

# Developmental Local Government Challenges and Progress in South Africa

O S Madumo

School of Public Management and Administration (SPMA)  
University of Pretoria

## ABSTRACT

Through the renewed interest in good governance the development agenda is shifting focus in a country's development processes by drawing attention to fundamental questions like appropriate governance structures, values and overall direction of the society. The scholarly discourse on local governance in developing countries is full of examples of ineffective administrations with an inward focus. Hence developmental local governments should have appropriate structures, values and strategic direction that reflect more on an outward community focus.

The purpose of this article is to provide a discussion of the complexities of governance in South African local government, in particular, to assess the significance of the independence that municipalities have in the three spheres of government and the intergovernmental relations system. The *Constitution of the Republic of South Africa* of 1996 stipulates that each sphere is distinctive, interrelated and interdependent, meaning that the functioning and execution of constitutional duties by the local government sphere should not be interfered with by the other spheres. Firstly, the article highlights the significance of the existence of a local government sphere in a democratic environment. The discourse on local democracy in Africa, also takes into account the phenomenon of traditional leadership that is constitutionally recognised in South Africa and the role and functioning of traditional leaders in democratic government. The article also emphasises the flaws that exist in the intergovernmental relations framework, which impacts negatively on the progress of municipalities. Furthermore, challenges facing the local government sphere will be discussed and suggestions for the improvement of municipalities will be made.

## INTRODUCTION

Since democratisation in 1994 the South African government has taken great strides in ensuring development and the promotion of economic growth through legislation and specific regulations targeted at improving the general wellbeing of its citizens, especially the poor. However, with such progress, it is becoming increasingly challenging for the government to accelerate development owing to the difficulties associated with corruption, mismanagement and maladministration amongst others. The system of local government in South Africa is relatively new and thus it aims at addressing the developmental dilemmas created by former Apartheid rule. South Africa is a unitary state, with some federal elements of self-governance in municipalities and provincial government, for instance municipalities and provinces have their own limited autonomy as per the *Constitution of the Republic of South Africa* of 1996. The Constitution serves as a supreme law of the country and any other legislation, policies or conduct that are not consistent with it become null and void.

Local government in South Africa is inundated with a variety of challenges including the inability to facilitate and enhance development in the communities under which the municipalities serve. The current structure of the local government system is relatively new and it was preceded by the pre-interim phases of local governance in 1993 and 1995 respectively until it came into existence in the year 2000, after the local government elections. Municipalities in South Africa play a crucial role in propelling the agenda of development of the national government and ensuring the deepening of the democratic culture within municipalities. The South African population is significantly unequal with the Gini co-efficient – the disparity between the rich and the poor—that has rapidly grown since South Africa gained its democracy. The essence of the existence of the local sphere of government is to ensure easy delivery of services and to further promote the general well-being of the people living within the jurisdiction of a particular state.

This article provides a broad, contextual overview of the significance of developmental, democratic local governance. The content of this article provides an overview of the essential nature of the distinctness and independence of local government with specific reference to core traditional leadership and intergovernmental challenges of local government. This includes the legislative framework since 1994 and beyond. It furthermore intends to provide certain suggestions for improvement in municipalities to deal with core development and local governance challenges.

## BACKGROUND OF LOCAL GOVERNMENT IN SOUTH AFRICA

According to Stytler and De Visser (2007:1–3) South African local government is perceived as an integral part of the constitutional system of decentralised

government ushered in after the first democratic elections in 1994. This comes as an attempt to reverse the imprint created on South African human settlements and municipal institutions by the Apartheid regime and to further encourage development and transformation in a democratic setting. The Republic of South Africa is a sovereign and democratic state, which reflects the strong elements of a unitary state and is constituted by three spheres of government, namely the local, provincial and national spheres. According to Section 40 of the *Constitution of the Republic of South Africa, 1996*, the three spheres of government exist distinctively, interdependently and they are interrelated. This means that all the spheres of government are encouraged to support one another and create an environment through which each sphere can individually regulate itself and exist within its own right (independently).

