

Democracy or Efficiency: The Impact of Public Participation on Local Government Service  
Delivery in Msunduzi Local Municipality and eThekweni Metropolitan Municipality

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Social Sciences at the University of KwaZulu-Natal, Pietermaritzburg.

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## DECLARATION

Submitted in fulfilment of the requirements for the degree of Doctor of Philosophy in the Graduate Programme in Political Science, University of KwaZulu-Natal, Pietermaritzburg, South Africa.

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## **Abstract**

Conventional thinking in participatory democracy theory contends that public participation improves the quality and effectiveness of government. Effective public participation promotes accountability, transparency, inclusivity and responsiveness in governance. The assumption is that the benefits of public participation are to be found in the efficiency of service delivery by municipalities. This dissertation investigates the idea that the benefits of public participation are outweighed by the cost to efficiency in service delivery. Public participation has negative effects on service delivery in local government due to the time and resources required for effective public participation. It is argued that the correlation between public participation and service delivery efficiency is also mainly theoretical, and not based on convincing empirical evidence. Service delivery efficiency in local government is influenced by other factors such as the ability of the municipal management and governance structures to resist party political interference through structural design, the capacity of the municipality to plan and deliver basic services within its jurisdiction, and the economic and financial resources available to the municipality.

The dissertation concludes that there is a need to thoroughly investigate the impact of intergovernmental relations on local government service delivery, given the legislative positioning of municipalities in relation to other spheres of government. The functionality and efficiency of local municipalities is dependent on the relations between the local government and the district municipality, or the local government and the provincial government. The role of district municipalities is therefore questioned, and it is suggested that further research on the subject is imperative.

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## Table of Contents

<b>Declaration</b> .....	ii
<b>Abstract</b> .....	iii
<b>Acknowledgments</b> .....	iv
<b>Abbreviations</b> .....	ix
<b>List of Diagrams, Figures and Tables</b> .....	x
<b>Appendices</b> .....	xii
<b>Chapter1: Introduction</b> .....	1
1.1    Rationale for the study.....	5
1.2    Research approach.....	8
1.3    Sample and Sample Techniques.....	12
1.4    Data collection.....	13
1.5    Data analysis.....	15
1.6    Ethical considerations.....	15
1.7    Limitations of the study.....	16
1.8    Structure of the thesis.....	17
<b>Chapter 2: Literature Review and Conceptual Framework</b> .....	19
2.1    Introduction.....	19
2.2    Democracy.....	19
2.2.1    Liberal Democracy.....	21
2.2.2    Social Democracy.....	24
2.2.3    Developmental Democracy.....	26

2.2.4	Participatory Democracy.....	28
2.3	Local Government in South Africa.....	34
2.4	Conclusion.....	39
<b>Chapter 3: Local Government: Design and legislative framework.....</b>		<b>40</b>
3.1	Introduction.....	40
3.2	Colonial History of Local Government in South Africa.....	41
3.3	Local Government and Apartheid: 1948-1994.....	43
3.4	Local Government Transformation.....	51
3.5	Transformation of Local Government in KwaZulu-Natal.....	67
3.6	Conclusion.....	72
<b>Chapter 4: Public Participation and Service Delivery in Local Government.....</b>		<b>75</b>
4.1	Introduction.....	75
4.2	Legislative and Policy Framework for Public Participation.....	76
4.3	Conclusion.....	83
<b>Chapter 5: Public Participation versus efficient service delivery.....</b>		<b>84</b>
5.1	Introduction.....	84
5.2	Efficiency in service delivery.....	84
5.3	Public Participation and Decision-Making.....	90
5.4	Conclusion.....	106
<b>Chapter 6: The Case of Msunduzi Local Municipality.....</b>		<b>108</b>
6.1	Introduction.....	108

6.2	Msunduzi Local Municipality Profile.....	108
6.3	Public Participation in Msunduzi Municipality.....	118
6.3.1	Integrated Development Plan.....	121
6.3.1.1	Ward Committees.....	125
6.3.2	Service Delivery Efficiency.....	130
6.3.3	Service Delivery and Provincial Government.....	138
6.3.4	Public Participation vs Service Delivery Efficiency.....	143
6.4	Conclusion.....	146
<b>Chapter 7: The Case of eThekweni Metropolitan Municipality.....</b>		<b>149</b>
7.1	Introduction.....	149
7.2	eThekweni Metro Profile.....	149
7.3	Public Participation in eThekweni Metro.....	153
7.3.1	Integrated Development Plan.....	165
7.3.1.1	Ward Committees.....	171
7.3.2	Service Delivery Efficiency.....	176
7.3.3	Service Delivery and Provincial Government.....	185
7.3.4	Public Participation vs Service Delivery Efficiency.....	186
7.4	Conclusion.....	192
<b>Chapter 8: Public Participation in Local Government.....</b>		<b>195</b>
8.1	Introduction.....	195
8.2	Public Participation.....	195

8.2.1	Integrated Development Plan.....	196
8.2.2	Ward Committees.....	197
8.3	Service Delivery Efficiency.....	201
8.4	Public Participation and Service Delivery Efficiency.....	203
8.5	Areas for further research.....	207
8.5.1	Structural design of local government and municipal efficiency.....	207
8.5.2	Impact of public participation on service delivery in South Africa.....	211
8.5.3	Causality between government efficiency and public participation.....	212
8.6	Conclusion.....	212
<b>Chapter 9: Conclusion.....</b>		<b>215</b>
<b>References</b>		
<b>Appendices</b>		



## Abbreviations

<b>Abbreviation</b>	<b>Full Name</b>
ABM	Area Based Management
ACDP	African Christian Democratic Party
AG	Auditor-General
ANC	African National Congress
CBO	Community-Based Organization
CC	Constitutional Court
CDW	Community Development Worker
COGTA	Cooperative Government and Traditional Affairs
DA	Democratic Alliance
DIF	District Intergovernmental Forum
IDP	Integrated Development Plan
IFP	Inkatha Freedom Party
KZN	KwaZulu-Natal
LED	Local Economic Development
LGCC	Local Government Coordinating Committee
LGNF	Local Government Negotiation Forum
MDB	Municipal Demarcation Board
MEC	Member of Executive Council
MFMA	Municipal Finance Management Act
NGO	Non-Governmental Organization
PB	Participatory Budgeting
PCLG	Provincial Committee on Local Government
PFMA	Public Finance Management Act
RDP	Reconstruction and Development Program
SANCO	South African National Civics Organisation
SDBIP	Service Delivery and Budget Implementation Plan
TLC	Transitional Local Councils
TMS	Transitional Metropolitan Substructure

## List of Tables and Figures

### Figures

Figure 1:	Operation Sukuma Sakhe Organisational Structure.....	103
Figure 2:	Top Administrative Structure of Msunduzi Municipality.....	117
Figure 3:	Operational Plan Graphical Representation of Performance.....	137
Figure 4:	Organizational Structure of Senior Management of eThekwini Metro.....	153
Figure 5:	eThekwini Metro Public Participation Process.....	156
Figure 6:	eThekwini Municipality ABM Areas.....	190

## Tables

Table 1:	Ward population distribution.....	109
Table 2:	Unemployment Rate in Msunduzi Municipality.....	110
Table 3:	Levels of Public Participation in Msunduzi Municipality.....	119
Table 4:	Public Participation in Msunduzi Municipality IDP.....	124
Table 5:	COGTA: Msunduzi Municipality Ward Committee Functionality Verification Report.....	128
Table 6:	Operational Pal 2014/2015 & 2015/2016 Graphical Representation of Performance.....	136
Table 7:	National Analysis of Section 139 Municipal Intervention: 1996-2015.....	139
Table 8:	KZN Provincial Housing Shortfall: 2011-2016.....	142
Table 9:	eThekwini Metro Political Party Representation 2011-2016.....	151
Table 10:	Level of Participation in eThekwini Metropolitan Municipality.....	160
Table 11:	eThekwini Metro Settlement Type.....	161
Table 12:	Service Delivery Satisfaction by Dwelling Type.....	179
Table 13:	Basic Household Services Satisfaction.....	180
Table 14:	Fully Subsidized Housing Delivery Levels.....	183
Table 15:	eThekwini Housing Backlog.....	184
Table 16:	eThekwini Cumulative Number of Households Connected.....	184

## Appendices

Appendix A	Arnstein's Ladder of Citizen Participation
Appendix B	Msunduzi Municipality Election Results 2000-2011
Appendix C	Msunduzi Area Based Management Plan Boundaries and Ward Boundaries
Appendix D	Msunduzi Municipality 2011 Local Government Election Results
Appendix E	Msunduzi Housing and Human Settlement Budget Plan 2011-2016
Appendix F	eThekweni Metropolitan Election Results 2000-2011
Appendix G	eThekweni IDP Process Plan 2016-2017
Appendix H	Chapter 7 of the Constitution of the Republic of South Africa
Appendix I	Interview Questions: Civil Society
Appendix J	Interview Questions: Municipal Officials



## Chapter 1: Introduction

In 1994, South Africa emerged from one of the most brutal and unjust regimes in modern times: Apartheid. This regime thrived in the oppression of the majority by a minority through repressive laws and the highly skewed allocation of resources. Through comprehensive legislation, communities were separated into four broad categories (White, Colored, Indian and African) and these were also hierarchies according to which the distribution of resources would be allocated<sup>1</sup>. The structure of government and powers given to each of the institutions of government were such that they ensured that quality basic services were not provided to non-white communities at the

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<sup>1</sup> Apartheid laws included the Prohibition of Mixed Marriages [Act 55 of 1949], which banned marriages between white people and people of other races; The Immorality Amendment [Act 21 of 1950], which illegalised extra-marital sexual activities between white people and people of other races; The Population Registration [Act 30 of 1950], which provided for the establishment of a central register to divide the population groups to White, Native, Indian and Coloured; The Group Areas [Act 41 of 1950], which essentially made it illegal for non-whites to leave in areas designated as white, by assigning different races to different areas of the country; The Suppression of Communism [Act 44 of 1950] outlawed the Communist Party and other formations that subscribed or were considered to subscribe to communism, as defined by the Act; The Native Building Workers [Act 27 of 1951] limited places in which skilled non-white labourers in the construction industry could work; The Separate Representation of Voters [46 of 1951] sought to remove all non-whites from the common voters roll through revoking the coloured qualified vote system of the Cape; the Bantu Authorities [Act 68 of 1951] which established Bantu authorities with some jurisdiction in traditional homelands, based on hierarchy of chiefs and councillors; The Native (Bantu) Laws Amendment [Act 54 of 1952] put further restrictions and limited the number of black people who could be granted permanent residency status in urban areas; The Natives (Abolition of Passes and Co-ordination of Documents) [Act 67 of 1952] was aimed at putting further restrictions on the movement of black people in urban areas by requiring black people to carry pass documents with their personal information, including employment details. The pass had to be obtained within 72 hours for purposes of employment and women also required to carry pass documents; The Natives Labour Settlement of Disputes [Act 48 of 1953] made it illegal for black people to strike; The Reservation of Separate Amenities [Act 49 of 195] legalised the segregation of public facilities according to race and to exclude people from certain public facilities according to race; The Bantu Education [Act 47 of 1953] legalised the segregation of educational facilities according to race and ensured that the State controlled the education, particularly of black people; The Natives Resettlement [Act 19 of 1954] legalised the forced removal of black people by government from areas close to or surrounding the magisterial district of Johannesburg, particularly from Sophiatown; The Bantu Prohibition of Interdicts [Act 64 of 1956] made it illegal for a black person to interdict the government from banishing such a black person from an area; The Natives Taxation and Development [Act 38 of 1958] provided a sliding scale taxation black men from the age of 18 when men of other races were only required to pay tax from the age of 21; The Promotion of Bantu Self-Government [Act 46 of 1959] provided for the establishment of 8 Bantustans with self-determination for the different tribes and the abolishment of parliamentary representation of black people, with the ultimate aim of depriving black people of any South African citizenship; The Prisons [Act 8 of 1959] made it illegal to report on prisons conditions without prior authorisation by government; The Extension of University Education [Act 45 of 1959] extended the racial segregation of education through by establishing and compelling students of particular races to attend certain racially designated universities; The Unlawful Organizations [Act 24 of 1960] banned the African National Congress and the Pan African Congress; The Urban Bantu Councils [Act 79 of 1961] provided for the election of black people as chairpersons of municipal councils with limited administrative duties; The General Laws Amendment [Act 37 of 1963] empowered government to detain indefinitely without charge and without access to legal counsel anyone deemed have been participating in political crimes;

same standard as in white communities. This meant that, by-and-large, black communities had limited or no access to quality basic services from their local governments. They had limited or no access to fresh running water, sanitation, housing and electricity, amongst others. Even in instances where such were provided, they were often not of the same standard. Quality was the reserve of the white people. Black<sup>2</sup> people had to get by with whatever was provided to them.

With the advent of democracy in 1994 certain expectations were developed by citizens, especially the previously disenfranchised, on the benefits of democracy. For the largely poor black majority, democracy meant government providing jobs, housing, basic services for free or at very low prices to the people. Democracy meant not just the right and ability to choose leaders, but also the right to tangible developmental benefits, as envisaged in the Freedom Charter of 1955.<sup>3</sup> The debate was also captured in the resultant socio economic policy of the ANC government—the Reconstruction and Development Programme.<sup>4</sup> For some, democracy meant the same or similar quality of life for whites and non-white people. This ideal was profoundly articulated by Nelson Mandela in 1964 when he stated, “I have cherished the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunities. It is an ideal for which I hope to live and achieve. But if needs be, it is an ideal for which I am prepared to die.”<sup>5</sup>

In the quest to address such expectations and to improve the efficiency and quality of local government services, the South African government introduced a number of legislative and policy instruments since 1994. Amongst these was the restructuring of the municipal structures through the Municipal Structures Act of 1998 and the Municipal Systems [Act 32 of 2000] as amended in 2003. There have also been a number of policy instruments that have been put in place to support the legislation, such as the Policy on Batho Pele. All such pieces of legislation emanate from the Constitution of the country which places the responsibility of providing basic services largely on the local government, in the form of municipalities<sup>6</sup>. Section 152 of the Constitution specifically

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<sup>2</sup> For purposes of clarity, black people refers to the previously oppressed groups involving coloureds, Indians and Africans.

<sup>3</sup> Congress of the People. 1955. *The Freedom Charter*. Online: [http://www.historicalpapers.wits.ac.za/inventories/inv\\_pdfo/AD1137/AD1137-Ea6-1-001-jpeg.pdf](http://www.historicalpapers.wits.ac.za/inventories/inv_pdfo/AD1137/AD1137-Ea6-1-001-jpeg.pdf)

<sup>4</sup> African National Congress. 1994. *The Reconstruction and Development Programme*. Online: <https://omalley.nelsonmandela.org/omalley/index.php/site/q/03lv02039/04lv02103/05lv02120/06lv02126.htm>

<sup>5</sup> Mandela, Nelson. 1964. *I Am Prepared to Die: Statement from the Dock at the Opening of the Defence Case in the Rivonia Trial*.

<sup>6</sup> Constitution of South Africa Act, 1996 [Act No. 108 of 1996]

states that local government has a responsibility to (a) provide democratic and accountable government for local communities; (b) ensure the provision of services to communities in a sustainable manner; (c) to promote social and economic development; (d) to promote a safe and healthy environment; and (e) to encourage the involvement of communities and community organization in the matters of local government.

In addition, government reports indicate widespread improvements on the delivery of essential services. According to the Department of Cooperative Governance and Traditional Affairs, 91% of the population has access to clean potable water; 77% has access to basic sanitation; 73% have access to electricity. These figures are based on the population of about 50 million South Africans, many of them black.<sup>7</sup>

However, despite this there has been a large and growing number of public protests over dissatisfaction with the pace and quality of service delivery at the municipal level in South Africa, over the past few years. Piper and Chanza<sup>8</sup> state that according to government there had been about 5085 public protests related to poor service delivery at local government level country-wide before March 2006. This figure has grown substantially since then. Often these protests take place in largely poor, black<sup>9</sup> areas of the country where the many, especially the youth, are unemployed. More often than not, these protests are violent, involving road blockages, stone-throwing, tyre burnings, destruction of public and private property and clashes with police. In some cases, the protests have become so violent that they have resulted in the deaths of people. To understand this, the local government SETA commissioned a study into the causes and possible solutions to the public service delivery protests.<sup>10</sup>

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<sup>7</sup> Stats SA. 2011

<sup>8</sup>Piper, Laurence and Nonhlanhla Chanza. "Too 'Raw' to Represent: the Marginalization of Youth in Msunduzi Ward Committees." In Buccus, Imraan. *Et al* (eds.) *Critical Dialogue: PublicParticipation in Review. Vol. 2. No. 2.* 2006. Pp. 18-23

<sup>9</sup> For the purposes of the study, black refers to those people who, prior to 1994, were disenfranchised by the Apartheid regime because of the colour of the skins. These are the people sometimes referred to as non-white and they included Africans, Indians/Asians and Coloured people.

