

A differentiated approach to Local Government

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ABSTRACT

Differentiation can be seen as a tool to try to focus the support from national and provincial government and associated institutions to local government toward ensuring functional, performing municipalities that deliver their services adequately. This article aims to explore what the current policy debate on differentiation entails and to find out why differentiation may be necessary or not. The article pays attention to differentiation as contained in legislation, concepts relevant to differentiation in local government in terms of segmentation and support models, powers and functions, financial resources, the urban-rural divide and institutional systems. The article finally provides a proposed approach towards differentiation in local government.

INTRODUCTION

The National Development Plan (NDP) (2011:23) states that a capable state does not materialise by decree, nor can it be legislated or crafted from conference resolutions. It has to be painstakingly built, brick by brick, institution by institution and sustained and rejuvenated over time. It requires leadership, sound policies, skilled managers and workers, clear lines of accountability, appropriate systems and consistent and fair application of rules.

It is now widely acknowledged that the one-size-fits-all approach (adopted by national and provincial government) to legislative and policy implementation, and to fiscal, functional and planning arrangements for local government has not assisted municipalities with varying legacies and backgrounds to deliver

uniformly on their mandates and obligations. The ‘one-size-fits-all’ strategies did not take into consideration the impact of major integration challenges compounded by spatial differences between municipalities in terms of capacity, to raise revenue and to deliver services (Draft Framework for a Differentiated Approach: Discussion Document (FDA) 2011:4-5). However, there is some legislation, such as the Municipal Property Rates Act 6 of 2004, which adopted a differentiated approach but it is not yet known whether the approach will achieve the desired effect.

The Minister for Cooperative Governance and Traditional Affairs (COGTA)’s Delivery Agreement (2010:58) states that “[n]ot all municipalities have the same capacity to raise revenues, as levels of poverty vary considerably and are particularly high in mostly rural municipalities” and that (The Minister for COGTA’s Delivery Agreement 2010:73) “there is evidence of a huge lack of capacity at provincial level to perform their functions adequately...At this stage the country does not have a systematic approach towards performance monitoring and support for local government (despite Chapter 6 of the Municipal Systems Act dealing with such). Most of the efforts are ad hoc...”. This statement underscores the need for local government to use a differentiated approach as a measure to resolve the pressing issues at local government level. But, will it be sustainable if the actual requirements to ensure functional spheres are not addressed? That is, if every sphere and the institutions in that sphere’s needs are each not addressed according to its uniqueness?

Pointing to differences between municipalities the Department of Cooperative Governance (DCoG) in the Ministry of CoGTA, developed the Draft Framework for a Differentiated Approach to Municipal Support: Discussion Document in 2011 (FDA). This draft framework indicates that “Over the past few years, there has been increasing acknowledgement of the differential nature of municipalities. Indeed, the Constitution at the outset differentiated the local government system by institutionalising three sets of municipalities: Category A (metropolitan municipalities), Category B (local municipalities) and Category C (district municipalities)”. A number of different informal classifications have also started to emerge, as a way to better understanding the reality of municipalities.

The above has given rise to the renewal of the view in government that a differentiated approach, implemented by spatially categorising municipalities and using “relatively fixed” characteristics (i.e. characteristics that in aggregate are unlikely to change dramatically during the period of a year or two) is necessary. Characteristics include historical legacy, socio-economic vulnerability, capacity shortages and an inability by a municipal area to take control of its physical location. Accordingly, profiling of municipalities could assist government in providing differentiated and targeted capacity support (Draft FDA to Municipal

Support: Discussion Document 2011:4). The characteristics alluded to in the discussion document are those classified mostly as environmental capacity in the National Capacity Building Framework (NCBF): 2012 to 2016 (2012:6) while the 'capacity shortages' (the institutional capacity) (NCBF: 2012 to 2016 2012:6), could in some cases be a symptom of the environmental capacity challenges, i.e. the potential or competence, or lack thereof, found outside of municipalities' formal structures (Greßling 2015).

The envisaged targeted capacity support could enable better performing municipalities to manage a clearly defined and coherent concentration of functional assignments that enable a faster rate of development and good governance. The vulnerable municipalities, however, should be 'freed' to concentrate on basic service delivery functions, with far fewer demands on their limited finances and capacities. Complex financial management and reporting, engineering services and project management for infrastructure (institutional capacity), for example, could be managed in alternative ways (Draft FDA to Municipal Support: Discussion Document 2011:4). It could also necessitate the possible augmentation of a spatially differentiated approach with provision for targeted capacity support and an 'early-warning' system, not only to spatially challenged municipalities but to all municipalities (DCoG Review of the White Paper (RWP) 2011:93).

Many reforms and performance shortcomings relating to local government are inter-related and require a coherent approach and focused address; as confirmed by the Policy Review on Provincial and Local Government in 2008 and the review of the White Paper on Local Government of 1998 (Draft FDA to Municipal Support: Discussion Document 2011:4).

The article considers what differentiation means in local government. To differentiate means: "to recognise or identify as different or distinct" (NCBF 2012:10). It is important to make a distinction between differences between municipalities and differentiation between municipalities: **Differences** refer to the characteristics of municipalities (see a further explanation in the discussion on segmentation of municipalities) and **differentiation** refers to the way municipalities are treated in the light of those differences (NCBF 2012:10).

The article commences by investigating how differentiation is referred to in the Local Government: Municipal Structures Act 117 of 1998 and the Local Government: Municipal Systems Act 32 of 2000. Concepts relevant to the differentiation context are explained, such as: segmentation and support as well as functionality and viability. Differentiation in practice in SA local government is discussed with due reflection on segmentation models of the National Treasury, the Municipal; Infrastructure Investment Framework (MIIF), the Municipal Demarcation Board (MDB), municipalities segmented according to audit performance and the DCoG's spatially vulnerable municipalities'

segmentation model. Differentiation and powers and functions, financial resources, the urban-rural divide and institutional systems are also discussed. Lastly, a proposed approach towards differentiation for local government is given.

