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## Imperfect transition – local government reform in South Africa 1994-2012

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Local government is a mirror of the larger political and economic forces, cleavages and problems that are shaping South African society. It is these deeper fault lines in society, rather than the Zuma government's turnaround strategy or the 2011 local elections result, which will drive future policy and determine its effects. This is the *first lesson* of local government reform in all four terms of national government examined in this chapter. In each term, national policy reforms were moulded by shifting political and economic circumstances and larger national interests, not simply by the unfolding logic of the original blueprint for local government in the 1998 white paper. The outcome of eighteen years of policy reform, however, was not the new society imagined in the white paper, but an imperfect transition that is local government today: where peaceful electoral competition coexists with violent public protests, racial group areas endure in fact, even if not in law, pockets of good governance survive amidst systemic corruption and mismanagement, and national policy goals consistently exceed local government's capacity to deliver them and the economy's skills base. *The second lesson* flows from that reality – due to the fact that the problems of local government are so nested in the broader problems of our society, further local government policy reform and sweeping national turnaround strategies are likely to have imperfect impacts on 'the problem of local government' in South Africa.

### INTRODUCTION

The Mandela government's white paper on local government offered a new vision of post-apartheid society, embodied in the concept of developmental local government

(Ministry of Constitutional Development and Provincial Affairs, 1998). The territory of the country would be divided into municipalities, each governed by an elected municipal council. Municipalities would integrate racially divided group areas under a single local authority and a common tax base. Local development plans would guide programmes of national reconstruction and development. Citizens would partner with municipalities to build non-racial communities. Municipalities would redistribute expenditure to service delivery in poor black communities. By the time that implementation began in 2000 the force of this transformative vision was already spent – overtaken by hard political and economic realities, overwhelmed by the scale of institutional changes involved and the distance between the ideal and delivering practical change. This chapter examines the major local government policy reforms<sup>1</sup> in the four terms of national government since 1994, analysing key factors that have informed policy and shaped its effects, concluding with a perspective from an early 2012 vantage point on the prospects for policy reform following the 2011 local elections.

The chapter's central argument is that in the four terms of national government, local government reforms were not unfolding episodes in a continuous, uninterrupted process of implementing the white paper's vision for developmental local government. Policy and local institutions were shaped less by original design than by changing political and economic realities in the country, competing national policy objectives, often by strategic miscalculations, and more lately by competition for power in the ANC.

The outcome of eighteen years of local government reform was not the new society imagined in the white paper, but an imperfect transition that is local government today: Formal electoral competition coexists with increasingly violent public protests between elections. Pockets of performance endure amidst systemic corruption and mismanagement. And the expectations of policy-makers continually exceed local delivery capacity and the skills base of the economy. Local government is a reflection of South African society, and it is the deeper fault lines in our society which have consistently shaped the design and impact of policy. The ANC will interpret the result of the 2011 election as popular support for its turnaround strategy for local government, but the factors impacting on local government effectiveness are substantially beyond the control of policy-makers and unable to be reversed through sweeping policy solutions.

The chapter now assesses the serial efforts of South Africa's successive democratic governments to close the persistent gap between the ideals of local government transformation and realised turnaround on the ground.

## **DEVELOPMENTAL LOCAL GOVERNMENT – THE MANDELA GOVERNMENT OF NATIONAL UNITY (1994-99)**

The process to formulate the white paper intersected with three major developments in the country, each of which left an imprint on local government policy and institutions. First, the Constitutional Assembly was writing the country's new constitution. In 1996 local government graduated from a statutory institution to a full sphere of government with a broad developmental mandate. Second, following the first democratic elections in 1994, the ANC-led government of national unity (GNU) took office with a strong mandate from the electorate to rebuild and develop the country. Local government was to play a lead role in reducing poverty, providing services to meet basic needs. Third, to grow the economy, government adopted a macro-economic framework in 1996 which introduced fiscal austerity measures. Thereafter, local government reforms would be disciplined by fiscal reform goals, budget contraction and tighter treasury controls. The white paper's vision for local government was thus conceived in a context defined by competing policy objectives. This section examines the impact this has had on the original policy vision of local government.

### **Origin of developmental local government in the constitutional negotiations**

The genealogy of developmental local government can be traced back to the civic struggles against apartheid of the 1980s. A powerful civic movement had emerged in response to the appalling conditions in black townships and the government's attempts to establish black local authorities in townships without conceding full citizenship rights to blacks. The civic struggles linked local grievances to the cause of national liberation. After 1990, civics and local authorities in towns and cities across the country began to negotiate local settlements to rent and service boycotts and the amalgamation of racial local authorities.<sup>2</sup> These initiatives established the place of local actors at the national negotiating table, the role of local government under the democratic order, and the founding concepts of developmental local government (such as 'one city one tax base' and phased-in transition). When the final national negotiations process got underway in 1993, local actors negotiated a new democratic dispensation for local government in the Local Government Negotiating Forum