<sup>10</sup> See Peliwe, Lolwana, *et al.* Undated. Mitigating Service Delivery Protest Through Skills Development And Deployment: Research Project Commissioned By The Local Government SETA. University of Johannesburg. Online: [http://cdn.lgseta.co.za/resources/performance\\_monitoring\\_and\\_reporting\\_documents/Mitigating%20Service%20Delivery%20Protest.pdf](http://cdn.lgseta.co.za/resources/performance_monitoring_and_reporting_documents/Mitigating%20Service%20Delivery%20Protest.pdf)



At the heart of many of these protests seems to be issues of the delivery or lack thereof (perceived or real) of basic services such as housing, water, electricity, sanitation and health infrastructure development. A major characteristic of many of these public demonstrations is the complaint that the delivery is very slow, non-existent, shady or downright inhumane.<sup>11</sup> For instance, communities in Cape Town and the Free State took to the streets complaining about dehumanizing open air toilets. These public protests take place at the time where there is a growing debate and focus on enhancing democracy and service delivery through deepening the level of participation of the public at all levels of government: most importantly in local government. However, the structures put in place to achieve this - where they have been established - such as Ward Committees and Local Development Committees, do not seem to be functioning effectively for a number of reasons: which include resources, funding and the actual powers to make decisions. In some instances, these structures are either politicized to the extent that their functionality squarely rests on the political dynamics of the context; or, as with some instances, structures are deliberately impeded from performing their functions. This may include the inability by people serving on the committees to either access or to understand the relevant documents, processes and policies. As such there continues to be a gap between service delivery and public participation, especially in local government<sup>12</sup>.

Problems associated with many of the more than 200 municipalities in the country are well documented. The 2009 *State of Local Government in South Africa* (prepared by the Department of Cooperative Governance and Traditional Affairs) paints a dim picture of the ability of municipalities to meet their responsibilities. The report stated inter alia that many municipalities were struggling financially due to non-payment of services by residents and lack of, or inadequate, financial accounting skills and systems. “By the end of 2007, the national municipal debt was around R32 billion, a figure that is estimated to be growing at R3.2 billion a year”.<sup>13</sup> Due to this,

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<sup>11</sup> It is worth noting that there are allegations on the part of government that some of these protests are fueled by elements in society that use people’s genuine concerns for their own personal agendas against government or certain officials of government. While not ignoring this serious allegation, this research focuses on the nature of the protests and how many participating in it see the action as.

<sup>12</sup> In 2009 the Department of Cooperative Governance and Traditional Affairs published a report on “The State of Local Government in South Africa”. This report provides a comprehensive diagnosis of the problems facing local government in the country. And it argued that a number of municipalities are showing signs of serious distress in many of their functions and responsibilities.

<sup>13</sup> Stanton, Anne. 2009. *Decentralization and Municipalities in South Africa: An Analysis of the Mandate to Deliver Basic Services*. University of KwaZulu-Natal. Pg. 15.

some municipalities have had to be put under administration by provincial governments to sort their finances and to revive service delivery. For instance, in 2010 the Msunduzi Municipality was put under administration for maladministration and serious financial constraints for having failed to collect over R400 million in debts.<sup>14</sup>

However, even where these structures are effective, there is still the question of efficiency (speed and quality) of service delivery as the local governments are required by law to create space for meaningful public participation, while also required to deliver services efficiently and effectively. Public participation requires substantial resources and time if it is to be effective. Such resources and time could be spent delivering services. This is a difficult balance to strike. And this may be a contributory factor in the public protests.

Therefore, this study departs from the premise that these problems are a reflection of a fundamental compatibility problem between efficiency and democracy. In other words, public participation delays or slows service delivery through slow decision-making processes, even where there are effective public participation mechanisms or instruments. In this regard, the type of public participation that is referred to here is that which promotes citizen involvement in decision-making beyond just elections and public opinion surveys, in accordance with the Constitution of the Republic of South Africa of 1996. This ultimately contributes to the public protests over service delivery. There are several studies that have attempted to explain the problems of service delivery through an analysis of the competencies and skills shortage at municipal levels; some have focused more on the impact of corruption and resource scarcity as the main culprits. The focus of this research, however, is to scrutinize the relationship between public participation as it is practiced in local government in South Africa and service delivery in the same context.

## **1.1 Rationale for the study**

The topic is relevant in the current South African context as there are many concerns being raised, and protests, by citizens in different parts of the country about service delivery. In some of these protests citizens object to the way in which the authorities govern and the speed at which basic

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<sup>14</sup> See *The Witness Newspaper*. 2011. *Msunduzi Struggling to Collect Debt*. Online: <https://www.news24.com/Archives/Witness/Msunduzi-struggling-to-collect-debt-20150430>

services are delivered. This environment provides the ideal conditions in which systems and policies in place can be reviewed so as to understand their effectiveness and compatibility with each other. It also provides for an opportunity to question what is otherwise regarded as common knowledge and to propose new systems and approaches.

The objective of the study is to understand the problems of service delivery in South African local government from a democratic systems' point of view. The aim is to provide a proposal that seeks to advance a more relevant and practical approach to public participation in the South African local government, which would meet constitutional and democratic principles and improve efficiency in service delivery. The gap in the literature and perhaps political focus, as well, is that the policy framework, which is the interpretation and application of the constitutional and democratic principle of public participation, has not been considered as a possible hurdle in efficient service delivery. The many structures and forums which are meant to enhance public participation could adversely affect the level of efficiency in the delivery of services. Current literature in the South African context, is incomplete as it does not thoroughly look at the possible dichotomy between democracy and efficiency. There is an assumption that effective democracy is also efficient. Several reports of service delivery in South Africa point towards problems in the speed and quality of service delivery in local government. Yet few questions are raised about the impact of public participation. Barichievy<sup>15</sup>, having conducted research on the impact of public participation on decision-making in municipalities, concludes that greater democracy in decision-making comes at cost to efficiency. But Barichievy limits his focus only to decision-making and does not explore the component of service delivery.

Furthermore, despite the widely accepted critical role that local government plays in the post-Apartheid South Africa, the field remains rather disappointingly understudied. Only recently has there been a growing focus on local government as a field of research. As such, from an academic standpoint, there is relatively a small body of literature on South African local government, which leaves open a number of gaps in the literature. For instance, there are limited studies on how the structural arrangement of local government in the country compare to other countries: studies such

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<sup>15</sup>Barichievy, Kevin. 2006. *Efficiency versus Democracy: Unpacking the Decision-Making Process in South African Cities*. University of KwaZulu-Natal, Pietermaritzburg.

as the one conducted by McKinlay Douglas Limited<sup>16</sup> in which local government structures in New Zealand are compared to other countries. Predominantly, the reports on the performance of Local Government in South Africa are produced by the office of the Auditor-General or government departments. Often these reports look at financial management and linear quantifiable service delivery indicators<sup>17</sup>.

The research question the study seeks to explore is whether public participation, as it is practiced in South African local government, has an unintended negative effect on efficient service delivery in terms of slowing down the decision-making processes and ultimately the efficiency of service provision. The problem therefore is the balance between the constitutional and democratic requirement of effective public participation, on the one hand, and efficiency on the other. While there might be other factors influencing the efficiency of service delivery, such as capacity and corruption, this research only seeks to examine the effects of public participation on efficient service delivery.

In attempting to address the main research question, the dissertation asked a number of questions<sup>18</sup>.

1. What do the case studies (Msunduzi Local Municipality and eThekweni Metro) tell us about the relationship between public participation and service delivery?
2. What, if any, is the relationship between effective/ineffective public participation and service delivery efficiency?
3. Do different types of municipalities have the same or similar challenges around these issues, or does this differ according to the type and size of the municipalities?
4. Is there a way of ensuring the efficiency of service delivery in local government while at the same time broadening and deepening the involvement of the public in the municipal process without the two conflicting with each other?
5. To what extent do the complex and sometimes contrasting agendas of civil society, political parties and traditional authorities affect public participation and the efficiency of service delivery in local government?

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<sup>16</sup>McKinlay Douglas Limited. 2006. *Local Government Structure and Efficiency: A Report Prepared for Local Government New Zealand*

<sup>17</sup>See the Department of Cooperative Governance and Traditional Affairs. 2009. *State of Local Government in South Africa: Overview Report*.

<sup>18</sup> These are not arranged in any particular order.

6. What new approach to public participation could be more effective in the South African local government service delivery context?

## 1.2 Research approach

In philosophy, the concept of knowledge<sup>19</sup> has received considerable attention and debate through the field of epistemology. The debate concerning knowledge stems from an ancient Plato's definition of knowledge being "a justified true belief"<sup>20</sup>. For a person to 'know' A, A must be true and real, the person must believe A to be true and the person must be justified in believing A to be true. It is only under these conditions that knowledge can exist. 'Justified' in this case has to be predicated on some form of evidence or experience. Having been initially generally accepted by philosophers, this definition and the subsequent understanding of knowledge was problematized in 1963 by Edmund Gettier<sup>21</sup> in what became known as the Gettier problem. His argument was that the Justified True Belief definition could not account for all knowledge. By means of examples, Gettier demonstrated that it is possible for beliefs to be true and justified, but by accident. For instance, Paul makes a substantial bet on a horse that he says he knows will win. He basis this on the horse's amazing speed and track record. At the end of the race, Paul's chosen horse actually does win. However, unbeknownst to Paul is that the horse only won because the fastest horse in the race suffered an injury during warmup. So in this instance Paul's justified belief just happens to be true but can hardly be considered knowledge.

From this problem emerge a few issues regarding knowledge. The first is on the definition of knowledge. The Cambridge Dictionary defines knowledge as "understanding of or information about a subject that you get by experience or study, either by one person or by people generally."<sup>22</sup> The Oxford Living Dictionaries defines knowledge as "facts, information, and skills acquired through experience or education; the theoretical or practical understanding of a subject."<sup>23</sup>

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<sup>19</sup> This is an oversimplification of the debate regarding knowledge. There are broader and much more complex issues that Epistemology considers, which are beyond the scope of this thesis.

<sup>20</sup> Cooper, John M. 2015. *Plato's Theaetetus*. Routledge Publishers. London. Pg. 142

<sup>21</sup> Gettier, Edmund. 1963. "Is Justified True Belief Knowledge?" *Analysis*. Vol. 23

<sup>22</sup> *The Cambridge Dictionary*. 2018. Cambridge University Press. Online: <https://dictionary.cambridge.org/dictionary/english/knowledge>

<sup>23</sup> *The Oxford Living Dictionaries*. 2018. Oxford University Press. Online: <https://en.oxforddictionaries.com/definition/knowledge>

Davenport and Prusak state, “knowledge is a fluid mix of framed experiences, values, contextual information, and expert insight that provides a framework for evaluating and incorporating new experiences and information. It originates and is applied in the minds of knowers.”<sup>24</sup> It is clear from just these few definitions that there is no consensus in defining the concept of knowledge.

However, despite this, there is a pattern that, for purposes of this section, can be identified in the definitions. There is an emphasis on the acquisition of knowledge: the process by which information becomes knowledge. From this it can be deduced that how one comes to possess knowledge validates or invalidates the knowledge. This evokes the second issue emerging from the knowledge debate. Epistemology holds two main schools of thought on the acquisition of knowledge: empiricism and rationalism. Empiricism argues that knowledge is acquired primarily through experience. It is only after experience that one can truly claim to know. “Traditional empiricists emphasized that, sense experience is the only guide in our understanding of the world; that it is the only method and criterion of knowledge and truth.”<sup>25</sup> Sensory experience is not only direct but can also be indirect. Direct experience is when one personally engages or is familiarized with an object, feeling or sensation such as pain or smell or hunger. Indirect experience, on the other hand, is one that comes from direct experiences of others. Stories and literature are the main sources of indirect experience. There are no instinctive ideas. Such a notion of knowledge has been challenged by people such as David Hume<sup>26</sup> who argues that sensory experience can be unreliable and difficult to prove. Without proof, knowledge is not possible and it is simply belief.

Rationalism, on the other hand, holds that knowledge is acquired through intuition, reason and deduction. There is also knowledge that is innate: that is to say, some knowledge is independent of experience, reason or deduction. It is simply part of our nature. This knowledge is ‘programmed’ in our DNA or genes, which is why some people are naturally better at certain tasks or subjects than others. Reason, deduction and experience may trigger the consciousness of this knowledge without causing or providing the knowledge itself. Such knowledge is certain, without doubt, as it is different from what is known as a result of experience. Experience is based on perception and

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<sup>24</sup>Davenport, T. and Prusak, L. 2000. “Working Knowledge: How Organizations Manage What They Know.” *Ubiquity*. Online: [http://www.acm.org/ubiquity/book/t\\_davenport\\_1.html](http://www.acm.org/ubiquity/book/t_davenport_1.html)

<sup>25</sup> Hossain, F. M. A. 2014. “A Critical Analysis of Empiricism.” *Open Journal of Philosophy*, 4. Pp. 225-230

<sup>26</sup> Hume, D. 1966. *Enquiries Concerning the Human Understanding and Concerning the Principles of Morals*. Oxford University Press, London.

belief, which can be doubtful and therefore uncertain. This line of thinking often lends itself to the natural sciences, where evidence and logical reasoning are essential in claiming knowledge.

“This is not so in the social sciences, with some social scientists calling for objective evidence akin to that of the natural sciences, while others insist that other forms of knowledge are possible.”<sup>27</sup> This disagreement gives rise to a number of approaches and conceptions of different forms of knowledge in the social sciences. These approaches include *positivism*, *post-positivism* and *interpretivism*. Positivism argues that the world exists objectively. The purpose of knowledge and of the researcher or observer is to measure and or describe what already exists. Using deduction, cause and effect can be understood and prediction becomes possible. Consequently, the researcher needs to adopt a structured approach with an appropriate methodology whilst remaining emotionally detached or neutral to the subject or observed phenomenon.<sup>28</sup> The quantitative research method is the preferred method for this approach. Post-positivism takes a more flexible position by arguing that some phenomenon do not conform to the notion of cause and effect. As such, whilst reality remains objective, knowledge of that reality can be uncertain.

Interpretivism, conversely, postulates that reality (knowledge) is both objective and subjective. Knowledge is a social construct based on the meanings in human interactions and their perceptions of reality. “Interpretation works at two levels. The world can be understood not as an objective reality, but as a series of interpretations that people within society give of their position; the social scientist, in turn, interprets these interpretations.”<sup>29</sup> In this approach, the researcher considers meanings and reasons within a specific time and context. This is better achieved using qualitative methods of conducting research.

Therefore, the approach of this research is informed by the view that reality or knowledge intertwines with human interactions and their perceptions within a specific context and time. As such, the research methodology employed for this study is a mixed methodology (qualitative and

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<sup>27</sup>della Porta, Donatella and Michael Keating. 2008. “How many approaches in the social sciences? An epistemological introduction.” della Porta, Donatella and Michael Keating (eds.) *Approaches and Methodologies in the Social Sciences*. Cambridge University Press, Cambridge. Pg. 22

<sup>28</sup>See Aliyu, Ahmad Aliyuet *al.* 2014. “Positivist and Non-Positivist Paradigm in Social Science Research: Conflicting Paradigms or Perfect Partners?” *Journal of Management and Sustainability*. Vol. 4, No. 3. Pp. 79-95

<sup>29</sup>See della Porta and Keating, 2008. Pg. 25

quantitative) based on the Msunduzi Local Municipality and eThekweni Metropolitan Municipality in KwaZulu-Natal (KZN), and it is geared towards drawing up an analysis of the impact of public participation in local government in South Africa—whilst understanding the limitations of generalization. The two municipalities have been chosen because they belong to two different categories, as provided for by the Constitution. The eThekweni Municipality is a Category A municipality and Msunduzi Municipality is a Category B municipality.<sup>30</sup> Each of these categories specifies the size, scope of the responsibilities and functions of each of the municipalities.<sup>31</sup> These municipalities also provide a good sample of the different types of communities (rural, semi-rural and urban). The purpose of utilizing these municipalities as case studies is to explore the research question in different and yet related contexts. The research moves from the premise that democracy is a time-consuming system, which is made worse by the requirement of public participation at local government. This means the study is deductive in that it is concerned with exploring a research question. The method of data collection is through semi-structured interviews, observations of decision-making processes in local government, analysis of primary documents such as survey reports and the Integrated Development Planning documents and review reports by both government and non-governmental organizations.

With regard to the observation of decision-making processes, the research looks at the time and resources it takes to make a decision based on the number of stakeholders that must be involved in the process. This means attending and reviewing minutes of meetings (portfolio committees meetings, council meetings, community forums) in which decisions are taken. On the basis of this result, a link between decision-making and service delivery is made - testing of internal validity. To this end, the Functionalist Systems Approach is used as local government is made up of numerous systems as governed by the legislative framework, which includes the Municipal Structures and Municipal Systems Acts. The intricacies of the interconnectedness of the

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<sup>30</sup> Section 155 of the Constitution of the Republic of South Africa [Act 109 of 1996] states: (1) There are the following categories of municipality: (a) Category A: A municipality that has exclusive municipal executive and legislative authority in its area. (b) Category B: A municipality that shares municipal executive and legislative authority in its area with a category C municipality within whose area it falls. (c) Category C: A municipality that has municipal executive and legislative authority in an area that includes more than one municipality.

<sup>31</sup> See Chapter Three for an in-depth discussion of the constitutional and legislative arrangements of local government in South Africa since 1994.



governance and administrative systems are important to consider in establishing the relationship between public participation and service delivery at local government level.

The question, with respect to the relationship between public participation and service delivery, is explored through the study of municipal audit reports vis-à-vis the level and effectiveness of public participation, interviews (academics, policy analysts, non-governmental organizations and local government officials) and interviews of the public. This means that the study is mainly qualitative in that it relies on the analysis of existing data in the form of documentation and public perception of the efficiency of service delivery and effectiveness of public participation. However, quantitative methods are used in analyzing the primary data.