DIFFERENTIATION AS CONTAINED IN LEGISLATION

Cooperative governance is pertinent in the implementation of differentiation as it affects the nature of the relationships across the three spheres of government and associated institutions and thus influences how, through cooperative governance local government is supported. For the purposes of this article, reference to categories, types and kinds of municipalities is viewed as a reference to the context of differentiation.

The Local Government: Municipal Structures Act 117 of 1998

Chapter 1 of this Act describes the categories and types of municipalities, as follows: **'category'**, in relation to municipalities, means a category A, B or C municipality envisaged in Section 155(1) of the Constitution while **'type'** in relation to municipalities, means a type of municipality envisaged in Section 155(2) of the Constitution, and defined in Part 2 of Chapter 1 of the Municipal Structures Act of 1998.

In Part 2 of Chapter 1 of the Municipal Structures Act of 1998 types of municipalities are dealt with in Sections 7-11 of the Act. General: The different types of municipalities that may be established within each category of a municipality are defined in accordance with the following systems of municipal government or combinations of those systems, as set out in Sections 8, 9 and 10 of the Act.

- A collective executive system which allows for the exercise of executive authority through an executive committee in which the executive leadership of the municipality is collectively vested.
- A mayoral executive system which allows for the exercise of executive authority through an executive mayor in whom the executive leadership of the municipality is vested and who is assisted by a mayoral committee.
- A plenary executive system which limits the exercise of executive authority to the municipal council itself.
- A subcouncil participatory system which allows for delegated powers to be exercised by subcouncils established for parts of the municipality.
- A ward participatory system which allows for matters of local concern to wards to be dealt with by committees established for wards.

The Local Government: Municipal Systems Act 32 of 2000 (MSA)

Chapter 3 of the MSA is about Municipal Functions and Powers while Chapter 8 deals with different types of municipal services' provision such as proposals towards multi-jurisdictional service utilities and municipal entities, to ensure that services are being delivered.

In the context of the Act differentiation is referred to in:

- Sections 22 (2)(b), 37, 49, 72, 84, 104 and 120 when referring to making regulations or issuing guidelines in terms of community participation, the Integrated Development Plan (IDP), performance management, local public administration and human resources (HR), municipal services, credit control and debt collection, and miscellaneous matters, respectively.
- Section 74 when determining a tariff policy.
- Section 97 in determining a credit control or debt collection policy and "as long as the differentiation does not amount to unfair discrimination".
- Section 98 when determining by-laws and "as long as the differentiation does not amount to unfair discrimination".
- Section 108 (5)(b) in the determination of minimum standard setting "to differentiate between different kinds of municipalities according to their respective capacities".

IMPORTANT CONCEPTS WITHIN THE CONTEXT OF DIFFERENTIATION

Concepts that are meaningful for the purposes of this article are clarified in the sections below.

Differentiation: segmentation and support

According to the Draft FDA to Municipal Support: Discussion Document (2011:5), in segmenting (determining differences between municipalities or creating typologies for) municipalities, government wants to aggregate municipalities into some workable number of relatively homogenous categories (segments) according to needs, and then treat these categories (segments) differently or according to a differentiated approach through targeted support interventions. The following steps form part of a segmentation process (Greýling 2015):

- Identification of a broad based group/location according to conditions and needs.

- Identification of relatively homogeneous groups that will receive and respond to targeted support interventions in a similar way.

However, there may be various segmentation groupings.

It is thus crucial to understand that there is a direct relationship between the envisaged support interventions and the segmentation. For example: electricity needs to be provided. There are different groups (segments) of municipalities responding to this function in different ways (Greýling 2015):

- Some can manage reticulation, distribution and billing to generate their own electricity.
- Some rely on districts or Eskom.
- Some struggle to provide the necessary infrastructure.
- Some have largely indigent populations and must provide significant amounts of 'Free Basic Electricity' within an area of limited tax revenue.

Thus, we can see that once relatively homogeneous groups have been identified (also called categories or segments) the second step is to differentiate the support interventions to best address the needs of that particular group (Draft FDA to Municipal Support: Discussion Document 2011:5).

The DCoG (in Draft FDA to Municipal Support: Discussion Document 2011:5-6) gives another example of metros that can generate their own revenue, reticulate and manage customer services, and may only need to be monitored for managing excessive electricity losses that might affect their sustainability. Whereas for large urban municipalities that do not generate their own electricity, the need may be for technical support to manage their energy demand and infrastructure maintenance plans to ensure quality and reliable services (i.e. reduced power outages). Smaller urban municipalities might need support on infrastructure planning, and the customer management side, for example, switching to pre-paid metering systems for lower income areas, etc.

The DCoG (RWP) (in Greýling 2015) states that despite the Cabinet resolutions "to mainstream the hands-on support approach to all municipalities", and the various skills capacity enhancement programmes for municipal efficiency; skills deployment initiatives to support municipalities have still not been harmonised and coordinated through a single point of support. This results in resources being wasted and initiatives duplicated. This challenge points to a need for a framework to guide and support the different stakeholders' support initiatives to ensure that there is a differentiated approach but in a coordinated fashion. According to Greýling (2015:203) differentiated support initiatives could be:

- Governance interventions (cross-cutting).
- Sector-wide capacity development (cross-cutting).
- Municipal infrastructure assessments (cross-cutting).

- Municipal infrastructure capacity support that consists of:
 - Capacity development support.
 - Direct delivery support.
 - Technical support.
 - Implementing coordination to support municipal infrastructure provision.

The DCoG: RWP (in Greýling 2015:205) states that the principle of differentiation is that each municipal area's unique circumstances needs to be taken into consideration before applying a uniform fiscal and policy regime, or expecting equitable standards in performance and service delivery. The differentiated approach calls for better coordinated and targeted support for smaller municipalities, whilst simultaneously empowering cities to play a stronger and more direct role in crucial built environment functions such as the delivery of housing.