(LGNF).<sup>3</sup> One of the outcomes of the LGNF was the Local Government Transition Act of 1993 (LGTA) which outlined the pathway for the transition to full local democracy.<sup>4</sup>

The LGTA set out three phases for local government transition. The first, pre-interim phase (1993-1995) started with the negotiated settlement in 1993 and concluded with the election of transitional local councils in 1995/96. Local governments of unity were established and consensus seeking was promoted through measures such as a two-thirds majority vote to adopt the budget and proportional representation on the executive committee (Steytler & De Visser, 2009:paras 1-13). The Act provided for provincial commissions to demarcate the boundaries of the transitional urban, rural and metropolitan municipalities, which led to the creation of 842 municipalities governed by transitional councils elected in 1995/6. The elections inaugurated the second, interim phase (1995-2000), which coincided with the term of the Mandela government and the adoption of the new constitution in 1996 and concluded with the first fully democratic local elections in 2000, which would launch the third and final phase.

### **The reconstruction and development programme (RDP)**

The RDP was the ANC's vision for social justice after apartheid and the guiding framework for government policy in the first term (ANC, 1994). The RDP gave local government an expansive mandate to meet basic needs and promote people-centred government and outlined the key principles of democratic local government – such as a single tax base, participatory government, cross-subsidisation of service delivery, and writing off of the debts accrued by black local authorities. The white paper would consolidate the RDP principles into a vision for developmental local government.

### **Growth Employment and Redistribution (GEAR)**

GEAR was adopted in 1996 to boost economic growth to 6 percent, the minimum rate needed to create jobs, extend service delivery and overcome inequality. GEAR introduced short-term austerity, including deficit reduction, budget reprioritisation, and stronger state coordination of fiscal and budget policy (Ministry of Finance, 1996). GEAR was the guiding framework for a comprehensive process to reform the budget process, the intergovernmental fiscal system, financial management and accounting practices which rolled out over the next five years. Various streams of capital payments to municipalities were consolidated into the Consolidated Municipal Infrastructure

Programme in 1996. The local government equitable share formula was introduced in 1998 to subsidise a package of basic municipal services to indigent households. These major reforms to local government finances were introduced contemporaneously with the drafting of the white paper.

### **The white paper and legislation**

The white paper defined developmental local government as (Ministry of Constitutional Development and Provincial Affairs, 1998:17):

... local government committed to working with citizens and groups within the community to find sustainable ways to meet their social, economic and material needs and improve the quality of their lives.

In 1998 the Municipal Demarcation Act (Act No. 27 of 1998) and the Municipal Structures Act (Act No. 117 of 1998) were promulgated to give territorial and structural effect to the policy. The former Act created a demarcation board to determine the boundaries of the new municipalities, 284 municipalities were eventually established. The latter provided for the structural, political and functional institutions for metropolitan, district and local municipalities, with the latter two tiers sharing jurisdiction over rural areas.

From the start, local government policy and institutions were imprinted by competing national objectives. First, the constitution and RDP gave local government a broad mandate to meet basic needs and redistribute capital spending to poor communities, the central ideas behind municipal integrated development planning and district-led redistribution. Second, intergovernmental fiscal policy, however, would now consistently discipline local government policy in line with macro-economic goals. In practice this meant a contraction of expenditure on service delivery and stronger central control over all policy-making, progressively shifting the real levers of policy control from the Department of Constitutional Developmental to the National Treasury. Third, by the time the white paper was adopted it was already accepted that redistribution would be a national, not a local, responsibility, and the abolition of the regional services council levy was on the cards (abolished in 2003). In effect, these policies knocked off one of the main rationales for district government and its only source of redistributable income. Fourth, the design of the local government equitable share was predicated on the assumption that local government raised 90 percent of its own revenue and only 10 percent would be subsidised through the intergovernmental

grant system (Department of Finance, 1998:23). This resulted in the underfunding of municipal service delivery, an issue that emerged sharply at the ANC's debriefing after the 2011 elections. Fifth, the repeal in 1996 of the Profession of Towns Clerks Act, which had regulated the appointment of qualified professionals as municipal managers, effectively left the qualifications and competences of municipal managers unregulated until the National Treasury introduced regulations in 2007.<sup>5</sup> The net effect of these developments was that at the same time that municipal boundaries were expanding to include under-serviced rural populations and townships and national policy was giving local government a vast developmental mandate, the new sphere was being asked 'to do more with less resources' and a crumbling skills base.<sup>6</sup>

## **ESTABLISHING DEVELOPMENTAL LOCAL GOVERNMENT – THE FIRST MBEKI GOVERNMENT (1999-2004)**

The first elections under the new system took place in 2000 at the start of the first Mbeki government, the final phase of the local government transition. The Department of Provincial and Local Government replaced the Department of Constitutional Development. Two main priorities occupied the term. The first was establishing the new municipalities and inducting the new councils. Government planners divided the final phase into three periods: Two years were set aside for establishment (2000-02), followed by a two-year period of consolidating the new systems (2002-05) and the sustainability phase (2005 onwards), by which time the new systems were expected to be fully operational. By 2001 it was clear that the transition timeline was seriously flawed. Against all of the main indicators, the establishment process was slow. The institutional framework for local government was also incomplete (Department of Provincial and Local Government, 2001).<sup>7</sup>

