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COMPARATIVE ASSESSMENT OF DECENTRALIZATION IN AFRICA: SOUTH AFRICA DESK STUDY

MAY 2010

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ACRONYMS AND ABBREVIATIONS

ANC	African National Congress
COGTA	Department of Cooperative Governance and Traditional Affairs
COPE	Congress of the People
CSO	Civil Society Organization
DBSA	Development Bank of South Africa
DORA	Division of Revenue Act
FFC	Financial and Fiscal Commission
IDASA	Institute for Democracy in Africa
IDP	Integrated Development Planning
IEC	Independent Electoral Commission
IGT	Intergovernmental Transfer
IGRF	Inter-Governmental Relations Framework Act
INCA	Infrastructure Finance Corporation
LES	Licensing Executives Society
MEC	Member of the Executive Council
MIG	Municipal Infrastructure Grant
MINMEC	Ministerial-Member of Executive Committee Joint Meeting – National Inter-Governmental Forum
MFMA	Municipal Finance Management Act
MPSA	Ministry of Public Service and Administration
MTEF	Medium-Term Expenditure Framework
MSA	Municipal Systems Act
NCOP	National Council of Provinces
NGO	Nongovernmental Organization

PAC	Pan Africanist Congress
PALAMA	Public Administration Leadership and Management Academy
PCC	The President Coordinating Council
PES	Provincial Equitable Shares
PSC	Public Service Commission
QUANGO	Quasi-NGO
PR	Proportional Representation
RSC	Regional Services Council
SABC	South African Broadcasting Corporation
SANGOCO	South African National NGO Coalition
SACP	South African Communist Party
SALGA	South African Local Government Association
SARS	South African Revenue Service
SCOPA	Standing Committee of Public Accounts
USAID	United States Agency for International Development

EXECUTIVE SUMMARY

This study examines the state of decentralized governance at provincial and local government levels in South Africa. It is in a format that can generate comparative lessons on the quality and feasibility of decentralization in Africa. The study emphasizes the institutional setting (fiscal and administrative) and the politics of decentralization reform in South Africa. It begins with a survey of background conditions that affect decentralized governance; examines issues of authority, autonomy, accountability, and capacity in South Africa's sub-national government system; and continues to discuss the political constraints that may hinder local government reform, as well as political support for it. It is a major contention of this report that historical factors have affected South Africa's political culture and its definition of local governance. However, for reasons of space and recognition that not all accept the premise that history is important, a separate historical analysis of institutions is provided as Appendix 2.

Decentralized governance in South Africa emerged from the conflict resolution process (1990–1994) that ended its system of apartheid. After the establishment of non-racial government, the devolution arrangements that came from the negotiations were, at least in part, abandoned by the ruling African National Congress (ANC) in its quest to ensure government control over the development planning processes in rural and urban South Africa, and to manage political processes at the sub-national level. The result is a set of contradictory processes that reflect a governance theory that emphasized decentralization and local control, but political (fiscal and administrative) arrangements that are both highly centralized and often inefficient.

The most salient issues of sub-national governance continue to be (1) development of a political culture largely impacted by indigenous values and colonial and apartheid history that supports democratic governance and tolerance of differences; and (2) development of a professionalized sub-national public sector. The study has found contradictory tendencies in South Africa's political culture between civil society and grassroots' pressures for devolved governance, and the ANC's values of centralized governance—a legacy of the armed struggle against apartheid. Fiscally and administratively, there is a gap between theories of local governance enshrined in constitutional law and a poorly developed service delivery system too often plagued by nepotism, corruption, and inefficiency. Finally, there is a disconnect between an electorate which perceives this weakness but fails to take corrective action via the election process, in large part because of perceptions that opposition parties are not viable alternatives.

Four areas should be further explored to increase ones understanding of decentralization in South Africa. These are (1) the impact of major, donor efforts on decentralized governance since 1994; (2) regional differences within South Africa; (3) the impact of local government on the ground, especially in small trading centers and in rural South Africa; and (4) perceptions of governance patterns which should be ascertained through a stakeholder analysis of principal actors and group leaders in the country.

These are the most salient issues for both democratic governance and decentralized governance in South Africa. Although there is recognition of the importance of democratic institutions and

fiscal autonomy, donors and national-level planners tend to neglect the importance of a commitment to long-term education and professional training necessary to empower efficient and effective intermediate and local government systems. These—along with appropriate and long-term benchmarking of democratic, institutional change (outside of the project mode)—remain matters of unfinished business in terms of democratic theory and practice.

South Africa, though an emerging economy and a democratic country, has many lessons that can be seen as cautionary for other countries. Parallels can be drawn with Nigeria, Kenya, and Ghana, all countries that have economic potential but are challenged by weak government structures. South Africa is not there yet but may be moving that way given the fragility of its sub-national political institutions. This would be a disaster not only for South Africa but also for the rest of the continent.

1.0 THE COUNTRY CONTEXT

1.1 BACKGROUND

The nature of the South African state is defined by two things: its robust industrial and mineral-based economy and its tortured racial history. The contemporary South African state began in June 1994 with the first non-racial elections in the country's history. This followed 200 years of racially defined economic development and white minority regimes, propped up first by colonialism and then by an authoritarian, quasi-military structure known as apartheid.

The demographics of the country define its racial and ethnic divisions. South Africa has a population of just over 49 million people. It is a large country of 1.2 million square kilometers, just about twice the size of Texas or France. It is divided both racially and linguistically. There are four major racial groups in the country. An African majority, who speak one of nine major African languages, constitutes 79 percent of the population.

The next largest group, classified as white or European, constitutes 9.1 percent of the population, followed by a so-called mixed-race group (of people of mixed European, Asian, and African heritage) accounting for nine percent of the population. Non-Africans speak either English or Afrikaans as a first language. Finally, just over two percent of the population is of South Asian heritage with a small number of people from China and Japan included as part of the Asian population. (See South African Institute of Race Relations, 2001.)

South Africa is one of the most urbanized and highly industrial countries in Africa. Over 61 percent of South Africa's population is urban and the country continues to urbanize rapidly. This has strong implications for South Africa's municipal administration, which is the most highly developed in South Africa's urban and peri-urban areas. Over a third (39 percent) of South Africans who live in South Africa's small towns and farms live and work on the 12 percent of the land that is arable. Large areas of the country are desert or semi-desert. The country has vast amounts of industrial minerals, however, which support its urban base, industrial production, and export trade. Though it has high levels of educational development and health care capacity, South Africa has one of the most unequal distributions of income in the world. (See the end of apartheid debates in Schrire, 1992.)

The country functions as a parliamentary system under proportional representation but with some elements of presidentialism. The president is selected by the Parliament by majority vote and though he/she does not sit as a member, he/she has the right to attend parliamentary proceedings. The president selects his/her own cabinet, but it is subject to parliamentary investigation and review. It fits into the category of mixed parliamentary and presidential systems, which includes France and a number of Asian and African democracies. There are three levels of government: national, provincial, and local.

South Africa has essentially a unitary system of government, but which legally has federal elements to it. There is a national government headed by a president and a national Parliament. The country has nine provincial governments, each with a provincial parliament and an executive

branch headed by a premier, a provincial cabinet, and provincial ministries. It has 46 district-level local governments and six metropolitan governments. The district municipalities are further subdivided into 231 local municipalities. South Africa's local authorities primarily function as service delivery mechanisms, though often, given its fiscal limits, they have unfunded mandates that leave vast gaps in coverage (Picard, 2005).

South Africa's provincial legislatures primarily have derivative authority in such areas as agriculture, education, environment, health services, housing, language policies, tourism, trade, and welfare. Originally, the negotiations had intended that provinces would receive embedded financial authority on the fiscal side, but under the 1996 Constitution, authority over fiscal matters and selection of provincial political leaders was centralized both at the national government and the political party level (within the African National Congress) (Lodge, 2002).

1.2 THE IMPACT OF APARTHEID ON POLITICAL INSTITUTIONS

After 1910, South Africa was a constitutional democracy with a parliamentary system of government. It was a British Dominion like Canada, Australia, and New Zealand and was internationally recognized. Government was based on the parliamentary model, sometimes referred to as a "fused" system of government to contrast it with the separation of powers characterized best by the US system. Effectively only whites had the right to vote, a characteristic that after World War II distinguished South Africa from the other Commonwealth countries (see Worrall, 1971).

South Africa, though a broadly democratic country, is a *de facto* one-party state. Since 1994, only the ANC has been able to muster a majority to form a government and select a president. Parties are effectively segregated with the overwhelming majority of black South Africans (including many Indians and most mixed-race people) voting for the ANC. The Democratic Alliance is the major opposition party, supported overwhelmingly by whites but with some support from people of mixed-race and some Asian South Africans. It currently controls the Western Cape provincial government and the Cape Town city government. There are several small parties, some with small delegations in the National Assembly.

Parties are disciplined but not rigid. There is some movement of members among parties, especially when they are allowed to cross the floor as is periodically permitted by the rules of the legislature. There are threats of ideological and ethnic splits within the ANC, but until 2008 with the founding of the Congress of the People (COPE), this had not happened. South Africa's electoral system is proportional and the president is elected by the Parliament and functions effectively as a prime minister who is also head of state. Provincial governments function with a legislature and premier with roughly the same electoral rules as national institutions. Central political party structures exercise control at the provincial level through their nomination of candidates for provincial offices. For example, the ANC appoints provincial candidates for premier from the center (Davenport, 1998, pp. 49–77).

From 1910 to 1994, South Africa had four provinces which were governed on a racial basis: Transvaal, the Cape, the Orange Free State, and Natal. Provinces initially had elected councils on a racial franchise until these were replaced by an appointed executive committee eliminating opposition members of provincial councils. From the 1950s, the National Party government began to create a series of 10 black homelands, which were either "self-governing" or

“independent.” These homelands were never recognized internationally. The homelands accounted for some 13 percent of the land.

The patterns of racial government were replicated at the local government level, with cities and towns having whites-only elected governments and black townships and rural areas controlled by territorial administrators, and what were later called urban Bantu Administration Boards. The central government appointed these boards. In the 1980s, partly elected, segregated, black councils were created by the P.W. Botha administration. These were elected in a racially separate franchise. Black townships became the central point of resistance to apartheid in South Africa in the last half of the decade.

As part of the transitional negotiations, the 10 “white” provinces and 10 homelands were restructured into nine provinces. Provinces have been referred to by constitutional scholars as having a quasi-federal relationship with the national government. Their existence is constitutionally guaranteed. However, their reserved powers are limited and most of their authority is concurrent with the national government. Financially and administratively, they do not enjoy a great deal of autonomy. There is a national second chamber of Parliament, called the National Council of Provinces (NCOP), which functions like a Senate with indirectly elected representatives, selected by provincial legislatures, but its powers are restricted and it is considered a political backwater. A more detailed analysis of the NCOP is included as part of Appendix 3.

Local government institutions were created legislatively in a series of actions and phases after 1994 and lack institutional protection, fiscal independence, or administrative control over their employees. Even metropolitan authorities are considered to function largely as social service delivery systems, rather than as political decision makers, though the former is an important function in South Africa. Although South Africa functions entirely within the framework of its written Constitution, it remains a country that is highly centralized politically, fiscally, and administratively. There is no direct local government representation at the provincial or national levels (though there is token representation of local government in the NCOP) and the two levels of government, provincial and local, function with different mandates.¹ Local government is not considered a provincial sub-unit although they do have (a sometimes confusing) shared responsibility for policy implementation.

1.3 CONTEMPORARY POLITICAL CULTURE AND THE LOCAL GOVERNMENT REVOLTS

The transition to non-racial government in South Africa largely occurred through the intersection of domestic and international pressure; an external revolt led by the ANC, the Pan Africanist Congress (PAC), and the South African Communist Party (SACP); as well as a series of internal local-level challenges to authority in both urban and rural South Africa by organized groups of non-white (African, Indian, and mixed-race) South Africans assisted by a small but strategic group of white supporters. Rural revolts have also long been an important part of the resistance process beginning with a series of revolts within the first decade of the twentieth century in

¹ In terms of the Intergovernmental Relations Framework Act, the South African Local Government Association (SALGA) is accorded somewhat ineffectual representation in various forums, including the Premier Forum, National Coordinating Council and NCOP in the Fiscal and Financial Commission, and at the provincial and national levels.

Pondoland, Zululand, and Sekhukhuneland, moving to the 1940s revolt in Witsieshoek, and to the Transkei revolts in the 1950s (Mbeki, 1964).

Beginning in 1960, with the PAC challenges in the Sharpville and Cape Town protests, political challenges came from urban townships inspired by the PAC and ANC. The Soweto schoolchildren's revolt against use of Afrikaans as a medium of instruction in 1976 brought to a head a festering series of challenges to apartheid led by a group who followed black-consciousness leaders such as Steve Biko. In the 1980s, the United Democratic Front (which was only partly the public face of the outlawed ANC) arose out of the township challenges to the racially defined reforms of local government and the racially segregated, so-called, tricameral Constitution.