Historically, municipal boundaries in South Africa were structured in accordance with the racial demographics of the population of a particular jurisdiction. For instance, in terms of the Group Areas Act of 1959 (which is now repealed), a specific racial group was not allowed to reside in an area designated for people of a different race. However, since democratisation in South Africa in 1994, much has changed. Since 1994 municipalities have been structured to be people-centred, accountable and democratic, with the goal of providing services to communities in a sustainable manner. Through evolution the transformative agenda that is advocated by the Constitution of 1996, provides for three categories of municipalities. As directed by the Constitution, the Local Government: Municipal Structures Act 117 of 1998 contains criteria for determining when an area must have a category-A municipality (metropolitan municipalities) and when municipalities fall into category-B (local municipalities) or C (district municipalities). The Act also determines that category-A municipalities can only be established in metropolitan areas. Metropolitan areas are therefore a cluster of towns amalgamated into one large metropolitan government.

Primarily, the role and functions of municipal governance are to create an environment for efficient and effective delivery of services to communities within a specific jurisdiction. In South Africa, municipalities play an important role in delivering basic services including: potable water, sanitation, sustainable electricity provision and waste removal.

## **Existence of a local government sphere in a democratic state**

The notion of democracy is a problematic one on many counts, as a result of different interpretations of the concept. It could be argued that democracy means different things to different people in different environments. Originally, the concept was derived from the Greek words *demos* meaning the *people* and *kratos* meaning *rule* (Heywood 2007:72). A combination of the two words *demos-*

*kratos* will thus, loosely translate to *rule by the people*. In many instances the concept is construed to mean effectively anything that is associated with holding regular elections, and stable governments. In particular, with regards to Africa, the concept of democracy is associated with regular elections, which are often marred by political violence and a set of liberties which are mostly limited. However the needs of the communities should be acknowledged and taken into consideration when municipalities plan and execute the delivery of services. Various mechanisms exist in South Africa to deal with the promotion of local democracy.

The Constitution of 1996 mandates the local government sphere to ensure an inclusive approach when budgetary and planning processes are undertaken in municipalities. Thus, the need for an Integrated Development Plan (IDP), which is a five-year municipal strategic vision aimed at addressing the challenges which involve developing sustainable settlements which meet the needs of the people and aims at improving the quality of life of especially the indigent communities (White Paper on Local Government of 1998:27). Through this planning process the municipality is able to establish a developmental plan for the short, medium and long term. However, for this planning process to effectively bear results, it is important for municipalities to ensure openness, transparency and accountability and also commit to consulting and negotiating with the communities in good faith. As a result of the process itself, local democracy becomes nourished and this is promoted by the idea of community participation in municipal affairs.

Democracy in local government is imperative as the local sphere provides for an environment that enables interaction between the government and the people. Thornhill (1995) argues that local government is at the coal-face of service delivery. Meaning that, through this structure, the government is able to easily interact with and provide services to its citizens. Section 152(1) of the Constitution of 1996, states that the objectives of local government are to:

- provide democratic and accountable government for local communities;
- ensure the provision of services to communities in a sustainable manner;
- promote social and economic development;
- promote a safe and healthy environment; and
- encourage the involvement of communities and community organisations in matters of importance to local government.

However, for each of these objectives to be achieved, it is important that the municipalities receive the necessary support and cooperation from the communities they serve. Municipalities can be utilised as effective means through which democracy in local government is deepened. In a recent study conducted by the Human Sciences Research Council in 2013 (in SA Local Government Research Centre 2014:5–6) to determine the perception of the

importance of local government held by the South African population, it was found that 34% of the surveyed individuals trust the local government sphere (SA Local Government Research Centre 2014:5–6). This low rate could be attributed to various factors, including perceived wide-spread corruption, nepotism and maladministration, which lead to the non-delivery of services in various municipalities. Olowu (2012:604) argues that members of the public often find it difficult to obtain specific services from the local authorities without first paying the officials responsible for the service a bribe. In particular, the local government sphere tends to be more susceptible to irregularity because of the weak institutional mechanisms at its disposal.