The second priority was completing the policy, legislative, and regulatory frameworks for municipal planning, service delivery, finances and administration. In 2001 government adopted a policy of providing a package of free basic services (FBS) in water, electricity, sanitation and refuse services to all citizens, targeting poor households. National subsidies to local government for basic services would increase over the next 10 years. However, at the time FBS was introduced, there was no final division of the functional responsibility for these services between districts and locals (only finalised in 2003), and major restructuring was involved in transferring water schemes and staff from the water sector to local government.

The legislative framework was completed with the passage of the Municipal Systems Act (Act No. 32 of 2000), regulating planning, service delivery, performance monitoring and public participation; the Municipal Finance Management Act (Act No. 56 of 2003), regulating financial management, accounting, supply-chain management, reporting and budgeting; the Traditional Leadership and Governance Framework Act (Act No. 41 of 2003), providing for relations between traditional leadership and municipalities; and the Municipal Property Rates Act (Act No. 6 of 2004), regulating property evaluations and taxing. The intergovernmental grant system was also undergoing major reform, leading to the phased-in introduction of the Municipal Infrastructure Grant in 2003. Perhaps the most important of these reforms was the finance management legislation, which introduced international standards for financial management in all municipalities, and progressively consolidated National Treasury control over local government policy.

The contradictions in local government policy had deepened under the first Mbeki government. National policy had created heightened expectations about local government's contribution to poverty relief, setting firm targets for universal access to basic services. But municipalities were still struggling with basic problems of establishment, and the policy, legislative and fiscal frameworks regulating municipal systems were yet to be completed.

## **INCLUSIVE GROWTH AND POVERTY REDUCTION – THE SECOND MBEKI GOVERNMENT (2004-09)**

The central objective of the second Mbeki government was economic growth of 6 percent and a fairer distribution of its benefits (Presidency, 2004:33-34). A dangerous gap had opened between what Mbeki began to call the first and second economies – the elite on top, the poor masses without economic hope at the bottom, and no 'connecting staircase' between the two economies (Pressley, 9 October 2003). Local government was conceptualised as an important bridge. Improved capital expenditure in the urban built environment (transport, energy, FIFA World Cup stadia) would crowd in private sector investment, boosting growth in the first economy and hence job creation. Municipal expenditure on basic needs, as part of a wider social safety net for the poor, would help to combat poverty in the second economy. But local government lacked the engineering, planning, financial and project management skills that were essential to fulfil these tasks. The economy was not producing these scarce skills (Presidency, 2008). Special short-term national measures were needed to



boost the municipal skills base. Government had miscalculated the disastrous impacts of transformation on municipal skills.

Local government reform had three main objectives during the term: deploying expertise to skills-depleted municipalities (known as Project Consolidate), stronger coordination of public spending on growth and fighting poverty, through more centralised intergovernmental relations (the Intergovernmental Relations Framework Act No. 13 of 2005) and a new strategic framework for local government (the Five Year Strategic Agenda, including long-term policy review).

### **Project Consolidate**

Project Consolidate was a two-year national intervention (2004-06) to support municipalities lacking the expertise to discharge their mandate to provide basic services. It also sought to address the fact that national and provincial departments were not fulfilling their constitutional duty to support municipalities. Project Consolidate deployed technical experts to 136 municipalities – generally in rural areas or former homelands which had the highest backlogs in basic services and were economically depressed (Department of Provincial and Local Government, 2006a:1). The Development Bank of South Africa introduced a similar programme, called Siyenza Manje, to support financial management and infrastructure planning. By April 2008, Project Consolidate and Siyenza Manje deployments totalled 1,124 in 268 municipalities (Department of Provincial and Local Government, 2009:215). It was difficult to measure the impact of these capacity-building measures. And by putting a number to the municipalities under stress government had in effect announced that there was a systemic crisis in local government. Since then policy reform has been on a crisis footing. In practice, these interventions did little to improve the financial performance of municipalities, which is perhaps the most important indicator of the health of local government. In his audit report for 2009/2010, the Auditor-General found that despite the ‘abundance of technical tools to support municipalities’ the results were only ‘fractionally better than the previous year’ (Auditor-General, 2011a; for the full report see Auditor-General, 2011b).