### **1.3 Sample and Sample Techniques**

The semi-structured interviews focused on civil society (community members, and non-governmental organizations or community based organizations) because of their research, experience and observations of local government and the different municipalities in particular for consistency and reliability. The sample of interviewees was selected randomly, through the Simple Random Sampling method, with regard to civil society and the community at large within each of the chosen municipalities.<sup>32</sup> However, a snowball, non-probability sampling technique was used for municipal officials. Municipal officials were selected as a result of their knowledge and involvement in municipal service delivery, especially as it relates to public participation in local government. A total of 128 respondents were interviewed across the two municipalities for this study. The respondents represented different racial, gender, age and socioeconomic groups across both municipalities. However, most respondents were African from the poor and working classes. Of the 128 respondents, none could be classified as bourgeoisie.

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<sup>32</sup>Trochim, William. 2001. *The Research Methods Knowledge Base*. (2nd Edition). Cincinnati, OH: Atomic Dog Publishing.

## 1.4 Data collection

This research employed two main methods of data collection tools. Primary data was collected through semi-structured interviews with a 128 respondents. Some interviews were conducted face-to-face with respondents, whilst others were conducted telephonically. The interview questions were translated onto English and isiZulu for ease of accessibility where necessary.

Secondary data was also utilized in this study. Kothari states that secondary data refers to data that has been collected and analyzed in previous studies. This data is often documented in either published or unpublished sources.<sup>33</sup>

For this study, a case study methodology was adopted. A case study is mainly about a number of perspectives, beliefs and practices that are rooted in a specific context or contexts, which can be understood through engaging with multiple sources of data through different, predominantly qualitative and some quantitative methods.<sup>34</sup>The focus therefore is trying to understand the phenomenon being study in a specific context and the relationship between the two. “Case study methods involve systematically gathering enough information about a particular person, social setting, event, or group to permit the researcher to effectively understand how it operates or functions.”<sup>35</sup>

To understand the Msunduzi Local Municipality as a case study in which to examine the relationship between public participation and service delivery efficiency, data was collected through interviews with municipal officials and civil society organizations, as well as through the examination of relevant documents. Interviews were conducted with 39 municipal officials (i.e. municipal management, members of the executive mayoral committee, municipal and ward councilors) and 15 members of civil society groups (i.e. community-based organizations, non-governmental organizations, political parties) from 2012 to 2015. The snowball sampling method was chosen to identify the best possible respondents, given their positions or responsibilities with and within the municipalities. In the beginning, a few strategically located municipal officials were

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<sup>33</sup>Kothari, C.R. 2004. *Research Methodology: Methods and Techniques*. New Age International Limited, Publishers. New Delhi. Pg. 111

<sup>34</sup>Lewis, Jane. 2003. “Design Issues”. In Ritchie, Jane and Jane Lewis (eds.) *Qualitative Research Practice: A Guide for Social Science Students and Researchers*. Sage Publications Ltd. London. Pp. 49-76

<sup>35</sup>Berg, Bruce L. 2001. *Qualitative Research Methods for the Social Sciences*. California State University, Long Beach.

identified and approached. These officials then identified other respondents that would be useful for the study, given their knowledge and positions. A similar approach was adopted with civil society.

With respect to review of the documentations, the study focused on official documents by the municipality, such as the IDP reports, the annual reports, the Living Conditions Survey reports, as well as other government reports such as the Municipality Ward Committee Functionality Verification Report by COGTA and Statistics SA reports. In addition to the official municipal and government documents, the study also focused on several academic research papers as well as news reports on functionality and performance of the municipality in relation to service delivery and public participation. No specific timeframe was placed as a scope of consideration for the documents, although the unspecified focus of the overall study was between 2012 and 2015. This was informed by the fact some important research had been conducted in time outside this period, which informed the context of the municipality and from which this research sought to continue.

In studying eThekweni Metro data was collected through interviews with 39 municipal officials (i.e. municipal management, members of the executive mayoral committee, municipal and ward councilors) and 35 members of civil society organizations, as well as through the examination of relevant documents. Interviews were conducted from 2012 to 2015. Purposive sampling method was chosen to identify the best possible respondents, given their positions or responsibilities with and within the municipalities. In the beginning, a few strategically located municipal officials were identified and approached. These officials then identified other respondents that would be useful for the study, given their knowledge and positions. A similar approach was adopted with civil society.

With respect to review of the documentations, the study focused on official documents by the municipality, such as the IDP reports, the annual reports, the Living Conditions Survey reports, as well as other government reports such as Statistics SA reports. In addition to the official municipal and government documents, the study also focused on several academic research papers as well as news reports on functionality and performance of the municipality in relation to service delivery and public participation. No specific timeframe was placed as a scope of consideration for the documents, although the unspecified focus of the overall study was between 2012 and 2014, with later additions of 2015 and 2016 documents. This was informed by the fact some important

research had been conducted in time outside this period, which informed the context of the municipality and from which this research sought to continue.

### **1.5 Data Analysis**

In the light of the fact that the study adopts a mixed methodology (mainly qualitative and quantitative), content analysis was conducted in analyzing secondary data. Overarching and pertinent themes that emerged were identified and sorted in order to be tested for correlation with the emerging themes and patterns of the primary data. The secondary data was separated according to two main source groupings: official government documents and non-governmental sources. A comparison was done in order to test the reliability and suitability of the data.

The primary data collected through interviews was analysed through first transcribing the interview records. The interview schedules that were conducted in isiZulu were translated back into English for consistency. Interview responses were coded and then classified according to common descriptive attributes, through a process of reduction. The coded and classified data was processed using the Statistical Package for the Social Sciences (SPSS). Frequency and correlation analysis was performed in order to understand the findings of the data. The results of the primary data analysis were then compared to the content analysis to test the hypothesis and understand the relationship between public participation and service delivery efficiency in local government.

### **1.6 Ethical Considerations**

The study was conducted in line with the University of KwaZulu-Natal's research ethics guidelines and the universally accepted norms of social research. This means that during the interviews, respondents were provided with a Research Participation Form, which contained the name of the researcher, the nature and purpose of the research and the name of supervisor. The researcher explained the form and the rights of the participants in relation to issues of confidentiality and anonymity. Information shared on condition of anonymity or in confidence was not used in the study or the sources are not identified in any way. The respondents also had a right to withdraw from participation at any time during the study.

Given the limitations stated below, all quotations from the interviews - including those who did not request anonymity or confidentiality – reference with a code id for each interview. Consequently, the list of interviewees is not included in the thesis. It is, however, provided to the supervisor of this research for verification and safekeeping.

### **1.7 Limitations of the Study**

There were a few limitations encountered during the course of the study. Firstly, due to funding limitations, a number of interviews were conducted telephonically as opposed to the preferred face-to-face method. The telephonic interviews limit the researcher's appreciation of context and non-verbal data provided by the face-to-face discussions.

In addition, as a result of ethical considerations, there is a significant amount of data that could not be used in the study, which would have illuminated some issues in both eThekweni and Msunduzi municipalities. In this regard, there are a number of respondents who requested not to be recorded or sign the consent forms, despite agreeing to continue with the interview. Although they provided information and answers to questions, they requested that the thesis not associate the information to them. Linked to this was also a common request for off-the-record discussions around some questions considered politically sensitive by some respondents, particularly municipal officials. This information is not reflected in any way in the thesis.

It might also be worth noting that, in relation to Msunduzi Municipality, the research was conducted during a volatile period when the municipality was recovering from major political and administrative challenges that led to it being placed under administration. This is reflected in the thesis. It is important to consider the outcomes of the study in relation to the Municipality in the context of the issues and feelings about the placement of the Municipality under administration.

## **1.8 Structure of the Dissertation**

The themes of this dissertation are divided into 8 chapters. **Chapter One** is the introductory chapter. It provided a background, relevance, outlines and scope of the research including the research question that underpins this study. It further provided insight into the research design and approach.

**Chapter Two** reviews the literature concerning the research problem particularly as it relates to the democracy debate and local government as well as discussing participatory democracy as the theoretical framework underpinning the study. The central point of the chapter is that the participation of citizens is fundamental to the democratic agenda, especially at local government level.

**Chapter Three** comprises an historical analysis of the transformation of local government to its current design. The legislation and policies governing local government are discussed followed by the nature and scope of operation of local government. The types of services that municipalities provide to the public are established. The overarching purpose of the chapter is to understand the structural arrangements and sole purpose of local government. Moreover, the chapter discusses the transformation of local government in KwaZulu-Natal, especially since 1994. The chapter concludes that the history of local government in South Africa has indicates that local government has been and continues to reflect the dominant ideology of the time or governing party. During colonialism and Apartheid, local government was an instrument for the perpetuation of the idea of separate development and the superiority of the white race.

**Chapter Four** discusses the conceptualization of public participation broadly and local government specifically. There is a further look at the legislation and policies governing public participation in South Africa, in relation to service delivery. The chapter concludes that the influence of international groups in the design of legislation and policies cannot be ignored.

**Chapter Five** interrogates the role and extent of public participation processes in local government. Of importance here is the understanding of the impact of public participation on the efficiency in service delivery. Amongst the issues that are examined, is the extent to which the

public can and does participate in the delivery of services starting from the planning stage. The chapter further studies the impact of public participation in service delivery. The aim is to understand whether public participation impedes the efficiency of service provision or not. In so doing the chapter looks at the mechanisms put in place for public participation and their relation to the actual service provision.

Having discussed public participation vis-à-vis decision-making at local government in the previous chapter, **Chapter Six** explores the research question within the context of Msunduzi Municipality. Amongst other issues, the chapter discusses the profile and challenges of the Municipality in terms of service. The chapter concludes that the Municipality is characterized by low levels of participation and low levels of service delivery efficiency—although there are significant improvements with respect to the latter. A key finding of the chapter is that, at least in terms of perception, there is a symbiotic relationship between public participation and service delivery efficiency.

Similarly, **Chapter Seven** discuss public participation and service delivery efficiency within the context of eThekweni Metropolitan Municipality. The Chapter concludes that whilst eThekweni Metro is considered efficient in service delivery, the level of participation of the community in local government affairs, through the established formal processes, is low. There are significant challenges with regard to the design and administration of the public participation spaces. The administrative structure further complicates public participation and could reinforce apartheid spatial designs. A key conclusion of the chapter is that, at least in the Metro, public participation is not necessary for service delivery efficiency.

**Chapter 8** discusses the overall findings of the research and their implications for the research question. The chapter further identifies areas for further research, which arose in the course of the research. Essentially, the chapter makes the point that there is no evidence to clearly prove the correlation between public participation and enhanced service delivery efficiency, based on the data from the two case studies. Consequently, the chapter raises a question about the structural arrangement of local government, especially in relation to the tiers of local government.

**Chapter 9** is the conclusion of the dissertation. It provides a summary of the discussions and findings of the research in relation to the question being explored.

## Chapter 2: Literature review and Theoretical Framework

### 2.1 Introduction

The aim of this chapter is to locate the research within the context of the existing body of knowledge in order to understand the phenomenon of public participation in local government. The chapter begins by discussing the different theories of democracy and identifies that which is most relevant for the study. Thereafter, the chapter explores the literature in relation to local government in South Africa: specifically literature related democracy and service delivery. The theoretical foundation of the research, which this chapter discusses, is *participatory democracy*.

### 2.2 Democracy

To set the tone of the research, it is prudent to first deal with the meaning of democracy. Of the many concepts that are controversial amongst political scientists, democracy is perhaps the most controversial. As Diamond states, “just as political scientists and observers do not agree on how many democracies there are in the world, so they differ on how to classify specific regimes, the conditions for making and consolidating democracy, and the consequences of democracy for peace and development.”<sup>36</sup>

Western conceptions of democracy are often traced back to ancient Greece where people participated in the directing of the activities of their society. This type of democracy could be described as direct democracy since people (while in real terms this meant adult male citizens, as women and slaves were excluded) could participate actively and directly in the assembly. Blackwell’s<sup>37</sup> account of Athenian democracy crystallizes the notion of direct democracy, in which citizens govern themselves. Democracy in Athens was underpinned by the conceptualization of citizenship, which involved a duty to participate in governance. Those classified as citizens (mostly

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<sup>36</sup>Diamond, L. 1999. *Developing Democracy: Toward Consolidation*. The Johns Hopkins University Press. London. Pg. 7.

<sup>37</sup>Blackwell, C.W. 2003. “Athenian Democracy: an overview,” in C. Blackwell, ed., *Dēmos: Classical Athenian Democracy*. The Stoa Publication. Mahoney and R. Scaife, eds



men who were not slaves) congregated in a structured manner to debate all matters related to the state.

However, this has changed in the modern world. The population size no longer makes it practically feasible to have a sustainable direct democracy, in many instances. Consequently, democracy has shifted from direct to representative democracy, where people elect representatives to represent their interests in structures of governance. Thus the meaning of democracy - while still embracing some of the ancient Greece features - has changed over the centuries. While on the meaning of democracy, Cricks<sup>38</sup> is of the view that democracy is the most promiscuous concept in the public affairs discourse. The concept means a lot of different things to different people in different contexts. It can be defined subjectively to suit specific narrow political agendas; it can also be defined too broadly that the meaning accommodates any political practice and agenda. In fact, Hippler states, “The fact that all the relevant actors today are in favor of democracy doesn’t mean that they all have the same thing in mind”.<sup>39</sup>

There are varying and, at times, imaginative definitions of the concept. Schumpeter’s minimalist conceptualization of democracy defines it as a mechanism “for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people’s votes.”<sup>40</sup> Peter<sup>41</sup> defines democracy as “a process by which people are free to choose the man who will get the blame.” Abraham Lincoln said, “Democracy is the government of the people, by the people, for the people”.<sup>42</sup> This is perhaps one of, if not, the most quoted definition of democracy. Democracy can be broadly understood to entail a system of governance in which powers to decide on the organization, values and activities of society are given to the people. On democracy, Nyerere states, “Democracy in Africa or anywhere else is government by the people. Ideally, it is a form of government whereby the people - all the people - settle their affairs through free discussion.”<sup>43</sup>

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<sup>38</sup>Crick, Bernard. (2005). *In Defence of Politics*. Continuum International, London. Pg. 38

<sup>39</sup>Hippler, Jochen. (1995) “Democratization of the Third World after the End of the Cold War.” In Hippler, Jochen (Ed.) *The Democratization of Disempowerment: The Problem of Democracy in the Third World*. Pluto Press, London. pp. 1-31

<sup>40</sup>Schumpeter, Joseph. 1947. *Capitalism, Socialism and Democracy*. Harper, New York. Pg. 269.

<sup>41</sup> Peter, Laurence.

[http://www.democraticunderground.com/discuss/duboard.php?az=view\\_all&address=389x5355659](http://www.democraticunderground.com/discuss/duboard.php?az=view_all&address=389x5355659)

<sup>42</sup> See (2006: [www.democracy.ru](http://www.democracy.ru))

<sup>43</sup>Nyerere, J. 1963. *The African and Democracy*. Oxford University Press. Oxford. Pg. 104.

An important factor in many of the definitions of democracy is the notion that “democracy requires substantive social equality.”<sup>44</sup>

However, there is strong disagreement on the applicability and practicality of democracy. While different actors agree that it is the political arrangement that gives power to the people, the same actors disagree on how this power should be practiced. This is the point of contention that has engendered the debate and has further given rise to the different typologies of the same concept. These different classifications have added and expanded the meaning of the concept to support and enhance their type of democracy. “Democracy itself is a developing conception and an increasingly complex form of political organization”.<sup>45</sup>

### **2.2.1 Liberal democracy**

Hippler<sup>46</sup> argues that liberal democracy, as advocated by the countries and institutions of the West, in practical terms, not only consists of the traditional liberal democratic features such as multiparty elections, constitutionalism, civil and political liberties. The concept also consists of an economic notion that democracy is only good if it eventually leads to the embracement of capitalism and the free market. He states:

Since, after the end of the Cold War, there is no relevant alternative to capitalism; the notion of democracy has been narrowed politically to conform to the Western conception, in which it is seen merely as the liberal political organizational form of a market economy, with a minimum of rules pertaining to electoral mechanisms and political rights. According to this conception, there can be no democracy without a market economy because, in the absence of the latter, the citizens would lack economic freedom.<sup>47</sup>

In line with this conception, the promotion of democracy by the countries of the West, according to Hippler, is not to make the world a better place, but to pursue the self-interests of the largely

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<sup>44</sup>Frazer, N. 1990. “Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy.” *Social Text*, No. 25/26. Duke University Press. Pg. 65.

<sup>45</sup>Sklar, Richard L. (1996) “Developmental Democracy.” In Julius E. Nyang’oro (Ed.) *Discourses on Democracy: Africa in Comparative Perspective*. Dar es Salaam University Press, Tanzania. pp. 1-30

<sup>46</sup>see Hippler 1995: 18

<sup>47</sup> Ibid

capitalist northern hemisphere. In this regard, Dahl<sup>48</sup> argues that democracy is historically and currently about the private ownership of the means of production. At the heart of liberal democracy is the liberty of every individual in society. Such liberty means that the individual has the right to choose his own destiny and realize his potential, without the excessive control of government. In line with this Henry David Thoreau stated, “That government is best which governs least”.<sup>49</sup> Diamond<sup>50</sup> emphasizes this point by stating that his conception of liberal includes the notion of protection of individual or group liberties from state control.

