



# **Effective Local Government Planning and Intergovernmental Relations in South Africa: Picking the pitfalls and devising solutions for the future role of Parliament**

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# 1. Dimensions of Intergovernmental Relations

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- A simple definition of IGR is that it refers to the formal and informal mechanisms necessary to ensure coordination and cooperation between different levels of governments
- However, in both unitary and federal states IGR have multiple dimensions which are in a constant state of flux and which are often contentious.
- Constitutions set out an enabling framework for IGR but this is typically augmented by subsequent legislation which can be clarificatory and/or contentious.
- As IGR deals with the distribution of power it is influenced by political interests.
- The fiscal dimensions of IGR (budgetary allocations) may also be contentious.
- The administrative dimensions of IGR are less contentious but they can prove to be problematic in ensuring effective coordination of government activity.

## 2. IGR in the Apartheid State

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- The apartheid state was unitary one with three tiers of government, national, provincial, and local.
- Power, however, was deconcentrated rather than decentralised, meaning provinces were effectively branches of the national government. Provincial Administrators formed part of the national cabinet. The objective was to ensure that apartheid was uniformly implemented.
- Local government had no originating powers and operated according to municipal ordinances which prescribed what they could do.
- There was no national coverage of municipalities and they were confined to white towns (divisional councils managed roads and bulk water systems).
- The need to review the IGR system in democratic South Africa was stressed by the Presidential Review Commission in 1996.

# 3. The Constitutional Framing of IGR in Democratic SA

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- For some there is ambivalence in the constitutional framing of IGR.
- According to the Founding Provisions (Chapter 1) “The Republic of South Africa is one, sovereign, democratic state..” From this, it is understood that South Africa is a unitary state, with the hierarchy of power which this implies. This notion is reinforced in Chapters 5 (section 100), 6 (section 139), and 7 (section 155)
- However, Chapter 3 suggests a degree of autonomy between “national, provincial and local spheres of government which are distinctive, interdependent and interrelated” and which must “exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere”.

## 4. Cooperative Governance

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- The idea of cooperative governance delineated in Chapter 3 of the Constitution is an aspirational one which focuses almost exclusively on the need for coordination, respect, and harmony between different spheres and makes no mention of how national policy might be implemented.
- In this formulation, effective cooperation could be seen as an end itself rather than as a means to an end.
- Whilst the need for clarificatory legislation was identified in Chapter 3, when the IGR Framework Act promulgated in 2005 it was primarily focused on setting up structures to facilitate coordination and resolve disputes and said little about how implementation of national policy at provincial and local level might be assured.

## 5. Cooperative Support for Local Government

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“Each provincial government must establish municipalities in its province in a manner consistent with the legislation (and) .. “must provide for the monitoring and support of local government in the province; and .. promote the development of local government capacity to enable municipalities to perform their functions and manage their own affairs. “

“The national government, subject to section 44, and the provincial governments have the legislative and executive authority to see to the effective performance by municipalities of their functions in respect of matters listed in Schedules 4 and 5, by regulating the exercise by municipalities of their executive authority.” (sections 155 (6) and (7).

## 6. Constitutionally Sanctioned Interventions

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- The Constitution does make provision for the intervention of a higher level of government in the affairs of a lower levels which is not performing.
  - “When a province cannot or does not fulfil an executive obligation in terms of the Constitution or legislation, the national executive may intervene by taking any appropriate steps to ensure fulfilment of that obligation” (section 100 (1)).
  - “When a municipality cannot or does not fulfil an executive obligation in terms of the Constitution or legislation, the relevant provincial executive may intervene by taking any appropriate steps to ensure fulfilment of that obligation” (section 139 (1)).
- However, interventions of this nature are generally only undertaken in extreme situations although the frequency of municipalities being placed under administration is increasing.

# 7. The Objectives of Local Government

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- In addition to their de-racialisation and national coverage, the Constitution assigns considerably more authority and importance to municipalities than in the apartheid era.
- They are seen as the foundation stones of our democracy and the providers of basic services.
- Amongst the prescribed objectives of local government are:
  - to provide democratic and accountable government for local communities;
  - to ensure the provision of services to communities in a sustainable manner;
  - to promote social and economic development;
  - to promote a safe and healthy environment; and
  - to encourage the involvement of communities and community organisations in the matters of local government. (section 152).