### **The Intergovernmental Relations Framework Act (Act No. 13 of 2005)**

The Intergovernmental Relations Framework Act (IGRFA) was introduced in 2005 to establish greater predictability in intergovernmental relations and to promote



alignment of national, provincial and local plans and expenditures. The Act addressed three local government concerns. First, to overcome the haphazard way in which departments had been consulting with local government, statutory membership in all key intergovernmental forums was conferred on organised local government. Second, the Act provided for direct representation of district executive mayors in provincial intergovernmental forums, to promote effective executive-to-executive engagements between these two spheres. Third, district intergovernmental forums were established to force cooperation between district and local executives, to overcome the tension and competition that typified relations between the two tiers. The impact of the IGFRA is hard to measure, but the institutions are established and operational, and since 2005 relations between the ANC national government and the DA controlled governments in the Western Cape and Cape Town have been transacted through the Act's machinery.

### **The five-year strategic agenda for local government 2006-11**

In January 2006, Cabinet adopted the Five-Year Strategic Agenda (5YSA) for the second term of local government (2006-11), following a comprehensive review of the first term of local government (2000-05) (Department of Provincial and Local Government, 2006b). The review found that the final phase of the transition had been too ambitious and pointed to the worrying mismatch between national policy objectives and local government's capacity to implement them. Poor policy coordination, overregulation of local government, and unsystematic support for municipalities were identified as contributing to municipal distress. The review outlined three imperatives for the next five years (Department of Provincial and Local Government, 2006b). First municipalities would have to improve their performance and their accountability to communities. Second, an unprecedented national capacity-building effort would be required to help local government to discharge its mandate. Third, more effective coordination of policy, and monitoring and supervision of local government were required. Over time, the objectives of the 5YSA were systematically anchored in the plans and operations of municipalities, provinces and national sector departments as the guiding strategic framework. The 5YSA would be replaced in 2009 by the Zuma government's turnaround strategy.

## **The policy review of provincial and local government 2007-09**

In January 2007, Cabinet approved a process to develop a white paper on provincial government and review the white paper on local government (known as the policy review of provincial and local government). Longer-term policy review was part of the 5YSA. Later that year the ANC released a discussion document on the future of provinces setting out three options: retaining, abolishing, or reforming the provincial system (ANC, 2007). The policy review began in August and the public was invited to make written submissions on 65 policy questions (Department of Provincial and Local Government, 2007b). There was widespread support for reviewing or abolishing the two-tier system. The policy review process in government was overtaken by events at Polokwane in December 2007 when Mbeki lost the ANC leadership race to Zuma and Mbeki's subsequent resignation in 2008. The final report on the policy review, which has yet to be released to the public, was submitted to cabinet in January 2009. In the ANC, the process survived Polokwane. The ANC took a resolution to hold a special summit on provincial and local government, which took place in December 2010. The outcome was inconclusive – the ANC resolved to appoint a Presidential Review Commission to continue the work (ANC, 2010), which by early 2012 had yet to be appointed. The discussion document on local government for the 2012 policy conference, published in March, was not only poorly drafted, but largely repeats both the Summit's recommendation of an expert commission, the ANC's options for reform tabled in 2007 and the findings of the Mbeki government's policy review (ANC, 2012). It provides little clarity about policy direction on provincial and local government and adds nothing new. The National Planning Commission's National Development Plan: Vision 2030, on the other hand, is a pragmatic and well-researched document. It does not support major structural reform to provinces, but rather a 'more focused role for provinces' to make the current system work more effectively (NPC, 2011:386). It is unlikely that national government will take any major decision on the future of the provincial system before the ANC policy conference in mid-2012 and the elective conference in December 2012.

## **LOCAL GOVERNMENT IN CRISIS – THE ZUMA PRESIDENCY (2009-PRESENT)**

The Zuma government 'took office with the economy in recession, under enormous pressure to combat growing job losses, but with his party wounded and divided following Mbeki's resignation' (Steytler & Powell, 2010:151). The Zuma government's

approach to local government reflected the sense of crisis in the country. A national turnaround of local government would be the centrepiece of the new administration's local government policy for the next five years, and the platform from which the ANC would contest the 2011 municipal elections.

### **The national turnaround strategy for local government**

In May 2009, the Ministry of Provincial and Local Government was disbanded and replaced by the Ministry of Cooperative Governance and Traditional Affairs (COGTA). In his budget speech for the 2009/10 financial year, the new Minister repeatedly attacked the former Minister (Minister of Cooperative Governance and Traditional Affairs, 2009). The new ministry would be the 'choir conductor' coordinating the system of cooperative governance. The practical effect of the change in leadership was that all existing programmes were put on hold pending a major restructuring of the department, and flagship policies such as the Five-Year Strategic Agenda were discontinued.

The Local Government Turnaround Strategy (TAS) emerged from COGTA's assessment of the state of local government in 2009 (COGTA, 2009a; COGTA, 2009c). The report found that while local government had contributed to democratisation, the system as a whole was 'showing signs of distress' (COGTA, 2009a:2). Indicators of this distress included 'huge service delivery backlogs', a breakdown in council communication with and accountability to citizens, political interference in administration, corruption, fraud, bad management, increasing violent service delivery protests, factionalism in parties, and depleted municipal capacity (COGTA, 2009a:13). These were symptoms of deeper systemic problems in local government and cooperative governance (COGTA, 2009a:9-10). In some cases 'accountable government and the rule of law had collapsed or were collapsing' due to corruption, profiteering, and mismanagement. The report was the most forthright admission yet by government that local government was in a state of crisis. Following this report, the government adopted the Turnaround Strategy for Local Government (TAS) as an outcome in its five-year programme of action (Presidency, 2010). All municipalities were expected to adopt turnaround strategies as part of their IDPs. Three key priorities for TAS were improving access to basic services; deepening participatory democracy; and improving financial management and administrative capacity.