Huber and Powell, Jr.<sup>51</sup> state that liberal democracy posits to establish and promote solid relations between citizens and those in government through the regular process of elections, which ensures accountability and responsiveness to citizens’ demands. Liberal democracy, according to Phillips, “makes its neat equations between democracy and representation, democracy and universal suffrage...”<sup>52</sup>

However, the notion of liberal democracy is not without its critics, especially in relation to the values that it purports to promote. MacPherson makes the point that historically liberal democracy has not always translated to political freedom for the masses. Where liberal democracy extended political freedom, this was at the expense of economic freedom.<sup>53</sup> Brown concurs and states that liberal democracy is intrinsically hypocritical and is embedded in elite, white and masculine value imperatives.<sup>54</sup> “The resulting pattern has been firmly skewed in the direction of white middle-class men, with the under-representation of women only the starkest... among a range of excluded groups.”<sup>55</sup>

Furthermore, scholars such Barber argue that liberal democracy is deficient in that its values of privacy, individualism and representation have adverse effects on citizen participation in

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<sup>48</sup>Dahl, R.A. 1982. *Dilemmas of Pluralist Democracy*. Yale University Press, New Haven.

<sup>49</sup> Thoreau, Henry. (1849). *Civil Disobedience*. <http://www.quotecounterquote.com>

<sup>50</sup>Diamond, L. 2003. “Defining and Developing Democracy.” In Dahl, R. *Et al.* (eds.) *The Democracy Sourcebook*. The MIT Press, Massachusetts. Pp. 29-39

<sup>51</sup>Huber, J.D. and B. Powell, Jr. 2003. “Congruence between Citizens and Policymakers in Two Visions of Liberal Democracy.” In Dahl, R. *Et al.* (eds.) *The Democracy Sourcebook*. The MIT Press, Massachusetts. Pp. 330-342

<sup>52</sup>Phillips, A. 2003. “The Representation of Women.” In Dahl, R. *Et al.* (eds.) *The Democracy Sourcebook*. The MIT Press, Massachusetts. Pg. 354.

<sup>53</sup>MacPherson, C.B. 1968. “Elegant Tombstones: A Note on Friedman’s Freedom.” *Journal of Political Science* Vol. 1(1). Pp. 95-106

<sup>54</sup>Brown, W. 2005. *Critical Essays on Knowledge and Politics*. Princeton University Press, Princeton.

<sup>55</sup>See Phillips, 2003: 354

government.<sup>56</sup> Manley adds one of the problems of liberal democracy is its connection to capitalism. This connection leads to the view that liberal democracy only promotes equal opportunity, as opposed to substantive equality. Even equal opportunity is “really the opportunity to become unequal.”<sup>57</sup>

An additional critique of liberal democracy and its proponents is that it is founded on the conception of superiority of western values, which assume that only liberal democracy can be regarded as democracy. In this regard, Nyerere asserts that the criticism of Africa by the West on the infeasibility or absence of democracy in Africa is only founded on the type of democracy that has taken place in the western countries. He refers to this type of democracy as the ‘Anglo-Saxon’ form of democracy; this is the two-party system in which there is a ruling party and the opposition, and the debate between these parties is conducted in a parliament. Nyerere maintained that liberal democracy sought to disrupt African traditional conceptions of democracy, in which all the citizens were regarded and therefore could participate as equals. In this, the vision and interests of the individual are the same as those of the community in which he lives. This is because the community is an extension of the family. A society of equals where discussions between individuals are free, it makes no sense to begin to divide the community into two opposing parties. Because the views and values of an individual in a society are essentially that of society, it follows therefore that disagreements are not on fundamentals. There are merely disagreements on strategy. If there are no disagreements on fundamentals, it makes no sense therefore to form opposing parties just so that this could fit with the western form of democracy. Moreover, multiparty democracy is not as democratic as it professes to be. As earlier argued by Nyerere, democracy is government by the people through discussion on the basis of equality with people having the right and opportunity to freely elect their representatives. In a multi-party system, democracy is government by a section of society. Membership to such groups is confined to some kind of aristocracy<sup>58</sup>, which - more often than not - has its origins from imperialism and foreign domination.

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<sup>56</sup>Barber, B. 1984. *Strong Democracy: Participatory, Politics for a New Age*. University of California Press, Berkeley.

<sup>57</sup>Manley, J.F. 2003. “Neo-Pluralism: A Class Analysis of Pluralism I and Pluralism II. In Dahl, R. *Et al.* (eds.) *The Democracy Sourcebook*. The MIT Press, Massachusetts. Pg. 385.

<sup>58</sup> This aristocracy perpetuates factionalism in society in a sense that some members of the same society regard themselves as superior to others. This then takes away the element of equality amongst the people as the ‘upper class’ seeks to rule those that it regards as inferior.

Moreover, Nyerere states that disciplines of the two-party system are “bound to prove fatal to democracy.”<sup>59</sup> The two-party system involves the imposition of party discipline. This entails the limitation of freedom of expression in parliamentary discussions. Party loyalty limits the discussions in a sense that members of the same party rally their support behind one another when they face the rival party. As a result, the essential element of democracy - that of free discussions - is compromised in a two party system: making the system undemocratic.

Furthermore, notwithstanding the conviction that democratic government requires an opposition, all parties want to win as many seats in parliament as they possibly can. Upon failure, claims Nyerere, these parties then make a virtue of necessity of the opposition and praise such failure in the name of democracy.

### **2.2.2 Social democracy**

On the other hand, Hyslop<sup>60</sup> is of the view that the promise of pure liberal democracy does not really address the needs of the ordinary people in society. Ake<sup>61</sup> refers to this as the disempowerment of the people, which leaves them worse-off than before. In line with this view, Baregu<sup>62</sup> argues, “The challenge of democratization, therefore, is to create a strong civil society in which a strong but legitimate political order can address the enduring economic crisis and, in so doing, enhance popular control of public power”. This statement captures well the essence of social democracy.

Contrary to liberal democracy, what is at the heart of social democracy is economic freedom and social equality of all citizens. Social democracy argues that economic, social and cultural rights

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<sup>59</sup>Nyerere, 1961: 200.

<sup>60</sup>Hyslop, Jonathan. (1999) *African Democracy in the Era of Globalization*. Witwatersrand University Press, Johannesburg. Pg. 4

<sup>61</sup>Ake, Claude. (1995) “Political Elites and the Process of Disempowerment in Africa.” In Jochen Hippler (Ed.) *The Democratization of Disempowerment: the Problem of Democracy in the Third World*. Pluto Press, London. pp. 70-89

<sup>62</sup>Baregu, Mwesiga. (1997) “The Position and the Role of the Presidency in Tanzania under One Party Authoritarianism and Multiparty Democratization.” In Samuel S. Mushi and Rwekeza S. Mukandala (Eds.) *Multiparty Democracy in Transition: Tanzania’s 1995 General Elections*. Tanzania Election Monitoring Committee, University of Dar es Salaam. pp. 185-212

must complement civil and political rights. The advocates for social democracy, such as Li<sup>63</sup> and Shaw<sup>64</sup> argue that the problem with liberal democracy is that it has increased the social and income inequality gap in society due to the promotion of capitalism and the free market, which inevitably promote inequality. Johnson<sup>65</sup> adds that an additional value of social democracy is the recognition of the role of the state in providing basic services to the citizens, especially the poor and disadvantaged. They argue further that democracy is not just about the individual, but it is also about the society. In attempting to crystallize the distinctiveness of social democracy, Berman states, “instead, social democracy, at least as originally conceived, represented a full-fledged alternative to both Marxism and liberalism that had at its core a distinctive belief in the primacy of politics and communitarianism.”<sup>66</sup> Democracy is about the participation of the public in the governance of the society. In turn, effective public participation requires social equality. In the absence of social equality, democracy benefits only the privileged. As such, the advocates contend, government must play an active role in trying to uplift the standard of living for all in society, especially the underprivileged. Government must intervene to protect people from the negative effects of the free market and liberal democracy. In so doing, governments should create jobs and provide subsidies and social welfare as a way of reducing the social and income gap. This is contrary to the liberal democratic idea of a minimalist government; social democracy is about extensive government that actively intervenes in order to provide and create acceptable living standards and opportunities for the ordinary people.<sup>67</sup>

Social democracy is not without critics. In studying the demise of social democracy at the British Broadcasting Corporation, Mill argues that one of the main problems with social democracy is the dichotomy of pursuing social justice and equality without rigorous transformation of existing cultures and hierarchal institutions.<sup>68</sup> Central to this debate is the foundation of social democracy

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<sup>63</sup> Li, Minqi. (2004). “After Neoliberalism: Empire, Social Democracy or Socialism?” *Monthly Review*. Vol. 55. Number 8.

<sup>64</sup> Shaw, Martin. (1999). *Social Democracy in the Unfinished Global Revolution*. Conference paper. Unpublished.

<sup>65</sup> Johnson, C. 2015. “Incorporating gender equality: Tensions and synergies in the relationship between feminism and Australian social democracy.” In Yeatman, A. (ed.) *Feminism, Social Liberalism and Social Democracy in the Neoliberal Era: Working Papers in the Human Rights and Public Life Program*. Whitlam Institute, University of Western Sydney. Pp. 36-50

<sup>66</sup> Berman, S. 2005. *Understanding Social Democracy*. Friedrich Elbert Foundation, Washington. Pg. 5.

<sup>67</sup> Gombert, T. 2009. “Foundations of Social Democracy”. *Social Democracy Reader 1*. Friedrich-Ebert-Stiftung, Berlin.

<sup>68</sup> Mills, T.A. 2015. *The End of Democracy and the Rise of Neoliberalism at the BBC*. Unpublished Doctoral Thesis. University of Bath.

on capitalism with the view of equitable redistribution of the wealth generated through it. <sup>69</sup>“Social democrats have traditionally accepted or tolerated the market because of its ability to provide the material basis upon which the good life could be built, but have been unwilling to accept the market’s primacy in social life.”<sup>70</sup>Capitalism is essentially undemocratic and by extension, social democracy risks being undemocratic. Moreover, Gray states:

Social democracy was a political project whose stability and even identity depended on the geo-strategic environment of the Cold War. It defined its socialist content by its opposition both to Soviet communism and to American individualism. The Soviet collapse has removed this environment and denuded social democracy of the identity a bipolar world conferred on it. The new realities that spell ruin for the social-democratic project are the billions of industrious and skilled workers released onto the global market by the communist collapse and the disappearance of any effective barriers to the global mobility of capital. In this changed historical circumstance, the central economic programme of social democracy is unworkable and social democracy itself a bankrupt project.<sup>71</sup>

### **2.2.3 Developmental democracy**

In addition to the aforementioned models of democracy, there is developmental democracy. This model of democracy occupies a very peculiar and highly contested space in the ideological spectrum.<sup>72</sup>Developmental democracy builds on the values of liberal democracy and advances a link between democracy and socio-economic development. In addition to the liberal values, this theory emphasizes the role of active citizenry in government affairs, based on what is deemed morally correct. Though widely considered as an advocate of liberal democracy, it was John Stuart Mill who argued that people have the intellectual and moral ability to think and behave in ways that are mutually beneficial. Given this potential, people must be active participants in public

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<sup>69</sup>Kastniing, T. 2013. *Basics on Social Democracy*. Friedrich-Ebert-Stiftung, Ghana.

<sup>70</sup>Berman, 2005. Pg. 36

<sup>71</sup>Gray, J. 1996. *After Social Democracy: Politics, capitalism and the common life*. Demos, London. Pg. 6

<sup>72</sup>Alebachew, H. *Logic of ‘Developmental Democracy’ and the Developmental State*. Unpublished.

affairs.<sup>73</sup>The more people participate in governance the more they are able to develop their potentials.

This model of democracy is concerned largely with what Sorensen<sup>74</sup>calls ‘developmental states’. The theory recognizes the shortcomings of liberal and social democracy on the role of the state in improving economic conditions of society. Of importance here is the social and economic development in developing states, through the creation of policies and institution that are geared towards providing an environment that is conducive for investment and growth. Towards this, international financial institutions, such as the World Bank, International Monetary Fund and donor countries, advocated for Structural Adjustment Programs (SAPs) in developing countries as the strategy for development<sup>75</sup> since the mid-1980s. These institutions argue that SAPs require, amongst other things, the liberalization of the economy, privatization of state-owned enterprises, good governance that includes transparency and accountability, reduction of expenditure on social services and liberalization of the political space to promote pluralism.

However, as Healey and Robinson<sup>76</sup> argue there is a growing debate about the relationship between development and democracy. This debate revolves around issues of types of regimes necessary for development and the strategic sequence of the outcomes. For instance, does democracy lead to development, or does development lead to democracy? Alternatively, are these two mutually reinforcing? Sorensen<sup>77</sup>is of the view that development in a developmental state contains a ‘non-democratic bias’. He argues that Johnson<sup>78</sup> “stresses that political stability and order are necessary; therefore political pluralism, which might challenge the goals of the development elite, must be

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<sup>73</sup>Mill, J.S. 1969. “Nature”. *Essays on Ethics, Religion and Society: Collected Works of John Stuart Mill, Vol. 10.* Toronto University Press, Toronto. Pp. 373-402

<sup>74</sup>Sorensen, George. (1996) “Democracy and the Developmental State.” In Julius Nyang’oro (Ed.) *Discourses on Democracy: Africa in Comparative Perspective.* Dar es Salaam University Press, Tanzania. pp. 31-61

<sup>75</sup>Olukoshi, Adebayo. 2001. *Towards Developmental Democracy: A Note.* UNRISD Conference, Cape Town.

<sup>76</sup> Healey, J and M Robinson. (1992). *Democracy, Governance and Economic Development: Sub-Saharan in Africa in Comparative Perspective, London: ODI.* Pg. 94

<sup>77</sup>Sorensen, George. (1996) “Democracy and the Developmental State.” In Julius Nyang’oro (Ed.) *Discourses on Democracy: Africa in Comparative Perspective.* Dar es Salaam University Press, Tanzania. pp. 31-61

<sup>78</sup> Ibid



avoided.” This view challenges the often assumed causal relationship between democracy and development.<sup>79</sup>

#### 2.2.4 Participatory Democracy

It was Aristotle who argued that governance must be left to the elite as people cannot govern themselves. The masses, some contend, are not capable of deciding informatively what is best for them. They do not have the skills and the knowledge to effectively participate in governance. As such, governance must be left to the educated and experienced. Given the representative nature of democracy in the modern age, public representatives are elected to decide on behalf of the public. People delegate governance powers to those seeking public office. Consequently, the representatives must be left to do their jobs. Where there is dissatisfaction with the level and effectiveness of representation, the recourse simply is for the electorate to elect a different representative.<sup>80</sup>

However, Warren<sup>81</sup> looks at the link between democracy, particularly the different types of democracy, and the transformation of individuals. Of importance in this study is how democracy is able to allow for the articulation and accommodation of the interest of individuals and groups. As such, Moote and McClaren<sup>82</sup> contend that democracy, particularly participatory democracy involves the participation of ordinary citizens in public participatory processes with regard to the governance of their society. In line with this view, Mejlgaard<sup>83</sup> argues that:

Participatory democracy stresses the need and the importance of full citizenship in terms of both political and social rights, which serve to protect the individual on

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<sup>79</sup> There is also the argument that the term “developing, development etc. as applied to African states is historically loaded – meaning must catch up with the West – as if their own modernity cannot be separated from the linear view of how the world “must” evolve. However, this discussion is beyond the remit of the thesis.

<sup>80</sup> See Urbinati, Nadia. 2011. “Representative Democracy and its Critics”. In Alonso, Sonia et al. (Eds). *The Future of Representative Democracy*. Cambridge University Press, New York. Pp. 23-49

<sup>81</sup> Warren, Mark. (1992). “Democratic Theory and Self-Transformation”. *The American Political Science Review*, Vol. 86, No. 1 pp. 8-23

<sup>82</sup> Moote, Margaret A. and Mitchel P. McClaran (1997), “Implications of Participatory Democracy for Public Land Planning” *Journal of Range Management*, Vol. 50, No. 5. Allen Press pp. 473-481

<sup>83</sup> Mejlgaard, Niels. (2009). “The Trajectory of Scientific Citizenship in Denmark: Changing Balances between Public Competence and Public Participation.” *Science and Public Policy*. Vol. 36, No 6. Pg. 487

the one hand, but also – and equally important – an ideal of citizenship as a sense of societal obligation or duty in which participation is a virtue.

Pateman asserts that “participation develops and fosters the very qualities necessary for it; the more individuals participate the better able they become to do so.”<sup>84</sup> Rousseau speaks of the sovereignty of the assembly of the people, which he calls “body politic”.<sup>85</sup> The body politic makes laws based on the general will, and no act is valid unless ratified by the people in person in a lawful assembly.<sup>86</sup> In support of this, Bryan states:

Real democracy (for good or ill) occurs only when all eligible citizens of a general-purpose government are legislators; that is, called to meet in a deliberative, face-to-face assembly and to bind themselves under laws they fashion themselves.<sup>87</sup>

In addition, Rousseau holds the view that representation equals slavery while Bryan is of the view that representation is not real democracy. It is a substitute for real democracy. Both believe that it is only when the people themselves -in person -are assembled legitimately to make laws - by act of general will or purpose -that the people truly govern themselves and abide by the laws that they make in person. “The bottom line is this: in a real democracy, the citizens - in person, in face-to-face meetings of the whole - make the laws that govern the actions of everyone within their geographical boundaries.”<sup>88</sup> In addition, Rousseau states:

Sovereignty, for the same reason as makes it inalienable, cannot be represented; it lies essentially in the general will, and will does not admit of representation: it is either the same, or other; there is no intermediate possibility.<sup>89</sup>

An important similarity between the two accounts is the emphasis or importance placed on the act of general will or purpose. Both argue that the laws are made by act of general will. This means that the central question in such assemblies is that which is concerned about the good of the people and not of the individuals.

