

## Article

# THE REVITALISATION OF LOCAL GOVERNMENT IN SOUTH AFRICA

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## The local government system in the apartheid era

Local governments are defined as political units or instrumentalities constituted by law (the peculiar or unique characteristics of which is their subordinate status to the central government) which have substantial control over local affairs and likewise have the power to tax. It is also defined as 'a set of rule-making and rule enforcement activities binding upon a set collectivity, when the same collectivity is also subject to rules binding on at least one more inclusive collectivity (Cahill and Friedman, 1964). Local governments have defined areas, populations, continuing organisations, and the authority to undertake and the power to carry out public activities in a particular area (Humes and Martin, 1961). Local governments are under the national government in a unitary system and under the central and the state levels in federal systems (Aldefer, 1964). Local government has three essential characteristics: 1) a set of local authorities or institutions with a separate autonomy and a legal status distinct from that of the central government, 2) power of the autonomous local institutions to raise their own revenue and spend it on the discharge of their functions, as assigned to them by the law, and 3) power of the local institutions to make decisions as responsible organs in their own right and not as an extension of the central administration (Rothchild, 1994:54). Generally, the laws for local government in South Africa provide for these essential characteristics. For the purpose of this paper the concept of local government as applied to the South African situation has referred to the lowest level of government, i.e. municipalities. However, in some cases local government is often used in a broader sense to refer to all spheres of sub-national government, including the provincial level.

The historical norm in South Africa during the 20<sup>th</sup> century was racial segregation and (violent) control of the influx of Black bodies into the city (Pieterse, 2002). Black people were bared access from living in so-called White reserved areas. Those areas reserved for Black people were underdeveloped and characterised by poor service

conditions as opposed to the areas reserved for White people. In Black cities and towns, little attention was paid to everyday spatialities such as home environment, neighbourhoods and trans-local social networks in the social construction of living space. By contrast, in the 'White' cities, these aspects received exaggerated attention, with parks, libraries, schools and public facilities abounding often creating model environments not even found in more developed countries (Zegeye and Macted, 2003:1). Local government was structured to facilitate and regulate this agenda of racial segregation and exclusion. Consequently, each 'racial group' was afforded its own type of local government and the different types coincided spatially with the formal segregation of races in terms of the Native Areas Act (1923) and later, the Group Areas Act (1952). Practically, it meant that the four designated 'racial groups' (in terms of the Population Registration Act of 1950), Whites, Coloured, Indians and Africans, had their own version of local government, although with very different capacities and powers (Cameron, 1999). Naude (2001) deemed the Group Areas Act as one of the most notorious centrepieces of apartheid legislation, legislating the residential segregation and compulsory removal of Africans to 'Own Group Areas'. It restricted, until 1982, the permanent presence of Africans in urban areas through a notorious 'pass system'.

The pre 1994 local government system was effectively established in the early 1920s with periodic reforms in an attempt to make the racially discriminatory system more palatable, but with minimal success (Cameron, 1999). The local government system made provisions for race-based municipal authorities. White (group) areas were governed and administered by White Local Authorities (WLAs) that were fully-fledged municipal institutions with a political council and, administration to carry out the functions of the council and taxation powers. Management Boards and Local Affairs Committees technically governed Coloured and Indian areas. Both

these institutions relied on the administration of WLAs and/or provincial administration to provide services on its behalf. Typically, these Management Committees were established through elections characterised by very low levels of voter participation and were generally regarded as illegitimate (Cameron, 1991). These bodies were generally regarded as puppet structures controlled by the (White) National Party<sup>1</sup> (NP) and comprised of politicians with a penchant for corruption. African communities fall under the jurisdiction of Black Local Authority (BLAs). These were beleaguered structures from their inception due to militant opposition from the black community and a well-established reputation for inefficiency, graft and collaboration with white interests (Shubane, 1991).

The apartheid government thus made South African cities to develop along unequal social, spatial and economic lines, with White rapping most of the benefits and being more privileged over the other race groups. In fact, the primary role of local government under the apartheid was to create and perpetuate local separation and inequality. This was reflected in separated municipal institutions (as discussed above) with different political and financial power bases (Naude, 2001). Therefore, in the past municipalities were geared for the implementation of urban and rural apartheid agendas. According to the Medical Research Council of South Africa, before the transition to democracy in April 1994, local government in South Africa was based on apartheid racial division. The 'apartheid city', as it has become known, had a number of key characteristics: firstly, environment, health and other administrative structures were duplicated for each race group and between local, provincial and national levels of government. This resulted in fragmentation in terms of legislation, policy, and programmes and led to inefficient and wasteful operations. In the Cape Metropolitan Area (CMA), for example, there were prior to 1996 some 18-20 different local government administrative structures with little metro level co-ordination. Secondly, local government was unaccountable, with Black South Africans having no elected representatives. Finally, service delivery was characterised by great inequalities in access between well-resourced White suburbs (Medical Research Council-MRC of South Africa, 1998) and poor rural communities. Historically, therefore apartheid policies of segregation fragmented the city in how and where the public sector delivered goods and services (Smith and Vawda, 2003:42).