*Improving access to basic services*

Government's goal is to achieve 'universal access to basic services for all households by 2014' (COGTA, 2009b). There has been significant progress: 93 percent of the population has access to a basic level of water – a stand pipe within 200 metres from a dwelling (COGTA, 2011a); 73 percent of households have access to electricity; 67 percent have access to basic sanitation (a ventilated pit latrine in the dwelling); and 59 percent to once a week refuse removal (COGTA, 2009b:9). But there are major obstacles to achieving the target. There are huge inter-provincial disparities, with provinces that absorbed former homelands and rural areas well below the national average for most services. The population statistics on which funding for these services is calculated are also outdated (2001 census), with the result that services are often underfunded. In 2007, for example, it was estimated that an additional R63 billion was needed to meet the service targets. Exponential connection rates for water and electricity services must be achieved each year to meet the targets. For example, in 2007 it was estimated that 500,000 new electricity connections per annum were needed, but there was only funding available for half that amount (Department of Provincial and Local Government, 2007a). The backlogs in bulk infrastructure are huge; outstanding municipal debt had grown to R62.3 billion as at 31 December 2010, and dependency on grants has increased even in the metros (National Treasury, 2011:62).

*Deepening public participation*

Legislation provides many avenues for public involvement in municipal planning, budgeting, service delivery, and performance evaluation. A variety of structures serve this goal (IDP Forums, ward committees, and service delivery improvement forums). Despite the existence of this formal machinery for participation, public protests have increased in number and frequency since 1994. For example, between 2007 and 2010 the average number of protests per month was 8.73 in 2007, 9.83 in 2008, 19.18 in 2009, and 16.33 in 2010 (Jain & Powell, 2010:14).<sup>8</sup> Since 2010 (Karamoko, 2011:1),

... the country has witnessed unprecedented rates of violent protests. These findings suggest that there remains strong public discontent with municipal service delivery throughout South Africa despite the appearance of relative calm.

Protests are also increasingly prone to violence (injury to persons or property caused by protesters or the use of force by the state during protests): 42 percent of protests in 2007, 38 percent in 2008, 44 percent in 2009 and 54 percent in the first

six months of 2010 involved violence of some kind (Jain & Powell 2010:14). Deputy Minister of COGTA, Yunus Carrim, sounded an alarm in 2010 when he warned that ‘the rage of sections of the protestors and the extent of violence and destruction they wreak’ reflected ‘a far more fundamental alienation of people from our democracy. It suggests an acute sense of marginalisation and social exclusion’ (Deputy Minister of COGTA, 2010). It was the first time that a government leader had publically drawn a direct political connection between the rise in violent protests and the failure of developmental local government.

Another kind of protest – organised – directed at local government is the withholding of rates by some ratepayers. In towns across the country, ratepayers associations have declared disputes with municipalities over poor service delivery, corruption and mismanagement, withheld the payment of rates and taxes to their municipalities in response and, in some cases, assumed the responsibility to provide municipal services. Ratepayers associations in 70 towns have declared disputes, with R10 million withheld by ratepayers in 35 towns (Powell *et al.*, 2010).<sup>9</sup>

In response to these protests, government is considering ways to improve public participation by increasing the size of a ward committee (from 10-30 members) and reviewing the funding model for ward councillors (COGTA, 2011a). The response overlooks three factors. First, the increase in protest action is an indicator that protests have become a more efficient way for communities to express grievances and make demands than formal avenues. Second, there is a mismatch between the public’s low awareness of participatory structures (let alone actual participation) and the high expectations that policy-makers have for public participation. Third, government has no reliable measurement of the impact that public participation has on local governance beyond a simple head count of people attending meetings.

### *Improving financial management and administrative capacity*

The MFMA set high standards for financial reporting and accounting that few municipalities meet in practice. The Auditor-general’s report for 2009/2010 showed the extent of the challenge, only 7 of the 237 municipalities received clean audits. Drawing on comparable findings from the Auditor-General’s report for 2007/08, COGTA’s state of local government report noted the worrying state of municipal financial management: 54 percent of municipalities in 2007/08 received qualified, disclaimer or adverse audit opinions and in 45 percent of cases ‘unauthorised, fruitless and wasteful expenditure’ had led to the qualifications (COGTA, 2009:73-74). The TAS set 2014 as the target for

all municipalities to attain a clean audit. The Department's Annual Performance Plan for 2011/2012 breaks this commitment down into annual targets for the next three years. By 2011/12, 60 percent of municipalities are expected to attain unqualified audits, rising to 75 percent in 2012/13 and 100 percent in 2013/14 (COGTA, 2011b:42). In light of the reality presented in the annual reports of the Auditor-general and COGTA's own report, these targets are unrealistic. COGTA faces a major political dilemma. It has set a firm national target for clean audits but has no control over the activities that shape audit outcomes, which are all under the full control of municipalities.