Clarity is further needed on who is ultimately responsible for oversight and support, and the degree to which national government may intervene directly in municipalities (in Greýling 2015:207). A COGTA Memo (2010:1) states that the Constitution establishes a system of cooperative government in the Republic, constituted as national, provincial and local spheres of government. In terms of the principles of cooperative government set out in Chapter 3 of the Constitution, each sphere of government must respect the constitutional status, powers and functions of another sphere. The national government and the provincial governments must furthermore support and strengthen the capacity of municipalities to manage their own affairs. In order to ensure effective, transparent, accountable and coherent governance in the Republic, the Constitution makes provision for processes of intervention by one sphere of government into another in circumstances where there is a failure to fulfil executive obligations imposed in terms of constitutional or statutory provisions (COGTA Memo 2010:1).

The Constitution furthermore makes provision for national legislation to regulate these interventions. Section 139(8) provides that national legislation may regulate the implementation of Section 139 as well as the processes established by it (COGTA Memo 2010:1-2). The COGTA Memo (2010:2) states that currently there is no legislation contemplated in Section 139(8) to regulate interventions arising from other causes. The proposed Intervention in Provinces and Municipalities Bill of 2010 is to make provision for the supervision of provinces and municipalities and to regulate in terms of Section 139, but will apply to discretionary financial interventions and Sections 139(4) and (5) interventions only to the extent that the Bill's provisions are not inconsistent with the Local Government: Municipal Finance Management Act 56 of 2003 (MFMA).

For a provincial intervention in a municipality in terms of Section 139(1), the Bill provides the following menu of intervention steps for the provincial executive (COGTA Memo 2010:3):

- Measures to regulate the exercise by the municipality of its powers to ensure fulfilment of the obligation.
- A directive binding the municipality to take specific steps to ensure fulfilment of the obligation.
- Assumption of responsibility for the obligation by the provincial executive.
- The preparation and imposition of a financial recovery plan for the municipality in accordance with Sections 137(1), 141(1), (3) and (4) and 145 of the MFMA, if the intervention is a discretionary financial intervention.
- Suspension of any internal structure or functionary of the municipality and the appointment of an administrator to perform the functions of the suspended internal structure or functionary.
- Dissolution of the council and appointment of an administrator to administer the municipality until a new council is declared elected.

Differentiation: functionality and viability

According to the NCBF: 2012 to 2016 (2012:3) the aim with support, capacity building and training for local government is to achieve the objectives in the Constitution and legislation through relevant management practices and systems; to address the deliverables contained in the Minister's Delivery Agreement (MDA) and move municipalities to sustainable functionality; performance; and adequate delivery of services, at the level of the individual, institution and environment.

DCoG defines (Draft FDA to Municipal Support: Discussion Document 2011:25) a viable municipality as one that is able to:

- Grow in population and economic terms.
- Govern and democratically represent the interests of the community.
- Satisfy the responsibilities for administration and services in accordance with legislation.
- Provide the services needed at a cost that the residents are willing to pay (i.e. cost effective).
- Fund services from its financial resources.

One would want a sustainable institution to be both functional and viable. Functionality thus refers to the institution's ability to arrange its individuals and other resources in such a way that it achieves its purpose. However, it may function within one set of circumstances but should change happen it may not be functional within the changed set of circumstances, unless it is constantly

aware of the changes within its context and is able to adapt to those changes. Viability includes the consideration of the broader environmental factors in which an institution finds itself and of which it has to remain aware as they will influence the institution's performance and ability to deliver its services adequately and consistently.

Differentiation and segmentation models

The following subsections contextualise differentiation in terms of the segmentation models (also referred to as classification systems or models) in the South African local government context.

The DCoG (RWP 2011:86 and 88) informs that during the consolidation phase of local government (post-2000) a number of departments developed different ways of differentiating or classifying municipalities to more accurately understand the differentiated challenges facing municipalities. The **different classification systems** focus on different variables in terms of application.

The National Treasury

The National Treasury developed a hybrid method, combining both space economy characteristics with performance characteristics, to identify the relative resourcing of municipalities using seven indicators (DCoG: RWP 2011:85-86):

- Percentage of households without access to basic services (from 2001 census).
- Property rates per capita (the National Treasury local government database and 2001 census). This is seen to be a good proxy for viability.
- Poverty rate (from 2001 census).
- Percentage staff vacancy (MDB and StatsSA).
- Municipal debt per capita.
- Municipal densities (population density of a municipal area using 2007 StatsSA Community Survey).
- National contribution to Gross Value Add (GVA) (based on 2004 statistics).

Using this information, municipalities are classified into six groups from very high performing to very weak.

Municipal Infrastructure Investment Framework (MIIF)

The DCoG (FDA 2011 in Greyling 2015:200) says that relatively well developed examples of the differentiated approach already exist in the MIIF and Comprehensive Infrastructure Plans (CIP), using the Municipal Services Financial Model (MSFM). This model uses the identified extent of infrastructure to be provided (as per a segmented model) to inform the actions needed to achieve the eradication of backlogs by a certain target date. It covers:

- The capital expenditure required to provide this infrastructure.
- The methods of financing this capital expenditure.
- The operating expenditure required to ensure that the infrastructure provided is properly operated and maintained.
- The methods of raising revenue to cover this operating expenditure, drawing on the provisions of the Municipal Fiscal Framework (MFF).
- The monitoring system required to assess progress with respect to infrastructure delivery.
- A municipal infrastructure asset management strategy aimed at ensuring that the systems are in place in a municipality to manage the infrastructure provided.

The MIIF then places specific emphasis on estimating expenditure and assessing the capital finance and operating revenue requirements to cover this expenditure. The overall objective of the framework is to assess the amount of capital which is required to meet the municipal infrastructure delivery targets of government and to assess the options for ensuring that sufficient capital finance is available to cover this capital cost to ensure that the infrastructure programme is financially sustainable, which implies that there is sufficient operating revenue to cover the operating and maintenance costs of infrastructure-related services. Earlier MIIF categories, and MIIF 7 (2009/10) have recognised the very different circumstances which exist in municipalities across the country and the related difference in their financial viability (DCoG: FDA 2011 in Greýling 2015:222).