Local governments in most African countries are confronted with the unique challenge to integrate the traditional authority systems with the contemporary political setup. Historically, the traditional leaders served as the governors of their communities with authority ranging from social welfare to judicial functions (Tshehla 2005:15). Bekink (2006:196) asserts that traditional leadership is an institution that has developed over many years in Africa. Furthermore, the social organisation was centrally established around the many tribal regimes that operated within particular areas of jurisdiction. As a result, each tribe had its own traditional leader, who would be vested with the highest authority within his (mostly were males as a result of the patriarchy system) jurisdiction (Bekink 2006:196). With the influence of colonialism, the traditional authority system was weakened (Bekink 2006:196). In the case of South Africa, it then became apparent that the emergence of the Apartheid regime ensured that the traditional leaders were provided with the powers and roles recognised by the regime and this further strengthened the division of the people in accordance with their tribal groups.

In a traditional authority setting, it becomes difficult if ever possible to maintain democracy, if the notion of regular elections is classified as a salient feature in democracy. Just like monarchs, the leaders of the traditional authority are not elected but appointed based on the heir within a particular tribe. However, Bekink (2006:197) states that “the African rulers governed by popular mandate and mostly made decisions after consultation with the advisers”. In other words the notion that they were not democratically appointed or elected does not make them despise democratic processes. The integration of the traditional authority with the modern government system is a challenge. This occurs because of the different value systems espoused by the two institutions. The role of the traditional leadership institution in local government in South Africa is determined by Section 212 of the Constitution, 1996, which emphasises the need for a specific legislation to regulate such an institution. This is challenging as traditional authority in local government is not responsible for any specific function, but generally for customary matters in local government.



According to Section 81 of the Municipal Structures Act of 1998, traditional leaders are afforded the opportunity to address the municipal council on a specific matter that concerns their area within the municipal jurisdiction. Furthermore, Stytler and De Visser (2007:3–22) argue that the legislation makes provision for the recognised traditional leaders to be afforded an *ex officio* status when participating in municipal councils. However, this tends to be awkward as mostly the traditional authority will delay a municipal activity in their area. This is as a result of the expectation by the traditional authority that prior to the implementation of any programme in an area falling within their jurisdiction, the traditional leaders should first approve it. Thus, this situation has given rise to conflict in terms of the demarcation of the roles of traditional leaders and municipalities in respect to development within communities.

## **Independence of municipalities in South Africa**

In the South African system of cooperative governance, the local sphere of government is interdependent with the provincial and national spheres. National government, for example, is responsible to establish a broad national framework for development, including policies and sectoral programmes (Van der Waldt 2015:20). Provincial government, in turn, facilitates, monitors and guides the implementation of sectoral programmes, such as water provision. Provincial government is also responsible for municipal oversight and support and may intervene in the affairs of a particular municipality if it cannot adhere to its constitutional mandate or cannot or does not fulfil an executive obligation in terms of legislation (Van der Waldt 2015:20). Local government operationalises national and provincial initiatives in conjunction with various non-governmental agencies and the private sector. Since local government is the closest to the people and interacts on a daily basis with clients (community), specific emphasis is generally placed on its developmental service delivery role (Van der Waldt 2015:20).

The system of cooperative governance furthermore facilitates the integration and alignment of development endeavours on all three spheres. On the national sphere the Government's Programme of Action, the State of the Nation Address, and the National Plan: Vision 2030 establish an overarching framework for the development of provincial Growth and Development Strategies and sectoral plans (Van der Waldt 2015:20). Municipalities, in turn, are responsible to align their integrated development plans with provincial growth and development plans. Various mechanisms to facilitate intergovernmental relations furthermore guide these interfaces (Van der Waldt 2015:20).