Improving the quality of municipal administration is a key priority and will require, firstly, that competent professionals are appointed to senior management positions and, secondly, that municipal administration is insulated from undue party political influence. In 2007, the National Treasury issued regulations to prescribe general and minimum competences and qualifications for the various classes of senior management. These regulations come into full effect in 2012. Parliament also passed the Municipal Systems Amendment Act (Act No. 7 of 2011) which, amongst others things, prohibits office bearers of political parties from occupying management positions. The President assented to the Act on 5 July 2011 despite stiff resistance from the Congress of South African Trade Unions (Cosatu). These are important 'supply-side' measures, but the larger problem remains the scarcity of skills in the economy and making local government attractive to mobile professionals.

## **CONCLUSION – CONTINUITY AND CHANGE, POLICY REFORM AFTER LOCAL ELECTION 2011**

The ANC government will view the result of local election 2011 as a popular validation for its turnaround strategy for local government, the platform from which it fought the 2011 municipal elections. Popular support for the turnaround strategy, however, is not enough for the strategy to succeed. The lesson in this brief overview of local government reform since 1994, is that policy-making is not simply a matter of getting the 'ideas right' so as to 'straighten out our practices'.<sup>10</sup> The factors that will determine whether the turnaround targets will be met are largely not under the control of national policy-makers. Clean audits cannot be decreed from Pretoria. Insisting on clean audits as the indicator of success also precludes government from claiming success against more manageable short-term targets (such as graduation from disclaimer to qualified audits). The question of insulating administration from party politics will also not be decided on the merits of the recent amendments to legislation. It will depend on whether the ANC's will to force the issue can survive a sustained onslaught from



Cosatu within ANC and Alliance structures. The ruling party's increased hold over government policy also presents challenges for government policy-makers. First, the ANC lacks the technical capacity that is required to make credible policy in this complex sector. Second, it locks government policy-makers into internal party processes and work schedules, paralysing decision-making. Third, it makes major institutional reforms (such as abolishing districts) an unlikely prospect, because interests are too vested in the current system and coalitions too fragile to build a strong consensus on major reforms.

In less than five years government's policy stance on local government shifted 180 degrees, from a forward looking agenda to crisis and turnaround. By couching local government reform in the language of a systemic crisis requiring national intervention, the Zuma government has sacrificed forward-looking strategy to crisis management – and it is hard to demonstrate progress when reform is cast as a response to a strategic crisis. The announcement of failure in effect prefigures the measurement of results. Replacing the Mbeki government's programmes with a new strategy and at the same time embarking on a major reorganisation of the department, meant that COGTA was in a weak position to drive long-term reform in government. In late 2011, Sicelo Shiceka was replaced as Minister by the relatively junior and inexperienced Richard Baloyi. Subsequently, the Director-General, Elroy Africa, resigned. These developments have left a leadership vacuum in the local government sector after the 2011 elections. Despite these shortcomings there are several important advances. The devolution of housing and public transport functions to larger cities reflects a greater appreciation of the importance of the built environment to growth and development. The announcement in COGTA's 2011/12-budget vote that the financial model for local government will be reviewed was a welcome acknowledgement that receiving only eight percent of national revenue, local government has been underfunded all these years. However, by January 2012 there were still no practical details of the new model in the public domain.

The outcome of the 2011 local elections illustrates the dichotomy that had opened between formal local democracy and the politics of the local in South Africa, between policy intent and local political reality. If the highest voter turnout yet, is cause to celebrate the deepening of local democracy in our country, the persistence of violent community protests and the rise of rates boycotts could be seen as a complementary, perhaps more effective, way in which citizens are asserting their voices and holding politicians accountable. In that case, what does it mean to say



that democracy is deepening, and by what measure? From the results we could also infer that the ANC retains its huge electoral support in the country, but also that (outside of the Western Cape) the electorate remains unwilling to punish the ruling party's failures at the polls even when those failures have sparked violent protests. Are there two separate social contracts in South Africa – with citizen-government accountability transacted through the ruling party's structures, as well as through formal institutions like elections? The introduction in 2011 of national legislation to prevent political office-holders from occupying senior management positions was a decisive intervention by national government to insulate municipal administration from undue political interference.<sup>11</sup> But how will that measure fare when a post in a municipality is the gateway to a middle-class lifestyle in a city, town or rural area and when the informal rules of the profiteer trump formal processes and the law?