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<sup>84</sup>Pateman, Carol. 1970. *Participation and Democratic Theory*. Cambridge, Cambridge University Press. Pg. 42.

<sup>85</sup> See Rousseau 1999 page 25.

<sup>86</sup> Ibid page 28

<sup>87</sup> See Bryan, Frank M. 2004. ‘Introduction’ and ‘Conclusion’ in *Real Democracy: The New England Town Meeting and How it Works*. Chicago University Press, Chicago and London. Page 3

<sup>88</sup> Ibid page 4.

<sup>89</sup> Rousseau 1999 page 28

However, as earlier mentioned, Schumpeter states, “the democratic method is that institutional arrangement for arriving at political decisions which realizes the common good by making the people itself decide issues through the election of individuals who are to assemble in order to carry out its will.”<sup>90</sup> This means that the election of representatives is in itself the will of people; though not through the general will, but through the will of the majority. This statement moves from a number of premises that challenge the foundation of Rousseau’s claim. The first premise is that practically the general will requires the presence and “full participation”<sup>91</sup> of the people. This means that every member of the associate must not only be assembled, but all must also “talk till they agree”.<sup>92</sup> Surely, it is easy to understand that the size of the association would determine the ability of every member to express themselves. If the association is large, not every member gets the opportunity to express themselves; and if this were the case, it would not be correct to say that decisions are taken through the act of the general will. On the contrary, such acts would be based on the will of the majority.

Moreover, the assembly of all the people - irrespective of the size of the association - does not necessarily translate into the act of the general will. This is because the principle upon which the association is based is equality. The notion of equality often refers to economic, social, political and legal equality<sup>93</sup>. However, there is another aspect of equality that is essential for the general will: i.e. intellectual equality. For people to truly engage on issues, they must first understand them. The reality is, not everyone can understand all issues the same way. Therefore, not everyone can engage equally on all issues. Consequently, on the issues that they understand, people may speak. However, on the issues that they may not fully understand, they choose others to speak on their behalf, without necessarily voting for them. That in itself is representation.

Therefore, representation does not equal slavery if people voluntarily, upon recognition that some people would better express their opinions on their behalf, choose to delegate their rights and responsibilities to those who are well positioned to act on their behalf. It is difficult to comprehend

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<sup>90</sup> See Joseph Schumpeter. *Capitalism, Socialism and Democracy*. Unwin, London. Pg. 250. See also Macpherson. 1977. *The Life and Times of Liberal Democracy*

<sup>91</sup>This is something Rousseau does not consider in detail.

<sup>92</sup> See Julius Nyerere 1961 page 104. Nyerere argued that African traditional societies were able to talk till they agree because they were enabled by the living environment and their numbers. These discussions would take place under a big tree, something which cannot happen if the community is too large.

<sup>93</sup> See for example Roksin et al. *Political Science: An Introduction*. 1997. Pg. 68.

how and why representation equals slavery if such representatives get their mandate from those they represent. Rousseau himself acknowledges this when he states, “The Deputies of the people, therefore, are not and cannot be representatives: they are merely its stewards, and carry through no definite acts.”<sup>94</sup>

The second premise from which the earlier statement moves is individual freedom. Rousseau states that the ultimate aim of the *body politic* is to unite people while protecting and promoting their individual freedom. In other words, it is about the preservation of the individual freedom. In line with this, Mill identifies freedom of taste as one of the most important individual freedoms.<sup>95</sup> This freedom allows individuals to make choices in accordance with their preferences, provided that such choices do not harm others. In practicing this choice, people choose to delegate their rights to their representatives. If, in his own judgment, it is in the interest of the association<sup>96</sup> that he should delegate his rights and responsibilities to a representative, and if others in the same association also are of the same view with regard to their responsibilities and subsequently agree that this should be the case, the decision to have representatives is not only practice of the individual freedom with the collective, but it is also the will of the association. Following this, representation cannot become slavery since it is the demonstration and practice of individual freedom and the people’s will.

Furthermore, having representatives is not the same as desertion of social responsibilities. It is simply a delegation of such responsibilities to those who are better able to address them. Social responsibilities cannot be structured in such a way as to infringe upon individual freedom. For individuals may have other more pressing responsibilities that they need to attend to, which may from time to time conflict with the schedule of the assemble. For instance, a medical doctor cannot be reasonably expected to attend public assembles while he has responsibilities to his medical duties. It makes sense for the doctor to simply delegate a representative to conduct his other social

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<sup>94</sup> Rousseau 1999 page 28. However, it must be noted that this depends on the extent of the powers and responsibilities that the people themselves delegate to such representatives.

<sup>95</sup> See John Stuart Mill. *On Liberty & The Subjection of Women*. 1996. page 15

<sup>96</sup> The road to the general will begins with particular will. It is difficult to conceive of a situation where one would know what is in the best interest of the association without having to start with what is in the interest of that individual. If the association seeks to protect and preserve individual freedom, then surely members of the association work together to strengthen the position of the association so that, in turn, the association can further their individual freedom. The act of alienating oneself and all his rights into the association is, itself, an act of selfishness, because it is based ultimately on the projected benefits that one would receive from the association.

duties on his behalf. That way he ensures that both his medical duties and social responsibilities are addressed. In this case, slavery would be for the doctor to be expected to address both the medical duties and social responsibilities by himself. Representation ensures that social responsibilities are addressed while individuals need to address their individual private duties and responsibilities.

In theory, democracy is the rule of the people based on the principle of equality; at least in so far as political rights are concerned. In practice, however, democracy is the rule of the majority and or those with power; and equality only really matters in the elections of the representatives. In practice, some are more equal than others. Equality in material conditions determines sociopolitical equality.

Michels and Graaf<sup>97</sup> argue that rather than focusing on direct say in decision-making, aspects of democratic citizenship are more important at local government. These challenges are particularly important when considered in the context of this study, two KZN municipalities.

The question of public participation in relation to service delivery has received considerable academic attention recently in South Africa and internationally. In this regard, Johnson<sup>98</sup> describes public participation as “a process wherein the common amateurs of a community exercise power over decisions related to the general affairs of a community.” Brynard<sup>99</sup> himself argues that public participation goes well beyond ‘decision-making’. The World Bank defines public participation as a “process in which stakeholders influence and share control over the development initiatives and the decisions and the resources that affect them.”<sup>100</sup> For people such as Robert Dahl<sup>101</sup> public participation is a crucial component of any meaningful democracy. Indeed Rousseau argued that an ideal state is that in which the citizens are able not only to choose their representatives, but are also able to decide, on as regular basis as possible, on the affairs of their state. Public service, he

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<sup>97</sup>Michels, Ank and De Graaf, Laurens(2010) 'Examining Citizen Participation: Local Participatory Policy Making and Democracy', *Local Government Studies*, 36: 4, 477 — 491

<sup>98</sup> Johnson 1984. Pg. 164. Quoted in Brynard 1996.

<sup>99</sup>Brynard, D.J. 1996. “Public Participation in Local Government and Administration: Bridging the Gap.” *Poletia*. 15 (2). Pp. 39-50

<sup>100</sup>*The World Bank Participation Sourcebook*. Washington: World Bank, 1996

<sup>101</sup> Dahl, Robert. *Polyarchy: Participation and Opposition*. New Haven. Yale University Press. 1971

contends, is the chief business of citizens. This understanding provides a useful link between public participation and democracy.

Sherry Arnstein<sup>102</sup> states that public participation is a ladder that involves eight different levels. At the bottom of the ladder is ‘manipulation’ in which people are manipulated into thinking that their views are taken into consideration in decision-making processes. At the top of the ladder is ultimate expression of citizen participation in which the citizens actually have control of the resources and shape governance and policy. This demonstrates that public participation is not simply about involving the citizens in decision-making. In fact, some scholars (Habermas<sup>103</sup>, Bohman<sup>104</sup>, Dryzek<sup>105</sup>,) argue that Deliberative Democracy, which is a form of public participation, is riddled with challenges of inequality, differences, limited access and language to the extent that it is often those with resources, time and higher education levels that are able to deliberate meaningfully in public participation forums. In a capitalist society, for instance, some own the means of production and some own only their labor power, which they also have to sell to the owners of the means of production.<sup>106</sup> The owners of the means of production have economic power, which, according to Macpherson<sup>107</sup> can be used to influence or buy political power. In turn, such political power is used to reinforce economic power. This deepens inequality amongst people as those with economic power have the ability to undermine deliberation; those without economic power often lack the resources, such as information and education that would allow them to start and sustain arguments in a deliberation process.<sup>108</sup> “Some citizens are so poor in the politically necessary resource of information that they cannot effectively participate and must defer to those who possess information.”<sup>109</sup>

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<sup>102</sup>Arnstein, S. 1969. A ladder of citizen participation. *Journal of the American Institute of Planners*. (35). Pp. 216–224. See Appendix A: Arnstein’s Ladder of Citizen participation

<sup>103</sup>Habermas, Jurgen. “Deliberative Politics” in David Estlund (Ed.). *Democracy* Oxford. Blackwell. 2002

<sup>104</sup>Bohman, James. *Public Deliberation*. Cambridge, Mass: MIT Press. 2000

<sup>105</sup>Dryzek, John. *Deliberative Democracy and Beyond*. Oxford University Press. Oxford. 2000

<sup>106</sup> See Marx, Carl. And Frederick Engels. 1848. *Manifesto of the Communist Party*.

Online:<http://www.anu.edu.au/polsci/marx/classics/manifesto.html> Accessed on the 31<sup>st</sup> of August 2006.

<sup>107</sup> See Macpherson, C.B. 1973. *Democratic Theory: Essays in Revival*. Oxford University Press, London. Pg. 154

<sup>108</sup>Bohman, James. 2000. *Public Deliberation*. Cambridge, Mass: MIT Press.

<sup>109</sup> Ibid. Pg. 130

Moving from this, the relationship between local governance and service delivery has been explored, with some scholars such as Pratchett and Wilson<sup>110</sup> raising questions about the diminishing role of local authorities in the context of increasing public participation in service delivery. In addition, Clapper<sup>111</sup> contends that in fact there are a number of disadvantages and problems associated with public participation. These disadvantages range from low levels of citizen participation, threat to professional image of public administration, potential for conflict between the many different stakeholders, time and high costs of the processes. The element of time as it relates to the efficiency of the service delivery is the main concern of this research.

This project is founded primarily on the theory of participatory democracy. This theory gives meaning to the concept of public participation in service delivery. It is about the values of democracy and the relationship between the government and the people. Moote and McClaran<sup>112</sup> identify five elements or issues critical in the participatory democracy theory - efficacy, representation and access, information exchange and learning, continuity of participation and decision-making authority.

### **2.3 Local Government in South Africa**

In addition and linked to the democratic debate, is the debate around the theoretical and practical value and foundations of local government. In this regard, Haque argues that, despite the debate on normative value of local government, no political system can be considered fully democratic without some form of local government.<sup>113</sup> Sikander<sup>114</sup> opines that institutions of local government are critical in not only promoting democratic values, but also in accelerating

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<sup>110</sup>Pratchett, Lawrence and David Wilson. *Local Democracy and Local Government*. Macmillan Press LTD. Hampshire. 1996

<sup>111</sup>Clapper, Valiant. 1996. Positioning citizen participation in democratic local government, in Bekker, K. (ed.), *Citizen Participation in Local Government*, Van Schaik Publishers, Pretoria. Pp. 51-78.

<sup>112</sup>Moote, Margaret and Mitchel McClaran. 1997. "Implications of participatory democracy for public land planning." *Journal of Range Management*, Vol. 50, No. 5. Pp. 473-481

<sup>113</sup> Haque, A. 2012. "Theoretical Perspective of Local Government – Literature Review." *MPRA Paper No. 46301*. Online: <http://mpra.ub.uni-muenchen.de/46301/>

<sup>114</sup> Watt, P. 2006. "Principles and Theories of Local Government." *Institute of Economic Affairs*. Blackwell Publishing, Oxford.

development.<sup>115</sup> Watt adds by arguing that the basis for local government cannot be separated from the basis for a government in general. The basis of government, he opines, lies in three broad areas: allocation of resources, distribution of income and wealth and macroeconomic stability - with local government being seen to be more involved with the allocation of resources. In this regard, “Local government is seen increasingly as an appropriate institutional context in which to pursue short-range objectives, such as creation of market opportunities and redressing the disparities within national economies; as well as the long-range goal of social transformation.”<sup>116</sup> Faguet contends that the function of local government is to “produce local services and policies at the intersection of two quasi-market relationships and one organizational dynamic.”<sup>117</sup> The quasi-markets he refers to are the relations between political parties and individual voters through electioneering. The second refers to the relations between decision makers and interest groups as influenced by resources and financial exchanges. Local government serves as an instrument for addressing local public good. Of public goods and local government, Oates states:

For a public good – the consumption of which is defined over geographical subsets of the total population [and for which there are not cost advantages to central provision] – it will always be more efficient (or at least as efficient) for local government to provide the [locally preferred] levels of output for their respective jurisdictions than for central government to provide any specified and uniform level of output across all jurisdictions.<sup>118</sup>

However, in defining local government, Gomme<sup>119</sup> highlights the relations between local government and central government: The

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<sup>115</sup> Sikander, T. 2015. “A Theoretical Framework of Local Government.” *International Journal of Humanities and Social Sciences*. Vol. 5 (6) (1). Pp. 171-176

<sup>116</sup> Schoburgh, E.D. 2011. “Local Government and Local Development: Bridging the Gap Through Critical Discourse: Evidence from the Commonwealth Caribbean.” *Commonwealth Journal of Local Governance*. Issue 10. Online: <http://epress.lib.uts.edu.au/ojs/index.php/cjlg> Pg. 6

<sup>117</sup> Faguet, J-P. 2005. *Governance from below: a theory of local government with two empirical tests*. LSE Research: Online: <http://eprints.lse.ac.uk/archive/00000475> Pg. 5

<sup>118</sup> Oates, W. E. (1972) *Fiscal Federalism*, New York: Harcourt Brace Jovanovich. Pg. 35

<sup>119</sup> Gomme, G.L., (1987) “Lectures on the principles of the local government”, delivered at London school of Economics, Lent term 1987, Westminster, Whitehall garden. Pg. 1



sub part of the entire government of a nation or states is regarded as local government that is managed and administered by the system subordinate to authority of state but independently elected of the state's authority control, by competent persons local, or containing properties in specific localities, which regions have been structured through common interests and common histories by the communities.

This definition and understanding of the value of local government echoes somewhat the sentiment shared by other commentators. Robson, for instance, defines local government thus:

In general, local government may be said to involve the conception of a territorial, non-sovereign community possessing the legal right and the necessary organization to regulate its own affairs. This, in turn, presupposes the existence of a local authority with power to act independent of external control as well as the participation of the local community in the administration of its own affairs...<sup>120</sup>

A common thread in these definitions is the underlying authority, to varying degrees, of the central government in a state. Local government, although subject to the authority of the central government based on the legislative and cultural design, is critical in that many authors consider it to have an information advantage over the central government.<sup>121</sup> Erlingsson and Ödalen<sup>122</sup> caution that there is a difference between local administration and local self-government. The information advantage is critical if the local government does not merely implement directives of the central authority, but actually has powers to make and implement decisions without fear of a reprimand from the central authority.

The transformation of government in South Africa established three different spheres of government, each with its own set of responsibilities and some responsibilities being shared

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<sup>120</sup> Robson W (1937) "The development of Local Government". London, G. Allen & Unwin. Pg. 574.

<sup>121</sup> Bardhan, P. 2002. "Decentralization of Governance and Development." *Journal of Economic Perspectives*, Vol. 16 (4). Pp. 185-205

<sup>122</sup> Erlingsson, G. and J. Ödalen. 2013. *Normative Theory of Local Government: Connecting Individual Autonomy and Local Self-Determination with Democracy*. Prepared for the American Political Science Association Annual Meeting and Exhibition. Online: <https://www.researchgate.net/publication/307420115>

between the spheres. This meant the decentralization<sup>123</sup> of some of the service delivery areas to local government, which in the past had not been empowered significantly enough to be effective. Linked with the transformation of government, and local government specifically, Gumede<sup>124</sup> looks at the dichotomy between the entrenchment of democracy and the establishment of a developmental state in South Africa. The concern here is the extent to which the promotion and effectiveness of public participation enables or hinders the establishment of a developmental state, whose focus is the improvement of the living conditions of the citizens through growth and development.