### **The new system of local government in South Africa**

According to Pieterse (2002) the crisis in local government was a major force leading to the national reform process that began in 1990. Systematic protests

in the 1980s against the way human settlements were spatially and environmentally distorted contributed to the collapse of the apartheid local government. Democratic national elections in April 1994 were followed by local government elections in late 1995/1996. Notably, apartheid left South Africa with many scars. Indeed, Zegeye and Maxted (2002:1) contended that colonial and apartheid policies have left the majority of South Africans living in a highly unequal society in which poverty and social dislocation have had profound and traumatic effects on the social fabric. They further stated that the democratically elected government inherited a system which was aimed at providing quality services for a racially defined, privileged minority Whites systematically excluded the majority of South Africans from owning land in urban areas, employment, education, health and other basic services. In other words, when the new government came into being in 1994, it inherited a country with high levels of poverty, social disfunctionality and growing levels of inequality (Smith and Vawda, 2003:36).

In an attempt to redress apartheid legacies, the new government reformed previous legislations and policies to address issues pertaining to segregation, inequity, inequality, discrimination, poverty and to establish new transitional local authorities. New institutions have been created with new principles, philosophies and support mechanisms to make the transformation of local government a success. For Naude (2001:3) after 1994 the local government transition process was given a very strong legal driving force through three pieces of legislation. The most important was probably the Local Government Transition Act (LGTA of 1993) which provided for transitional local government as well as for a clearly defined transition process. Other pieces of important legislation were the Development Facilitation Act which attempted to address the 'mindset' of local governments and to steer them in the direction of being more participative, and the Demarcation Act that allowed for the radically reconsideration of the geographical areas of jurisdiction of local governments and to ensure that every area of South Africa falls under democratically elected local government- so called 'wall to wall' local government. The aim of these three acts can clearly be seen to enable newly elected, fully democratic and demarcated municipalities to begin functioning in a democratic and development orientated manner after December 2000 (Naude, 2001).

The LGTA, 209 of 1993 explicitly mapped out three phases of transition for local government in South Africa:

- The pre-interim phase, 1993-95;
- The interim phase, 1995-99;
- And the final phase, 1999 to the election of 5 December 2000

The LGTA provided the background for the function of municipalities until transition completed. Within the interim measures of the LGTA, the structures of local

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<sup>1</sup> NP was the White ruling party at that time.

government consisted of 843 municipal institutions, which differ according to the location of local government (I will discuss the categories of local government in great depth later). In Metropolitan areas a two-tiered system of metropolitan governments were established. In non-metropolitan areas, cities and towns were governed by Transitional Local Councils (TLCs). In rural areas Transitional Rural Councils (TRCs) and Transitional Representative was created. Furthermore, in non-metropolitan and rural areas District Councils (DCs) have been established as higher administrative levels of different local councils. However, the LGTA does not provide for clear functions and powers for DCs- these are determined by provincial proclamation, which may differ from province to province (Naude, 2001:4).

The Development Facilitation Act, together with the LGTA, is the second piece of legislation that steered South Africa's local government transition. The DFA coined the term 'development local government' to indicate the required break with the past. Developmental local government can thus be defined as local government that has a special constitutional mandate to foster development (Naude, 2001). The crucial contribution of this Act is to make it obligatory for all local governments to become 'developmental' local governments through compiling Land Development Objectives (LDOs), Integrated Development Planning (IDP). The LDOs are to provide a strategic framework for the area development of the community (spatially). It has to be done in a consultative manner. The IDP is to empower local authorities to prioritise and strategically focus their activities and resources according to people's needs (Naude, 2001:4).

The Demarcation Act has led to the complete change in the size of local governments in South Africa, by reducing the number of municipalities from 843 to 293. This demarcation was largely driven by economies of scale imperatives.

It should be noted, however that local government in South Africa has recently lapsed the interim phase of the transitional process which set to be completed by the year 2000. This phase included the restructuring provided for in the Local Government Transition Act, 209 of 1993, and the Local Government Transitional Amendment Act, 97 of 1996. This phase ended with the implementation of the negotiated local government structures that have been enacted in terms of the local government: Municipal Structure Act, 117 of 1998. The ultimate goal of this restructuring was to provide local authorities with greater autonomy within democratic principles in order to provide more effective and efficient service delivery to their respective populace.