The Constitution of 1996 provides the role and functions of municipalities (Chapter 7 of the Constitution of 1996). In South Africa, it becomes difficult to

determine the extent to which the operational functioning of the municipalities allows for them to be completely independent. This is as a result of the cooperative government arrangement within which the local, provincial and national spheres find themselves. Within this arrangement, the local government sphere is identified as an institution that exists in its own right and not just a mere function of the national and provincial governments (White Paper on Local Government of 1998:x). Importantly, the independence of municipalities to operate as structures existing on their own is compromised by the privilege that the national government enjoys, of collecting national revenue annually and distributing it to the other spheres in terms of the Division of Revenue Act 5 of 2015. The complete independence of municipalities is limited in terms of the Constitution which states that municipalities have the right to administer their own affairs subject to national and provincial legislation.

## **Developmental local government in South Africa**

A developmental state can broadly be defined as a state that has economic development as the top priority of government policy and seeks to design policies and institutions to promote this broad objective (Van der Waldt 2015:18). Thus, it is a state that evinces a clear commitment to a national development agenda, has solid capacity and reach, seeks to provide growth, aims at poverty reduction and the provision of public services objectives (Van der Waldt 2015:18). A developmental state generally attempts to deploy its administrative and political resources for economic development. This means that the state must have the capacity to control its territory and possess core capacities enabling it to design and deliver policy objectives (Van der Waldt 2015:18).

Developmental local government is defined as a local government that is committed to working with citizens and groups within the community to find sustainable ways to meet their social, economic and material needs and improve the quality of their lives (White Paper on Local Government of 1998:17). Subban and Theron (2011:98) highlight the importance of deepening the local democratic culture, where development and participation would be seen as intertwined concepts.

The Least-Developed Countries Report (LDCR 2009 in Van der Waldt 2015:23) states that the purpose of developmental local governance is to solve common national development problems, to create new development opportunities and to achieve common national development goals. This should be done through local stakeholder involvement and community participation that fosters the principles of local democracy (Van der Waldt 2015:16). Developmental local governance, or local governance for development, is about creating a better future for communities through the promotion of local

socio-economic development programmes and projects. It also requires strong and capable institutions, systems, strategies, policies, processes, and procedures to promote grassroots development (Van der Waldt 2015:16).

The White Paper on Local Government of 1998 notes the following characteristics as those of a developmental local government:

- maximising social development and economic growth;
- integrating and coordinating development planning;
- promoting democratic development; and
- building social capital at the local level to enable local solutions to development challenges.

It is evident that the existence of a municipality should be development oriented. This is necessary because municipalities are the basic units of the local government sphere and should propel the agenda of ensuring the general well-being of its inhabitants. In as much as municipalities differ in their composition and functioning, it is important that they achieve the mandate prescribed by the Constitution and other applicable legislation at all times. As a result of the lack of a common institutional framework applied in municipalities, some municipalities often find that they are faced with unintended malpractices, which have the potential to render the municipality's service delivery machinery ineffective.

Globally, countries realise that local government, as the sphere closest to the people, needs to transform itself in line with the development agenda of the State. This led to the notion of developmental local government. According to Van der Waldt (2015:15) "On its most fundamental level, the role of local government in society in general and in development in particular can be categorised as follows:

- Allocative e.g. resources, maximise efficiency, service delivery
- Distributive e.g. equity, social security, services
- Regulatory e.g. enforce law, protection, justice
- Stabilisation e.g. fiscal, monetary and economic policies to pursue objectives for control of inflation, unemployment"(Van der Waldt 2015:15).

## **LEGISLATIVE IMPERATIVES 1994–2015**

For one to properly understand the development and public service delivery taking place in municipalities, it would be important to have an extensive understanding of the legislation that shapes the local government sphere. Since 1994, significant changes have been made in South Africa, through among others, enforcing legislation that ensured that development was fast-tracked.



According to Madumo (2012:41) not only legislation played an important role towards ensuring effective municipalities, but the developmental policies that the government advocated also made a meaningful contribution. Legislation includes: The Development Facilitation Act 67 of 1995, the Local Government: Municipal Systems Act 32 of 2000, the Municipal Structures Act of 1998, the National Environmental Act 107 of 1998 and the Municipal Finance Management Act 56 of 2003, the Traditional Leadership and Governance Framework Amendment Act 41 of 2003 and the Intergovernmental Relations Framework Act 13 of 2005.

