may alter the strategic direction but should not affect the effective functioning of a municipality.

Factionalism and coalitions

Party factionalism and coalitions should not – but do – affect the functioning of local government. In some instances, factionalism has hindered efficient administration, resulted in a lack of direction and decision-making, interrupted service delivery and reduced investor and business confidence. Coalitions often arise out of convenience rather than ideology, which creates enormous difficulties within councils, as seen during the 2016–2021 administration, when portfolios were divided and the leadership was often unable to hold coalition partners to account. The question is whether coalitions undermine the will of democracy when minority parties become 'power-makers'. Coalitions are likely to become the norm in South Africa, but political parties appear to lack the necessary political maturity and prefer retaining control to respecting democracy.

The ideal and reality of the all-of-society approach

The all-of-society approach refers to the broader environment within which municipalities operate, including the private sector, civil society, faith-based organisations, thinktanks and other private or community organisations. The Constitution entrenches a bottom-up, participatory approach to governance that focuses on community-driven development. However, the reality is that delivery has been overwhelmingly 'from above', with local government hesitating to build relationships with the private sector and mistrusting private individuals and companies that seek to assist government. Political parties, not community interests, drive policies, while participatory processes have been reduced to tick-box exercises.

The weakening influence of civil society

The Constitution recognises the important role of civil society in providing oversight, monitoring human rights and providing citizens with the tools to know and exercise those rights. Since 2000, civil society has weakened, although civil society groups have continued to hold the democratic government to account around issues of corruption and protection of rights. Active civil society members have been co-opted into government, and capacity has gradually and increasingly shifted into the state, while state-driven development and the increased centralisation of funding has alienated civil society from contributing meaningfully to local issues.

Ward committees

Ward committees were set up to enable community participation and promote social cohesion, based on the idea that ‘the people must govern’. Ward committees are supposed to enjoy sufficient autonomy to exercise oversight over their own local council and to hold councillors accountable. Ward committees have fulfilled these functions to some degree but have also fallen short and not allowed residents to find their voices. In many municipalities, ward committees are not autonomous but an extension of the governing party, chaired by the ward councillor and comprising allies of the councillor. This has led to the blurring of accountability and oversight, and voters being unable to hold their councillors to account for failed service delivery.

Participatory governance and community engagement

The Integrated Development Plan (IDP) is a cornerstone of developmental local government through which the municipality develops plans and budgets that incorporate the inputs of citizens, business and civil society organisations in a systematic and strategic manner. The implementation of the IDP is complicated by various issues, including the directive to integrate local needs into the broader planning frameworks of provincial and national government, over which municipalities have little say.⁶ Municipalities are not using IDPs adequately to achieve social, economic and other objectives through an all-of-society approach. The IDP model itself is not a failure; the failure lies in the inability to give real expression to what the model intended regarding localising development issues and including communities in local government affairs. There is a lack of innovation in engaging citizens, academic and research institutions and the private sector, while

⁶ In addition, national government’s approach to priority programmes appears not to support the view of local government as the engine of economic and social growth; e.g., the failure to provide schools in new housing projects.



KEY QUESTIONS

- Which mechanisms can be used to empower civil society to harness its capacity to engage actively in development issues?
- How can ward committees be revived, to perform the functions that they were initially tasked with?
- How can IDP processes and public participation processes be used to reflect local needs and close the delivery gap, and save the credibility of IDPs?
- What can be done to encourage community experts to become more involved in government planning processes around specialised issues?
- How can government support community-driven programmes more effectively?



THE CAPACITY ISSUE

Capacity is a crucial issue that affects the performance of municipalities. It covers not only technical ability but also softer issues, such as the ability to collaborate and build relationships with others (both within and across government, as well as with broader society), and to adapt to changing environments and circumstances. Challenges include positions being filled based on political allegiance (not skills) and the lack of skilled financial officers, especially in smaller municipalities, which may have difficulty attracting skilled people and paying appropriate salaries. Staffing costs tend to favour the ‘top’ (strategic managers), not the ‘middle’ (skilled professionals, the ‘doers’). Poor financial management and a lack of capability result in the overspending of operating budgets, a failure to collect from consumer-debtors (resulting in insufficient cash flow to fund operations) and the underspending of capital grants.