DCoG's MIIF uses the legal categorisation of municipalities and further disaggregates them into particular typologies based on spatial characteristics, size of institution and budget, population and percentage urban population (DCoG: RWP 2011:86-87) with the following result:

- **A:** Metros: Large urban complexes with populations over 1 million and accounting for 56% of all municipal expenditure in the country.
- **B1:** Local municipalities with large budgets and containing secondary cities.
- **B2:** Local municipalities with a large town as a core.
- **B3:** Local municipalities with small towns, with relatively small populations and significant proportion of urban population but with no large town as a core.
- **B4:** Local municipalities which are mainly rural with communal tenure and with, at most, one or two small towns in their area.
- **C1:** District municipalities which are not water service authorities.
- **C2:** District municipalities which are water service authorities.

This method of categorisation is useful to understand the different types of municipalities and what their characteristics are likely to be, but it is not a

rational indicator of particularly management capacity, nor does it provide any indication of the primary economic / livelihood drivers in a municipality (DCoG 2011 in Greýling 2015:223).

The DCoG (FDA 2011 in Greýling 2015:207) says the strengths of the MIF are that it provides for four settlement types, in order to allow for different service level costs associated with particular settlement conditions and for different service delivery programmes for each settlement type. For this exercise the four grouped geographical types used in Census 2001 were used, namely:

- Urban–formal
- Urban–informal
- Rural–informal (Communal Areas, formerly called ‘tribal areas’ by StatsSA)
- Rural–formal (mainly commercial farming areas with property held freehold rights).

The model also caters for different service level decisions for households living in the various geographical or settlement types. This model has been adapted to apply to the country as a whole, to provide a picture of 10 year trends for the aggregated municipal operating and capital accounts, in terms of both expenditure and income. It considers the six functional groupings below thus providing for a full package (DCoG: DFA 2011 in Greýling 2015:224):

- Water supply and sanitation, referred to as water services.
- Electricity.
- Municipal waste management or refuse services.
- Roads and storm water.
- Public services (e.g. community halls, parks, recreational facilities).
- Special infrastructure which includes:
 - Economic infrastructure and buildings for projects which can be run as independent financial entities (e.g. a conference centre, a market, an abattoir, etc.). This does not include ‘economic networks’, which is a broader definition including transport and communication networks, which are singled out and included in other categories.
 - Public places which do not involve buildings but require capital works, with a pedestrian mall or public square being examples.
 - Municipal public transport infrastructure.
- Administration buildings and systems.
- Governance, Administration, Planning and Development Facilitation (GAPD) which typically includes:
 - Governance: councillor remuneration and the overheads associated with council affairs including the secretariat to the council.

- Administration: the municipal manager's office, treasury and other administrative functions such as office administration, HR, legal and information technology services.
- Planning: IDPs, strategic plans, spatial plans and land use management including building plan approvals.
- Development facilitation: Local Economic Development (LED) planning including relationships with private sector enterprises; management of property developers, regulation of business activity, including licensing, etc.

The Local Government Skills Audit (2007 to 2010) adopted six (instead of four above) functional units to assist with comparable research from a national perspective (Greýling 2015:221).

The weakness of the MIIF is that it is problematic, within rapidly shifting household dynamics, but necessary to try to identify 'poor households'. The setting of a "poverty baseline" has remained arbitrary and is still not "official". It is furthermore assumed that the high income household group as a whole can cross-subsidise low income households (Greýling 2015:221). The model separates households into two groups: low income (below R3 500 pm) and high income. For the sake of simplicity no middle income group is used (DCoG: FDA 2011 in Greýling 2015:221). DCoG (FDA 2011 in Greýling 2015:221) states "South Africa's poverty rate is, however, so high and the numbers of households living in poverty so many that this assumption should be tested. This kind of data also informs indigent registers, and is important for estimation of free services to be supplied, and the costs thereof. The reality of this assumption, i.e. those 4,981,640 households will in effect subsidize 7,518,972 households".

The model provides for the inclusion of a range of service levels for each municipal function or service. The range of service levels to be applied can be selected by the user but there are standard descriptions of service levels which are applied by certain national sector departments. It is, however, not always acceptable to communities; due to a variety of reasons, to receive the 'basic' level of services, e.g. in an urban environment public standpipes within 200 meters of the dwelling or VIP toilets are no longer acceptable. Municipalities often indicate shortages resulting from choosing higher levels than 'basic' as 'underfunding' of infrastructure through the grants. The model uses 2001 census statistics to determine the backlogs – it is currently 2015 and due to population growth and migration these statistics are inadequate to really determine where the needs are (DCoG: FDA 2011 in Greýling 2015:221).

The Municipal Demarcation Board (MDB)

The MDB (2009:157) states that while the classification of municipalities has yet to be used for the demarcation of municipal boundaries, it may be useful

to undertake a spatial analysis of the municipal variations to identify if there are any boundary implications which should be considered when making future determinations. This would require an understanding of the link between municipal capacity and the associated administrative boundaries. Considering what municipalities do in different areas and/or provinces, the local available resource base and development imperatives may indeed result in either an increase or decrease of municipalities in some locations.

The MDB Capacity Assessment Report for 2008/09 (2009 in Greýling 2015:229) also states that in at least the last three MDB National Capacity Assessment Reports, a system of district and local municipality classifications has been used to better understand the variations in the municipal results. In particular, the information has highlighted the differences between the rural or poorer socio-economic regions in SA and those which are more urban and/or with greater resources. The Constitution acknowledges, and the Municipal Structures Act provides for, an asymmetrical system of local government (CoGTA is currently undertaking a review of provincial and local government in which the asymmetry of local government will need to be addressed) (Greýling 2015:225).

Moreover, a number of classification 1 local municipalities continue with their struggle to develop sufficient capacity to render a comprehensive range of municipal functions. District municipalities in the Free State and Mpumalanga perform few or any functions (MDB 2009 in Greýling 2015:221).