The picture being painted here is one where the South African Constitution explicitly provides for local government. The new Constitution adopted in 1996, renders (for the first time in the South African history) the local government as a distinct governmental sphere with

executive and legislative authority and powers. Chapter 10 of the new Constitution (Act 200 of 1993), section 174, explicitly states that local government shall be established for the residents of areas demarcated by law of a competent authority. Section 179 stipulates that a local government shall be elected democratically. Most importantly, the new Constitution provides a local government with a complete autonomy than ever before. As indeed defined in Section 151.3, Chapter 7 of the new Constitution 'a municipality has the right to govern, on its own initiative, the local government affairs of its community, subject to national and provincial legislation, as provided in the Constitution'. Local government autonomy is two fold in the sense of having relative freedom from central government control over local affairs and other community concerns, on one hand, and in the sense of providing essential and emergency services effectively and efficiently to respective localities as well as to improve the general welfare of the local citizens, on the other hand. However, in a sense, the kind of autonomy vested in local government is fragile or subject to supervision, as Section 139 of Chapter 6 states: 'when a municipality can not or does not fulfil an executive obligation in terms of legislation, the relevant provincial executive may intervene by taking any appropriate steps to ensure fulfilment of that obligation'.

As cited in the foregoing discussion, local government is empowered through the Local Government Transition Act (1993), Development Facilitation Act (1995) and the Constitution (1996), to take responsibility for development and ultimately eradicate mounting cases of poverty, and overall past apartheid legacies. For Makobe (2002) these legislations are the building blocks, which have created the vision and the way forward for post-transitional and post apartheid local government systems. According to Smith and Vawda (2003), this legislative framework emphasises co-operative governance with other spheres of government, as well as with multiple sectors of the public through bottom-up planning: for instance, the cooperation between different spheres of government sets up the framework for delivering housing services through a shared responsibility between national (funding provision for low-income housing), provincial (allocation of subsidies for housing), and local (freeing up the land providing the appropriate services for new housing construction) governments (p.30).

### **Categories and functions of local government in the new political dispensation**

According to Chapter 7, Section 157 of the new South African Constitution of 1993 municipalities are constitutionally responsible for the delivery of a range of services to residents. They must provide democratic and accountable government; provide services to communities in a sustainable manner; promote social and

**Table 1:** Categories of Municipalities in South Africa

<b>Municipal categories</b>	<b>Description of category</b>
Category A: Metropolitan Council	A municipality that has exclusive municipal executive and legislative authority in its area.
Category B: Local Council	A municipality that shares municipal executive and legislative authority in its area with a category C municipality within whose area it falls
Category C: District Council	A municipality that has municipal executive and legislative authority in an area that includes more than one municipality

economic development; promote a safe and healthy environment; and encourage the involvement of communities and community organisations in the matters of local government. In a sense, the constitution explicitly mandates local authorities to pledge responsibility to work towards sustainable development.

Municipal government in South Africa is thus largely understood in terms of service delivery. The Local Government White Paper of 1998 reiterates local government's responsibility for the provision of household infrastructure and a basic level of services on the basis of an incremental approach based upon the following objectives:

- To enable municipalities to extend access to affordable basic services to all South Africans
- To provide support to municipalities to improve the performance of their service delivery systems
- To facilitate co-ordination between sectoral delivery programmes

(Information cited from the South African local government election website, available at: [www.localections.org.za/municipality](http://www.localections.org.za/municipality))

Service delivery and local economic development in South Africa are therefore core concerns of local government. This is prompted by the fact that, the vision of local government after the debut of the new government in South Africa is developmental.

The Municipal Structure Act (Act 117 of 1998) calls for the introduction of three main types of municipalities. These categories are described in [Table 1](#)

Metropolitan areas are defined as large urban areas with high population density, an intense movement of people, goods and services, extensive development and multiple business district and industrial areas. There are six metropolitan councils in South Africa and they may have up to 270 councillors. Outside metropolitan areas there is a two-tier system of government with local councils and region wide distinct councils. Local councils exist in smaller cities and towns and have between three and 90 councillors. Local councils with seven or more councillors have wards. There are 232 local councils. The greatest rationalisation of local authorities occurred in the Category B municipalities. District councils cover a wider geographic area than local councils and areas of lower

population density. The long-term goal of the district councils is to enable better regional planning and bulk infrastructure delivery.

In order to achieve the broad goal of developmental local government, the different categories of municipalities enjoy various powers. Metropolitan areas have exclusive authority in their areas of jurisdiction while local and district councils share authority. All local councils fall within a district council and must share powers with the district council. According to the Municipal Structures Act, district councils must seek to achieve the integrated, sustainable and equitable social and economic development of its area as a whole. As also mentioned above, district councils retain overall responsibility for such services as bulk water and electricity supply, maintenance of municipal roads and other services such as fire fighting, municipal airports and health services (Information available at: [www.localections.org.za/municipality](http://www.localections.org.za/municipality))

Within each of the categories of municipalities the Municipal Structures Act allows for diversity in the manner in which a municipality is organised and managed. For each of the categories there are five general types of municipalities in South Africa. These types are summaries in [Table 2](#).