There are four components to South African political culture (see Adam and Moodley, 1993; Sisk, 1995), which became apparent during the negotiations on non-racial government between 1990 and 1994, and during the post-apartheid period. First, **political leadership both during the apartheid period and afterward has tended to be hierarchical**, with the party leader forming an authoritative (and critics suggest authoritarian) relationship with the masses within the party. Challenges to party leadership, while possible, do represent a dramatic change of form and substance. F.W. De Klerk's challenges to P.W. Botha and Jacob Zuma's challenge to Thabo Mbeki both represent such challenges to established policy and party authority.

Ideology remains a second, and debated, characteristic of political culture. Neither the National Party nor the ANC historically had strong concerns about market conditions or private enterprise. Both looked to state control of the economy, and apartheid South Africa was littered with inefficient public corporations which provided "jobs for pals" among the Afrikaner faithful. The ANC continues to see a role for mass mobilization, particularly during times of crisis, and sees the public sector as the basis of affirmative action which distributes jobs (and deploys its cadres to most strategic positions) to its followers. Only the opposition Democratic Alliance party is explicitly oriented toward market forces and small government liberalism.

Third, and as many observers question, the **liberal bona fides of the political elites in the long run are uncertain**. Political institutions in South Africa remain fragile. The ANC remains only partly comfortable with political liberalism, while embracing individual freedoms to a greater degree than most parts of Africa, let alone other parts of the developing world. The continuing intellectual role of the SACP and the influence of labor unions dedicated to industrial democracy both suggest that debates about liberalism have not been entirely resolved (Marais, 1998, represents this perspective).

Ethnic and racial divisions, as illustrated by the recent sensitivities linked to the killing of a white supremacist leader, Eugene Terre Blanche, are a fourth component of South African political culture, and remain unresolved. There is little social or political mingling while the economy remains largely segregated except among intellectual, economic, and political elites. There is an intellectual leadership within the ANC which is ethnically diverse (and both it and the SACP are influenced by white intellectuals) but little of this impacts on society in general. Ethnic and linguistic sensitivities likewise remain, heavily discouraged but not muted.

1.4 SUB-NATIONAL GOVERNMENTAL STRUCTURES: 1994–2010

There is an institutional framework for decentralization that is based on three things: (1) the 100-year history of white, local government which goes back to the 1890s in the Cape; (2) the urban base of challenges to apartheid which focused resistance in large part on segregated, local government structures in the 1980s; and (3) a series of constitutional and legislative arrangements that evolved out of the negotiations between the National Party and the ANC between 1990 and 1994. This legacy has affected the administrative and political interface in local government between 1994 and 2010. Many of these mechanisms are well established (and institutionalized) but some are more transient or fluid.

Observers saw successful completion of the local government components of negotiations as critical to the successful completion of the negotiations leading to non-racial elections and a democratic government. The “political moment” when decentralization was delineated occurred during the ANC-National Party negotiations at the Johannesburg World Trade Center between 1990 and 1994, and specifically in the breakthrough of those negotiations which occurred after the 1992 escalation of violence in several townships and at Bisho in the Ciskei which brought both sides back to the negotiation table from the brink of failure (Sparks, 2003, pp. 142–152).

The sequencing of decentralization in South Africa is complex. The rationale for decentralization at both provincial and local government levels came out of the negotiations between the ANC and the National Party. The timing of decentralization, relative to other major governance changes, was based on the negotiation process. Political decentralization came first, as a result of the 1990–1994 negotiation. That said, it was introduced atop a set of administrative and fiscal practices that had been introduced much earlier and conformed to the late-apartheid policies of P.W. Botha in the 1980s. These fiscal and administrative procedures in part remain in place.

The timeline for negotiation on provincial and local governments was defined by civil conflict (the anti-apartheid struggle), four years of negotiations, and by the constitutional changes which followed. As a result, there was a reverse sequencing of decentralized governance, as it was initially linked to a broader democratization and preceded state reconstruction. As democracy became more entrenched, sub-national government came more under centralized control. Thus, decentralization, as a component of the negotiation process, *preceded* rather than *followed* the consolidation of majority rule. To put it another way, as political stabilization increased, there centralization in South African government increased rather than the other way around.

Negotiations regarding the provincial level had focused on the extent to which provinces would have federal elements as opposed to devolved authority or merely deconcentrated responsibility. Public services after 1994 continued to be supervised at the national level through central government ministries which were linked to their provincial-level counterparts in deconcentrated relationships. Local government service departments, such as health, education and water, were linked directly with the national ministries and reflected principles of deconcentration.

After 1994, the ANC remained ambivalent about provincial government, with some in the movement calling for its abolition and others demanding that it be shorn of political autonomy. By the end of the Mandela administration in 1999, much of the political autonomy of provinces had been removed, especially in those provinces controlled by the ANC. Provinces became more administrative in nature and were also characterized by significant corruption (Picard, 2005, pp. 292–296).

At the local government level, focus was on the integration of black and white units of local government and the creation of entities which incorporated all segments of the population into devolved political units. The National Party looked to create small units. The ANC looked to larger units, and in large cities to the creation of metropolitan entities. As was the case with most elements of the negotiation process, the ANC was able to get its way, resulting in large urban and (in six cases) metropolitan governments which, in practice, were also more deconcentrated than devolved. The aim of the non-racial ANC-dominated government after 1994 was to increase the administrative capacity of local authorities to deliver services (Atkinson, 2003), not to increase citizen participation in their local governments.

There were two elements of concern the ANC-led government had with decentralization: ideology and political control, and perceived weak and corrupt sub-national governments. ANC leaders believed in a planned process of economic development, even within the framework adopted after 1996 of market principles. This meant that it did not wish to see deviations from its policies, as has been the case at various times in Natal and the Western Cape, and occasionally in opposition-led local governments in medium and small municipalities even outside of the Western Cape. Sub-national governments were perceived by both the ANC leadership and the public to be administratively weak and corrupt. This led to increased central government control of the fiscal authority of provinces and local authorities after 2000 (Freund, 2006).

Several political, social, and economic factors help explain support for decentralization as well create limits to it. Politically, opposition to the ANC plays itself out at the provincial and local government levels. Opposition from both the left and the right is geographically defined. Politics remains intimately defined by regional, political culture in South Africa. The social dimensions of provincial, and especially of local government, continue to be determined by racially defined distinctions. Residency, service delivery, size of local government units, and taxation issues all relate (if only obliquely) to race and residential patterns—which remain, except for a narrow elite, largely segregated. Provinces are racially and ethnically distinct and retain elements of the ethnic divisions of the homelands that preceded them. The desire to decentralize can be interpreted as—and often is—a desire to escape the consequences of majority rule, or at least of ANC control.

The Northern Cape, the Western Cape, and Natal have large numbers of non-African groups (white, mixed-race, and Asian). Only 25 percent of the population of the Western Cape is African, a fact that makes its politics much different from its more northern, neighboring provinces, particularly in the four provinces which were carved out of the old Transvaal (Picard, 2005, p. 313). In turn, it is the magnitude of South Africa's largest cities, and especially Johannesburg and Cape Town with their immense social problems, which have defined economic reform and its absence. South Africa, rhetoric to the contrary, is a moderate state which has managed a growth-oriented, liberal, and privatized economy. Urban poverty, and the crime which accompanies it, remains the unfinished business of South African politics (Bond, 2002).

1.5 INTERMEDIATE OBJECTIVES OF DECENTRALIZATION: AUTHORITY

Authority over sub-national government is defined constitutionally—by the nature of the ANC's political culture of centralized control, and through historic patterns of state relationships with sub-national government in South Africa. The balance between national, provincial, and local

governments, inherited at the time of majority rule from the National Party and from earlier regimes, has remained constant if de-racialized. South Africa is a unitary state, with sub-national governments playing a largely deconcentrated, social service delivery role, though with elements of opposition located in certain geographical areas. This deconcentrated centralism has contributed to the stability of the South African political system in the 16 years since the beginning of non-racial government, but has also meant an increasingly depoliticized and in some cases alienated electorate (see Bond, 2000 for a discussion of this).

The evolution of the current structure and institutions of decentralization, in terms of governance, and institutional arrangements, can be divided into three parts. The first stage was in 1994, when the interim constitution came into place. This constitution was more federal and devolved in nature than the later permanent Constitution. Second, the 1996 permanent Constitution removed most of the federal elements in national-provincial relationships and defined a more unitary system of government. A third period began post-2000, when a series of legislative decisions and executive actions created a more centralized and streamlined local government system by reducing the number of local authorities and strengthening national controls over them (Sparks, 1995, p. 18; Appendices 3 and 4). The result was more of a deconcentrated policymaking and implementation process than a devolved one.

The legal framework for decentralization rests in the 1996 Constitution and amendments which have shaped the *de jure* responsibilities of provinces. Legally, provincial and local levels of government all have *de jure* legislative and executive authority in their own spheres. Provinces are referred to legally as spheres of government, thus denying them a more autonomous federal-style relationship to the center. Provinces have exclusive jurisdiction in only a few areas related to infrastructure development, such as roads, recreation, and the management of certain environmental policies; and in constitutional functions, including boundary definitions and the provincial role in the upper house of parliament, the NCOP (or Senate).

Most of the authority enjoyed by provinces is characterized by concurrent powers, where power is shared with a dominant national government. Provinces have structural integrity in that they have a full set of political and administrative institutions including a regional head of government, the premier, who serves as chief executive; a provincial legislature; and, on paper, a fully developed administrative system with provincial ministries. The reality of provincial government is that 96 percent of a province's budget is derived from transfers from the central government and 98 percent of national revenue comes out of user fees and central government taxes (Roberts, 2002).

Provinces have only limited authority over areas in their sphere, including over local government, since almost all authority is concurrent between the provinces, municipalities, and the center. Through concurrent powers and national legislation, provinces carry a great deal of devolved and deconcentrated responsibility, although much of it consists of unfunded mandates (Roberts, 2002). The province's ability to collect taxes is limited by national legislation and historic precedent, while provinces with strong opposition party influence tend to better utilize own-source revenue options. Western Cape, which is usually controlled by the national opposition, the Democratic Alliance, has, according to press reports, a better reputation for service delivery and performance.

The most important limitation on the autonomy of provinces is the vagueness of their authority in the Constitution, and the clear presumption of authority by the national government in both

behavior and substance from both a legal and a political perspective. In disputes between the national government and the provinces, after challenges it is usually the view of the national government which prevailed (Roberts, 2002, p. 3). Much of the funding transferred to provinces is in the form of block grants. However, national legislation defines virtually all provincial responsibilities.

Both provincial and local government legislators are directly elected on political party lists, and candidacies are determined by party nomination. Elections at all levels of government are internationally accepted as fair and free. National and provincial legislatures have five-year terms, with the president and provincial premiers both being dependent upon a majority of the legislative body to stay in office. Local government elections also occur in five-year cycles. All are based on one person, one vote, though because of the use of higher-level district councils in the rural areas, rural voters enjoy a slight advantage in terms of weighted voting. Though the ANC is the dominant party in South Africa, close to a dozen political parties are represented at provincial or local levels across the country.

Local government performance has provided a significant challenge for South Africa. While the country has made great strides in economic development, social equity has worsened and local governments have failed to address issues of social service delivery. Like provinces, municipalities (the generic term for local governments) are almost entirely financed by transfer income, with the exception that the large metropolitan area such as Johannesburg and Cape Town collect as much as 97 percent of their revenue. In the last five years, the South African government has admitted that municipalities have come under increased stress and carry unacceptable levels of unfunded mandates (Schulz-Herzenberg, 2007, p. 138).

During 2006 (and beyond), South Africa has experienced a significant number of public demonstrations and incidents of violent reaction to the ineffectiveness of local authorities in the delivery of social services (Atkinson, 2007). Bureaucratic inefficiency, political arrogance, corruption, and resistance to tax collection were all blamed for the local government crisis of 2006–2007 (Cuthbertson, 2008).

Authority outside of the national sphere is both deconcentrated and delegated. National programs in education, health, housing, water, and land use all follow deconcentrated patterns in South Africa's departments and sub-national authorities. The South African state has historically owned a wide number of public enterprises and other parastatal bodies, which carry major social and economic responsibilities for the country. Large sections of the economy have been controlled by these autonomous bodies under delegated authority. In practice, these bodies historically were used to recruit large numbers of Afrikaans speakers into the public sector in the 1920s and 1940s, and many of them are now used to meet the current government's affirmative-action goals. Sectors of the economy historically under government control include agricultural production, water, electricity and energy, manufacturing, telecommunications, radio and television, transportation, mineral development, tourism, and defense and weapons management. (See the essays in Wessels and Pauw, 1999.)

In the late-apartheid period, the South African government, including the homeland governments, owned or controlled over 40 percent of the economy. Currently, government participates in less than 25 percent of economic activity, though it still owns economic entities in several strategic sectors. Public corporations are legal entities, with autonomous boards, selected

by the government and in certain cases by interested groups, and except for scientific and social parastatals, legislated as commercialized entities.

Overall, only limited powers and resources have been devolved to sub-national government in South Africa. Most authority and the bulk of fiscal resources have been deconcentrated or delegated to departments and public authorities. Moreover, the shortfalls of money at the provincial and, most importantly, local government levels, have been significant and show signs of increasing rather than decreasing over time. While the delegated sector appears to be shrinking as a component of the public sector, according to academic observers (Bond, 2002), a culture of oligarchy seems to be evolving in South Africa which combines political and bureaucratic inefficiency with political arrogance and disdain for media scrutiny and public openness (Cuthbertson, 2008) .