Municipalities segmented according to audit performance

The DCoG (FDA 2011 in Greýling 2015:221) states that it is only the Auditor-General (AG) that measures actual performance of organisations – not fully – only financially – it gives the following opinions based on its audits:

- **Unqualified.** This is an audit opinion without significant concerns on any other matters, including audit reports with emphasis on matter (matters of information) only.
- **Other matters.** The audit opinion is unqualified financially, but auditors had concerns which require the focused attention of the leadership, audited entities and oversight, to be eliminated.
- **Qualified.** The financial statements are satisfactory, except for certain information or parts thereof.
- **Disclaimer.** The audited entity could not provide information or evidence to support the information, transactions and balances in the financial statements. This opinion is highly undesirable.
- **Adverse.** The financial statements are fundamentally unreliable, because the information of records on which the financial statements are based do not agree with those held by the auditors. This opinion is highly undesirable.

Government has a drive towards clean audits in all its spheres. Auditor-General, Terence Nombembe, cautioned that for Operation Clean Audit 2014 to succeed, SA's mayors need to lead the movement towards the clean administration of their municipalities (in Greýling 2015:229).

DCoG's spatially vulnerable municipalities' segmentation model

The DCoG (FDA 2011 in Greýling 2015:230) indicated that the settlement patterns, location and geo-technical issues may also impact service delivery and municipal viability. The DCoG's Municipal Spatial Classification System (segmentation model) developed municipal profiles according to levels of functionality, socio-economic profile and backlog status. In developing the vulnerability framework, the indicators/classifications below were applied. The information was then assessed on a scale of performance results; these were then ranked from the best to the worst result per local municipality, whereafter the municipalities were divided into quartiles to indicate a range of four classifications.

Four classifications are identified (DCoG: FDA 2011 in Greýling 2015:221):

- Class 1: Most vulnerable (57)
- Class 2: Second most vulnerable (58)
- Class 3: Second highest performing (58)
- Class 4: Highest performing (58)

The results indicating the Class 1 or most vulnerable segment were informed by a data driven process, and ranked results in the fields of socio-economic conditions, municipal capacity and service delivery levels. The majority of municipalities found most vulnerable were previously located within the disestablished Apartheid homelands:

Class 1 (most vulnerable) municipalities: Data sources for the selected indicators were StatsSA, Global Insight, Community Survey 2007 (of StatsSA), MDB, the CSIR, the National Treasury, the DGoG and the AG (DCoG: FDA 2011 in Greýling 2015:232).

The local municipalities falling within the Class 2 category are the second most vulnerable grouping of local municipalities nationally. When examining the spatial location, the **Class 2 municipalities (vulnerable)** tend to be found in the following locations (DCoG: FDA 2011 in Greýling 2015:221):

- Commercial farming areas with small service towns.
- Municipalities in which a portion was previously located in the disestablished Apartheid homelands.
- Semi desert areas or those areas with low population densities.

DCoG (FDA 2011 in Greýling 2015:235) indicated that the municipalities found in **Class 3** are the **second highest performing groups of municipalities**. The

majority of these municipalities fall outside the abolished Apartheid Bantustans. These municipalities tend to be:

- commercial farming areas supported by small towns;
- smaller mining towns; and/or
- semi desert areas.

The municipalities found in **Class 4 are the best performing group of local municipalities** nationally. These municipalities tend to contain (DCoG: FDA 2011 in Greýling 2015:235):

- highly urbanised communities;
- large urban centres; and
- mining towns.

The weakness of this model, as with most models that may be reviewed, is the persistence of anomalies in the ratings. ‘Low’ categories will always have better performing elements, and ‘high’ rankings will always have poorer elements. This is why it is proposed that typologies, classifications and segmented approaches are not concretised as policy, but serve to inform, guide and shape a differentiated governance response. To illustrate by example highly vulnerable areas in Mpumalanga and Northern Cape, specifically regarding service delivery backlogs, for reasons related to data-led analysis processes; actually fell into the Class 2 ‘second most vulnerable’ segment. If these municipalities were then to be officially segmented into Class 2, government support mechanisms would ‘miss’ them, whereas if they are under the spotlight for targeted and appropriate support, differentiated approaches serve their needs most accurately (DCoG: FDA 2011 in Greýling 2015:236).

Differentiation and powers and functions

Powers and functions and differentiation are linked to each other by way of legislation. Thornhill (2009:27) says the sphere or level of local government is a creation of each state. Its composition, functions and powers are determined according to the role the State requires it to play. Therefore, it could be expected that the system of local government and administration will possess the characteristics peculiar to a particular state and will also reflect the current governing party’s (or alliance’s) policies regarding the decentralisation of functions.

The sphere of local government is also assigned original powers in the Constitution of 1996 through Section 156. Thus, municipalities are not hierarchically linked to the national or provincial government, but are considered as equal partners in promoting the development of the South African society. The heading to Section 153 of the Constitution of 1996, commissions municipalities

to perform **developmental duties**. Section 153 states unequivocally that a municipality **must** give priority to the basic needs of society and promote the social and economic development of the community. Section 153a states that municipalities are also required by the Constitution of 1996 to participate in national and provincial development programmes (Thornhill 2009:30).

The effectiveness of any system of local government and administration is highly dependent on the functions and powers assigned to it. In the case of SA the Constitution of 1996 assigns legislative and executive authority to the council and states the objects of local government (Thornhill 2009:30).

The functions of local government are set out in Schedules 4 and 5 of the Constitution of 1996. These include *inter alia* functions performed (Thornhill 2009:31):

- concurrently with the national and provincial spheres e.g. air pollution, child care facilities, local tourism, municipal planning and municipal health services; and
- in functional areas of exclusive provincial competence e.g. local amenities, local sport facilities, municipal roads, noise pollution and refuse removal.

The quality and the extent of the services to be provided are not identified e.g. the health, housing and environmental functions performed concurrently with the provincial and the national spheres are not stated clearly in the Constitution of 1996. Functions and powers are also assigned in legislation e.g. housing to selected municipalities and welfare services. However, municipalities cannot solely be held accountable in the case of possible under performance as in many cases they lack clear policy guidelines from national or provincial governments; or/and financial and HR capacity to fulfil their extensive obligations (Thornhill 2009:31).