## References

- African National Congress (ANC). 1994. *The reconstruction and development programme: A policy framework*. Johannesburg: Umanyano publishers.
- African National Congress (ANC). 2007. The future of provinces in our governance model. *Discussion document on legislature and governance for a democratic society*. [Online.] Available from: <http://www.anc.org.za/show.php?id=2367>. (Accessed 8 March 2012.)
- African National Congress (ANC). 2010. *Summit on provincial and local government*. 2-4 December. [Online.] Available from: <http://www.anc.org.za/docs/discus/2010/simmitz.pdf>. (Accessed 8 March 2012.)
- African National Congress (ANC). 2012. *Legislature and governance: ANC policy discussion document*. [Online.] Available from: [http://www.anc.org.za/listphp?pageNum\\_rs=0...Discussion%20Documents](http://www.anc.org.za/listphp?pageNum_rs=0...Discussion%20Documents). (Accessed 5 March 2012.)
- Auditor-General. 2011a. *Media release*. 29 June 2011. *AG urges South African mayors to lead the drive towards clean administration by 2014*. [Online.] Available from: <http://www.agsa.co.za/LinkClick.aspx?fileticket=KrcMgbSP7gQ%3d&tabid=99&mid=752>. (Accessed 5 August 2011.)
- Auditor-General. 2011b. *Consolidated general report on the local government audit outcomes 2009-2010*. [Online.] Available from: <http://www.agsa.co.za/Audit-Reports/ReportDetails.aspx>. (Accessed 5 August 2011.)
- Bauerlein, M. 2011. A solitary thinker. *Chronicle of Higher Education*. [Online.] Available from: <http://chronicle.com/article/A-Solitary-Thinker/127464/>. (Accessed 24 May 2011.)
- Cloete, F. 1994. Local Government Transformation in South Africa. In: B. De Villiers (ed.) *Birth of a Constitution*. Kenwyn: Juta & Co Ltd.

- Department of Cooperative Governance and Traditional Affairs (COGTA). 2009a. *State of local government: overview report*. Pretoria: COGTA.
- Department of Cooperative Governance and Traditional Affairs (COGTA). 2009b. *Basic services publication: comparative information on basic services*. Pretoria: COGTA.
- Department of Cooperative Governance and Traditional Affairs (COGTA). 2009c. *Local government turaround strategy: Working together, turning the tide in local government*. Pretoria: COGTA.
- Department of Cooperative Governance and Traditional Affairs (COGTA). 2011a. *Presentation: programme of action progress: April-September 2010*, 8 February. Parliament: COGTA.
- Department of Cooperative Governance and Traditional Affairs (COGTA). 2011b. *Annual Performance Plan 2011/12*. Pretoria: COGTA.
- Department of Finance (DOF). 1998. *The introduction of an equitable share of nationally raised revenue for local government*. Pretoria: DOF.
- Department of Provincial and Local Government. 2001. *Intergovernmental review of the local government transformation process: local government in the final phase: trends and challenges*. Pretoria: DPLG.
- Department of Provincial and Local Government. 2006a. *Project consolidate: the impact made through the deployment of service delivery facilitators*. Pretoria: DPLG.
- Department of Provincial and Local Government. 2006b. *Review of the first term of local government (2000-06) and strategic priorities for the second term of local government (2006-11)*. Unpublished report by the DPLG.
- Department of Provincial and Local Government. 2007a. *Presentation: Special measures required for accelerated provision of basic services* 30 May.
- Department of Provincial and Local Government. 2007b. *Policy process on the system of provincial and local government – Background: Policy questions, process and participation*. Pretoria: DPLG.
- Department of Provincial and Local Government. 2009. *Policy review on provincial and local government*. Unpublished report by the DPLG.
- Deputy Minister of Cooperative Governance and Traditional Affairs. 2010. *Towards a better understanding of these service delivery protests: presentation by Yunus Carrim to the NCOP* 23 April 2010. [Online.] Available from: <http://www.COGTA.gov.za/index.php/component/content/article/174-yunus-carrim/132-towards-better-understanding-of-the-service-delivery-protests.html>. (Accessed 11 May 2011.)
- Heymans, C. & Töttemeyer, G. 1988. *Government by the people: the politics of local government in South Africa*. Kenwyn: Juta & Co, Ltd.
- Jain, H. 2010. *Community protests in South Africa: Trends, analysis and explanations*. [Online.] Available from: <http://www.Idphs.org.za>. (Accessed 8 March 2012.)