1.6 AUTONOMY

Sub-national autonomy reflects the extent to which local and regional governments can take political, administrative, and fiscal decisions with some degree of independence from central government. This is often eroded by a poor understanding of the principles of separation of party and government by members of the ruling party. The autonomy that sub-national governments have with respect to the center in South Africa is limited. This is a characteristic of South African government that ironically has changed little before and after the end of the apartheid regime. As noted above, South Africa, legally and politically, is a unitary state with high levels of centralized policy control mediated, however, by uneven patterns of implementation caused by inefficiency, corruption, and limited fiscal resources. This fact seriously limits autonomy of sub-national government in South Africa.

Patterns of reporting by sub-national institutions are defined by electoral policy and administrative practice. Provincial and local elections are controlled by the country's political parties, and except for the Western Cape, in effect by the ruling ANC. Since 2001, all ANC party lists at the provincial level have been prepared or reviewed by the national organs of the ANC. Except for pockets of opposition, such as in Natal, the Northern Cape, and the Western Cape, the ANC is likely to receive between two-thirds and three-quarters of the popular vote in any given election. Political loyalties also penetrate deeply into the civil service, beyond those offices that are scheduled as political: *de facto* political appointments penetrate deeply into the administrative system and patronage appointments are widespread. Political corruption is linked to patterns of appointment and political loyalty throughout South Africa (Lodge, 2002, p. 129–152).

Sub-national governments have access to revenue on the basis of what in South Africa is called “equitable-share-revenue” (see Appendix 4). Compared to many developing countries—especially other countries in Africa—provincial and local government revenue is both extensive and relatively secure. However, public expectations of government services were high in 1994, though they have decreased since. Virtually all access to revenue is through transfer income except, as noted, in the country's largest cities. However, South Africa's revenues are inadequate to cover decentralized responsibilities and little money is available for developmental activities. The country suffers from a classic unfunded mandate problem. Appendix 4 provides additional information on these processes and problems.

The revenue problem is twofold. The primary national taxes on individuals are a national income tax and a value-added tax. Sub-national authorities are restricted in the extent to which they can

raise taxes on their own. Rural local governments (but not district authorities) actually have legal leeway to raise additional revenue, including property rates, and user charges/electricity. The main constraint is the lack of a tax base and the poverty of most rural local residents. Second, South Africa also suffers from resistance to tax payments, which was inherited from the late-apartheid period, and despite attempts to encourage or enforce tax payment (the so-called Masakhane campaign), sub-national government access to revenue is limited and may be decreasing on a per capita basis.

Sub-national governments, as noted previously, have little authority to collect their own taxes or user fees. Their main source of income is through property taxes. There continue to be calls to reform South Africa's property taxes to provide better for local government revenue and extend property taxes to excluded areas. While taxes are collected at the 95 percent level in formerly white areas, taxes on property and services are low in historically black areas and nonexistent in former homeland areas.

The nature of control over expenditures and spending patterns is centralized and uncertain and likely to remain so. Observers suggest that significant amounts of government money (according to press accounts) disappear through ghost workers, corruption, and administrative waste. There continue to be reports of large numbers of ghost workers in South Africa, particularly at provincial levels (Wittenberg, 2004; Picard, 2005, p. 331–332).

Local, administrative control over public sector employees is limited and intermittent. In principle, administrative control (recruitment, payment, discipline, retention) are controlled by national policies formulated and reviewed by the national Public Service Commission (PSC) and implemented by provincial and local government administrative heads. However, in practice the supervision of public sector employees/administrators is both formalistic and, in many cases, based on patronage relationships. Many positions are considered sinecures.

Administrators tend to be managed erratically and have little capacity to practice what is sometimes called administrative entrepreneurship.² Formally, civil servants report to their superiors and it is their unit head who evaluates them. Assignment of administrators to their administrative posts (geographically) is through the Ministry of Public Service and Administration of South Africa (MPSA) with review by the PSC. The MPSA recruits for the civil service, vets candidates, and refers multiple choices to departments and offices. In practice, many provincial and local government administrators function without supervision for long periods of time.

Provincial administrators fall under the control of the MPSA while local government administrators formally fall outside of the civil service and are supervised through the South African Integrated Provincial Support Program, as are national and provincial delegated entities. The South African government, however, heavily regulates local government officials, and the government is committed to creating a unified public service which incorporates all levels of government. Even the South African government admits local government has suffered from political interference from time to time in hiring and patronage, and from corruption.

² One might note the role played by the annual independent audit provided under the Municipal Finance Management Act (MFMA), the role of the Auditor General, internal audits and Standing Committee of Public Accounts (SCOPA), imperfect though these mechanisms might be in addressing irregular activity.

1.7 POLITICAL ACCOUNTABILITY

In terms of political accountability, provinces and local authorities are devolved bodies, though with limited powers. Both are elected on a partisan basis during regularized national elections. The electoral process, which is considered free and fair by international standards, serves as the fundamental mechanism of political accountability. Elections and responsible government are based upon political party majorities and a party list system at the national and provincial levels, and party-based elections at the local government level.

Both provincial and local governments have elected political heads based on majority control of the legislative body. Politically, provinces are headed by a premier and an executive council, which functions as a provincial cabinet. The provincial administrative authority is housed in a provincial administration headed by a director-general, with directors heading provincial departments (sometimes referred to as ministries). In theory, the civil service is nonpartisan and selected by merit, but in practice, senior administrators have been loyal to the governing political party, the ANC, since 1994.

Virtually all urban centers now function with executive mayors who are supported by a city manager and functional staff. Smaller municipalities function with executive administrators, titled municipal managers (formerly town clerks). While the structure and process of local government administration is English-style administration, the post-1994 municipal structures are continental and incorporate rural and urban areas into the same municipality. Municipalities are graded according to size and authority.

Formally, South Africa's national government departments function on the basis of deconcentrated authority, as in theory do provincial departments. In practice, there is a great deal of ambiguity in relationships between political and administrative leadership at all levels, and often confusion about roles and responsibilities within government units. In practice, South African government, at all levels—national, provincial, and local—operates on the basis of cooperative governance, which suggests a centrally defined mission and strategy. Critics of South Africa's government suggest that the system at all levels is characterized by high levels of patronage, rent-seeking, and embezzlement (Picard, 2005, p. 245–280).

Political party systems are historically strong and based upon a fused-government style of party discipline that is common in continental Europe. A strong ideology and an orientation toward development planning are important components of this process. Party discipline has been particularly strong within the ANC. Private member bills and maverick legislators at any level of government are uncommon. There have been a number of political splits and realignments between and among South Africa's political parties, including a split within the ANC, with a splinter group (seen to be aligned with former President Thabo Mbeki) forming a new political party, COPE, in 2008 before the last elections. The party made some inroads into ANC support at the provincial and local government levels and is now the third largest party in South Africa. A further party realignment is expected in the next national and local elections in 2014.

In ANC-dominant areas, the party functions as a virtual one-party system, with local representatives, key civil society leaders, and senior (and often mid-level) administrators all functioning from within the umbrella of the political party "movement." This is in part a legacy of the organization's image as a broad-based, mass movement in its struggle against apartheid. In several provinces (Western Cape, Northern Cape, Gauteng, and Kwa-Zulu Natal) where there is

significant opposition to the ANC (opposition parties are able to approach 40 percent of the votes), political representation takes on a more neutral, multiparty form and administrators are more sensitive to political neutrality, though in the Western Cape there is a built-in loyalty among bureaucrats to the Democratic Alliance. Where opposition is stronger at the local government level, patterns of administrative neutrality are similar to that of provincial levels.

At the municipal level, in ANC-dominant provinces, there continues to be a considerable amount of loyalty to national party leadership, particularly in larger cities. In smaller cities and rural areas, there is considerable informal loyalty to provincial party leadership. However, the links between the grassroots and the national party leadership remain strong, and the ANC continues to aspire to and function as a mass-mobilizing party though less issue driven than patronage based, and using ethnic and racial loyalties to continue to solidify its support.

Elections are fought less on the basis of national issues (and still less because of regional and local issues) than on historic loyalty to the anti-apartheid movement and the ANC's role in it. Though public opinion polls often show dissatisfaction with government policies within the electorate, this does not translate into support for opposition movements, even those with origins in the anti-apartheid struggle.

Concerns over the increasingly sluggish, openly elitist, and increasingly closed system of political leadership within the ANC are cause for concern among journalists and academics alike. The inability of opposition parties to make themselves relevant at the national level appears to have limited their ability to challenge state authority at provincial and local government levels.

1.8 FISCAL AND ADMINISTRATIVE ACCOUNTABILITY

There are a number of mechanisms on paper that are available and intended to ensure fiscal accountability in South Africa. These include internal and external auditing requirements which are typical of governments around the world. It is fair to say that fiscal accountability in South Africa compares favorably with the rest of Africa and throughout the developing world. A first set of mechanisms are those available to central government, which can be used to monitor or control provincial and local government spending. These include budget rules and reporting requirements. The South African Fiscal and Financial Commission has played a major role in advising on the division of revenue, the fiscal stability of provinces, and on special development needs at provincial levels. As has been stated, fiscally, South Africa operates in a highly centralized manner.

Administrative accountability mechanisms exist, in theory, at all levels of government. These focus on control of bureaucratic behavior at the national, provincial, and local government levels. These mechanisms are intended to monitor and control administrative behavior. They are common to central and provincial administrators but are also designed to monitor local government officials. In practice, they tend to be formal and unsystematic in their application.

Other accountability mechanisms are said to be available to sub-national actors and civil society to control local administration and civil servants. Metropolitan, district, and local-level institutions all have political, administrative, and fiscal mechanisms designed to support decentralization. These tend to work better in larger metropolitan areas and in the formerly segregated white areas. There are well-developed ratepayer associations in the northern suburbs of Johannesburg, for example, and neighborhood watch associations as well. Urban social groups

and associations would be familiar to residents of North American middle class neighborhoods. According to the ANC, these popular mechanisms are a part of the civic tools available to monitor local government activity.

There is evidence available which suggests occasional divergence between proposed and actual expenditure and revenue patterns. That said, South African fiscal monitoring is generally well managed at the national and provincial levels (Institute for Democracy in Africa [IDASA], 2008b). South Africa has had a history of revenue collection operating in surplus to budgetary predictions. There is some evidence that at the national level, however, that parliamentary fiscal monitoring mechanisms vis-à-vis the executive are weak. Nor is the National Treasury always forthcoming in terms of either amounts or explanations when mistaken estimations occur (IDASA, 2008b). Some observers have also questioned the capability of the South African Revenue Service (SARS) to collect taxes. Others see SARS as a high performer, and as the department against which to benchmark other departments or entities. Such differences illustrate some of the unknowns of South African public administration.

Fiscal information becomes murky at the provincial and—especially—the local government levels outside of the major urban administrations. Over 50 percent of local government revenue comes from user fees and other cost-recovery mechanisms. The rest comes from property taxes and revenue sharing. Critics suggest that this is a negative in terms of expanding social services (Hoffman, n.d.) While formal fiscal management is quite rigid, there is some evidence that rather than monitoring revenues and expenditures, strict fiscal mechanisms hinder sub-national officials who try to implement policy.

1.9 SUB-NATIONAL CAPACITY

The revenue-generating capacity of sub-national governments is limited by legislation and executive practice. That said, the problem in South Africa is less resource availability (though that is a problem in urban slums and rural areas) than weak administrative skills and systems which limit the ability of sub-national government to implement programs. A further problem, to some critics, is the utilization of user fees to deliver services, which limits the extent to which social services can be delivered to the 40 percent of South Africa's population that is poor and unemployed. This is combined with a steady loss of skills at the local government level outside of the metropolitan areas since the late 1990s. According to one observer (Atkinson, 2007), this has meant local government has failed from service delivery and developmental perspectives.

There are forces in the academic community, media, and nongovernmental organizations (NGOs) that continue to press central government to promote increased levels of political decentralization in South Africa, and increase capacity for service delivery and development promotion. Capacity levels are in part contextual. South African academics and political activists tend to be critical of government capacity at all levels. This is normal but it should be remembered that in comparison with public sectors in the rest of Africa (and indeed in other parts of the developing world), the South African government is both efficient and effective.

Government departments have technical specialists available to support decentralization. The Department of Provincial and Local Government (now renamed the Department of Cooperative Governance and Traditional Affairs) is the primary vehicle providing administrative support to all provincial and local governments, including the newly strengthened traditional

administration. After several years of ambiguity regarding traditional authorities, the government now sees a strategic governance role in rural development for traditional leaders.

The Treasury Department and the several commissions that support sub-national government fiscally are also in the process of setting up regulatory and operational frameworks. Focus in the last two years has been on the government's new policy to strengthen local government capacity (Government of South Africa, 2009). The Public Administration Leadership and Management Academy (PALAMA) coordinates capacity building, but the myriad of university and institute educational and training programs delivers it. These programs are a rich source of capacity-building systems, which are only partly taken advantage of by the Government of South Africa.

There have been several earlier attempts to strengthen sub-national government. However, all have faced two fundamental problems. First, there is a shortage of skilled persons in the public sector generally. Second, there is an inexorable movement of trained people into central government or, more lucratively into the private sector. The ineffectiveness of these earlier programs illustrates the limits of capacity building to increase technical and administrative skills, deliver social services, and promote local development at sub-national levels.