From the above one can surmise that organisational and institutional differences will contribute to different local economic development outcomes in South Africa (Naude, 2001).

### **Service delivery challenges faced by municipalities**

Against the above background, it is clear that local government stands to inherit growing responsibility for service delivery, primarily because South Africa has inherited a public sector marked by fragmented and gross inequalities at all levels of state activity. It is, however, widely acknowledged that local government is also marked by some dramatic deficiencies in terms of its capacity and structure to meet those demands of service delivery. It is also widely accepted that apartheid policies and legislations are to be blamed for this inefficiency and ineffectiveness of the current and existing local government system. The Medical Research Council of

**Table 2:** General types of municipalities in South Africa after 2000

Designation of type	Description of type
Collective executive system	Executive authority is exercised through an executive committee in which the executive leadership of the municipality is collectively vested
Mayoral executive system <sup>2</sup>	Executive authority is exercised by an executive mayor assisted by a mayoral committee
Plenary executive system	The exercise of executive authority is limited to the municipal council itself
A sub council participatory system	This system allows for the delegation of powers to sub-council established for parts of the municipality
Ward participatory system	Matters of concern to the wards are dealt with by ward committees established for each ward

South Africa (1998) identified a number of interrelated factors that have contributed to the current state of local government in South Africa:

- The administrative fragmentation of the past compounded by the lack of an overarching metropolitan authority, and a metro level environmental management policy for the metropolitan areas such as Cape Metropolitan Area (CMA).
- Previous policies enforcing inequitable service delivery have left metropolitan areas (such as CMA) with substantial infrastructural and service backlogs in black townships; with higher capital and ongoing costs for quality facilities in white areas, and with an inadequate revenue base for attaining greater parity in services.

<sup>2</sup> Four metropolitan areas (Johannesburg, Tshwane, East Rand and Nelson Mandela) have Executive Mayoral Systems while two metropolitan areas (Durban and Cape Town) have Executive Committee Systems (Naude, 2001:8).

- Far from promoting ecological and social sustainability, land use planning was a fundamental instrument of the Apartheid City, leading to not only great power and inequity but also environmental degradation and wasteful use of natural resources.

Makobe (2002) stated that South African municipalities today, find themselves in a constant state of change or transformation. Part of their major problem is that they are struggling to shake off their apartheid legacy or past. Despite the political changes ushered in by the 1995/1996 local elections, the legacy of apartheid local government remains embedded in many municipalities. Makobe therefore identified some of the elements that are still visible in many municipalities which have not yet gone through a fully flashed transformation program includes amongst others the following:

- Many such municipality administrations are still traditional, rule driven bureaucracies which are used in servicing the public in a responsive manner;
- In this instance, the administration is not structured in a manner that lets it undertake multi-dimensional activities (such as Integrated Development Planning –IDP) or Local Economic Development (LED). Many departments within the same organisation do not co-ordinate their activities with one another;
- Many administrations are inward looking and can not respond to changes in their technological, economic or policy environments;
- Many municipal administrators remain locked in old work practices and a managerial culture which is usually top-down and non creative;
- Municipal service delivery is often neither cost-effective nor efficient and;
- Apartheid employment regulations are often still in place, creating a degree of inflexibility in the system.

From this background, it can be said that municipalities in South Africa are faced with new changes and challenges. Among other challenges facing municipalities in South Africa today are the following:

- The creation of larger areas of jurisdiction through the drawing/ demarcation of new municipal boundaries. The joining of former black townships and rural areas with established municipalities;
- A corresponding increase in service backlogs, which new municipalities must eliminate;
- A complete redefinition of local government roles;
- The devolution of several new powers and functions to local government, without an accompanying increase in its fiscal base;
- Increased demands and opportunities provided by the information age;
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- A new and evolving relationship between councillors and officials, for example the introduction of Executive Mayor Speakers and so on;
- New ways of service delivery;
- Electricity restructuring;
- Lack of capacity; and
- New development duties

(Information cited from the South African local government election website: [www.localelections.org.za/municipality](http://www.localelections.org.za/municipality))

It is therefore not difficult to understand why local sustainable development is a major issue in South Africa today. Local level actions have not been good enough. At the local –community level poverty is still deepening, local environments are under threat and local governance is hitherto in crisis. The multi-faceted responsibility of local government to deliver services to their communities and promote local economic development has a long way to go. Municipalities thus face enormous challenges to fulfil the developmental mandate given to them by the new Constitution. They also face challenges to transform completely apartheid institutional structures.

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