## 8. The Status of Local Government

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- Despite their pivotal importance, the performance of municipalities is generally poor and appears to be deteriorating.
- Nation wide protests over service delivery have become common place and public distrust of, and anger towards, municipalities is growing.
- A review of the Auditor General's Municipal Finances Act report for 2019/2020 also makes for grim reading:

“Local government finances continue to be under severe pressure as a result of non-payment by municipal debtors, poor budgeting practices, and ineffective financial management. The financial position of just over a quarter of municipalities is so dire that there is significant doubt that they will be able to continue operating as a going concern in the near future. This effectively means that such a municipality does not have enough revenue to cover its expenditure and owes more money than it has. Almost half of the other municipalities are exhibiting indicators of financial strain, including low debt recovery, an inability to pay creditors, and deficits”. (MFMA 2019-2020 Report)

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## 9. Who is Responsible?

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- The public, and the media, are quick to blame the shortcomings of local government on incompetent officials and uncaring and corrupt councillors.
- However, whilst there are no doubt poorly trained officials in some municipalities and corrupt politicians in others, the shortcomings of local government as a whole points to a wider systemic failure in the IGR system and this includes the roles played by the national and provincial governments.
- This relates, in particular, to the oversight and accountability mechanisms which are key elements of good governance.
- In the case of local government there are supposed to be three levels of accountability: 1) to the national and provincial government; 2) to their own oversight structures (municipal public accounts committees); and 3) to the general public (the electorate who voted them into office). These will be discussed further below.

# 10. Local Government Planning and IGR

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- As a unitary state, national policies (whether the National Plan or sectoral policies) in South Africa are supposed to be aligned and implemented across all three spheres.
- However, despite the establishment of multiple IGR fora between different spheres at the local level they appear to be failing either to ensure better coordination of policy or better service delivery.
- In a top-down process municipal Integrated Development Plans (IDP) are supposed to be aligned to the NDP, other national policies, and to the Annual Performance Plans (APP) of provincial departments. This top down alignment often does not occur.
- In a bottom-up process the development of IDPs is supposed to be informed by input from the public through various participatory processes.

# 11. Top-down Oversight of the Planning Process

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- The requirements of an IDP prescribed by the Municipal Systems Act are complex and many municipalities outsource their development to consultants.
- Because of a lack of effective coordination with National and Provincial government, planning targets in IDPs are often not based on assured funding (e.g. Municipal Infrastructure Grants) and they end up being wish lists.
- IDPs are often approved without regard to a municipality's capacity to implement its objectives.
- National and provincial planning interventions (such as housing projects) are initiated in municipalities without consideration of their capacity to maintain the infrastructure.

## 12. Bottom-up Oversight of the IDP Planning Process

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- Only a tiny proportion of the population (usually those with vested interests) make input into the IDP process. The majority know nothing of the content of an IDP or what it is supposed to deliver and hence have no means of measuring progress.
- Plans are often published in English and are only available on-line or in a public library.
- The participatory processes (ward committees, stakeholder forums etc.) established to ensure public oversight of the implementation process are ineffectual and are largely ignored.
- Ward councillors, who have very limited discretionary funding and limited influence over a municipality's annual budget, make commitments they are unable to fulfil. This leads to anger, frustration and a loss of trust in the participatory system.

# 13. Factors Contributing to Weak Planning and IGR

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- A lack of administrative capacity, and specifically a lack of financial management skills.
- An over reliance on consultants further weakens municipal capacity
- Weak and under-resourced accountability systems and a lack of monitoring.
- The failure of councils to act on the findings of their municipal public accounts committees.
- A disregard for legislation by municipalities.
- A confusion of roles and responsibilities between different spheres of government.
- Political interference by higher echelons of government in local planning processes.
- Interference by local politicians in the administration and allocation of resources.
- A lack of support from national and provincial government.
- A lack of accountability.

# 14. What is to be done?

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- There have been previous attempts to address these challenges including the 2009 *Local Government Turnaround Strategy*, and the 2014 *Back to Basics* strategy with limited success.
- There is, consequently, a need for radical changes both in the format of our IGR systems, in our accountability systems, and in the system of local government planning.
- The Constitution makes provision for considerably more over-sight and intervention in the affairs of local government than is currently the case (see section 155).
- Explore the possibility of introducing a system of asymmetrical devolution of power to under performing municipalities (the Spanish model).
- Explore the possibility of seconding experienced national and provincial officials to under performing municipalities (the All India Service model) rather than consultants.
- Constantly reinforce the need for accountability and consequences is of paramount (new legislation can hold to account those who fail to act against poor performance and corruption)

## 15. A Challenge to Leadership

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“We are convinced that if municipal leaders at both administrative and political level, supported by their provincial leadership, are fully committed to turn around local government towards the capable, efficient, ethical and development oriented institutions envisaged by the Constitution, improvements are bound to follow. We have seen great results where leadership has moved beyond the politics and obstacles and taken definite strides towards a better future for the communities they serve”. (MFMA 2019-2020 Report)



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Thank You