2.0 THE POLITICAL ECONOMY OF DECENTRALIZATION POLITICAL INCENTIVES AND CONSTRAINTS

2.1 DEMOCRACY AND THE NATURE OF SOUTH AFRICA'S ELECTORAL PROCESS

The legal basis for the South African electoral system is derived chiefly from the Constitution of the Republic of South Africa of 1996, considered one of the most democratic constitutions in the world (Sparks, 2003, p. 84). It is supplemented by a series of acts that define participation in the South African political system including the Electoral Act 73 of 1998 and the Electoral Commission Act of 1996 and the Public Funding of Represented Political Parties Act of 1997. Elections since 1994, at all levels of government, have been free and fair by virtually all international standards

Sub-national government is defined constitutionally (with entrenched privileges for provinces coming out of the negotiations and the interim constitution of 1993). Local government is covered by the Municipal Structures Act of 1998, the Municipal Demarcation Act and Municipal Structures Act of 1998, the Electoral Commission Act of 1996, and the Municipal Electoral Act of 2000. As one seasoned observer has noted, the problems of South Africa were not in the progressive nature of the country's basic laws but in the ability of South Africa's politicians and administrators to implement them (Sparks, 2003).

The electoral system in South Africa is based on direct universal adult franchise with proportional representation within the National Assembly for participating political parties. The National Assembly, in turn, elects the president. Elections for the National Assembly occur every five years with the president elected by each new National Assembly (Government of South Africa, 1996). For elections in the national Parliament and provincial legislatures, South Africa uses a party-based list system which distributes seats to all political parties that receive at least one percent of the vote. It redistributes unused seats according to a formula to ensure a close match between the percentage of vote the party receives and its percentage in the legislature.

Several electoral institutions have been established to ensure fair and competent elections across the three levels of government. These include the Independent Electoral Commission of South

Africa (IEC) and the Electoral Court (Government of South Africa, 1996). The IEC is principally responsible for the management of elections at all levels of government, to ensure elections are free and fair, and to declare the results in as short a time as possible. The Electoral Court is meant to review decisions of the IEC. Since 1994, there have been few electoral irregularities (outside the somewhat chaotic 1994 election), and those that have occurred were easily resolved.

The IEC is responsible for determining the number of seats allocated to each constituency in national and provincial elections with the nine provinces serving as constituencies. The IEC is further obliged to conduct voter education programs and thereby promote what it calls knowledge of sound and democratic electoral processes.

The Constitution of South Africa enjoins electoral institutions of the country to be independent. In this regard, members of the IEC are appointed by the president on the recommendation of the National Assembly, following nomination by a National Assembly interparty committee. Members of the IEC may be removed for misconduct, incapacity, or incompetence by the president on a resolution of the National Assembly. The Electoral Court is conferred the status of a Supreme Court and membership is made of individuals appointed by the president at the recommendation of the Judicial Services Commission.

Membership of the National Assembly starts with the nomination of candidates from lists prepared and submitted by registered political parties. A similar process is used for the provincial assemblies. The funding of political parties in South Africa is partly through the public purse, roughly in proportion to their representation in the National Assembly and provincial legislatures, and through private fundraising, especially during campaign periods.

2.2 LOCAL GOVERNANCE AND MUNICIPAL ELECTIONS

The Municipal Demarcation Act, which was written to determine municipal boundaries, established an independent Demarcation Board. The Act provides the board with the criteria and procedures to determine municipal boundaries. The Act stipulates demarcation objectives meant to enable each municipality to fulfill its constitutional obligations and to provide democratic and accountable government for local communities. The legal framework for local government is often a part of informed discussion in South Africa. The legal details of intergovernmental relationships are discussed in Appendix 3.

The Demarcation Board (a controversial organization in South Africa) is appointed by the president and consists of a full-time chair and between seven and 15 members. With regard to voter registration, the government maintains a common voter roll, and general registrations are conducted periodically. Municipal councils, like their counterparts in provincial and national government, are elected every five years. Local government elections are held separately from national and provincial elections.

There are currently 283 municipalities in South Africa divided in three categories. There are six metropolitan (or metro) councils, referred to as Category A local governments and there are 231 local councils, referred to as Category B, which cover the rest of the country. There are 46 higher-level or district councils which bring together local councils in the rural areas and in small towns to provide economies of scale for service delivery. District councils are referred to as Category C local governments. Voters are allowed to vote only if they are registered on the voter

roll for a particular voting district. In South Africa, there are two main types of elections: one for metro councils and one for local councils (which includes district council elections).

South Africa's local elections use a mixed system composed of proportional representation (PR) as well as a ward system; at the metropolitan level, there are two ballots: a ward ballot and a proportional representation list ballot. In local councils with wards, there are three ballots: a ward ballot, a proportional representation local council ballot, and a district council proportional representation list. In local councils without wards, there are two ballots: a proportional representation list for the local council and a proportional representation list for the district council.

Ward candidates may stand as representatives of parties or as independents but in effect almost all councilors are members of parties. The PR ballot is given to each voter to vote for the party of his/her preference. The parties will then be given seats according to the percentage of votes that they received in the municipal area as a whole. Parties consult a party list submitted to the IEC and the councilors are drawn from this list. Concerning large, metropolitan councils, sub-councils may be established and councilors may be elected to serve in those structures.

Elections for municipal councils thus are a combination of ward representation and a proportional representation system with 40 percent distributed from proportional lists and 60 percent elected from wards. The purpose of ward representation is to ensure that there is individual identification with a local representative in individual electoral districts. The election of local government officials, according to Atkinson (2007), is made largely on the basis of symbolic, historic issues and party loyalty rather than issues of policy or implementation. Thus far, electors do not appear to be affected by patronage and corruption at the sub-national level.

District councils play a unique role in the representation of rural South Africa. Apart from voting for the local council, every voter also votes for the district council of which his or her local area is a part. The district municipality ballot will have party names on it and the seats will be allocated proportionately.

Not all of the councilors serving on a district council are directly elected. Only 40 percent of the seats will be given to parties based on the votes they got on the PR ballot. The remaining 60 percent of seats on the district council will be allocated to the local councils in that area. Each local council will be given a number of seats and must send councilors from their ranks to fill those seats through indirect representation. The seats are to be filled according to the support that parties have in a specific local council. For example, if a local municipality is given five seats on the district council and the ANC gained 60 percent of the seats on the local council, the ANC councilors should fill three of the five seats. The other two seats should be allocated to other parties according to the number of votes received.

2.3 TRANSPARENCY AT THE LOCAL LEVEL

The South African system of government relies on the following principles and institutions to promote and safeguard transparency at the municipal level. These include the constitutional and legal framework; electoral process; role played by the IEC; and roles played by the media, watchdog groups, and civil society. The constitutional and legal architecture of South Africa is designed to promote and safeguard fundamental freedoms and human rights. Further, a plethora

of legislation exists including that used to establish institutions such as the Public Protector. Electoral law provides for mechanisms to address transparency in the electoral process.

A dominant feature of the South African electoral system is the adoption and entrenchment of the hybrid (proportional and ward) system. This, by its very nature, is inclusive in its coverage of electoral voices in the country and hence guarantees the participation and representation of minority and disadvantaged groups including women. The formation of the IEC as a statutory body with levels of independence provides avenues for all stakeholders to participate unhindered. The manner in which it is constituted and the nomination process for office bearers is designed to guarantee transparency and hence impartiality. Its mandate is clear and adequately funded to execute its functions.

There are no legal restrictions that affect electoral participation in South Africa. Nor does the ANC dominant party monopoly result from electoral legislation or administrative practice. That said, there are a number of what are referred to in South Africa as “no go” areas where minority parties are not able to access communities or campaign freely. Further, while the written press is considered free, the media (except for private radio stations) shows evidence of bias toward the government of the day. South African wags tend to refer mockingly to the South African Broadcast Corporation (SABC) as the “SANC.”

Other than the special arrangement for indirect representation from local councils to district councils and the rather toothless NCOP, there is virtually no special representation at national, provincial, or local levels in South Africa. This is no doubt a legacy of the resistance to the racially based, non-democratic elements of the P.W. Botha regime. Nor is there appointed leadership to council chairs, or appointed members to seats in local government institutions. The role played by traditional, but not democratically elected traditional leaders remains a somewhat controversial one in South Africa.

South Africa has a rich history of citizen participation and political activism in terms of the “civics”³ and local government processes. Consequently, the newly established local government system placed citizen access and participation at the center of its electoral, planning, and budgetary processes and accordingly enacted several pieces of legislation and policies to put this into effect. For example, *Batho Pele* Principles (People First), the Municipal Structures Act & White Paper on Local Government of 1998, the Municipal Systems Act of 2000, the Municipal Finance Management Act of 2003, the Municipal Property Rates Act of 2004, the Guidelines for Operation of Ward Committees of 2005, and the National Policy Framework for Public Participation of 2007, all call for active participation and input from the public in the local government and planning process. Meetings and report back sessions are a part of South Africa’s political culture.

Despite all the legislation, policies, and participation mechanisms in place, many analysts believe public participation is still not effectively achieved in South Africa, and what does occur is often largely symbolic. A major challenge highlighted by local government representatives and officials is the costly nature of public participation. The majority of South Africa’s local governments are cash strapped and have a limited tax base, thus limited resources can be

³ Civic groups in South Africa refer to the grassroots organizations that developed in South Africa’s black urban townships in the 1980s to challenge apartheid. They were affiliated through the United Democratic Front, remain linked to the ANC (in most cases) and are still actively involved in civil society.

committed to public participation. This is despite the fact that government, through the National Policy Framework on Public Participation, calls for municipalities to institutionalize public participation. Exactly how municipalities will achieve effective participation without the necessary resources is not clear.

To summarize: local government in South Africa is not autonomous but fits into a system called “cooperative governance” that reflects the national perspective of the ruling party, the ANC. Local-level political elites tend to be ANC activists and members of local civil society institutions. Many elites are able to demonstrate their leadership credentials through their history in the liberation struggle. The nature of associations of local government and other supportive civil society institutions concerned with sub-national governance, and the existence of traditional parallel local-level governments is part of a whole governing party network at all levels of government—national, provincial, and local. The rituals of participation are provided for, but are often largely symbolic and visual. They also reflect the lingering characteristics of the ANC as an aging one-party system.

“Cooperative governance” is crucial to understanding intergovernmental processes in South Africa. Section 154 of the Constitution calls for the establishment of the principle of “cooperative governance” in South Africa’s local government relationships. In short, national and provincial governments are called on to support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers, and to perform their functions. Draft national or provincial legislation that affects the status, institutions, powers, or functions of local government must be published for public comment. At the same time, “cooperative governance” is resisted by opposition parties who see it as essentially a mechanism to impose ANC policies on sub-national government.

The Intergovernmental Relations Act of 2005 was enacted to implement the principles identified in the constitution. The legislation provided for establishing structures and institutions to foster intergovernmental relations and promote “cooperative governance.” The Act further called for coordination of the implementation of policy efforts and legislative arrangements between national, provincial and local governments, and all organs of the state within government. It attempted to promote coherence in government; the effective provision of services; monitoring and implementation of policy and legislation; and the realization of national priorities. The most important areas where coherence was sought included service delivery, public accountability, coordination and integration, effective implementation, and dispute resolution. However, more than anything else, “cooperative governance” strips South Africa of the richness of dialogue, debate, and difference which is at the heart of democratic governance. In short, “cooperative governance” is a code word for deconcentrated rather than devolved local governance.

The principle of the preeminence of national priorities is at the heart of “cooperative governance,” and is part of the philosophical legacy of prefectoralism which is the essence of the supervisory mechanism established by colonial authorities, whether Dutch, French, British, or Portuguese including those imposed by the Union and National Party governments. There is a new (or neo) prefectoralism in South Africa in which executive and political leaders are given political and policy authority over administrators, law enforcement agents, and technical personnel in a geographic area. Magistrates on the judicial side, and provincial premiers, executive mayors, and municipal managers on the political side are at the heart of the new prefectoralism which constitutes sub-national government in South Africa.

2.4 PARTICIPATORY BUDGETING, REVENUE ALLOCATION, AND PLANNING PROCESSES AT SUB-NATIONAL LEVELS

Each sphere of government on paper (and critics claim under the 1996 constitution) is in theory empowered to determine its own budget, to collect its own revenue and to spend its own funds. However, they are in reality subject to significant restrictions imposed by the national government (through executive order) on municipalities and the weakness of administrative systems at the sub-national levels. Provinces and municipalities, though funded in part through own-source revenue, are to receive an equitable share allocation (unconditional grants) and conditional advances on that share. To work well, according to the South African government, the grant system is designed to be simple and comprehensive, but should not compensate municipalities which fail to collect local revenues due to them. This at least is the theory.

South Africa implements what it calls performance budgeting through a formula that purports to fairly allocate revenue to sub-national governments, and according to one observer (Nkoana, 2007) the process is transparent and available to media scrutiny. The mechanism utilized, however (citizen budget tips sent to the Minister of Finance), is rather simplistic (Nkoana, 2007, p. 17). Local governments use a medium-term expenditure framework (MTEF) to plan their revenue needs. In determining allocations to each sector, tradeoffs are involved among them. As such, the Division of Revenue Act (DORA) processes are designed to be driven by national-level (and ANC) political priorities, and cover all aspects of governance and service delivery. Separate and *ad hoc* requests for funds fragment budget allocations and undermine the political prioritization process. Appendix 4 provides an overview of the process.