However, the capacity question is contentious, as each municipality faces very different contextual and developmental challenges. Many smaller municipalities have glaring gaps in skills and capacity (especially at middle management level) that need to be acknowledged and tackled. However, while a lack of financial competence (or corruption) may lead to grants and transfers being squandered, this should not be interpreted to mean that local government is well resourced.

fiscal reforms have failed to promote public-private partnerships, as tools to enhance cooperation, especially in light of the dwindling municipal financial reserves. Community engagement takes place in forums established by government (e.g., ward committees), with insufficient attention paid to the organic spaces that are created within communities themselves, hence disempowering the natural development of community and business-led organisations. Municipalities also control the communications function, which is used to promote the political leadership and institution, rather than enabling citizens to participate in policy development and decision-making. If adequately engaged, communities add value to government planning and development, through providing expertise and local knowledge.

The financial sustainability of municipalities

The South African economy is in structural decline, which has been exacerbated by the global economy and the COVID-19 pandemic. In general, South Africans are becoming poorer, and poverty levels are increasing. Local government’s primary role is to provide basic services, including water, electricity and sanitation, to South African households. The dilemma facing cities is that their populations are growing (especially among lower income groups), but household incomes are stagnating (due to the economic decline). At the same time, costs are escalating due to partially and unfunded mandates, increased expenditure (notably salaries and bulk purchases for water and electricity) and more expensive borrowing (because of the national credit rating downgrades). The result is an increasing demand for services and a decreasing number of households able to pay for them.

Municipal budgets and fiscal grants

Municipalities rely on a mix of grants and own-revenue sources to fund their constitutionally mandated responsibilities. Views are mixed about whether local government has been provided with sufficient resources or is an under-resourced sphere of government. From National Treasury’s perspective, municipalities have adequate resources and receive generous transfers from national government: local government receives 9.1% of the fiscal budget in direct and indirect grants, but 24% when revenues generated within municipalities are included. The proponents of this school of thought believe that continued financial support “in the face of

local government failure is naïve if not downright immoral⁷ and will lead to a negative downward spiral if the underlying issues are not tackled. In addition, generous grant allocations could be disincentivising municipalities from exploiting their own revenue base and may encourage grant dependency. The other school of thought argues that the increase in grants mirrors the increase in inflation, and that provincial governments have attracted many intergovernmental fiscal grants. The centralisation of intergovernmental fiscal relations and the siloed, top-down approach to planning mean that municipalities do not have a say in how the national budget is allocated. Furthermore, fiscal grants are mostly linked to capital projects (and may be withdrawn if problems arise in the projects), whereas local government's needs lie with operating budgets. Grants intended for service delivery are often underspent or used to fund recurrent expenditure needs, rather than the basic needs of communities.

Collection of rates and taxes

The current model, where municipalities depend on the collection of rates and taxes, is increasingly unsustainable. When people cannot pay and the municipality fails to control its costs, the result is chronic financial unviability. Municipalities are not allowed to collect rates and taxes across the board because some communities are simply unable to pay. This means that mass service delivery is funded by big business and a specific proportion of income earners. In South Africa, five municipalities collect 80% of collected taxes and, within those municipalities, 70% of the income comes from 35–50% (and in some cases a smaller percentage) of the population.⁸ This paying percentage is becoming smaller as the tariffs charged by municipalities for services are becoming unaffordable for many people. In some municipalities, local communities are contracting directly with service providers, such as Eskom (e.g., Harrismith), or taking over services (e.g., Parys and the Northern Cape where the court has ruled in favour of the local community), all of which have the potential to shift accountability and may lead to rates boycotts.



KEY QUESTIONS

- Should municipalities consider a new funding model for local government? What would this look like?
- Which mechanisms need to be put in place to improve financial management within municipalities?

7 Hattingh, J. 2020. Input at Celebrating 25 Years of Local Government Virtual Conference, South Africa, 25–26 November 2020

8 Fowler T. 2020. Input at the "Celebrating 25 Years of Local Government" Virtual Conference, South Africa, 25–26 November 2020



KEY QUESTIONS

- What is needed to ensure continuity in service delivery and the maintenance of infrastructure during and after leadership changes, especially in an era of tenuous coalition governments?
- Is a broader developmental (all-of-society) approach to SCM possible, to ensure that communities benefit as both suppliers and beneficiaries of local government services?
- What can be done to shift the focus of municipalities from compliance to outcomes and enable a more flexible and innovative approach to service provision?