It is possible to have more differentiation in the powers and functions of provinces and municipalities when taking capacity into account. The present system can be improved with clarifications in the areas of housing, water, sanitation, electricity and public transport. The NDP proposes that regional utilities must provide services on behalf of less resourced municipalities on an agency basis without undermining the accountability of the services. Large cities should be given greater fiscal and political powers to coordinate human settlement upgrading, transport and spatial planning (NDP 2011:24).

The desired outcome of the differentiated approach is to also regulate functional arrangements **for the three spheres** in new national legislation that will (DCoG: RWP 2011:91-92):

- Provide for new governance procedures for allocating functional responsibilities across government according to a differentiated approach.
- Provide for a process to define minimum capacity, norms and standards for service delivery functions for each category.

- Provide options for differentiating IDP in accordance with municipal capacity.
- Provide options for increasing delivery functions, e.g. housing in accordance with municipal capacity.
- Provide options for alternative methods of delivery where necessary.
- Introduce a basket of options for increased public participation in the affairs of government.
- Provide for five-yearly assessments of performance linked to the electoral mandate; thereafter assignments may be adjusted for the next term.
- Provide for support and capacity building solutions that will address the unique circumstances of a municipality.
- Provide for a mechanism for monitoring and evaluation within the review of functional allocations linked to the five-yearly performance review of formal assignments.
- Link the fiscal system to stable assignment delegations across government.

Differentiation and financial resources

Financial resources are necessary for any local authority and the National Treasury (Department of Finance (DoF) in Greýling 2015:240) indicates that there are five main reasons why access to financial markets is considered important for local authorities. These may be summarised as follows:

- Access to capital: Local governments in SA are responsible for infrastructure that requires large, 'lumpy' capital investments on a periodic basis. Given the extensive needs in SA, financing this investment on a 'pay-as-you-go' or 'taxation-in-advance' basis is usually neither possible nor efficient. Particularly where the need for capital greatly exceeds what is available on a grant basis from the central fiscus, access to capital markets can provide municipalities with the capital resources necessary to finance infrastructure investments efficiently.
- Inter-temporal equity: The benefits of the infrastructure investments that municipalities make often endure for extensive periods and accrue to future generations of taxpayers and consumers. It is equitable for such generations to bear some of the costs of these benefits. Financing investment over time with funds accessed from capital markets allows for this.
- Efficiency: Because capital markets allocate capital resources on a commercial basis, capital is allocated efficiently. Moreover, the opportunity costs of capital provide incentives to ensure efficient standards of delivery and discourage 'overbuilding' and wasteful investment.
- Accountability: Markets tend to punish poor fiscal and management performance through pricing (pushing up interest rates or making capital

increasingly scarce). This can promote accountability and fiscal discipline at local level. It may also provide other stakeholders (national government; the provinces and aid agencies) with a convenient means to assess the relative performance of municipal governments.

- Short-term matching of revenues and expenditures: In the short term – for example within a given financial year – municipal revenues and expenditures are seldom completely congruent in time. Short-term borrowing allows municipalities to deal with this lack of synchronicity.

International experience suggests that achieving these benefits depends on the method of access and the conditions under which this access occurs. In principle there are two main routes: local governments can access capital markets through ‘on-lending’ from central government, most often through a public intermediary (a financial parastatal), or they may access the markets directly (DoF in Greýling 2015:241).

In SA the Development Bank of Southern Africa (DBSA), which is increasingly active in the municipal market, already represents one ‘indirect’ access mechanism. As already recorded, the interface between this mechanism and the private market in respect of municipal debt is an important issue which will require further attention once the policy framework is established in legislation. The DBSA aside, there are three broad reasons why government wishes to facilitate direct access by municipalities to the capital markets (DoF in Greýling 2015:242):

- Limitation of implicit or contingent liabilities: It is important to protect central government from ultimately inheriting the debts of local government. When sub-sovereigns borrow through central government the debts of these bodies easily become the implicit or contingent liabilities of central government. Policy and legislation need to ensure that central government is not perceived as a banker of last resort. This is necessary for prudent fiscal management at the national level and is fundamental to government’s ability to maintain its macro targets. It is also needed to ensure that municipalities face strong incentives to improve their own management and credit worthiness, knowing that it is unlikely that central support will be forthcoming to compensate for local mismanagement or policy errors (DoF in Greýling 2015:242).
- Systemic discipline: International experience suggests that the indirect borrowing route can result in situations where credit allocation decisions become increasingly less commercial in character. Under such conditions, capital does not necessarily flow to the most productive users, but to those players who are politically the most astute. In other words the efficiency and accountability outcomes become diluted. Incentives for inefficient

and wasteful decision-making can replace those which encourage the productive use of capital and tight financial management (DoF in Greßling 2015:242).

- Expanding investment resources: Subsovereign borrowing via the State can result in the “squeezing out” of private capital from the municipal sector, thereby narrowing the aggregate resource available for investment (DoF in Greßling 2015:243).

Moreover, central control of borrowing can also create incentives for local governments to elude these restrictions through innovative off-budget schemes. Centralised borrowing, therefore, does not necessarily increase the ability of central government to control the liabilities of local government, but it may simultaneously diminish the overall financial resource base for investment in worthy projects (DoF in Greßling 2015:243).

Direct access to capital markets offers the potential for a more transparent, market-based system to develop where there is a greater chance of achieving the benefits of accessing capital markets. However, it is also true that moral hazard problems – which arise from the assumption by capital markets that borrowing by local governments is ultimately backed by central government – may also develop where there is direct borrowing by sub-sovereigns from private financial markets. Ultimately, such problems can never be eliminated completely (DoF in Greßling 2015:242).

The State has to play an active role in broadening the participation of the mass of South Africans in the productive private sector and in quality jobs, and in the creation of new enterprises. This active developmental state in municipal regions must administer pricing regarding tariffs charged for services in a manner that allows for basic service provision to the poor and a minimum level of basic needs. The core business of municipalities must ensure improved revenue streams in a manner that broadens the reach and range of services and a redistribution of surpluses (DCoG: RWP 2011:90).