Sub-national government in South Africa has the right to secure credit, borrow, enter into contracts, and control financial management. Sections 229 and 230A of the Constitution grant municipalities considerable taxation and borrowing powers but these are subject to national legislation and regulation. Municipal taxation powers are limited in that they may not unreasonably prejudice national economic policies and economic activities (Financial and Fiscal Commission, 2009).

With the establishment of a sound intergovernmental fiscal relations system in place, municipal borrowing became both feasible and desirable. Several steps were taken to address financial management challenges inherited from the apartheid system. These included the tortuous route toward the enactment of the Municipal Finance Management Act (MFMA). In addition, the National Treasury supported and encouraged the credit rating of 23 municipalities, including five metropolitan councils. Section 98(1) of the Municipal Systems Act (MSA) suggests municipal councils must adopt by-laws to make their municipality's credit control and debt collection policies, implementation, and enforcement more effective (Government South Africa, 2006).

Section 99 of the MSA states specifically that a municipality's executive committee or executive mayor or, if the municipality does not have an executive committee or executive mayor, the municipal council itself or a committee appointed by it must oversee and monitor the implementation and enforcement of the municipality's credit. The council is responsible for implementation of the debt collection policy and any by-laws enacted in terms of Section 98 and should monitor the performance of the municipal manager in implementing the policy and by-laws.

Other steps included the enactment of enabling legislation for municipal borrowing, and the Provincial Borrowing Powers Act of 1996. The existing intergovernmental fiscal relations system provided a framework for ensuring municipal borrowing. This included planned liabilities for municipalities and encouraged the development of enabling institutions to lend to municipalities. According to the intergovernmental fiscal relations system, provinces and municipalities can only borrow for capital beyond a financial year. Provinces and municipalities can borrow for bridging purposes within a financial year.

The move toward debt financing in South Africa came at a time when local government units were pressured to alter their traditional funding sources. For instance, government terminated apartheid-based, regional service council (RSC) levies in effect on July 1, 2006. In light of the above, and despite interim supplementary funding, municipalities seeking debt funding, as with other finances, have found it more difficult to support infrastructure development. For instance, the City of Johannesburg Metro Council has had to access bond markets for the fourth time since April 2004. Bank lending to municipalities is not necessarily cheap and conditions imposed are often onerous. Banks that continue to operate in this space include the state-backed Development Bank of South Africa (DBSA) and the Infrastructure Finance Corp (INCA).

2.5 FISCAL MONITORING PROCESSES IMPOSED ON LOCAL GOVERNMENT

It is the assumption of the Government of South Africa that sub-national governments have the right to secure credit, borrow, enter into contracts, and engage in the normal manner of financial management activities as defined throughout the world. In terms of Section 139 of the Constitution, provincial governments are empowered to take steps that ensure that the obligations of each municipality are fulfilled to achieve service delivery objectives.

Section 105 of the Municipal System Act enjoins the provincial Member of the Executive Committee (MEC)⁴ for local government in each province to establish mechanisms, processes, and procedures in terms of Section 155(6) of the Constitution to first, monitor municipalities in the province in the way that they manage their own affairs, exercise their powers and perform their functions; second, to monitor the development of local government capacity in the province; and third, to assess the support needed by municipalities to strengthen their capacity to manage their own affairs and to exercise their own powers as well as perform their functions. In fulfilling this role, the MEC for local government relies heavily on fiscal analyses of each municipality and extensive data generated from municipal in-year reports and annual reports that allow quantitative monitoring and evaluation.

Accordingly, under Section 136 of the MFMA, if the MEC for local government in a province becomes aware that there is a serious financial problem in a municipality, the MEC must promptly consult the mayor of the municipality to determine the facts, assess the seriousness of the situation and the municipality's response to the situation, and determine whether the situation justifies or requires an intervention in terms of Section 139 of the Constitution. If the municipality has failed to approve its budget or any revenue raising measures necessary to give effect to the budget, as a result of which the condition for an intervention in terms of Section

⁴ In effect, the provincial minister for local government. The term "Executive Committee" is used to label the provincial cabinet.

139(4) of the Constitution are met, the provincial executive must intervene in the municipality in accordance with Section 26 of the MFMA.

Also, if the municipality, as a result of a crises in its financial affairs, is in serious or persistent material breach of its obligations to provide basic services or to meet its financial commitments, or admits that it is unable to meet its obligations or financial commitments, as a result of which the condition for an intervention in terms of Section 139(5) of the Constitution are met, the provincial executive must intervene in the municipality in accordance with Section 139 of the Constitution. The national executive needs to intervene (in terms of Section 100 of the Constitution) in cases where (according to Section 137 of the MFMA) conditions for a provincial intervention in a municipality have been met (in terms of Section 139(1) of the Constitution), but the provincial executive did not fulfill its responsibility to intervene.

These are the conditions set by legislation. The procedures, both constitutional and legislative, are impressive on paper. According to external observers (Roberts, 2002 and Nkoana, 2007), the policy and administrative framework and procedures are said to be well thought out and, along with the constitution, are among the best in the world. The problem lies with the human resource condition in South Africa, especially at the provincial and local government levels.

Administrative weakness, bureaucratic corruption, party nepotism, and hierarchical rigidity all combine to lead to less than optimal results in fiscal management and monitoring. That said the extent to which South African fiscal systems do work, at least some of the time, should not be underestimated.

To summarize: the national government's responsibilities with regard to fiscal provisions for local government include managing the system of intergovernmental relations, situating local government's roles and responsibilities within the national tax revenue structure, passing legislation to determine local government's equitable share of national revenue, and addressing a range of other financially related topics, such as municipal financial management and budgetary reform processes addressed by the MFMA (see IDASA, 2008).

2.6 POLITICAL INCENTIVES, CONTEXT, AND CONSTRAINTS ON DECENTRALIZATION

After decentralization was negotiated in 1994, the reality of governance led to significant recentralization once the final constitution came into effect in 1996. This represented the interests of the second president of South Africa, Thabo Mbeki and his cabinet and administrative chiefs. The thrust of "cooperative governance" regarding intergovernmental relations illustrates the stated goal of the national leadership. It is seen by the ANC as an essential component of regime maintenance. Decentralization as a means to stability rather than to democracy is the regime's primary focus.

To the ANC leadership, national government is meant to play a strategic role, primarily in ensuring that local government operates within an enabling legislative and policy framework and is structured and capacitated in a way that best enables it to promote the development of citizens, local communities, and the nation. Much of what local government has done since 1996 is compatible with the legislative framework created by the ANC-led national government. The national government is mandated by the constitution to provide an overall legislative framework for local government within the general legal framework set out in the constitution.

In line with constitutional precepts, South African national government was to provide a framework to build the capacity of and to support municipalities: Section 154(1) of the Constitution tasks both national and provincial governments with supporting and strengthening the capacity of municipalities to manage their own affairs, exercise their powers, and perform their functions. Central government after 1996 was thus intended to provide administrative supervision over both provincial and local government authority. What evolved instead was the imposition of (or attempt to impose) political will over sub-national governments within a context of weak administrative supervision and in the context of significant, though sporadic, nepotism, patronage, and corruption (Picard, 2005). It should be noted, this is less widespread in the technical areas of government than in the enforcement, regulatory, and service delivery sectors.

There are a number of reasons why political stakeholders and decision makers oppose decentralization and there are both technical and political constraints which impede it in South Africa. The incentives and political motivations of decision makers are threefold. First, there is a genuine feeling that development management is a national project and requires centralized guidance. This is a Keynesian assumption and is common throughout the developing world.

Second, there is historical memory that federalism, decentralization, and local government were tools of apartheid. From the beginning of the struggle in 1912, there was a commitment by those seeking majority rule to establish a unitary government in South Africa. It is not lost on the ANC leadership that those who advocate federalism and decentralization come from the white, upper-middle-class, business sector, and tend to vote for the opposition, Democratic Alliance, a political movement which is not considered legitimate by many in the ANC. Historically, decentralization is therefore associated with a particular brand of elite, formerly white political parties and interest groups. Despite practicing heavy-handed authoritarian and centralized government for the better part of 100 years, the National Party, on the eve of giving up power, advocated an extreme version of decentralized government. The cynicism of this change was not lost on the liberation leadership.

Third, there are technocratic reasons some find persuasive to retain central control. There are limited professional skills in the country, and these skills, it is believed, can be used most effectively at the national level. In the short run, these concerns for standards are reasons for central government officials, political and administrative, to retain power at the central level. Thus, most development planners, union leaders, and other stakeholders in the ANC tend to oppose decentralized governance.

That said there is a group of urban and regional development planners who see that they, and their constituents in local government, have much to gain from strong regional and local government. For academics, practitioners, and other intellectuals who support decentralization, this support probably comes both from motives such as improving democratic governance as well as instrumental, political and personal concerns. The problem for decentralization is these advocates tend to be apolitical and most in South Africa are members of minority populations (Oldfield, 2002).

Those who stand to lose from decentralized governance represent the dominant political elite and see their constituents as the majority, African population. The latter generally find no appeal in decentralized governance and are happy to gain what they believe will be increased levels of social service delivery from a centralized system. This is the dominant group within the ANC.

Sub-national leadership has developed an economic and, critics would suggest, a patronage relationship to local government. Local political leaders are broadly representative of local populations and most local-level administrators are embedded in the community. Local government networks in South Africa are what some call minor patronage networks and are easily captured by local political and traditional elites. These actors are major supporters of local government because of projects, local level contracts, and grant money that filters down to the grassroots level.

In the end, decentralization has only taken place in some sectors and largely through deconcentration because for many, deconcentration is seen to provide stability rather than the risk of political schism that devolution, they believe, represents. With nine provincial governments and 283 municipalities, the challenge remains consolidating and building the institutional capacity of these structures. The national sphere is seen as a fulcrum and sources of strategic leadership for the other spheres. South Africa's leaders perceive that they require sound mechanisms for coordinating policy or legislation affecting the material interests of other governments. Sound coordination mechanisms, it is assumed, will avoid unnecessary and wasteful duplication or jurisdictional contests and offer reasonable steps to ensure they have sufficient institutional capacity and effective service delivery procedures. Political elites believe that the evolution of a stable and a relatively well functioning, though in reality top-down intergovernmental system, has the potential to achieve success in promoting democracy and enhanced services.

2.7 CENTRAL-LOCAL RELATIONS AND CONFLICT MANAGEMENT

The distinctive nature of each sphere of government creates a limited degree of legislative and executive autonomy, which is entrenched by the constitution. One sphere is distinguishable from the other in its powers to make laws and execute them. In short, each sphere has distinctive legislative and executive competencies though the sub-national spheres have very few of these. The guiding principle informing the allocation of the local government sphere of competencies is based on the assumption that there are particular public interests, best served at the local level. The existence of unique local and district council and local interests called for their protection and promotion not through a unitary but rather a decentralized state. However, as noted above, the reality of South Africa is only limited decentralization in what is in effect a unitary system. Thus, what was "called for" has not been realized.

The relationship among the three spheres of government is based on the realization that to a degree they are interdependent if they fulfill their constitutionally mandated functions in a deconcentrated form through delegation from central to provincial ministries. While the constitution assigns service delivery responsibilities to the three spheres of government, municipalities, are central in the delivery of basic services, particularly to the poor. However, service delivery protest since 2006 suggests that municipalities are institutionally weak, lack capacity in terms of human resources, and lack the finances to meet these obligations.

By the same token, local governments are entitled to and do receive assistance from the national and provincial governments, in order for them to fulfill their constitutional functions. This includes a duty for both provincial and national government to monitor and, where necessary, intervene in local government where and when it fails to fulfill its functions. Initiatives such the Masakhane ("build together") tax collection efforts, "Project Consolidate," and various other

capacity-building programs by the Department of Cooperative Governance and Traditional Leadership (COGTA) and the National Treasury have been designed to remedy these deficiencies.

Breakdowns occur in the process of intergovernmental relations over issues of administrative weakness, corruption, and public exposure of patronage and nepotism. These are all external to the system and represent the weakness of internal monitoring mechanisms. These external threats mean that opposition to decentralization is “self-reinforcing” and leads to further resistance. Political support for decentralization, among political actors, faces an uphill battle since they are often discredited within the political ruling class.

Legislation and accompanying regulations are in place to allow for further decentralization. However, the discourse on decentralization does not match the reality of political will regarding devolved governance. The limited support for decentralization by the political elite means that actors who represent local interests are not empowered to promote decentralization. While there are national proponents for decentralization, it is threatening for many within the ruling coalition.

2.8 ADMINISTRATIVE PROCESSES AND CONTRACTING OUT

Administrative and fiscal decentralization, (in reality, deconcentration), as long as it is monitored and controlled by central government, is more acceptable than political devolution of authority. This leaves policy decisions in the hands of the political elite, at the national and to some extent at regional levels. This sequence is driven by the nature of the ruling political party in South Africa, the ANC. Given this reality, it is not likely that decentralization will expand in the near future.