Service delivery and infrastructure

Over the past 20 years, municipalities have struggled to provide the services and infrastructure required to address apartheid inequalities and rapid urbanisation. The result has been uneven service delivery, difficulties in maintaining and developing the infrastructure, and supply chain management (SCM) challenges.

Continuity and maintenance of infrastructure

The backbone of service delivery is infrastructure, which needs to be developed and maintained, as it has a finite lifespan. Therefore, investing in maintaining and replacing infrastructure should be prioritised in municipal long-term development and financial plans. Such investments reduce infrastructure breakdowns, prevent system collapses and avoid a ‘patchwork’ approach to infrastructure upgrades, while providing services to business and households and supporting economic development.⁹ However, the tendency is for cities to shift priorities to the next term of office, with no proper handover between administrations, resulting in a lack of continuity. In addition, issues are tackled on a ward basis, whereas infrastructure for service delivery is a bulk, interconnected system that crosses ward boundaries.

Supply chain management

The weakest link in service delivery is SCM, which is the “link between drawing up plans and realising those plans in real substantive outcomes for citizens”.¹⁰ The current service delivery model largely involves contracting private suppliers through public procurement contracting. SCM is decentralised at both operational and regulatory levels (in accordance with the legislation¹¹), with operational powers given to the administration and regulatory powers given to Council. This interaction is unique to local government and has resulted in a strained relationship between councils and administrations. Other challenges include a lack of capacity, with thinly staffed SCM units and a shortage of project managers, and a focus on compliance (‘clean audits’) rather than on outcomes. Officials have become more risk averse and cautious, more concerned with irregular expenditure than with unspent funds; and in awarding contracts, price is prioritised over developmental outcomes. As a result, the focus on delivering actual services is lost, and SCM spend is not used effectively to enhance local economies. Cities have not found a way

9 <https://www.local2030.org/library/324/Financial-Management-in-a-Local-Government-Association.pdf>

10 Input from G Quinot at Celebrating 25 Years of Local Government Virtual Conference, South Africa, 25–26 November 2020

11 Public Finance Management Act (PFMA) No. 1 of 1999 and MFMA No. 56 of 2003

to integrate procurement from and within local communities, to enable them to be both suppliers and beneficiaries of local government SCM. This is a systemic failure and partly explains why communities are obstructing projects because they do not experience the economic benefit of that spend.¹²

The impact of the COVID-19 pandemic

In March 2020, with the unexpected arrival of the COVID-19 pandemic and subsequent lockdowns, municipalities were thrust into uncharted territory: an unavoidable reliance on technology and a resurgence in an active civil society. The urgency of the situation led to municipalities introducing more flexible and innovative ways of reaching communities, such as using digital communication apps that allowed citizens to comment on IDP processes.¹³ The Fourth Industrial Revolution (4IR), which describes the technologies that are changing the way in which the world functions, presents both opportunities and challenges for local government. Cities have the opportunity to use “innovation, combined with digital technologies to improve governance, service delivery and societal inclusion”.¹⁴ However, the increasing reliance on technology risks deepening inequalities within society (also known as the ‘the digital divide’) unless public investment in technological innovation serves all communities. It will affect how municipal services are provided and will require municipalities to develop new skills and ways of doing and thinking.

Resurgence of civil society

The COVID-19 pandemic saw people unite and communities come together to assist each other. It resulted in partnerships being formed among different communities and different organisations, including non-governmental organisations (NGOs), businesses and community members. Numerous collective community networks formed organically, and their innovative, rapid and locally based responses and relationships demonstrated that civil society can not only have a massive positive impact but also complement the central role of local government. The challenge for local government is to capitalise through supporting (not stifling through bureaucratic control) the resurgence of civil society organisations, drawing them in as partners in an ‘all-of-society’ approach to development.

¹² Input from G Quinot at Celebrating 25 Years of Local Government Virtual Conference, South Africa, 25–26 November 2020

¹³ Mail and Guardian. ‘Local government in crisis: how it can be fixed: Effective citizen participation ahead of the 2021 Local Government Elections’ Webinar 19 November 2020

¹⁴ https://www.sacities.net/wp-content/uploads/2020/10/Smart_Cities_Papers_Volume_1_Final-Draft.pdf, page 5.



KEY QUESTIONS

- How can technology be harnessed to support participatory citizenship, social inclusion and the all-of-society approach?
- Is it possible to improve integration and coordination across departments and across spheres of government using the new technologies available?
- How can local government support and encourage the emergence of civil society organisations and networks that are locally relevant and effective?