

DEMOCRATIC LOCAL GOVERNMENT

Introduction

The new system of local government in South Africa has radically changed the way in which cities are managed. The Constitution and subsequent municipal legislation has required not only that policies, structures and processes change, but that the very culture of local government become more responsive and democratic. Thus at the same time as requiring that local government fulfil more functions for more people, it must do so in a more open and participatory way. In a nutshell.....

COUNCILS MUST TAKE DECISIONS WITH COMMUNITIES RATHER THAN FOR THEM

Democracy in local government is *operationalised* in terms of the requirements of inclusivity, participation, transparency and accountability. Simply put, the more inclusive, participatory, transparent and accountable a structure or process, the more democratic it is.

(1) The Transformation of Local Government in South Africa

The design of post-apartheid local government confronted four main challenges, namely, the **re-demarcation of boundaries**, **increased responsibilities**, **restructuring** and the **requirements of participatory governance**.

Firstly, the re-demarcation of municipal boundaries resulted in the creation of much larger municipalities with a much larger population. This drastically increased the service responsibility of municipalities without a commensurate increase in the fiscal base given the poverty of most people. Virtually overnight municipalities have had to contend with a hugely extended demand for services.

The second challenge came in the form of new roles and responsibilities of municipalities, in that, prior to 1994, municipalities were seen as local bodies which were responsible primarily for the provision of services such as water, electricity, refuse removal, to their communities. The new system of local government extends the role of local government to include a developmental responsibility. More specifically, local government is to pursue economic development mainly through the re-alignment of its core functions, for example, land use planning, service delivery, development initiatives etc. Its main economic role, though, is to provide an enabling environment, rather than to assume direct responsibility for economic development and growth.

The third challenge came in the form of the political restructuring of local government from both *external* and *internal* perspectives. From an *external* perspective, local government is a sphere of government with its original, constitutionally enshrined powers and functions. In other words, it is not a third level of government, subordinate to provincial and national government, but rather a distinct sphere of government. It is, however, interdependent and interrelated with provincial and national government in one overall system of co-operative governance.

From an *internal* restructuring perspective, the Constitution identifies categories as well as types of municipalities. For example, Category A municipalities being Metropolitan Municipalities, Category B being Local etc. The Type of Municipality refers to the type of executive system, for example executive mayor or executive committee

Post-apartheid local government is required to be democratic, both in being elected, and in the manner of operation between elections. In respect of the latter it is required to facilitate public participation in its processes to an extent greater than any other sphere of government. Notably the Municipal Systems Act (33 of 2000) explicitly reserves the right to make decision for elected councillors only. Hence Section 4(1) states that council has the right to

‘govern on its own initiative the local government affairs of the local community’

. At the same time though, the Act obliges municipalities (Section 16)

‘to develop a culture of municipal governance that complements formal representative government with a system of participatory governance.’

(2) Democracy

Effectively there are three aspects to the innovation of ‘participatory governance’: the definition of the municipality, ward committees and the requirements for public participation. The **first** of these is in some ways the most remarkable and yet intangible. The Systems Act defines the municipality as consisting of the governing structures (the elected councillors), the administration (the appointed staff) and the residents. The definition of residents as part of the municipality is claimed to be unique in the world (Carrim 2006), and establishes the grounds for greater involvement by the public in municipal matters. While the practical ramifications of this definition are not yet obvious, the conceptual, normative and potential legal ramifications are considerable.

The **second** innovation, outlined in the Municipal Structures Act (117 of 1998), are ward committees which may be established in certain municipalities. Although not compulsory, the new system provides for ward committees to be established in each ward of the city. These are chaired by the ward councillor and the ten ward committee members are elected by the local community. Ward committees have been designed to increase community participation in municipal decision-making and are seen by government as the primary structure for participatory local government (Notice 965 of 2005).

The **third** and final innovation is effectively a set of requirements for public involvement in various decision-making processes. These requirements include the receipt, processing and consideration of petitions and complaints received from the public; the notification and public comment procedures when appropriate; public meetings and hearings and consultative sessions with locally recognized community

organizations. Perhaps more important are the requirements of Systems Act that municipalities must 16(1)(a) encourage, and create conditions for, the local community to participate in the affairs of the municipality, including in—(i) Integrated Development Plan; (ii) the performance management system; (iii) performance, (iv) the budget (v) and strategic decisions relating to services.’ **In short, public participation is statutorily injected into the most important municipal processes.**

Participatory governance extends municipal governance away from councillors and administrators to include the community. Hence we can differentiate between two spaces of local democracy: internal democracy, which centres on processes internal to the decision-making system as outlined above, and external democracy, which centres on relations between this system and the community.

The nature of participatory governance is by and large limited to the deliberative aspect of decision-making. In other words community participation is devoid of any real decision making.