Opponents in the bureaucracy and administration are not so much resistant to decentralization as indifferent to it, nor are they overly concerned about local-level empowerment. Local administrators are weak and do not have the capacity to handle decentralized tasks, either fiscally or administratively.

There are sector-specific technical presences at both the provincial and local levels. The nature of cadre organization is such that they have separate cadres attached to provincial departments such as water, health, agriculture, education and natural resources. These include social development (education, water, health) and economic development, microcredit-level activities (agriculture, animal husbandry, rural production, and micro loans). While some academics and political opposition leaders are prone to criticize South Africa’s capacity, however, when compared to the rest of Africa South Africa appears strikingly effective.

The nature of administrative responsibility remains vague, however, and functions of employees (administrative, fiscal, and sector) attached to local authorities are not clearly defined. Employees at the local level remain weak and poorly paid. Sub-district structures (rural local governments, areas, and wards) have very little bureaucratic support. Cities, towns, and district administrations have some administrative support (significantly in Metros), but there are very few salaried staff in rural, local councils.

Deconcentrated and devolved authorities have a primary responsibility to deliver services. Institutionalized procedures and capabilities are limited both for fiscal reasons and because of limits in skills, particularly at the primary level of government. Deconcentration and delegation

includes both departments with extension services and those without, and includes public sector corporations such as water and electricity. There are increasing numbers of provincial and local level delegated bodies providing these services.

Administrative cadres in South Africa also remain potentially powerful control tools, a legacy of the apartheid period. Though they are seldom used, there is occasional evidence of praetorian, mobilization efforts at grassroots, both in the townships and in rural areas. The ruling ANC plays an overt role in this control and mobilization process.

The management of local government staff is devolved to local authorities in practice but the goal is to create a unified system of local government throughout South Africa, except perhaps in metropolitan authorities. The nature of recruitment and eligibility requirements for local government employees remain *ad hoc* as it has been since before 1994. Effectiveness of administrative structures at the local level remains weak.

There have been a number of studies focusing on the rationalization of local government administration. Local government employees, as has been noted, are not politically neutral but are usually bonded to party interests. Bureaucratic accessibility and accountability mechanisms for both citizens and civic groups are weak. There is a suspicion of civil society groups among both provincial and local-level officials.

Administrative and organizational development strategies and policies are guided by centralized directives and by sporadic monitoring exercises. Administrative control mechanisms: merit rewards, discipline, dismissal, and transfer are widely used. Capacity building and professional development for deconcentrated and devolved staff has focused on short courses and “bridging” training, and historically has suffered as a result of the *en masse* inclusion of virtually all homeland administrators, including homeland local governmental officials, into the administrative system after 1984. Affirmative action policies have resulted in decreasing standards at all levels of government (keeping in mind that these institutions, outside of townships and homelands, were white reserves before 1994).

The nature of territorial administration—judicial, administrative, developmental—has changed over time. The role of the magistrate in South Africa remains crucial, both formally and informally. Both party and government officials continue to take on a “tutorial” role in relationship to lower levels of government. This is a legacy of the prefectural model of local administration which was almost universally practiced throughout the colonial world. This top-down “neo-prefectural” approach to governance is an important reason why democratic governance at sub-national levels is weak.

South African policymakers, though they have not been able to fully implement professionalization of the public sector, especially at the sub-national level, have been willing to bring in well-trained consultants to tackle policy analysis, monitoring, and assessment assignments. Contracting-out for the delivery of services, the planning of projects, and the monitoring and evaluation of activities, is a practice that is well developed in South Africa. The administrative transfer of governance outside of local government to contractors and NGOs through grants and contracts is wide spread and is a strength of South Africa’s sub-national system of government.

A hidden resource for South Africa's sub-national governments is the army of consultants and academic advisors who staff the investigating commissions, evaluation teams, and assessment missions that seem to proliferate throughout South Africa year after year. South Africa has significant internal technical capacity and, most importantly, the government has access to a wide array of technical consultants, many of whom are former government officials and academics. It is these consultants who develop policy choices, monitor implementation, and cleanup operations gone wrong, or jump into the breach after local leaders' scandals are exposed by the media.

2.9 THE ROLE OF CIVIL SOCIETY IN LOCAL GOVERNANCE

Local actors represent local populations and encourage citizenship in the public domain through either civil society groups or traditional society. As has been noted, earlier in this paper, in terms of civil society concerns, democratic values, and paternal patterns of political hierarchy in South Africa, much which is inherited from pre-colonial and colonial traditional forms of governance, remains.

Civil society groups in the late 1980s and into the 1990s were strong since their mobilization base was opposition to apartheid and their unification under the banner of the United Democratic Front was at the forefront of the liberation struggle. As part of the legacy of the anti-apartheid struggle, most civil society leaders in South Africa function under the umbrella of the ANC, though via their historical affiliation with the populist United Democratic Front. The latter disbanded in 1993 and is now under the South African National NGO Coalition (SANGOGO) umbrella.

After 1994, two things happened. Most of the strong leadership in civil society moved into national, provincial, or in some cases local government politics. This weakened the civil society groups significantly, especially when the donor funding stream was redirected toward the new national government in the post-1994 environment. Secondly, many civil society groups became subservient to the political discipline of the ANC. That said, when there are outbursts of populist challenge to government policies at the national, provincial, and local levels, the origins of these challenges can still be found in trade unions, civil society groups and other NGOs (Atkinson, 2007). Civil society, through its political tools of public meetings, hearings, debates, transparency rules, and monitoring mechanisms, still challenge authority, particularly at the local level.

The dominant view of intergovernmental relations in South Africa, as has been noted, is that the system of government is based on the principle of "cooperative governance," and resorting to courts should be the last step in defining intergovernmental relationships. However, several cases arose in KwaZulu Natal and Eastern Cape (Butterworth municipality) where municipalities, supported by civil society groups, resisted being put under provincial administration and saddled with unfunded mandates. In both cases, the municipalities received favorable judgments.

There are also a number of "hybrid" institutions in governance at the local level. These include semi-official local institutions such as village associations, neighborhood cooperatives, or development committees that operate between the public and private spheres, as well as spontaneous economic and social institutions, football groups, informal drinking (shabeens) associations, and burial societies. Because of the history of resistance to apartheid, these social and economic groupings remain influential and can be mobilized in times of perceived crisis.

There have been and continue to be calls within parliament and from outside interests for greater transparency at all levels of government. Nongovernmental actors, groups, and media organizations also function to monitor sub-national spending. The South African press acts as a first level of fiscal monitoring throughout the country. There are a number of associations and civil society groups, such as the Institute for Democracy in Africa (IDASA), which monitor fiscal expenditure. Identification of corruption and malfeasance of funds is common in national and even local newspapers.

The role that civil society groups continue to play in South Africa is important, though the intensity level is lower than was the case immediately after the first non-racial elections. In the electoral process, the role played by the media, watchdog groups, and civil society organizations is significant. The capacity for monitoring and pressuring sub-national government is largely external to government. It lies in the hands of the press, local-level organizations, and national and regional civil society groups and interest associations.

There also exists a quasi-official associational framework for decentralization, the South African Local Government Association (SALGA). SALGA is a quasi-NGO (QUANGO) which is mandated to support local government in terms of research, policy, strategies, technical development, and information dissemination. It relies on “e-governance” mechanisms gleaned from international donors, which are designed to promote transparency and access to government for the citizenry. There are also a number of civil society groups, and development planning organizations which are actively involved in the local governance debate, *de jure* or *de facto*. Some function on a fee-for-service basis; others operate *pro bono*.

SALGA is largely audible at the national level. At the local or regional levels, it is largely moribund. The main weakness with SALGA at the regional level is that it is thinly spread and poorly resourced. Even when it participates in provincial and national levels, observers suggest that it lacks technical skills to make a meaningful impact on debates pertaining to local finance, integrated development planning, etc., and hence, national and provincial departments outwit it or impose their views. In the 1990s, provinces such as Kwa-Zulu Natal and Western Cape attempted to opt out of SALGA for political reasons; however, their attempts were short-lived.

The access of citizens’ groups to sub-national government—civics, civic unions, town hall meetings, referenda relating to district authorities—is essential to democratic, local governance. Such access can only be described as nominal in the South African context, though it must be said that well-organized, mostly white, rate payers can influence both the revenue and expenditure process. The ability of NGOs to advocate to local government and to ensure service delivery is seen by their supporters as important mechanisms of governance in South Africa. The combination of relatively efficient electoral processes and the watchdog role played by civil society groups are two parts of the South African sub-national government system which provide a modicum of accountability and therefore of legitimacy for local governance in South Africa, despite the corruption that exists at that level.

The incentives for civil society organizations (CSOs) with respect to decentralization are ambiguous. Strengthened local government could weaken their role in primary service delivery, a function which they have had since the 1980s. There is a fear that funding could dry up for CSOs if local government increased its capacity to perform local-level service provision. There is also concern, and sometimes friction, between non-profit groups and private sector

contractors, the latter being better at responding to tenders and implementing government contracts.

Civil society and local government relations are ambiguous. There is an element of collegial and liberation struggle “comradeship” reflecting their historical ties. However, there can be conflicts when financial interests overlap. Non-state local actors (NGOs, religious groups, etc.) in theory support decentralization since it is a part of the rhetoric of liberation. There are tensions, however, and the behavioral incentives of local civil society and local government do not always coincide. Non-liberation civil society groups (with no links to the ruling ANC) tend to support decentralization initiatives more strongly than those that are a part of the movement.

Traditional administration remains important, particularly in rural South Africa. Its structures are similar to those recognized or created during the colonial period or under apartheid, and are not different from those found in other parts of South Africa. There is continued use of traditional local governance structures (e.g. the *Tinkhundla*, *Pitso* and *Kgotla*) in South Africa today (See Appendix 2). However, many traditional authorities have opposed decentralization and local government, seeing it as interference in their spheres of responsibility. However, the role of traditional authorities (local level, but also national level) continues to be a significant one in local governance and their influence and responsibilities are increasing (Leheman, 2007).

After opposing the recognition and use of traditional authorities for 13 years, in 2007 the ANC decided to recognize them and give them a grassroots development role. The view was that traditional leaders represented important social networks, provided access to voters, and could mobilize citizens in rural South Africa (Leheman, 2007). Given that traditional authorities currently stand to gain from decentralization they have begun to defend what is called “cooperative governance” in South Africa. To advocates of traditionalism, the recognition of the importance of traditional authorities is one of the best discoveries of South Africa’s decentralization, and it is suggested that the South African model of traditional administration may be applicable to other countries (Leheman, 2007, p. 302–303). To critics, domestic and international, they represent hierarchical authority, corrupt institutions, and mismanagement.

2.10 DONOR SUPPORT FOR DECENTRALIZATION

From the beginning, the ANC did not emphasize local governance in its presentation of post-apartheid requests to the donor community. It gave priority to central government initiatives and after 1996 saw assistance to both local governments and civil society as threatening regime legitimacy. Opposition political and economic groups were seen as the primary beneficiaries of donor assistance outside the national government. Democracy and governance assistance to sub-national governments and civil society from the United States Agency for International Development (USAID) was considered to infringe on South Africa’s sovereignty.

It is not that national actors have reversed decentralization (i.e., recentralized it) but rather they have ignored it for the most part, circumvented the issue when it was raised, and told the donors to keep away when the government leadership felt threatened. Some donors have stepped back. Even within the decentralization ministries, there has not been a sustained challenge to government policy. Existing levels of decentralization are genuinely accepted, though there is concern that the system is inefficient. It is at these inefficiencies that national leadership tends to direct the donor community.

Despite this, there has been significant and widespread support for decentralized democracy and sub-national capacity in South Africa within the donor community. Since 1994, the United States, Canada, Britain, and the European Union and many of its member states have had extensive programs to support elections, democracy in general and sub-national government in South Africa. While total foreign aid for South Africa only represented about two percent of the national budget, critics suggest that it is huge in volume in comparison to the much more pressing needs of the rest of Africa, and that the purpose of the aid was overwhelmingly symbolic and political, and may even have been detrimental to the development of institutions in what was a highly developed democracy by the end of the Mandela administration (Bond, 2001).

Both democracy and decentralization have been supported by the donor community. In large part, this is because of concerns, despite reassurances prior to 1994, that the ANC was a mobilizing, collectivist party which would not respect human rights or democratic processes. The focus of the donors was on federalist options, democratic education, and support for civil society movements that lobbied for limited and open government. Initially, much of the support focused on the ANC leadership, with donors competing for the opportunity to sponsor leaders for short courses in democracy (starting, if possible with Nelson Mandela). A second layer of support was for capacity building within the civil service, where Britain and the European Union took the lead. The US and Canadian governments had large programs to support capacity building at the local government level, particularly in urban councils. A third stream of support, continuing from the apartheid period, focused on civil society groups.

USAID, for example, continues to support a robust, though modest program of about \$10 million per year in support of local governance some 16 years after the transformation to a non-racial political system. There are several components to this assistance: 1) technical assistance to municipalities in South Africa on revenue enhancement, municipal advisors, and improved service delivery; 2) assistance in developing anti-corruption strategies to municipalities, support for magistrates' training, and support for civil society development.