The structure of local government in South Africa reflects the political issues of the past and the aspirations to address such issues. Key to this is notion that local government has to have certain responsibilities, as the government sphere closest to the people.<sup>125</sup> In this regard, Cashdan<sup>126</sup> identifies 10 indicators of the context of local government that defines their responsibility: a history of discrimination, worsening poverty and inequality, geographic segregation, rising unemployment, service backlogs, persistent non-payment, popular dissatisfaction, a financial crisis, pressure from business, and restructuring. Davids states, “Local government, as the sphere of government closest to the community, was tasked with facilitating the process of ‘bringing people back into’ local governance.”<sup>127</sup> It is on this basis that local government in South Africa

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<sup>123</sup> Stanton, Anne. 2009. *Decentralization and Municipalities in South Africa: An Analysis of The Mandate to Deliver Basic Services*. University of KwaZulu-Natal, Pietermaritzburg. 2009. See also Pillay, Pundy. “Decentralization and Service Delivery.” In Mc Lennan, Anne and Barry Munslow (eds.) *The Politics of Service Delivery*. The Wits P&DM Governance Series. Wits University Press, Johannesburg. 2009. Pp. 137-154

<sup>124</sup>Gumede William M. 2009. “Delivering the Democratic Developmental State in South Africa.” In McLennan, Anne and Barry Munslow (eds.) *The Politics of Service Delivery*. The Wits P&DM Governance Series. Wits University Press, Johannesburg. Pp. 43-103

<sup>125</sup>Maphazi, N. 2012. *A Critical Analysis of the Role of Public Participation in Governance and Service Delivery with Specific Reference to the Buffalo City Municipality*. Unpublished Thesis for the Degree of Doctor of Philosophiae. Nelson Mandela Metropolitan University. Port Elizabeth.

<sup>126</sup>Cashdan, B. 2000. “Local Government and Poverty in South Africa.” *Background Research Series Municipal Services Project*. Online: [www.queensu.ca/msp/pages/Project\\_Publications/Papers/Local.Pdf](http://www.queensu.ca/msp/pages/Project_Publications/Papers/Local.Pdf) Accessed April 2012

<sup>127</sup>Davids, Ismael. *Deepening Public Participation in Democratic Local Government: what can be done?* Unpublished.

has a broad mandate of promoting local development,<sup>128</sup> delivering basic service to communities,<sup>129</sup> promoting local democracy through public participation.<sup>130</sup>

Scholars such as Nyangula<sup>131</sup> look at the role and effectiveness of Ward Committees in enhancing public participation at local government. Some of this interest in the subject arises out of the rather large number of public protests over service delivery. Buccus, on *Rethinking the Crisis of Local Democracy*<sup>132</sup>, states that it has been reported that there were over 6000 service delivery protests in South Africa in 2006. However, he is of the view that these protests are not necessarily a reflection of the public's frustration on the lack or slowness of service delivery; rather these are protests over the level of community involvement in governance. Fakir<sup>133</sup> supports this view by stating that the major problem in service delivery lies in the nature and level of public participation. The problem is in the socio-economic conditions of the society, inherited from its Apartheid and colonial past, which continue to advantage the wealthy and disadvantage the poor. According to Bohman, the major problem with public participation is the inequalities. He asserts that there are three types of inequalities in this regard: "power asymmetries (which affect access to the public sphere), communicative inequalities (which affect the ability to participate and to make effective use of available opportunities to deliberate in the public sphere) and 'political poverty' ... (which makes it less likely that politically impoverished citizens can participate in the public sphere at all)."<sup>134</sup> These inequalities are indeed characteristics of the South African society. For the South African Human Rights Commission the problem is the public's access to information on local government service delivery.<sup>135</sup>

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<sup>128</sup>Shaidi, E.W. 2013. Investigation into Causes of Service Delivery Protests in Municipalities: A Case Study of Nelson Mandela Bay Municipality. Unpublished Thesis for the Degree of Doctor of Philosophiae. Nelson Mandela Metropolitan University. Port Elizabeth.

<sup>129</sup>Thornhill, C. 1995. *Local Government: Government Closest to the People*. HSRC Publishers, Pretoria.

<sup>130</sup>Bekker, S and Leildé, A. 2003. "Residents Perception of Developmental Local Government: Exit, Voice and Loyalty in South Africa." *Politeia* 22 (1) Pp. 144-165

<sup>131</sup>Nyalunga, Dumisani. 2006. "Crafting Active Citizen Participation Through Ward Committees." *International NGO Journal*. Vol. 1. (3). Pp. 44-46.

<sup>132</sup> Buccus, Imran. 2011. "Rethinking the Crisis of Local Democracy." In *The Mercury*. Wednesday, May 4.

<sup>133</sup>Fakir, Ebrahim. 2003. *Political Participation in South Africa*. Paper Presented to the 5<sup>th</sup> Conference of the International Network- Education for Democracy, Human Rights and Tolerance, Foreign Ministry, Berlin.

<sup>134</sup>Bohman, James. 2000. *Public Deliberation*. Cambridge, Mass: MIT Press. Pg. 110

<sup>135</sup> McKinley, Dale T. 2003. *The State of Access to Information in South Africa*. Centre for the Study of Violence and Reconciliation. Online: <http://www.csvr.org.za/docs/trc/stateofaccess.pdf>

In addition to this, Hicks<sup>136</sup> argues that although many government departments and institutions embrace public participation, the institutions and mechanisms that are designed towards deepening and widening public participation, such as Ward Committees and Development Committees, are often ineffective and lack resources to function properly. There are also local political dynamics that affect the effectiveness of these institutions.<sup>137</sup>

## 2.4 Conclusion

It is clear from the review of the literature that the concept of democracy is not only ancient, it is also fluid and complex. Whilst it is understood and generally accepted that democracy concerns itself with the relationship between citizens and political power, there are vastly different views on the nature and extent of such a relationship. As a result, over time a number of theories on democracy have evolved and have been tested with different outcomes. Amongst the few that have been explored here, participatory was chosen the theoretical framework within which the research was conducted. Participatory democracy, as stated earlier, provides the right lens through which to view the involvement of citizens in local government, as required by the purpose of local government, especially in South Africa in the post-apartheid era. The following chapter looks more closely at the history, mandate and legislative framework of local government in South Africa—especially in relation to citizens.

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<sup>136</sup> Hicks, Janine (2006) 'Assessing the effectiveness of community participation based involvement'. In *Critical Dialogue*. *Public Participation Review*. Volume 2 No. 1.

<sup>137</sup>Piper, Laurence and Nonhlanhla Chanza. 2006. "Too 'Raw' to Represent: the Marginalization of Youth in Msunduzi Ward Committees." In Buccus, Imraan. *Et al* (eds.) *Critical Dialogue: Public Participation in Review*. Vol. 2. No. 2. Pp. 18-23

## Chapter 3: Local Government: Design and legislative framework

### 3.1 Introduction

As it is with the rest of the country's political history, local government in South Africa has its roots in colonialism which began in with the arrival of Dutch settlers in the Cape. It was through local government that colonialism and Apartheid were entrenched<sup>138</sup>. From the issues of ownership of land to limitations on the movement of black people in white urban areas, local government was used to reinforce the belief of superiority of one race over others. As such it came as no surprise that it was at the level of local government that the anti-Apartheid movement really took hold and was mostly fierce.

A common mistake when dealing with local government in South Africa, particularly the historical elements of the subject, is to ignore the colonial period before Apartheid, which actually provided the foundations for Apartheid. Rather, commentators often choose to simply look at local government from the inception of Apartheid as a historical point of reference and a defining period for local government in South Africa. This provides only a limited appraisal of the local government system and its evolution.

This chapter, therefore, explores the transformation of local government in South Africa from the colonial period to the post-Apartheid era. The purpose of the chapter is to provide a comprehensive discussion of the history of local government in South Africa and how the institution has evolved throughout its history. Specifically, the chapter looks at the colonial history of local government, local government in the era of Apartheid, and the different phases of local government transformation in the post-Apartheid South Africa. The design of local government through negotiations at the collapse of Apartheid is particularly important as it provides a background against which the legislative framework and issues affecting this sphere of government can be understood. This chapter claims that the design and legislative framework of local government has been substantially shaped by the turbulent history of the institution, particularly as it relates to

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<sup>138</sup> See Grest, J. 1989. "The crises of local government in South Africa". In Frankel, P. et al. *State, Resistance and Change in South Africa*. Southern Book Publishers. Johannesburg. Pp. 87-117

segregation and service delivery. The chapter concludes that the history of local government in South Africa has, at its core, issues of race and ideology.

### 3.2 Colonial History of Local Government in South Africa

According to Mavhivha<sup>139</sup> the College of Landdrost and Heemraden of Stellenbosch was the first local authority that could be regarded as a local government in South Africa. This began with the appointment of the Landdrost in 1685, after the establishment of Cape Town as the first urban area in the country. This body, having been established by the Council of Policy of the Cape of Good Hope, had inter alia, powers to collect taxes and perform certain functions that could be understood as municipal in nature and extent in the country's districts - *Stellenbosch, Draakensteijn, Land van Waveren, Swarte Land, the Colonie van Swellendam and other places such as Grootvadersbosch, AttaquasCloof, GouritsRivier, Sneeuwberg and the Caro*. More and more urban areas were established as the settlers settled farther inland. These were the Transvaal, Natal and the Orange Free State. There were traditional and, in certain instances, large African settlements already in the country, but they could not exactly be classified as cities in that they were not really urban or modelled on the European settlements. The urban/rural divide did not really exist prior to colonialism for a number of traditional African societies. Amongst these were territories that were later known as Ciskei, KwaNdebele, QwaQwa, Bophuthatswana, Venda, KwaZulu, and Gazankulu.

However, it was the Cape Municipal Ordinance No. 9 of 1836 that formally established the first official municipal structures. "This Ordinance provided for a board of commissioners for the various towns and they were elected by the property owners... it formed the basic paradigm for the Natal Municipal Ordinance 1847<sup>140</sup> and it was later adopted by the Orange Free State and

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<sup>139</sup> See Mavhivha, E. 2007. *Leadership and Governance Perspectives in Local Government Administration in South Africa: Limpopo Province*. Unpublished. University of Pretoria.

<sup>140</sup> After the proclamation of Natal as a British colony in 1843, the Cape Municipal Ordinance [9 of 1837] was adopted as Ordinance in order to provide for the establishment of municipal government structures along the lines of the Cape Colony. This was found to be unsuited for the Natal colony and was replaced with Ordinance 1 of 1854. The latter ordinance introduced more democratic, albeit exclusive, processes and structures. These included the introduction for a voters' roll, election of public officials, established town councils led by publically elected mayors and councillors. See Graythorne, Donald. L. 1977. *The Role of the Town Clerk in Municipal Government in South Africa*. Master of Public Administration Thesis. University of Cape Town. Pg. 18

Transvaal Boer Republics<sup>141</sup> in 1856 and 1877 respectively, with minor modifications.”<sup>142</sup> A 12-member municipal board was established in Cape Town through the Provisions of the Cape Town Municipal Board Ordinance of 1839.<sup>143</sup> These ordinances remained in place in the slightly varied forms in the different colonies until the unification of South Africa in 1910, through the Union Act of 1910 as passed by the British parliament.<sup>144</sup> Before the Union Act of 1910, a Native Affairs Commission, appointed by Lord Milner in 1903,<sup>145</sup> made several recommendations to deal with the question of race. Firstly, the Commission recommended that land ownership be classified according to race, with each race occupying its own designated space. Secondly, separate representative institutions should be established for the different races, elected by residence and having jurisdiction only in that specific area. Thirdly, townships should be established for the growing black urban population close to but not part of the white urban areas.<sup>146</sup>

These recommendations laid the foundation for segregationist policies and legislation enacted after 1910, beginning with the exclusion of non-white race groups in the power political power arrangements of 1910. Of course, by this time the violent resistance by black people had been finally crushed with the defeat of the Bambatha rebellion in 1906;<sup>147</sup> although different forms

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<sup>141</sup> Up until the unification of South Africa in 1910, the country was largely divided into 4 separate areas: the British controlled Cape and Natal Colonies, and the Boer controlled Transvaal and Orange Free State republics. These four were unified under the Union of South Africa after the defeat of the Boer in the Anglo-Boer War in 1902.

<sup>142</sup>Tsatsire, Israel. Et al. 2009. “Historical Overview of Specific Local Government Transformatory Developments in South Africa.” *New Centre. No. 57*. Pp. 129-147

<sup>143</sup>Worden, Nigel. Et al. 1998. *Cape Town: The Making of a City*. UitgeverijVerloren.

<sup>144</sup> The Union of South Africa [Act of 1909] provided for the unification of the four main colonies of South Africa into a single colony, under British rule. The Act further provided for the reformation of the government structures such as the legislature, the executive and the judiciary. A key feature of the Act was the exclusion of black people from participating in the forming and shaping of the Union. Instead, a Governor-General in Council was given powers for the control and administration of native affairs.

<sup>145</sup>Barichiev, 2006: 3

<sup>146</sup> Ibid. see also the South African Native Affairs Commission Report: 1903-1905.

<sup>147</sup> The Bambatha rebellion was an armed uprising of various clans within the Zulu nation, most notably the Zondi clan of kwaMpanza, led by Chief Bambatha kaMancinza in 1906. The rebellion was precipitated by the imposition of a ‘Poll Tax’ of £1 (in addition to a Hut Tax and a Dog Tax) on all men from the age of 18. This compelled African men in particular to work for cash in order to be able to pay the tax, thus forcing them to seek employment in the mines and the agriculture sector. Assisted by a number of other chiefs, Chief Bambatha led a number of people in a series of guerrilla-style attacks against white forces in protest against this tax and colonial rule. The rebellion was eventually defeated in the battle of Mome. See Thompson, P.S. 2013. “Dinuzulu and Bhambatha, 1906: An invasion of Natal and an uprising in Zululand that almost took place”. *Historia* 58, 2. Pp.46-69. Thompson also argues that, whilst the Poll Tax was an underlying factor, there might have been other reasons for the rebellion, one of which was an attempt by Bambatha to be reinstated as Chief of the Zondi as he had been earlier deposed. Chief Bambatha mobilised for the rebellion in the name of King Dinuzulu in order to encourage support from the chiefs.

passive resistance persisted. After the unification of South Africa, the four colonies became provinces and local government functions were the responsibilities of these provinces of South Africa.<sup>148</sup>

### 3.3 Local Government and Apartheid: 1948 – 1994

Tsatsire<sup>149</sup> observed that “South African local government structures have generally been designed to reproduce the urban system in accordance with the policy objectives of the government of the day...” As it was with the establishment of local government structure prior to 1948, local government structure between 1948 and 1994 were designed to advance the National Party (NP) policy of separate development for the different race groups in South Africa: what the NP referred to as Apartheid.<sup>150</sup> The central principle of Apartheid follows from the recommendations of the Native Affairs Commission of 1903,<sup>151</sup> which recommended - amongst others - that systems of separate development be implemented. This essentially meant that land ownership and occupation would be categorized according to race and ethnicity; and each race group to have its own distinct areas of residence and public institutions with jurisdiction only in the said areas. Through a number of pieces of legislation<sup>152</sup> the National Party (NP) took this recommendation and turned it into an ideology and government policy. However, for the NP, separate development did not mean equal development; rather it meant cementing the perception or belief in the superiority of the white race over the non-white races. This meant that the so-called non-white institutions would be subjected

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Thompson notes, however, that the actual role of Dinuzulu in the rebellion remains unclear. See Thompson, P.S. 2003. “Bambatha’s Personal Rebellion.” *Natalia* 33. Pp. 59-66.

<sup>148</sup> South Africa Act of 1909.

<sup>149</sup> Tsatsire, et al. 2009: 133

<sup>150</sup> See de Visser, Jaap. 2005. *Developmental Local Government: A Case Study of South Africa*. Antwerpen- Oxford. Pg. 51.

<sup>151</sup> The South African Native Affairs Commission was established in 1903 by the then High Commissioner with the task to enquire and to report on: (1) The status and conditions of the Natives; the lines on which their natural advancement should proceed; their education, industrial training; and labour. (2) The tenure of land by the Natives and the obligation to the State which it entails. (3) native law and administration. (4) The prohibition of the sale of liquor to Natives. (5) Native marriages. (6) The extent and effect of polygamy. The Commission consisted of two representatives from each of the colonies, Rhodesia and Basutoland. Godfrey Lagden was the chairman.

<sup>152</sup> See Population Registration Act No. 30 of 1950; Bantu Authorities Act No 68 of 1951; Promotion of Bantu Self-Government Act No 46 of 1959; Native Affairs Act No 55 of 1959; Natives (Urban Areas) Consolidated Act of 1952; Native Laws Amendment [Act 54 of 1952]



to the authority of the white institutions of similar functions. This was made possible through the enactment of the Population Registration Act 30 of 1950.

The Population Registration Act of 1950 was the cornerstone of Apartheid in that it required people to be identified from birth as being either white, coloured or Bantu.<sup>153</sup> The obscure definitions of the races were accompanied by often unscientific and arbitrary tests<sup>154</sup> to determine race, in instances where it was not clear. In his book, *Long Walk to Freedom*, Nelson Mandela makes reference to this by stating that, “Where one was allowed to live and work could rest on such absurd distinctions as the curl of one's hair or the size of one's lips.”<sup>155</sup> A person's racial classification could be reviewed and even reclassified by the Director of Census<sup>156</sup> where there might be a dispute. Alternatively, a person could appeal for a review of their racial classifications.<sup>157</sup> One of the reasons for the possibilities of reviews and classification was the very ambiguous definitions of the different race groups. Section 1 of the Act stated:

(iii) “coloured person” means a person who is not a white person or a native...

(x) “native” means a person who in fact is or generally accepted as a member of any aboriginal race or tribe of Africa...