Developmental policies include the National Spatial Development Perspective (NSDP), the Reconstruction and Development Programme (RDP) of 1994, the Growth, Employment and Redistribution (GEAR) strategy of 1996, the White Paper on Local Government of 1998, the Integrated Sustainable Rural Development Strategy (ISRDS) of 2000, the Accelerated Shared Growth Initiative of South Africa (AsgiSA) of 2005, the New Growth Path (NGP) of 2010 and the National Planning Commission: Vision 2030.

The *Constitution of the Republic of South Africa* of 1996, serves as a mechanism that is utilised to transform the South African society. *Firstly* it states in its founding provisions that “the Constitution is the supreme law of the Republic; law or conduct inconsistent with it is invalid, and obligations imposed by it must be fulfilled”. This (Section 2) emphasises the significance and the supremacy of the Constitution, 1996, as it serves as a guideline that regulates the functions that institutional structures of the State perform. *Secondly*, the Constitution, 1996, emphatically establishes local government as a separate and distinct sphere of government, mandated to deliver services through the support of the provincial and national spheres, as outlined in Section 40(1). The emphasis on the structured support provided by the provincial government to municipalities in case of incapacity is promulgated by Section 139 of the Constitution of 1996. *Lastly*, in promoting democracy, Section 152, of the Constitution of 1996, addresses the objectives of local government addressed above, as a requirement for local development.

Municipalities are encouraged to promote local democracy by developing strategies and mechanisms that continually engage with citizens across all the social formations (Putu 2006: 16). The Municipal Structures Act of 1998 provides for the appropriate division as well as devolution of power, as regulated by the functioning of the appropriate category of municipality in ensuring a proper governing structure, which culminates in the election of municipal councils. Significantly the legislation enables a municipality to establish ward committees to enhance participatory democracy in local government (Cloete and Thornhill 2005:102). The Municipal Systems Act of 2000 authorises the establishment of internal systems of municipalities, which

serve as the mechanisms to obtain appropriate municipal administration guaranteeing efficiency and effectiveness in the delivery of services. Through the legislation it should be possible to ensure regulation in as far as the functioning of municipalities are concerned.

Since municipalities need funding to function effectively, the pieces of legislation that guide the usage of finances are highlighted. The Local Government: Municipal Finance Management Act 56 of 2003 is such a legislative framework. Its purpose is to regulate the financial affairs of municipalities, as well as to ensure uniformity in accordance with the treasury norms and standards (SALGA 2006:5). The Municipal Finance Management Act of 2003, aligns the municipal budget with the Integrated Development Plan (IDP) and subsequently the service delivery budget and implementation plan of a municipality.

Highlighting significant legislation underpinning the affairs of local government, it becomes clear that local government is built on an extensive legislative foundation. As such the intentions and the motives of municipalities are evidently defined as the end product of municipalities must essentially be the effective provision of goods and services to the respective communities they serve. Noticeably, this function would not be possible without the decentralisation and demarcation of particular services to be provided, *i.e.* health and housing (to assigned municipalities). Decentralisation has been accepted by various governments, specifically in Africa as a strategy to facilitate transformation and promote the delivery of services, thus it leads to democratised government and administration (Mkhonta 2007:108–109).

## **CHALLENGES AND SUGGESTIONS FOR IMPROVEMENT IN MUNICIPALITIES**

Since 1994, South Africa has been making progress in achieving the developmental goals that the democratic government has set for itself. Despite improvement of the quality of life for its people and the political will to bring about positive change and development in the country, the government remains faced with serious challenges in pursuit of growth and development. According to Thornhill (1995:6) the success of any local government action is determined by the perceived quality of services rendered to the community by officials acting on behalf of the municipal council. In South Africa, local government is confronted with the following challenges, among others:

- the inability of municipalities to financially sustain themselves;
- the lack of capacity to deliver constant and regular services; and
- the failure of officials to comply with regulations (Thornhill 1995:6).