The European Union provides significant support for democratic and decentralized development with a total annualized budget of Euro 39 million for governance support. The Scandinavian countries, Germany, and the United Kingdom also provide robust support for democracy and sub-national government. There is clearly an element of symbolism in this commitment, which some believe may be detrimental to the development of sustainable governance institutions. In part such support may also indicate a concern for the stability of what is the African continent's only emerging economy and a lingering fear that the ANC, after all, may not have democratic *bona fides*.

Decentralization has been neither effectively promoted nor discouraged by key donors or other international actors. Evidence suggests that while the government does not openly resist support for democratic governance and civil society development, it does not initiate donor involvement in this area, considering it either a dead issue or one which is best left to South African society. If there is a model for South African local government, it remains the model imported from Britain in the 1890s (shorn of its racial connotations) and overlaid on the Dutch system that preceded it (Picard, 2005, p. 24–26). Neither European nor North American models have made significant inroads in South African sub-national development. Focus of sub-national government in South Africa remains what it has been: a vehicle for social service delivery and a local-level, state presence (Picard, 1999).

There is little evidence that the ANC either supports or substantively opposes donor support for decentralized governance, though there is occasional rhetoric about foreign interference in the internal affairs of the country. However, there is evidence that the opposition Democratic Alliance welcomes donor intervention as a means to pressure the South African government to tolerate political pluralism (Ploch, 2009). There are likely similar sentiments among smaller opposition groups in South Africa and this is a position taken by many civil society groups in the country.

There is little evidence that donor influence has had an impact on the institutional arrangements at the sub-national government level that have evolved in the 16 years since majority rule. However, in areas of health, education, and water development there has been significant donor support for deconcentrated units. Likewise, there is no evidence that donor-supported decentralization planning has not been integrated with other sectors receiving donor support.

Despite some rhetoric from South African academics, there is little evidence to indicate that donors have undermined local-level democratic processes in the country either. Donor support has been supportive of local government, and strengthened local government personnel and institutions. Especially in the health area, there has been significant financial support. Donors have, at worst, done no harm in their support of sub-national government in South Africa. In terms of capacity support, the British and the Canadian governments have been particularly supportive of administrative development in South Africa (Picard, 1997).

3.0 CONCLUSIONS AND IMPLICATIONS, DONOR SUCCESSES, AND COUNTRY LESSONS

Without question, an examination of sectors and arenas for international assistance shows certain interventions have achieved more and others have been less successful. By far, the most important donor intervention was support provided by donors—especially the United States—to civil society and other NGO groups in the 1980s. These groups, many of which challenged the apartheid regime, were central to the move to majority rule. Important to grassroots governance were and are donor programs in health and primary education which both addressed critical issues and incorporated people into civil society. Despite continuing issues of corruption at the local government level, donors claim that technical support, in budgeting and finance, represents a third area of success (see USAID, 2010 for example).

The support given to civil service professional development has been less successful, both because it was short term and because there was so little of it. This has left the public sector weak, directionless, and often corrupt. The active donors in this area were the British, the Canadians, and the European Union. For the most part the US government gave this area a pass. USAID continues to support local governments, focusing on medium-sized towns and on financial management.

Efforts at decentralization were most successful at the cusp of non-racial government when issues of federalism, provincial structure, and local government were central to the negotiation debate. At this point, the ANC, for strategic reasons, supported strong, urban, local government while the then-ruling National Party supported a federal South Africa framed by the nine provinces. Donors provided support for the debate process through study trips and short courses. The debate tainted support for federalism, however, and following the election of the ANC to national government, its focus turned to support for national government initiatives. At the same time, many civil society leaders who had supported local government development, moved out of civil society and into the national government under the umbrella of the ANC.

In South Africa, all sectors of society and all political parties give lip service to decentralization. However, it is clear that the ANC remains suspicious of local governance, seeing it as a threat to its overall mission of economic management. The opposition Democratic Alliance, which remains a federalist party, is a strong supporter of decentralization, as are most of the other opposition groups whose support is often regional in nature. There is more support in the white, mixed-race, and Asian communities than in the majority African community.

The trade unions and other pro-ANC groups share a suspicion of autonomous, local government, looking to local and provincial authorities to deliver social services initiated by the national government. The business and agricultural sectors tend to support regionalism. Not surprisingly, provincial and local government leaders from all political parties support decentralization to a greater degree than national politicians. There is significant support for decentralization in the Northern Cape, Natal, and especially the Western Cape.

The lessons coming out of South Africa are significant for other African countries in several ways. First, the fact that a relatively developed South Africa should have problems implementing local governance reforms, fiscal decentralization, and professionalization of personnel should not be lost on other countries (and international donors) as they implement programs. This is not a short-term task, nor is it an easy one. Governance is complex and should not be considered a short-term need. The fact that donors are still working on democratic governance in South Africa 20 years after Nelson Mandela walked out of Victor Verster prison is, or should be, sobering information for all who work in the local governance arena.

Second, while there are two models of local governance discussed—democratic local government versus deconcentrated stability (through either geographical or functional administration)—within the latter there is a third choice. This choice is between a security focus often involving an area prefect, magistrate, and police; and a centralized service delivery system which uses deconcentrated departments and local governments as service delivery units. It is this option that has been taken by South Africa’s government, a policy euphemistically labeled “cooperative governance.”

Deconcentrated development practice and the recognition of the importance of traditional authorities in terms of network facilitation are two of the best practices identified in South Africa that may be applicable to other countries. The effective use of consultants is a third. South African policymakers, though they have not been able to fully implement professionalization of the public sector—especially at the sub-national level, have been willing to bring in well-trained consultants to tackle policy analysis, monitoring, and assessment assignments.

Some of the worst practices in South Africa also pose a warning. Though they may be at lower levels than in other African countries, the levels of patronage, nepotism, and corruption are unacceptably high in South Africa. The sub-national public sector is weak, poorly trained, and expensive. The public has lost its trust for the public sector, resisted efforts to collect revenue and created a small but growing “economy of affection” in the country (See Hyden, 1983). The private sector and non-profit organizations often seem to operate despite government structures in South Africa rather than in partnership with them.

South Africa, though an emerging economy and a democratic country, has many lessons that can be seen as cautionary for other countries. Parallels can be drawn with Nigeria, Kenya, and Ghana, all countries that have economic potential but are challenged by weak government structures. South Africa is not there yet but may be moving that way given the fragility of its sub-national political institutions. This would be a disaster not only for South Africa but for the rest of the continent.

These lessons are transferable because they are not unique to South Africa and are almost universal patterns of government in emerging economies. What is unique in South Africa is the continued bifurcation of governance and service delivery patterns in the so-called developed vs.

the underdeveloped parts of the country. Race continues to be a factor in South African governance at all levels, but particularly at sub-national levels because people of different races, except for a small, upper-middle class elite, tend to be segregated geographically.

The most salient issues of sub-national governance continue to be developing a political culture (see Appendix 2) that supports democratic governance and tolerance of differences on the one hand, and developing a professionalized sub-national public sector on the other. These are the two most critical issues for both democratic and decentralized governance. Though there is recognition of the importance of democratic institutions and fiscal autonomy, donors and national-level planners both tend to neglect the importance of making and sustaining commitments to long-term education and professional training for efficient and effective intermediate and local government systems. These, along with appropriate and long-term benchmarking of democratic, institutional change (outside of the project mode), remain matters of unfinished business in terms of democratic theory and practice.

There are four areas of understanding that should be further explored to increase an understanding of decentralization in South Africa. These are (1) the impact of major donor efforts on decentralized governance since 1994; (2) regional differences; (3) the impact of local government on the ground, especially in small trading centers and in rural South Africa; and (4) perceptions of governance patterns possibly accessed through stakeholder analysis of principal actors and group leaders in the country, and socially through focus groups and public opinion polls.

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APPENDIX 2: INSTITUTIONAL CHANGE IN SOUTH AFRICA

INDIGENOUS INSTITUTIONAL INFLUENCES

The nature of pre-colonial indigenous authority is important to South Africa's political culture and it reflects the ethnic and racial clashes that have stemmed from that diversity. Three very different patterns of indigenous political authority joined with two patterns of colonial control to define primary-level political relationships. South Africa's first indigenous peoples, the San and Nama in what is now the Western Cape, functioned under loosely linked age-grade systems, sometimes defined as "corporate" or "stateless" societies. This participatory model was said to influence rural "mixed-race" people in the West and Northern Cape who descended from these two groups (Boomzaier, et. al., 1996: 36–49). These patterns of age-grade governance have been seen by contemporary observers as conducive to direct democracy.

Several major Bantu speaking groups, including the Tswana and the Xhosa, had localized hierarchical authority systems of what the British called chiefs but had no centralized authoritative leadership (see Schapera, 1970). The North and South Sotho have hierarchical leadership structures. A third pattern of authority, with bi-modal traditional leadership (a monarch and his geographically dispersed lieutenants living alongside of geographically localized "chiefs") predominated in the eastern area of South Africa (among the Zulu, Ndebele, and Swazi). (See Kuper, 1944 and the essays in Fortes and Evans-Pritchard, 1950).

Traditional authority and customary law define governance in several ways. First, they impact upon the use of agricultural land and access to water in some parts of the country. Second, they continue to impact upon gender relationships and economic activity. Third, chiefs influence, though the impact is informal, social behavior, the mediation of law, and norms of informal punishment in rural (and some would argue in urban) areas, and grassroots' political activity throughout South Africa (see Ntsebeza, 2005). More broadly, within civil society, democratic values and paternal patterns of political hierarchy remain, if only indirectly inherited from traditional forms of governance (Jackson and Rosberg, 1982). How important are indigenous institutions for contemporary African society? They could be as important as late eighteenth-century institutions are in North America or Western Europe. They are a neglected component of applied research in democracy and governance.

In traditional society, mechanisms of consultation were widespread throughout Southern Africa. These were adult-male bodies which included all eligible members of the community and met in open enclosures which carried various names (Kgotla, Inkuntla, Pitso). Meetings were held in an empty cattle kraal, under a tree, or in a central point of the community close to the home of the traditional authority. Though these processes have been eclipsed by colonial and post-colonial institutions, they continue to play an informal and a formal role in Southern Africa (see for

example, Picard, 1986: 116–125). The renewed interest in traditional authority in South Africa since 2009 reflects the continuing importance of these institutions.

COLONIALISM AND THE LOCAL STATE

The South African Cape Province was first colonized by the Dutch in 1653 and served as a garden spot producing fresh fruits and vegetables for Dutch ships sailing to Asia. Dutch, German, and French Huguenot settlers moved into the Cape in the next century. British rule and settlers came to South Africa effectively in 1806, and except for sporadic Dutch and mixed-race separatist governments, lasted until 1910. Minority rule and (from 1948) apartheid lasted until 1994. The best one volume history of South Africa is by T.R.H Davenport and Christopher Sanders (2000).

There were three major components to the legacy of colonial, imperial, and white rule. First, many of the value-systems of empire (including assumptions about racial and cultural superiority and Christianity) were passed to South Africa. Important political, legal, and cultural traditions (including an organizational culture of participation) were inherited from settler groups during colonial rule, the Union period, and even the apartheid era. Racially segregated national and local government was legally embedded into South African local government prior to 1910, under Union Law and retained with few changes under Apartheid (1948–1994) (Davenport, 1998: 177).

Secondly, Dutch and later African populist values and the norms of Roman-Dutch and British common law were incorporated into the body politic that was British designed. Legal norms, basic political rights, and the rule-of-law remained strong, though racially codified, throughout the twentieth century. Thirdly, there was a legacy of centralized authority, and suspicion of local-level dissent which came to be incorporated into the post-apartheid South African government, but was shared by both the National Party and the ANC leadership. State transformation faced, and continues to face, tendencies towards authoritarianism, racially and ethnically defined government, and the psychological and sociological legacy of apartheid.

The role of the territorial administrator in South Africa has had a long term impact on South African local governance and has provided the basis for what can be called the local state. The Dutch called their territorial administrator the Landdrost and that remains the term in Afrikaans. The British used the term Magistrate to define their combination of legal and political administrator. During minority rule the terms Native Commissioner and Bantu Commissioner were used to describe this official in the reserve areas. The geographic administrator (or prefect) has represented the authoritarian side of the South African state for more than 200 years (Evans, 1997).

The Magistrate/Commissioner, particularly in rural South Africa and the African reserves was an extremely powerful official at his peak in the 1950s. Historically, he served as judge, jury, prison warden, and at times executioner. The Commissioner administered the police, controlled the traditional authorities, and supervised the functional administration at the district level. The commissioner held authority through extraordinary and emergency legislation and served as a labor officer. He literally controlled the lives of those (particularly but not exclusively non-white) people under his control. Virtually all judicial, political, and administrative functions fell under his authority in the “Native Reserves” (see Evans, 1997 and Mbeki, 1964).