Whilst investment in basic infrastructure and services should occur across the board, limited resources (which differ from one municipality to another) should be applied strategically and government investment should go into areas that will yield the highest impact in terms of economic output, employment creation and poverty reduction when it comes to economic fixed capital formation. Investments in sparsely populated rural areas should be based on a new vision of sustainable rural economies and should focus on innovative employment generation strategies that do not necessarily require large sums of capital. Beyond government investment, local citizen involvement in economic development and innovation should be vigorously encouraged (DCoG: RWP 2011:90).

DIFFERENTIATION AND THE URBAN-RURAL DIVIDE

In South Africa, the classification of the country into rural and urban areas is rather fluid in nature. There is a clear shift away from this system towards an all inclusive one. However, the concept remains important regarding targeted development programmes, such as the Urban Renewal Programmes (URP) and the Rural Development Strategy (RDS,) as well as for statistical purposes (StatsSA 2003:1 in Mubangizi 2009:154).

The primary mechanism used by the National Treasury to define rural municipalities is the methodology adopted by the DCoG which is based on the context within which municipalities operate and uses variables such as the number of poor households, the proportion of households with access to services (water, sanitation and electricity), and information on capital and operating budgets to group municipalities into seven different categories (DCoG: RWP 2011:86). SA's RDS defines rural areas as "those areas that have the lowest level of services, and the greatest average distance to the nearest service points" (Mubangizi 2009:154). These areas include large-scale farming enterprises and are largely (but not exclusively) former homelands or Bantustan areas. Furthermore, municipalities have little potential to raise sufficient taxes to meet the costs of services. The definition proposed characterises rural areas as those with low access to services and a low potential to raise taxes (Mubangizi 2008:275 in Mubangizi 2009:154-155). According to Kumalo, rural areas' dependence on a cash-economy is due to a decline in subsistence farming practices (Kumalo 2005:161 in Mubangizi 2009:155).

There are contrasting pictures which mirror the urban-rural divide. Challenges imposed by urbanisation on the receiving cities such as pressure on infrastructure, social welfare programmes, limited economic opportunities and service delivery are evident. Other areas, particularly rural municipalities, lose economically active people to the cities and this slows down development significantly (DCoG: RWP 2011:61).

The DCoG (DCoG: RWP 2011:91) proposes introducing differentiation 'across the spectrum' as to them it is clear that **urban and rural environments have differing needs** based on their respective regional socio-economic conditions. It is clear that highly urbanised provinces or regions need to respond to the challenges of housing demand, high immigration and urban sprawl, plus the demands of sustaining concentrated economic activity. Conversely, largely rural provinces suffering from poverty and related negative socio-economic realities cannot prioritise the same functions that are applicable to urban environments. This principle has been applied in the Municipal Infrastructure Grant (MIG) Policy Review, which assigns a higher degree of responsibility to infrastructure management to the six (now eight) metropolitan areas (DCoG: RWP 2011:91).

The DCoG (in Greýling 2015:242) states that there is:

- A challenge with the current design of the local government fiscal framework, which provides that funding related to a particular function gets paid to the municipality that is legally responsible for the delivery of a function. In many instances, funds that are paid to the district municipality, that is, the service delivery authority, even though the function is provided by the local municipality; are not passed to the local municipality to subsidise the service appropriately as expected.
- A very high level of grant dependence among rural municipalities and government transfers alone cannot address all the service delivery pressures that local government faces because they are intended to supplement the municipalities' own revenues.
- Also a challenge in most rural local municipalities is raising their own revenue. In practice, rural municipalities do not levy property rates and service charges to non-poor households and businesses in their areas even if they can afford it. The National Treasury believes that this practice, which is also prevalent in many developing countries, undermines the finances of the municipality and also breaks the revenue-service link between the municipality and the ratepayer/customer that entitles them to demand better quality services because they are paying for them.

Metros, district and local municipalities can thus not necessarily be strictly categorised as urban or rural but there could be a mixture of characteristics associated with each, depending on the community referred to.

Differentiation and institutional systems

The differing municipal realities show the anomaly of enforcing a governance framework that applies uniformly to cities, small towns and remote and rural areas when in reality they are very different places with different needs and capacities. The impact of both economic growth and migration on municipalities since 1994, as well as the performance outcomes of different municipalities, requires a thorough rethink on how municipalities are categorised and the concomitant powers and functions that are necessary for them to become efficient municipal institutions (DCoG: RWP 2011:89).

The distinct differences in capacities and institutional context within the 283 (now 278) municipalities mean that they have not all been able to pass through the phases of establishment, consolidation and sustainability at the same rate or within an even playing field. It follows that some of these municipalities are seriously challenged to fulfil their obligations. This calls for the consideration of a differentiated approach to improve institutional systems at municipal level (DCoG: RWP 2011:85).

The DCoG's Review of the RWP on Local Government (2011:10) states that a **differentiated approach** to improve institutional systems at a municipal level requires a model which would fully consider the implications for support, funding, planning and service delivery. There is especially a need to prioritise **institutional, service delivery and economic development support** to the high growth cities and city-regions and the high-density settlement areas of the former homelands with large and growing populations but little economic activity and high rates of poverty.

The differentiated approach to institutional systems of local government can be applied on the level of segmentation of municipalities to ensure more equitable support to poor rural municipalities and assigning powers and functions in a sustainable fashion, and also at the level of municipal technical support (including planning, infrastructure delivery and operations, funding and financial strategies for infrastructure) improved through a guiding framework taking into account the unique circumstances of municipalities (DCoG: RWP 2011:96–97).

THE DIFFERENTIATED APPROACH PROPOSED FOR LOCAL GOVERNMENT

The DCoG (FDA 2011 in Greýling 2015:242) states that the State of Local Government Assessment of 2009 sets out to explore the root causes of the 'municipal failures' that have begun to dominate the debate on progress in service delivery. It is known that despite considerable progress with regard to basic service delivery in municipal areas, there remain significant performance constraints that need urgent response from government in the face of increasing loss of public confidence in municipal governance.

The DCoG (FDA 2011 in Greýling 2015:242) also states that a **spatially differentiated approach** is premised upon the differences in a municipality's ability to take control of its challenges, e.g. those municipalities with less than 30% universal access to water, sanitation, electricity and refuse removal.