The challenge of financial sustenance is mostly created by the situation where municipalities fail to institute proper mechanisms to ensure they collect their revenue accordingly. For instance, municipalities rendered services in the financial period 2013/2014 and were defaulted by more than R93.4 billion (\$8.7 billion) (SA Local Government Research Centre 2014a:27). Without appropriate funding, it becomes difficult for local government to render services. Consequently the capacity to deliver regular and constant services becomes compromised. Although lack of funding is a major issue, the situation is worsened by unethical practices. It is a common practice in most municipalities that the process of appointing service providers is influenced by politicians, thereby influencing the accurate supply chain processes. In some municipalities, municipal managers (accounting officer in a municipality) have been suspended by the municipal council for failing to appoint service providers that the politicians favoured (SA Local Government Research Centre 2014b:21).

In the 20 years of democracy in South Africa, the government has made progress in attempting to address and resolve some of the challenges associated with its effectiveness and efficiency in delivering services. Through the implementation of various initiatives including, Local Economic Development and Municipal Infrastructure Grants, the local government has over time renewed its commitment to the development of the communities. It has however been difficult to redress the imbalances caused by over 300 years of colonisation in only 20 years redressing what is known as the “triple-challenges” of unemployment, poverty and inequality. In order for local government to improve on its *status quo*, that is, to ensure effective and efficient delivery of public services and reach its optimum level of service delivery, the following is suggested:

- a clear distinction should be made between politicians and administrators, and their role and functioning should be clearly demarcated so that each one does not act in *ultra-vires* when delivering services in line with the Municipal Structures Act of 1998 as amended;
- a greater emphasis should be placed on the utilisation of knowledge and technology for economic growth and development;
- there should be better interaction between national and foreign capital by increasing the developmental impact of foreign direct investment;
- the implementation of stricter mechanisms for wasteful and fruitless expenditure in municipalities in an attempt to curb unethical practices in local government, should be ensured;
- financial misconduct regulations in line with the Medium Term Revenue Expenditure Framework and Treasury Regulations, should be ensured;
- there should be continuous pursuit of democratic ideals; and
- a single framework that would be applicable to be used as performance indicator for municipal officials across the country, should be created. Often,

officials fail to perform not as a result of lack of capacity, but because they do not expect any punitive action against them.

## **CONCLUSION**

The significance of the role of the local government sphere in the three sphere system cannot be contested. With a great responsibility of ensuring the constant and regular delivery of services such as electricity, access to potable water, proper sanitation, and waste removal, municipalities become government agencies that interface daily with the people. The article highlighted the importance of a well-functioning local government through utilising effective municipalities. Firstly the article focused on the background of the local government sphere in South Africa, clearly emphasising the importance of the existence of local government. Through this discussion, it emerged that local government in South Africa deemed it necessary to enhance a developmental agenda, thereby attempting to improve the quality of life. The unique situation of South Africa was explained, where legislation creates some confusion in terms of the status of municipalities in the cooperative government system.

The second aspect to be highlighted in the article was various legislation that has been promulgated since 1994 to regulate the functions and responsibilities of municipalities in South Africa. Despite comprehensive legislation and inciting political policy guidelines, local governance generally struggles to effectively realise the array of its mandatory goals. Furthermore, the way elected and appointed officials regard their discretionary powers based on this legislation does not go unchallenged. The role and responsibilities of the various structures and officials need to be clarified in concert with the Constitution. This is necessary in assessing the government's commitment and measuring the successes in overcoming some challenges in municipalities. Furthermore, the challenges were explored with a notion to assess the future of local government in South Africa. Through this, challenges were identified and suggestions made in an attempt to promote prosperity and development in municipalities.

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## **AUTHOR'S CONTACT DETAILS**

Mr O S Madumo  
School of Public Management and Administration (SPMA)  
University of Pretoria  
Tel. 012 420 3475  
[Onkgopotse.Madumo@up.ac.za](mailto:Onkgopotse.Madumo@up.ac.za)