- Jain, H. & Powell, D. 2010. Trends in community protests. *Local Government Bulletin* 12(4): 14-16.
- Karamoko, J. 2011. *Community protests in South Africa: Trends, analysis and explanations: a continuation*. [Online.] Available from: <http://www.Idphs.org.za>. (Accessed 8 March 2012.)
- Local Government Municipal Systems Amendment Act, No. 7 of 2011.
- Minister of Cooperative Governance and Traditional Affairs. 2009. Address by the Minister for Cooperative Governance and Traditional Affairs on the occasion of the budget vote in Parliament 23 June 2009. [Online.] Available from: <http://www.info.gov.za/speech/DynamicAction?pageid=461&sid=1097&tid=1116>. (Accessed 10 May 2011.)
- Ministry of Constitutional Development and Provincial Affairs. 1998. *White paper on local government*. Pretoria: DCD.
- Ministry of Finance. 1996. *Growth employment and redistribution: a macro-economic strategy*. [Online.] Available from: <http://www.info.gov.za/view/DownloadFileAction?id=70507>. (Accessed 17 May 2011.)
- National Planning Commission (NPC). 2011. National Development Plan: Vision for 2030. [Online.] Available from: <http://www.npconline.co.za/medialib/downlods/home/NPC%20National%20Development%20Plan%20Vision%202030%20lo-res.pdf>. (Accessed, 20 March 2012.)
- National Treasury. 2011. *Local government budgets and expenditure review 2006/07-2012/13*. Pretoria: National Treasury.
- Organization for Economic Cooperation and Development (OECD). 2011. *Glossary of statistical terms*. [Online.] Available from: <http://stats.oecd.org/glossary/detail.asp?ID=7239>. (Accessed 12 May 2011.)
- Powell, D., May, A., Ntliziywana, P. & De Visser, J. 2010. *The withholding of property rates and taxes in five local municipalities*. [Online.] Available from: <http://www.ldphs.org.za/publications/publications-by-theme/local-government-in-south-africa/withholding-of-rates/Withholding%20of%20rates%2015Nov010.pdf/view>. (Accessed 2 August 2011.)
- Presidency of the Republic of South Africa. 2004. *Towards a ten-year review*. Pretoria: The Policy Coordination and Advisory Service (PCAS).
- Presidency of the Republic of South Africa. 2008. Joint Initiative on Priority Skills Acquisition (JIPSA): Report on activities in 2008. Pretoria: The Presidency.
- Presidency of the Republic of South Africa. 2010. *Service delivery agreement for outcome 9: responsive, accountable, efficient and effective local government*. Unpublished report by the Presidency.

Pressley, D. 9 October 2003. Mbeki: South Africa has two economies. *News24*. [Online.] Available from: <http://net-145-057.mweb.co.za/Economy/Mbeki-SA-has-two-economies-20031009>. (Accessed 12 May 2011.)

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Steytler, N. & De Visser, J. 2009. *Local government law of South Africa*. Durban: LexisNexis.

Steytler, N. & Powell, D. 2010. The impact of the global financial crisis on decentralized government in South Africa. *L'Europa en formation* 358(Winter): 149-172.

## NOTES

- 1 South African policy-makers do not use the expression 'policy reform' in official documents. Nevertheless it is a useful analytical category, and in this chapter the Organization of Economic Cooperation and Development's (OECD, 2011) definition is used: policy reform is 'a process in which changes are made to the formal "rules of the game" – including laws, regulations and institutions – to address a problem or achieve a goal.'
- 2 In the late 1980s there had been a series of low-intensity contacts between civics and town councils to end boycotts. For a discussion of these initiatives, see Heymans and Töttemeyer, 1988.
- 3 The Local Government Negotiating Forum was established on 22 March 1993. 'The Forum was composed of 60 representatives half of them drawn from statutory bodies and the other half from non-statutory bodies (principally the South African National Civic Association which was aligned to the ANC' (Steytler & De Visser, 2009:paras 1-10). For a detailed account of the local political negotiations see Cloete, 1994:294.
- 4 The Local Government Transition Act No. 209 of 1993.
- 5 Act 75 of 1988, repealed by Act 62 of 1996. Municipal regulations on minimum competency requirements, *Gazette* No. 29967, 15 June 2007.
- 6 James Manor coined this phrase in an unpublished critique of the White Paper written in the late 1990s.
- 7 For example, the DPLG report showed that by December 2001 36 percent had insufficient accommodation, 32 percent lacked basic office equipment (telephones, faxes, etc.), only 31 percent had a delegation framework, 33 percent had completed financial delegations, and 46 percent had an amalgamation plan.
- 8 The article is a summary of the main findings of Jain, H. 2010. *Community protests in South Africa: Trends, analysis and explanation*, available from: <http://www.ldphs.org.za>.
- 9 This data was supplied by National Taxpayers Union and is current as of November 2010. Data after that date was not available to the author at the time of writing and could not be obtained from the NTO website, which has not been operational for some time. Generally, the associations declare disputes in terms of section 102 of the Municipal Systems Act No. 32 of 2000, which provides for the exemption of an individual ratepayer from the enforcement by the municipality of its debt collection and credit control policies where a dispute is declared on a specific amount. That section, however, does not create a general right to withhold payment. In *Rademan v Moqhaka Municipality and others 2011 SCA Case No: 173/11* the Supreme Court of Appeal held

that a municipality has the right to disconnect without a court order the electricity supply to a rate-payer who is in default.

10 Stanley Fish quoted in Bauerlein, 2011.

11 Local Government: Municipal Systems Amendment Act No. 7 of 2011.