The DCoG (FDA 2011 in Greýling 2015:243) states that all models of segmentation will have some areas of discrepancy, anomalies, differences and possible borderline cases. It may be a process that obfuscates support needs, rather than isolating them for attention. It therefore might not serve the intended purpose to design an overall segmentation model. Applying the usage of segmentation, but closely linked to the purpose of the intervention; might be more useful. Limiting the State's response to spatial segmentation without differentiating the response to targeted functions (e.g. weak delivery of sanitation or refuse removal) may result in inadequate interventions including the solving

of issues related to capacity, management and governance challenges, in borderline cases within the segmentation model.

Interventions in these contrasting spatial areas will be coordinated according to the various priority needs, largely focusing on access to services, with back support likely in terms of financial and administrative management. The Municipal Turn-Around Strategies (MTAS's) of municipalities will be assessed in this regard, as will all other relevant data that may be obtained concerning conditions and performance of the municipalities.

The differentiated approach calls for better coordinated and targeted support for smaller municipalities, whilst simultaneously empowering cities to play a stronger and more direct role in crucial built environment functions such as the delivery of housing (DCoG FDA 2011 in Greýling 2015:244).

The DCoG (FDA 2011 in Greýling 2015:244) states that there are two major issues that the differentiated approach will attempt to resolve:

Firstly, government needs to recognise that there is a growing urban problem of informal settlements with the resulting lack of access to basic services by the majority of the urban poor. Addressing this challenge requires government to review the capacity of big cities to deliver and coordinate their built environment outcomes. This should also acknowledge that basic service backlogs in these cities are mostly dependent on the pace of the eradication of informal settlements and the creation of new human settlements. Integration and coordination therefore can only occur if it takes place at the point of planning and implementation by a municipality. This will enable the cities to use different funding instruments appropriately to address the problem of housing.

Secondly, there are rural development challenges which are still unsolved of communities that did not have access to basic services pre-1994. Most of these communities are found in rural municipalities which on the one hand face huge backlogs in basic services and on the other hand lack the requisite capacity to deliver due to various reasons. Most of these municipalities are also dependent on grants. Clearly, grants to these municipalities should be well targeted to ensure that the objectives of government are met, that is, addressing basic service infrastructure in water, sanitation and electricity, etc.

The DCoG (FDA 2011 in Greýling 2015:245) argues that:

Targeted capacity support would enable higher category, better performing municipalities to manage a clearly defined and coherent concentration of functional assignments that enable a faster rate of development and good governance. The weaker municipalities, however, would be 'freed' to concentrate on basic service delivery functions, with far fewer demands on their limited finances and capacities.

To achieve this, government has to aggregate local municipalities into some workable number of relatively homogenous categories (segments) according to

needs and then treat these categories (segments) differently or according to a differentiated approach through targeted support interventions.

It might not serve the intended purpose to design an overall segmentation model. Applying the usage of segmentation, but closely linked to the purpose of the intervention, might be more useful. The DCoG is proposing the use of an Meta Framework for Differentiation (MFD) approach, by identifying broad based groups according to needs. Three streams for intervention were identified:

- Planning support, including municipal powers and functions;
- Technical support for infrastructure and service delivery; and
- Financial and administrative support and capacity building.

It is proposed that the DCoG MFD be accepted as step 1 of the differentiation process, which consists of two steps:

- identification of a broad based group(s) according to needs; and
- identification of relatively homogeneous groups that will respond to support interventions in a similar way.

For the purpose of these two steps, within the “most vulnerable” group further differentiation be applied functionally according to relevant models such as the National Treasury, the AG, MIIF, the Municipal Infrastructure Support Agents (MISAs), the blue and green drop models, etc. The principle of differentiation is that each municipal area’s unique circumstances need to be taken into consideration before applying a uniform fiscal and policy regime, or expecting equitable standards in performance and service delivery.

CONCLUSION

The various typologies (segmentation models) described in this article focused on the following diverse list of characteristics in an attempt to better understand or effectively support municipalities: anti-corruption campaign; broad spatial characteristics; budget required/financial viability; capacity building, systems, HR development and improved organisational culture; community/social services; community participation; financial aspects; financial viability; free basic services which target poor households, appropriate billing system and reducing municipal debt; general management; good governance; HR; institutional arrangements; IDP; integrated human settlement development; LED; job creation, the Extended Public Works Programme and the nature of the municipal infrastructure support required; a Performance Management System; performance monitoring, evaluation and communication; political structures;

poverty and under-development in those areas with the highest concentration of population; powers and functions; public empowerment, participation and community development; service delivery; size; the Spatial Development Framework; special intervention in rural and urban development nodes; technical services; the capacity (systems, processes and HR) to implement municipal infrastructure grant projects and urban and rural nature. Each typology has its own criteria relevant to a specific area of focus.

Differentiation can be seen as a tool to try to focus the support from national and provincial government and associated institutions to local government toward ensuring functional, performing municipalities that deliver their services adequately.

However, various authors have highlighted the following as aspects that also need attention for local government as a system to be successful:

- Reinvent government to ensure a developmental state.
- A municipality must be structured so that its operations succeed (productive capability).
- Financial strategies (not compliance) are needed in the municipal space.
- Cooperative governance (to address complexities in powers and functions and limited resources).
- A sustainable livelihood framework is needed to address urbanisation.
- Effective policy formulation.
- Capacity building to manage resources.
- Equity and community-based planning and monitoring of delivery (active citizens).
- Leadership, unity and social cohesion must be built.
- An understanding of exactly what each of the municipalities' profiles contain.

In the end, citizens want their needs addressed and thus the words contained in the NDP (2011:23) are so relevant "It has to be painstakingly built, brick by brick, institution by institution and sustained and rejuvenated over time". This remains the preferred approach and it is thought to be the more sustainable approach. Perhaps, according to the NDP (2011:23) "we need to educate our nation and politicians on how to patiently first build functional institutions (while monitoring their progress) before we measure their performance and expect delivery of services that they may not yet be able to deliver".

NOTE

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