(xv) “white person” means a person who in appearance obviously is, or who is generally accepted as a white person, but does not include a person who, although in appearance obviously a white person, is generally accepted as a coloured person.

The effect of this act was an imposition of restrictions on movement of black Africans outside of the so-called ‘homelands’. They were required to carry a pass book - aptly named *Dom Pass* by

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<sup>153</sup> This was a term used extensively during Apartheid to refer to black Africans native to Africa.

<sup>154</sup> One of the most widely used tests was known as the Pencil Test in which a pencil is pushed through one's hair to determine the level of difficulty for the pencil to pass through. If the pencil fell to the floor easily, one was regarded as white and if not they would be classified as coloured. The idea behind this was that ‘white’ hair was the smoothest, ‘black’ hair the kinkiest and ‘coloured’ hair less kinky than black and therefore somewhere in-between. See also Rasmussen, Birgit Brander. Et al. (ed.) (2001). *The Making and Unmaking of Whiteness*. Duke University Press.

<sup>155</sup> Mandela, Nelson. 1994. *Long Walk to Freedom*.

<sup>156</sup> The Office of the Director of Census was first established in 1910 through The Census [Act 2 of 1910] with the responsibility of conducting population-wide census every five years. The Director of Census was responsible for designing and administering the questionnaire used to gather the necessary data to compile a census. In 1911, the Director of Census, for statistical purposes, classified South Africa into three population groups: Europeans/White, Native/Bantu and Mixed/coloured. However, these classifications were not consistently applied in the reports and some groups were often bundled together. See Christopher, A.J. “The Union of South Africa Census 1911 -1960: An Incomplete record”. *Historia* (56), 2. Pp. 1-18

<sup>157</sup> See the Population Registration Act No. 30 of 1950

Africans as they thought it was silly for them to be required to carry it around - to produce on demand as proof that they had permission to be in white urban areas or walk in certain streets. This was necessitated by the enactment of the Group Areas [Act 41 of 1950] - which was amended as Act 36 of 1960. The purpose of this Act was to forcefully separate races by creating different residential areas for different races, in accordance with the Population Registration Act. Ultimately, this resulted in forced removals of people from their areas of residence to new groups areas.<sup>158</sup> This, according to Mabin, “at least potentially extended compulsory general segregation to 'Coloureds'; centralized control over racial segregation, effectively undermining municipal autonomy; laid the basis for long-range, wide-scale land allocation planning; opened the way to greatly expanded (though of course strictly segregated) public housing provision especially for the poorer sections of the urban population; provided for retroactive segregation; and massively interfered with concepts of property rights generally.”<sup>159</sup> Following from the Natives Land [Act 27 of 1913],<sup>160</sup> the Public Health [Act 36 of 1919],<sup>161</sup> the Natives (Black) Urban Areas [Act 21 of 1923],<sup>162</sup> and the Prevention of Illegal Squatting [Act of 1951],<sup>163</sup> the Group Areas [Act 41 of 1950] added to the project of forceful removals of non-whites from land close to the city centers into the periphery and the so-called homelands. Continuing from the British colonial legacy, much of the fertile and mineral-rich land, as well as land close to city centers, was reserved for the group of people classified as white. Even within these over-crowded and often underdeveloped townships, non-whites were separated into Apartheid prescribed categories of race and ethnicity.

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<sup>158</sup> Approximately 3.5 million non-white people had been forcibly removed or ‘relocated’ by government between 1960 and 1982. A further 2.7 million people were under threat of forced removals in 1983. See *The Surplus People Project. 1983. Forced Removals in South Africa. The SPP Reports Vol 1 General Overview*. Surplus People Project, Pietermaritzburg

<sup>159</sup>Mabin, Alan. 1992. “Comprehensive Segregation: The Origins of the Group Areas Act and Its Planning Apparatuses.” in *Journal of Southern African Studies*. Volume 18, issue 2. June. Pg. 407.

<sup>160</sup> The Natives Land [Act 27 of 1913] provided for the allocation of only 7% of all arable land to Africans and the rest to white people, who constituted less than 10% of the population. Consequently, reserves were established for Africans and limits imposed on their ability to purchase land.

<sup>161</sup> This Act established a union Department of Public Health, whose responsibilities, amongst others, was the promotion of public health and prevention or control of infectious diseases.

<sup>162</sup> This Act provided for the establishment of locations for black people close to but not in urban areas, with local authorities exercising control regarding influx into these areas. Trading licences could also be granted to black people in these locations, without the right to freehold properties. This was subject to the need for labour by white people. The local authorities served as some form of local government. See DAVENPORT, T.R.H. 1987. *South Africa: a Modern History*. Macmillan, Johannesburg, Pg. 551

<sup>163</sup> This provided for the forced removals of those deemed to be squatting by land owners and authorities, through the destruction of homes.

These townships were designed to house the temporary migrant laborers, which the Apartheid state could not have functioned without.

Moreover, this Act was supported by a number of other Acts such as the Native Laws Amendment [Act 54 of 1952] and Natives (Abolition of Passes and Co-ordination of Documents) [Act 67 of 1952]. The Natives Laws Amendment Act stipulated criteria on the basis of which permission would be granted to 'bantus' to be in white urban areas. Section 10 stipulated that a black person would have a right to permanently reside in town if:

- i. A person was born in a town and had lived there continuously for no less than 15 years;
- ii. Due to employment, had lived in a town continuously for a period no less than 15 years;
- iii. Had worked continuously for the same employer;
- iv. Was the spouse or child of a person falling into the abovementioned categories or;
- v. Had a permit for seeking work.

Of course these restrictions only applied to black people, and any deviations or violations were severely punished. Black people found without these documents could be jailed or 'deported' to their homeland.

Moreover, the National Party passed the Reservation of Separate Amenities Act No. 49 of 1953. This compelled segregation in all public amenities, buildings, transport and – together with the Bantu Education Act 47 of 1953 – enforced segregation even in public education. The common denominator and underlying factor of this was the difference in the quality of the facilities and services of whites and non-whites. It goes without saying therefore that the best available services and facilities were reserved for whites, while black people were subjected to sub-standard services.

Earlier, in 1951, the NP government passed the Bantu Authorities Act No 68 which:

abolished the Natives' Representative Council established by the 1936 Act and empowered the Governor-General to convene a conference of Native chiefs, who are themselves Government servants, to ascertain the feelings of the Native population. It recognized local authorities in the Native areas by establishing tribal,

regional and territorial councils with advisory functions and authority to make representations to the Minister of Native Affairs.<sup>164</sup>

In essence, the Bantu Authorities Act provided for the establishment of 10 Bantustans (also known as homelands) for the various black ethnic groups in South Africa and the neighboring South West Africa (later known as Namibia).

The Act was further supported by the appointment of tribal chiefs and headsmen with prescribed albeit limited powers.<sup>165</sup> The central factor and the pillar of this Act is that the tribal, regional and territorial authorities had limited and mostly advisory powers. However, the government justified this Act on the basis that it sought to ensure that each Apartheid-prescribed racial and ethnic group would exercise control over its own territory until eventually all homelands would comprise a group of independent states.

In addition, the Promotion of Bantu Self-Government [Act No. 46 of 1959] was enacted to “provide for the gradual development of self-governing Bantu national units and for direct consultation between the Government of the Union and the national units in regard to matters affecting the interest of such national units.”<sup>166</sup> In this regard there was Ciskei and Transkei for the Xhosa, Zululand for the Zulus, Bophuthatswana for the Tswana, Lebowa for the Pedi and Gazankulu for Shangaans.<sup>167</sup> It is important to note that these homelands or Bantu authorities, as a form of local government authorities, were designed to be a self-governing but not self-sufficient as the Apartheid rhetoric had articulated at the time. In fact, a report by the Tomlinson Commission<sup>168</sup> set up to consider the question of the homelands, had earlier stated that the economic viability of these homelands was unlikely. Lack of infrastructure, land and finances meant that government needed to put more money and resources in order to ensure the self-sufficiency of the territories. The commission had also recommended the consolidation of the

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<sup>164</sup> Cornell, Margaret. 1960. “The Statutory Background of Apartheid: A Chronological Survey of South African Legislation”. *The World Today*, Vol. 16. No. 5. Pp. 181-194.

<sup>165</sup> See Kahn, Ellison. 1951. “Notes on South African Constitutional Law”. *Journal of Comparative Legislation and International Law, Third Series*, Vol. 33, No. ¾. Pp. 88-97

<sup>166</sup> Promotion of Bantu Self-Government Act No. 46 of 1959.

<sup>167</sup> See Beinart, William. 1994. *Twentieth-Century South Africa*. Oxford University Press. Pg. 156

<sup>168</sup> The Tomlinson Commission was established in 1950 to develop “a comprehensive scheme for the rehabilitation of the Native Areas with a view to developing within them a social structure in keeping with the culture of the Native based upon effective socio-economic planning.” See Houghton, D.H. “The Significance of the Tomlinson Report”. *Africa South*. Pp. 13-21. Online: [http://disa.ukzn.ac.za/sites/default/files/pdf\\_files/asjan57.4.pdf](http://disa.ukzn.ac.za/sites/default/files/pdf_files/asjan57.4.pdf) in essence the Commission proposed separate development as a long term policy of the country.

homelands into seven Bantustans. Giliomee<sup>169</sup> notes how the Tomlinson report was rejected by Verwoerd - who was the Minister of Native Affairs - and the National Party in 1954. Although the report was not rejected outright, the government of the National Party did not meaningfully implement any of its recommendations regarding the development of the so-called homelands and the black inhabitants. In fact, the development and self-sufficiency of these homelands may not have been so much the point as was the attempt to ensure a never ending supply of cheap labor for white capital. Visser states, “the homeland policy resulted in untold suffering and destruction of social fabric as migrant labour became the norm in South Africa. African men provided cheap labour in the urban industries and became hostel dwellers while their families lived in the homelands.”<sup>170</sup> By the same token - in addressing the apparent refusal of the National Party government to empower the local authorities in the homelands through the provision of resources - Koornhof stated:

The easier the living in the Reserves, the less the labour is available for outside employment. The temptation for European employer-legislators not to improve the living has, therefore, always been strong and it has been the economic force, represented by the demand for labour, which usually decides the issue.<sup>171</sup>

The attempt to ensure that white government, particularly municipalities, did not bear the responsibility of servicing black local authorities was entrenched through the enactment of the Group Areas [Act 36 of 1966]. “The Group Areas Act restricted the permanent presence of black Africans in urban areas through the pass system, and reserved a viable municipal revenue base for white areas by separating townships and industrial and commercial development.”<sup>172</sup> Earlier in 1961, the National Party government had passed the Urban Bantu Councils Act No 79 of 1961, which created black councils in urban areas that were meant to be aligned to authorities responsible for the corresponding ethnic homelands. Moreover, the government had also enacted the Coloured Persons Communal Reserves Act No 3 of 1961 which ensure that there were certain areas designated for the occupation by the coloured people. The effects of this was the establishment of

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<sup>169</sup>Giliomee, H. 2003. *The Afrikaners: Biography of a People*. Tafelberg, Cape Town.

<sup>170</sup> Visser, 2005. Pg. 51.

<sup>171</sup> Koornhof in David Harrison. 1982. *The White Tribe of Africa: South Africa in Perspective*. University of California Press, Los Angeles. Pg. 182

<sup>172</sup>See Mavhivha, 2007: pg. 2

Indian and coloured management committees that served as advisory bodies to the white urban municipalities. Like the Indian and Coloured management committees, the Bantu Councils lacked any real powers in relation municipal functions.<sup>173</sup>

The enactment of the Self-Governing Territories Constitution [Act 21 of 1971] provided for the formation of legislative and executive councils for the homelands. This made it possible for the self-governing territories to pass laws within their jurisdiction, but only with the concurrence of the South African government.<sup>174</sup> Following the passing of the aforementioned legislation, 4 Homelands were granted independence: Transkei, Venda, Bophuthatswana and Ciskei. Transkei's independence, for instance, was formalized with the passing of the Status of Transkei [Act 100 of 1976], which placed traditional leaders at the center of legislative and executive authority, and resulted in the installation of Chief Matanzima as the Paramount Chief of Transkei.<sup>175</sup>

The establishment and de-establishment of different bodies for the different racial and ethnic areas was symptomatic of the lack of coordinated municipal structures aimed at providing services to people. In fact, the National Party government did not empower local government to the extent that it could be an arm of government capable of generating its own revenue and provide services. Only a few, white, municipalities had this capacity. What was clear and consistent, however, was that local government was designed to enforce the Apartheid system by ensuring that not only were the different racial groups physically separated from each other, but also that the concept of racial hierarchy and white superiority was entrenched through the skewed allocation of resources.

Bekker and Humphries<sup>176</sup> note how the government had to concede that influx control had failed - having earlier introduced community councils which replaced advisory boards that had replaced Urban Bantu Councils. In an attempt to implement the much needed reforms of Apartheid laws, particularly in urban areas, the government began to devolve power to the local government

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<sup>173</sup>These councils would later be rejected by the communities as they lacked legitimacy and real municipal powers.

<sup>174</sup> Khunou, Freddie. 2009. "Traditional Leadership and Independent Bantustans of South Africa: Some Milestones of Transformative Constitutionalism Beyond Apartheid". *Potchefstroom Electronic Law Journal (PER)*, Vol. 12, No. 4. Pg. 91

<sup>175</sup> Ibid: Pg. 94.

<sup>176</sup>Bekker and Humphries. 1985. Quoted in Brij Maharaj. "The Politics of Local Government Restructuring and Apartheid Transformation in South Africa: The Case of Durban." *Journal of Contemporary African Studies*, 15, 2. 1997. pp. 261-285

through the Local Authorities Act of 1982 and the Black Communities Act of 1984.<sup>177</sup> Through these acts, there was a greater devolution of power from the central government to the different local governments. Such powers were however accompanied by the increase in rents and taxations as local governments could no longer rely on the funding from the central government. A further issue was the appointment of the representatives to serve on these local structures by the government. Although presented as self-governing and democratic, these structures were essentially accountable to the central government. Consequently, their legitimacy was rejected by the people, particularly in the townships.

The rejection of the Black Local Authorities, the increase in the rents and taxation and the lack of real racial equality culminated in the revolt against local government in particular and Apartheid in general in the 1980s. The revolt was characterized by non-payment of rent and other local services by local residents and a demand for the Black Local Authorities to resign.<sup>178</sup> This formed part of a call to render the country ungovernable in order to force transformation upon the National Party government, through activities such as Operation Vula.<sup>179</sup> As a result, the Apartheid local

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<sup>177</sup>Maharaj, 1997: 263

<sup>178</sup> See Stanton, 2006: 63

<sup>179</sup> In 1978, the National Executive Committee (NEC) of the ANC, operating in exile in Luanda, met to discuss lessons from the Vietnam socialist experience. Based on the report, the NEC established a committee of a small group of people, which was to be called the Politico-Military Strategy Commission, whose task was to put together a number of recommendations to the ANC NEC. The Commission consisted of Oliver Tambo (ANC President), Thabo Mbeki, Joe Gqabi, Joe Slovo, Joe Modise and Moses Mabhida. In all the Commission was tasked with reporting on 12 terms of reference contained in Annexure A of the ANC Meeting Statement, which was not included in the final report. Amongst the Commission's terms of reference were the task to make recommendations on the elaboration of an overall strategy based on mass mobilisation; creation of the broadest possible national front liberation; strengthening the underground machinery by drawing into it activists thrown up in mass struggle; and the development of operations out of political activity, guided by the needs and level of political mobilisation and organisation. The report of the Commission, which was presented to the ANC NEC in 1979 became known as *The Green Book*. The *Green Book* noted, amongst other things, that the Apartheid regime was largely founded on and used violence to and terror to subjugate black people in general and Africans in particular. Beyond using Bantustans to divide and conquer Africans through the perpetuating tribalism, the *Green Book* further noted that the Apartheid regime also prevented black people from organising themselves by banning black political organisations and the formation of black trade unions. Consequently, the *Green Book* argued that the given the use of violence against black people, national liberation can only be won through revolutionary violence of the people as whole, supported by mass uprisings. Such armed struggle has to be located within and amongst the people, guided by the leadership of the ANC. The armed struggle would be aimed at arousing political consciousness and actions amongst the oppressed. Following the adoption of the *Green Book*, the ANC employed a combination of strategies including paramilitary strategies, which involved targeted bombings of certain government facilities. The apartheid government responded to through police brutality, infiltration and military attacks of ANC camps in exile. This created a state of anarchy especially in some of the townships in South Africa. In order to strengthen its position, the ANC devised a plan through its armed wing, uMkhonto Wesizwe, to insert trained MK cadres and ANC, together with military equipment back into South Africa in order to prepare for an

government system collapsed as revenue was lost. As a last-ditch attempt to preserve local government, the National Party introduced Regional Services Councils, which had greater powers in terms of generating revenue and decision-making but still fell short on being democratic and therefore legitimate.<sup>180</sup> The introduction of these councils did not quell the revolt. On the contrary the demand for equality and justice in the taxation in relation to local government grew more and more intense in the late 1980s. This inevitably led to discussions about the complete transformation of local government as well as government in general.