APPENDIX 3: THE LEGAL FRAMEWORK OF DECENTRALIZATION IN SOUTH AFRICA

Following the promulgation of the Intergovernmental Relations Act, a number of inter-governmental structures were instituted to promote and facilitate cooperative government and intergovernmental relations between the respective spheres of government and civil society. These include:

- The President's Coordinating Council (PCC);
- National Intergovernmental Forum (Ministerial-Member of Executive Committee Joint Meeting – National Inter-Governmental Forum (MINMEC)) comprising the ministers and deputy ministers of the national government, the premiers and members of executive councils of the nine provinces, and representatives of the South African Local Government Association (SALGA);
- Provincial Intergovernmental Forums (Premiers Forums);
- District Intergovernmental Forums;
- Inter-municipality Forums; and
- The South African Local Government Association (SALGA)

In terms of the Constitution of the Republic of South Africa, Act 108 of 1996, Section 151(3), municipalities have the right to govern their own affairs, subject to national and provincial legislation. Section 151(4) further prohibits interference from other spheres on exercising constitutional rights and functions conferred on municipalities. Given the underdeveloped status of South African local governments, especially those in rural provinces, the constitution foresaw circumstances under which national and provincial spheres of government could intervene to support and strengthen the capacity of municipalities to manage their own affairs. For instance, Section 139 provides for provincial supervision of local government when municipality fails to fulfill legislated obligations.

The Municipal Systems Act 32 of 2000 (106) is the basis for intervention; it identifies the following as circumstances by which provincial intervention becomes necessary:

- Non-performance;
- Non-fulfillment of the municipality's statutory obligations;
- Maladministration; and
- Evidence of serious malpractice within the local authority.

Under those circumstances, an MEC may take the following steps: request the council or municipal management to provide relevant information, designate a person(s) to investigate, or (Section 106) submit a statement to the NCOP to motivate action taken.

In financial management, strong monitoring and evaluation mechanisms are required for fiscal decentralization to work as envisaged by the constitution and other national legislation. National government has been instrumental in providing leadership on matters such as a uniform system of accounts, financial reporting and audit rules, disclosure requirements for borrowing, adjustments to intergovernmental fiscal transfers, and rules governing municipal borrowing. Both local and provincial governments require and have been given capacity-building programs, particularly to strengthen their financial management function, with only limited success. It is this last area which has been the Achilles heel of local government.

The Intergovernmental Relations Framework Act, Section 33, on provincial policies and legislation affecting local government states that: when developing policies or draft legislation affecting the local sphere of government in a province, the provincial government must take into account national priorities; take into account the interest of local communities in the province; and consult the local sphere of government in the province or any specifically affected municipalities.

Section 152 of the Constitution of South Africa enjoins local government to establish an environment conducive to consultation and to involve communities and community organizations in policy debates. Furthermore, Chapter 4 of the MSA is devoted to community participation. The MSA prescribes to local government what needs to be done in order to encourage public participation. Additionally, parliament has passed the following legislation to encourage public participation and to enforce accountability of local councils:

- The Promotion of Access to Information Act – detailing the right to have access to information;
- The Protection of Disclosure Act – protection of whistle blowers against corruption; and
- Promotion of Administrative Justice – right to be given reasons for decisions taken.

Several mechanisms have also been put in place to ensure that communities participate in a variety of ways in local government activities, including:

- The opportunity for public questions at council meetings;
- Open forums with agenda relating either to the council generally;
- Open day Sessions;
- Ward meetings called by local councilor;
- Mayoral road shows;
- Public exhibitions of by-laws; and
- Sections and 60 committees.

The National Council of Provinces continues to exist as colonial vestige, an equivalent of the Westminster model House of Lords. It consists of nominated members of provincial legislatures (MPLs) and 10 SALGA representatives designed to represent provincial and organized local government interests at the national sphere. Constitutionally, it performs its representative function by participating in national legislative processes and by providing a national forum for public consideration of issues affecting provinces (South Africa, 1996). It does its best to justify

its existence by, for instance, setting-up shop in various locations/regions on a regular basis and opening forums around the country for general public participation. These are considered by South African observers to be token, (to give the society a sense of bringing parliament to the people), without making much difference on national policy and legislative programs as defined in the National Assembly.

APPENDIX 4: FISCAL MANAGEMENT AND THE FORMULA BASED EQUITABLE SHARE PROCESS

Intergovernmental transfers (IGT) Section 227 entitles the local government sphere to an equitable share of nationally raised revenue to support provision of basic services and perform the functions allocated to it. Municipalities may also receive additional grants from national or provincial government on a conditional or unconditional basis. Oversight and regulation of the financial affairs of municipalities—Sections 139(1)(a) and (b) and 155(7) of the Constitution—give national and provincial government executive and legislative authority to oversee the performance of municipalities with regard to their functions. Sections 229(1)(b), 229(2)(b), 230(1) provide for national regulation over the fiscal powers of a municipality (see Helmsing, et. al.1996 for a discussion of intergovernmental fiscal relations).

For conditional grant transfers to municipalities, detailed frameworks exist in each annual Division of Revenue Act to provide a brief description of each and every conditional grant transferred to municipalities. Conditional grants do not form part of equitable share. The current conditional grants include the following below:

- Municipal Infrastructure Grant (MIG);
- Public transport infrastructure grant (R6,7 over MTEF);
- Neighborhood development partnership (R0,5 – R1,7bil over MTEF);
- Electrification (R2,2 bil + R3,8 for Escom);
- Water regional infrastructure (R1,6 billion over MTEF);
- School and clinic water – R665 mill;
- Electrification of school and clinics – R285 million;
- FIFA (likely to be terminated after the FIFA 2010 World Cup); and
- Capacity – Restructuring grant, MSIG (R200 ml) and Finance management grant.

The South African Constitution (in Section 214-1) requires that every year an act of Parliament, the DORA, determine the equitable division of resources among the three spheres of government, and horizontally among the nine provinces and 283 municipalities. This equitable distribution of resources is central to cooperative governance in South Africa. (On fiscal management in South Africa see Bahl and Smoke, (2003: 6–7) and especially the essays by Reschovsky.)

The Inter-Governmental Relations Framework Act (IGRF) gives effect to Section 214 of the Constitution. That section sets out the intergovernmental relations process among the three spheres of government, in terms of consultation over enacting the DORA. The IGFR Act establishes the consultative forums—involving the National Council of Provinces, the Presidential Coordinating Council, the Financial and Fiscal Commission (FFC), the Budget Council, the Budget Forum, sector based MINMECs and joint-based MINMECs. South Africa has an alphabet soup of inter-governmental fiscal and administrative agencies.

Sections 9 and 10(4) of the IGFR Act set out the consultation process to be followed with the FFC, including the process of considering recommendations made with regard to the equitable division of nationally-raised revenues. The Budget Council deliberates on budget matters in its relevant Lekgotla (meeting) sessions held before the end of October. Municipal allocations at least nominally benefit from the support provided by the SALGA⁵ and the provincial associations' inputs into the Budget Forum. DORA takes into account concerns expressed in Section 214(2) of the Constitution. These factors include:

- National interest;
- Provision for debt-servicing costs;
- National government needs and emergencies;
- The need to ensure that provinces are in a position to provide constitutionally mandated services;
- Developmental needs of the provinces and local government;
- Fiscal capacity and efficiency of the provincial and local government spheres; and
- Reduction of economic disparities, and promotion of stability and predictability.

The formula-based equitable share at both provincial and local government spheres provides both for provincial (Provincial Equitable Shares (PES) and local government equitable shares (Licensing Executives Society [LES]). These are formula-based as proposed by the FFC. The current formula structure proposed by the FFC provides for an implementation mechanism and component measures decided upon by Budget Council (in which SALGA enjoys membership). Both PES and LES formula are components-based and demographically driven. They are comprised of six components with weights assigned to each component, and these components attempt to capture expenditure assignments for provinces and local governments. The components for PES include;

- Education (51 percent) based on learner enrollment and school age population;
- Health (26 percent) based on proportion of people with and without medical aid;
- Basic services (14 percent) based on provinces' share of national population;
- Institutional (five percent) divided equally among provinces;
- Poverty (three percent) proportion of poor (quintile one and two) people in a province; and
- Economic output (one percent).

⁵ This is somewhat analogous to the Local Government Association in the UK and International City/County Management Association in the US.

The FFC has highlighted the dangers associated with the formula, including the potential for manipulation, complications resulting from windows being added, and the erosion of the amount due to inflation over time.

For LES the formula is different as it is principally an unconditional grant (with the formula being $BS + D + I - R \pm C$ where BS = basic services, D = Development component, I = institutional support, R = revenue raising capacity and C = correction and stabilization factor). The process is supposed to be transparent as various processes leading to budget councils are marked by the inclusion of relevant players including SALGA. It has to be mentioned, though, that these formulae are complicated and there is generally no consensus even among experts as to their efficacy. The FFC is critical to making researched recommendations based on current realities, including fast-changing demographic movements from rural to urban centers. Observers have in the past indicated, though, that the National Treasury is the gorilla in the house when it comes to deciding on the division of nationally collected revenue and has often overruled the FFC. Ultimately, politics comes into the picture.

A KwaZulu Natal Case on the question of equitable share of nationally collected funds was Case CCT 7/02 titled; [Uthukela District Municipality and Others v. President of the Republic of South Africa...](#) Heard on : May 14, 2002. Decided on: June 12, 2002. In judgment, Justice Du Plessis stated:

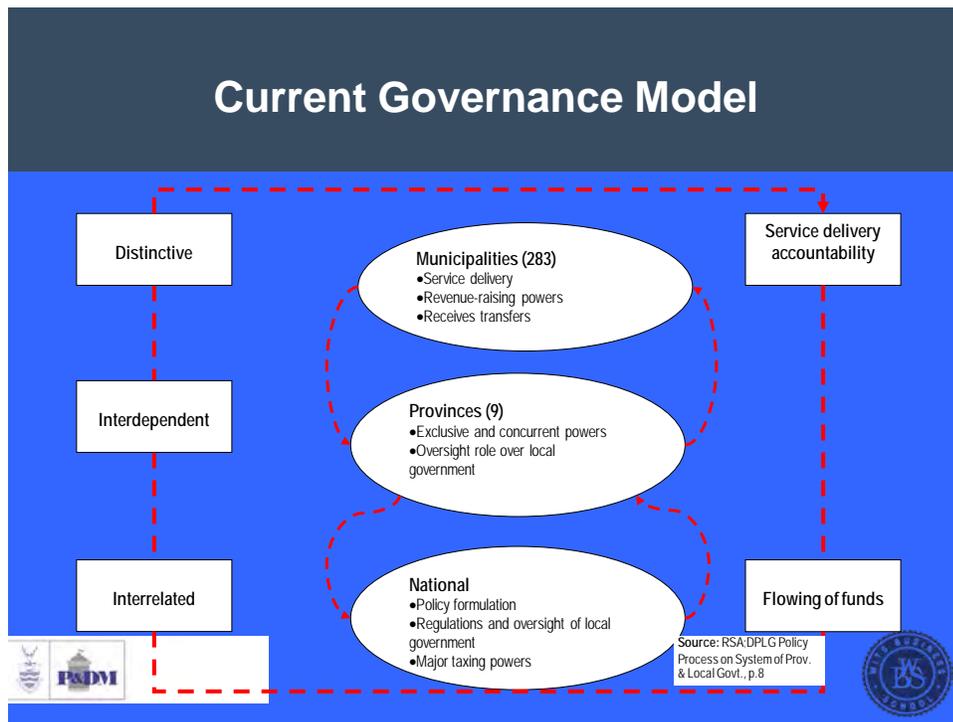
The three applicants are Category C municipalities whose respective areas of jurisdiction fall within the KwaZulu-Natal province. In three separate applications they applied to the Natal High Court for orders declaring Section 5(1) of the 2001 Act unconstitutional in its omission to accord applicants entitlement to an equitable share of revenue raised nationally allocated to the local sphere of government. The three applications were consolidated and the High Court gave an order declaring Section 5(1) unconstitutional and invalid to the extent that it excludes Category C municipalities from sharing with Category A and B municipalities in the local government allocation of revenue raised nationally. (It is convenient to refer to Category B municipalities as local municipalities and to Category C municipalities as district municipalities.)

APPENDIX 5: AN OVERVIEW OF THE NATURE AND NUMBER OF MEETINGS HELD AND THE ROLE OF COMMITTEES (INCLUDING MANAGEMENT COMMITTEES)

Stake Holder	Planning	Implementing	Monitoring	Oversight
Citizens and Communities	Needs identifications Vision development Identification of priorities, choice of indicators and setting of targets		Annual review meetings for monitoring and “auditing” of performance against commitments	Given the opportunity to review performance and setting of revised indicators and new targets
Councilors	Facilitate of development of vision Developing strategies to achieve visions identity priorities adopt indicators and set targets		Holding the executive accountable through council meetings	Review municipality's general performances
Mayoral Executive Committee	Play the leading role in giving strategic direction and developing strategies and policies for the municipalities Management of planning and budgetary processes and to communicate these to relevant stakeholders	Manage the implementation of strategic plans such as Integrated Development Planning (IDP)	Regularly monitor the implementation of IDP, identify early risks and intervene with resolution of operational problems	Conduct regular reviews of municipal performance often on an annual basis

Executive Management	Assist the executive committee in providing strategic direction and developing strategies and policies for the municipality Manage the development of an IDP process	Manage the implementation of local government programs	Regularly monitor the implementation of development programs	Conduct regular reviews of local programs on an ongoing basis to ensure the availability of information and propose strategies to deal with risks
Organizes labor	Play contributory role in giving strategic direction of the municipality vision in that area Contribute to the promotion of development and other processes			

APPENDIX 6: CURRENT COOPERATIVE GOVERNANCE MODEL IN SOUTH AFRICA



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