There is evidence to suggest that external democracy is usually reliant on effective internal democracy to be effective. Furthermore I don’t believe that participatory governance is fully implemented and there is still much to be done around the institutionalisation of the process.

Internal Democracy

A key difference in institutional design concerns the type of the executive in that, by virtue of including minority parties the executive committee is more inclusive of political agents than the executive mayor’s one-party committee.

In addition to being more inclusive, there is evidence of a more transparent system in operation in municipalities which have an executive committee.

On the question of participation in relation to internal democracy, all councillors have the opportunity of participating in municipal decision-making in at least two ways. In all case studies councillors serve on at least one portfolio committee as well as being members of council. In reality though, apart from the councillors who serve on the executive, it was widely reported that the ordinary councillor has little opportunity to contribute in any meaningful way to the decision-making process. As members of a political party, councillors are expected to toe the party line set by their party caucus, even when such policy is in conflict with the demands made by a particular community. Furthermore, while all councillors automatically have seats on full council, in reality, because of the size of council, the extensive delegations to the executive structure and the dictates of a party-political system, the individual councillors are usually quite removed from most decision-making outside of their own portfolio committee.

External Democracy

Crucial to community participation is the establishment of ward committees. However, the view is expressed that, in general, ward committees were floundering. This state of affairs is attributed primarily to the fact that Ward Committees do not possess any executive powers. They are part of the participatory system of local government and not the representative system.

Ward committees aside, there are many other noteworthy initiatives adopted by councils to operationalise local democracy, which entailed the promotion of public participation in various innovative ways such as around the budget and IDP. Again the general trend is that public participation was patchy at best, often poorly attended and with little meaningful participation.

In Buffalo, the Municipality convened 30 public meetings across the City, in April 2003, where the citizens were given the opportunity to attend and discuss the IDP, budget and performance management system. In the Nelson Mandela metro a 'People's Assembly' was convened on 22 November 2003 and has become an annual event. Similar to the 'Big Mama' workshop in Ethekwini. The People's Assembly is a gathering of all 108 councillors, the 54 ward committees, senior members of the administration, the various forums, for example, the Youth Forum, the Disabled Forum, the Safety and Security Forum etc. as well as representatives of National and Provincial Government. The objectives of the People's Assembly are to promote people's participation in governance; to develop a clear strategic implementation plan for the IDP and Budget; to provide the Nelson Mandela Metropolitan Municipality Stakeholders, with a platform for intensive debate; to clarify the role of ward committees in respect of IDP and budgetary processes; and to outline the people's budget process. Again, the reports were of decent attendance and participation, but little real quality input.

A good example is the 'Shoshaloza campaign' which was run twice in Msunduzi in 2003/4 and 2004/5 using funds from a national grant. In brief, ward committees were given R250 000 each to spend on a ward project. This appeared to galvanise ward committees into meaningful action, and generated both better participation in ward committees and between ward committees and local communities.

One way to revivify ward committees might be to award a portion of the Capital Budget to ward committees which could then be spent, at their discretion, on community projects. The lesson, consistent with findings in some international literature (see Bryan 2004), appears to be that real participation is more likely in forums that make real decisions. It may well be that what is required to make public participation work is more delegation of decision powers to these otherwise deliberative forums and processes.

Given, however, that participatory governance is mostly just an extension of the deliberative moment of the municipal decision-making process, this means that the impact of public consultation on decision-making at local government level depends on how deliberation is translated into decision by councillors and then implemented by administrators.

Conclusion

In conclusion, I will touch on the impact which the democratic reforms which I have mentioned, have had on the **efficiency** of municipalities in the performance of their decision-making function.

While the advent of participatory governance is a new and challenging obligation for post-apartheid local government, the evidence from our municipalities suggests that much still needs to be done by way of implementation. Nevertheless, despite the generally parlous implementation of participatory governance, I am of the view that in those instances where public participation was implemented, that it came with some cost to efficiency. In short, there is reason to expect that the deepening of local democracy will come with costs to efficient decision-making.

However, this cost may be worth paying, for example where public participation affects municipal decision-making by yielding outcomes that more closely reflect community felt needs. In such cases one could argue that such decisions are more **effective**, in that they make decision-making both more responsive and more democratic.

As the emergent design of the municipal decision-making system suggests, creating space for deliberation in Portfolio committees rather than in council or the executive might well minimise efficiency costs while allowing for the possibility of better quality decisions.

Ways to empower public participation so that it includes something of the decision and implementation moments to municipal decision-making ought to be explored. A working example here is the discretionary ward-based budgeting process that occurred under the Shoshaloza campaign in Msunduzi.

In sum, ineffective public participation in local governance in South Africa is, literally, a waste of time. Making public participation effective, further, requires empowering participation structures and processes to make them more meaningful than is often the case currently.

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