### 3.4 Local Government Transformation

The transformation of local government in South Africa followed a lengthy and complex process of negotiations between different political parties, civic organizations and the government of the National Party during the Multiparty Negotiation Forums,<sup>181</sup> whose aim was to facilitate a

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armed conflict with the Apartheid government. This operation was called Operation Vukindela, more popularly referred to as Operation Vula. This was to be the final push against a seemingly weakening Apartheid regime. However, the Operation was never fully implemented because the negotiated settlement between the Apartheid government and the liberation organisations. See Garrett, R.K. and Edwards, P.N. "Revolutionary Secrets: Technology's Role in the South African Anti-Apartheid Movement". *Social Science Computer Review*, 4, (24). Online: <https://www.sahistory.org.za/sites/default/files/GarrettEdwards-RevolutionarySecrets-prepress.pdf> See also ANC National Executive Committee. 1979. *The Green Book: Report of the Politico-Military Strategy Commission*. Online: <https://www.sahistory.org.za/archive/green-book-report-politico-military-strategy-commission-anc-national-executive-committee-aug>

<sup>180</sup> See Stanton, 2006. In 1985, the government enacted The Regional Services Councils [Act 109 of 1985] in order to provide for the establishment of Regional Service Councils as extensions of local government to provide bulk services in metropolitan areas, specifically to 'assist' the financially constrained Black Local Authorities, and later extended to some rural areas. Pillay argues that the Regional Services Councils marked, to some extent, multiracial decision-making in a government forum, despite the fact that members were essentially nominated by government and not necessarily elected from the different race groups. See Pillay, Udeshra. 2005. "The Regional Services Council debacle in Durban". Smith, David (ed.) *The Apartheid City and Beyond: Urbanization and Social Change in South Africa*. Routledge, London. Pp. 194-206

<sup>181</sup> In 1990, following secret talks between a few leaders of the ANC, particularly Nelson Mandela, and those of the National Party, namely, P.W. Botha, then state President F.W. de Klerk announced the unbanning of liberation organisations and the release of political prisoners. Subsequently, in December 1991, representatives of a wide range of political organisations and civil society came together in what was to be called the Convention for Democratic South Africa (CODESA). The main aim of the gathering was to imagine and discuss a post-apartheid South Africa with democratic and social justice values of equality and dignity for all. Also amongst the central, discussions, through plenaries and working group, as an attempt to propose a transitional government system that would facilitate the transition from the previous Apartheid regime to a more democratic one. To this extent, CODESA adopted a Declaration of Intent, through which the parties to the agreement committed themselves to working towards united South Africa based on common human values, to work towards healing the wound and divisions of the past racial segregation, to create an environment for peaceful constitutional change, to establish a constitutional democracy based on a multiparty system, amongst other things. The adoption of the Declaration of



discussion about the path to be followed towards a democratic, post-Apartheid South Africa. The question of the transformation of local government was viewed as particularly important in the creation of a democratic and prosperous society. The Apartheid system had manifested itself more rigidly in the sphere of local government. It was also in such a sphere that the most intense and most violent resistance to Apartheid took place. It was therefore very critical for discussions to take place on the path of transformation.

In 1990, after the collapse of the Apartheid system and its local government spatial configuration, discussions began to take place between civic organizations and the authorities in different areas

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Intent was anchored in the establishment of comprehensive consultations, negotiations and management structures, which would broaden the participation as widely as possible—towards the construction of a new and more democratic constitution. However, due to the volatile political context in the country which was mired by violence between the Inkatha Freedom Party and the African National Congress, with the involvement of the government. There was also a great deal of unhappiness from some organisations in what they perceived to be the ANC and the National Party's attempt to control the negotiations. There were also other fundamental ideological differences between the negotiating parties to the extent that parties such as the Pan Africanist Congress withdrew from the negotiations entirely, whilst the Inkatha Freedom Party objected to the non-invitation of the Zulu Monarchy into the negotiations. Above all, the most pressing ideological difference was that insistence by the ANC to have majority-rule based unitary state, whilst parties such as the National Party, the Inkatha Freedom Party, the Conservative Party wanted a federal system—for the its part the Afrikaner Weerstandsbeweging (AWB) wanted a separate state for the Afrikaners based on self-determination. In addition to the ideological differences, the question of the terms of reference and the duration of the transitional or interim administration, which would oversee the negotiations and the adoption of the new constitution, remained a thorny source of suspicion and accusations. With the signing of the Declaration of Intent, notwithstanding the ongoing ideological contestations, the CODESA plenary agreed that a second plenary session would be convened in 1992 to discuss the work of the working groups. Ostensibly this gave rise to the notion of the first round of negotiations being referred to as CODESA 1 and the second round as CODESA 2. See Sparks, Allister.1994. *Tomorrow is Another country: The Inside Story of South Africa's Negotiated Revolution*. Struik Book Distributors, Sandton. Although CODESA 1 is considered a success, CODESA 2, which began in 1992, ended in a deadlock. The main points of disagreements with CODESA 2 were on the composition of the interim government and the final shape of the constitution. CODESA 2 failed and, at the pressure of the international community, the Multiparty Negotiation Forum (MPNF) was constituted in 1993 in order to try and resolve the differences of CODESA. A key feature of the MPNF was the involvement of external experts and organizations to facilitate the negotiations. In all, 26 organizations attended the MPNF in Kempton Park. However, the talks also almost collapsed when Chris Hani (a very popular leader of the ANC, was assassinated, However, the MPNF managed, through its different committees to set up processes and dates, including the date of the first democratic election based on universal suffrage and to adopt the 1993 Interim Constitution. See Jolobe, Zwelethu. 2014. *Getting to CODESA: An Analysis on Why Multiparty Negotiations in South Africa Began, 1984-1991*. Doctoral Thesis. University of Cape Town. It is Joe Slovo who is credited with proposing a solution to the deadlock, often referred to as the 'Sunset Clauses'. Through these, Slovo proposed that the idea of a Government of National Unity (GNU) which would have term of five years, which would then be followed by a period of a simple majority rule process. The GNU would be composed of a number representatives from different political parties and would make decisions by consensus. The 'Sunset Clauses' also proposed that white civil servants would be able to keep their positions and pensions for a period of five years. See Teuteberg, S.M. 2015. *A Framework for Constitutional Settlements: An Analysis of Diverging Interpretations of the South African Constitution*. Doctoral Thesis. University of Stellenbosch.

regarding the democratization and overall reforms of local government. Key amongst the points of discussion was the issue of equal participation of citizens in the affairs of the local government as well as equitable distribution of resources and delivery of services to the people.<sup>182</sup> In 1991, civic organizations decided to form the South African National Civic Organization (SANCO), which they used as a platform to engage with the Minister of Local Government with regard to the transformation of local government in the entire country.<sup>183</sup> SANCO quickly established itself as important role player in the negotiation process by firstly pressuring the Minister of Local Government to establish the Local Government Negotiation Forum (LGNF), whose work would feed into the Multi-Party Negotiation Forums that followed the Convention for a Democratic South Africa on the transformation of the entire government system and configuration of the country. The establishment of the LGNF followed the passing of the Interim Measures for a Local Government [Act 128 of 1991] and the Local Authority Affairs Amendment [Act 134 of 1992].<sup>184</sup> The forum was composed of statutory members (national government, local government and municipal representatives), political parties and SANCO. “One of the most urgent issues facing the LGNF was to deal with the financial crisis of local government and non-payment of rent and service charges. This resulted in the Agreement on Finance and Services, which facilitated writing off arrears to black local authorities.”<sup>185</sup> Bekker et al<sup>186</sup> state:

The spirit of the negotiations that led to these local government transitional arrangements reflected a shared belief in the importance of legitimate and effective local government, established through a transparent, inclusive, ‘bottom-up’ approach, drawing together all relevant stakeholders at local level, especially from sectors of local communities previously excluded from local government participation.

Following extensive negotiations between the parties, the LGNF formulated the Local Government Transition (LGTA) [Act 209 of 1993]. This Act became the blueprint for crafting of

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<sup>182</sup>Cloete, 1995: 3

<sup>183</sup> See Stanton, 2006: 68.

<sup>184</sup> Ibid

<sup>185</sup>Van Donk, Mirjam and Edgar Pieterse. 2006. “Reflections on the design of a post-Apartheid system of (urban) local government.” In Udesh Pillay, et al (eds.) *Democracy and Delivery: Urban Policy in South Africa*. HSRC Press, Cape Town. Pp. 107- 134

<sup>186</sup>Bekker, Simon. Et al. 1997. “Local government transition in five Eastern seaboard towns”. *Politikon: South African Journal of Political Studies*, 24:1, Pp. 38-56

a democratic permanent local government structure post-Apartheid. It is this Act that firmly established the autonomy of local government, which had been until then a department in provincial governments. According to the LGTA there were to be three phases of transition: the pre-interim phase, an interim phase and the final phase. The pre-interim phase entailed the establishment of local negotiating structures as statutory structures given the responsibility of appointing councils that would govern local government until the elections of 1995. In appointing these councils, locally negotiated methods and systems were encouraged. As a result, the processes yielded 843 local authorities that were very diverse in their structural and systematic arrangement.<sup>187</sup>

### The Interim-Phase (1996-2000)

The interim phase was transitional in nature in that it formally established structures that would form the basis of a permanent arrangement. Transitional Local Councils (as opposed to local negotiation forums) were established as a single-tier authority in many urban areas, with the exception of metropolitan areas that had Transitional Metropolitan Councils and Metropolitan Sub-Structures.<sup>188</sup> Following the vision of the LGTA, the interim phase was formally established by the 1996 Constitution.<sup>189</sup> The period between 1996 and 2000 was very critical in designing South Africa's local government system beyond the interim phase. The Constitution required that the local government must have a developmental outlook. Visser<sup>190</sup> notes the importance of the classification of local government as developmental. He contends that for local government to be developmental it needs to strive for the improvement of the material needs of the people, driven by the people through their own choices leading to equity in the distribution and sustainability of resources. Section 152 (1)<sup>191</sup> states that the objectives of local government as:

- a) To provide democratic and accountable government for local communities;
- b) To ensure the provision of services to communities in a sustainable manner;

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<sup>187</sup>Pieterse, Edgar. 2007. "South African Local Governance: Ambitions, Experiences and Challenges." In *Trilateral Dialogue on the Role of Local Government Within a Developmental State: planning workshop with experts from Brazil, India and South Africa*. 26<sup>th</sup> February – 3<sup>rd</sup> March 2007 (Germany)

<sup>188</sup> See Van Donk, Mirjam and Edgar Pieterse. 2006

<sup>189</sup> Constitution of the Republic of South Africa [Act 108 of 1996]

<sup>190</sup> Visser, 2005: 9

<sup>191</sup>Constitution of the Republic of South Africa [Act 108 of 1996]

- c) To promote social and economic development;
- d) To promote a safe and healthy environment; and
- e) To encourage the involvement of communities and community organizations in the matters of local government.

Section 151 (3) and (4) state that the municipalities, of which local government consists, have the right to govern within their jurisdiction without impediment or hindrance from either the provincial or national government, although subject to the national and provincial legislation. Sections 151 and 152 establish local government as an autonomous sphere of government with its own powers and responsibilities. This is significant in the overall transformation agenda in that, unlike during Apartheid, there was significant decentralization of government power from the national to also local government.

The aforementioned, transitional councils were to be elected democratically following the amalgamation of racially based areas. The electoral system was a combination of a ward-based system and proportional representation system. Allocations of seats in the councils would be based on 60% ward and 40% proportional representation on party political basis.<sup>192</sup> The mixed electoral system came about as a result of the differences between the National Party and the ANC and other parties to the negotiations, who insisted on the principle of ‘one city, one tax base’. The ANC wanted a unitary state and the disbandment of race based ward and municipal structures. The National Party was of the view that the PR system across the board would result in the voices of the minorities being very limited at local government level. The demarcation of the wards at the time was very racial and the previously white areas were better resourced than non-white areas. Therefore, the compromise was a mixed system, with the view, however, that parallel to locally based negotiations, demarcation boards would be established for each of the new nine provinces that had been established.<sup>193</sup> Polunic, states that the LGTA provided for the criteria by which the provincial demarcation boards would make recommendations on the areas of jurisdiction for the

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<sup>192</sup> See Visser, 2005: 61

<sup>193</sup> The question of a mixed electoral process for local government was part of bigger debate during the negotiations regarding decentralization. Although many parties to the negotiations were in agreement as to the need for decentralization, they had completely different motives. The National Party and the Inkatha Freedom Party wanted a federal system with great powers being given to provinces. At the time the NP and IFP controlled the Cape and Natal respectively. On the other side of the coin, the ANC and the PAC insisted that in the quest to transform the society and governance, local government needed to be empowered to ensure service delivery and democratization of government institutions. See Visser, 2005: 68

local authorities.<sup>194</sup> According to schedule 6 of the LGTA the criteria was “topography, and physical characteristics; population distribution; existing administrative boundaries; potential land use; development potential; economic functionality; financial viability; degree of common interest among residents.”<sup>195</sup>

According to Thornhill<sup>196</sup> the Local Government: Municipal Demarcation [Act 27 of 1998] was the first legislation to deal with the transformation of local government during the interim phase. Based on the LGTA and the framework provided by the Constitution of 1996, the Demarcation Board was established to determine the municipal boundaries for the whole country, in what is often referred to as “wall –to-wall” local government.<sup>197</sup> This meant that municipalities needed to be established even in rural areas, which had been neglected in this regard during Apartheid. Consequently, in determining the boundaries, the Demarcation Board reduced the number of municipalities from more than 1000 in 1993 to 284 by the year 2000. Thornhill observes that the process had a lot of challenges.

The original determination of the boundaries of municipalities created a number of challenges. Some municipalities extended over existing provincial boundaries. The result was that legislation had to be passed to regulate the administrative consequences of such municipalities (Local Government: Cross-boundaries Municipalities Act, 2000 of (Act 29 of 2000)). These cross boundary municipalities proved to be unsuccessful as policies in different provinces differed and the Cross-Boundary Municipalities Repeal and Related Matters Act 2005 (Act 23 of 2005) had to be passed.<sup>198</sup>

### *Municipal Structure*

Section 155 (1) of the Constitution establishes the structural framework of local government through municipalities. The Constitution provides for the following categories:

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<sup>194</sup> Polunic, 2000: 58

<sup>195</sup> See Schedule 6 of the Local Government Transition Act, 1993; Polunic, 2000: 58

<sup>196</sup> See Thornhill, C. 2008. “The Transformed Local Government System: Some Lessons.” *Journal of Public Administration*. Vol. 43, No.3.2. Pp. 492-511

<sup>197</sup>Zybrands, Werner. 2001. “Local government.” In Albert Venter (Ed.). *Government and Politics in the New South Africa*. Van Schaik Publishers, Pretoria. Pp. 203-232

<sup>198</sup> Thornhill, 2008. Pg. 498

- (a) Category A: a municipality that has exclusive municipal executive and legislative authority in its area.
- (b) Category B: a municipality that shares municipal executive and legislative authority in its area with a category C municipality within whose area it falls.
- (c) Category C: a municipality that has municipal and legislative authority in an area that includes more than one municipality.<sup>199</sup>

Section 155 further provides for the enactment of national legislation to give effect to the provisions. Such legislation must stipulate criteria for the determination of the classification of municipalities in line with the established categories and the demarcation of municipal boundaries. In addition, the legislation must provide for a clear division of power and functions of the different municipal categories, especially with respect to areas with both category B and category C municipalities.

In line with the aforementioned Constitutional requirement, parliament passed the Local Government: Municipal Structures [Act 117 of 1998]. The Act provides for the criteria for the categorization of municipalities into the three constitutional categories and the type of executive authority for each of the categories. Through this Act, six metropolitan municipalities (eThekweni, Nelson Mandela Bay, Cape Town, Tshwane, Johannesburg and Ekurhuleni), 231 local municipalities and 46 district municipalities were originally established. Section 7 of the Act identifies five types of municipal government systems: collective executive system, mayoral executive systems, plenary executive system, sub-council participatory system and ward participatory system.<sup>200</sup> The decision regarding the typology of the municipality ultimately rests with the provincial government, through the Member of the Executive Committee responsible for local government.<sup>201</sup> Moreover, the Act provides for the various process and procedures in relation to the electoral process and the composition of the various committees within the municipality, including ward committees. The ward committees are optional for category A and B municipalities<sup>202</sup> are meant to be established in line with the ward demarcation in each

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<sup>199</sup> See Section 155 of the Constitution of the Republic of South Africa

<sup>200</sup> See Sections 7, 8, 9 and 10 of the Municipal Structures Act, 1998.

<sup>201</sup> See De Visser, 2005: 77; section 11 of the Municipal Structures Act

<sup>202</sup> Category C municipalities do not have wards as their coordinating municipalities in whose area there are several local municipalities. As such they cannot ward committees as they do not have wards.

municipality. These committees are meant to assist the ward councilor in representing the interest of the ward constituency.

Chapter 12 of the Constitution also recognizes the authority of traditional leaders at local government level. Section 212 (1) states, “national legislation may provide for a role for traditional leadership as an institution at local level on matters affecting local communities.”<sup>203</sup> Pursuant to the Constitution, the South African parliament enacted the Traditional Leadership and Governance Framework [Act No.41 of 2003]. Chapter 2 of this Act provides for the recognition of traditional communities, establishment of traditional councils, functions of traditional councils and the relationship between municipalities and traditional councils. Section 4 for the involvement of traditional councils in municipal affairs as part of their functions.<sup>204</sup>

However, the concept of traditional leaders at local government is a controversial issue as they are historically unelected and they coexist with elected officials. There are some who are of the opinion that there is no space for traditional leaders in a democratic local government system as traditional systems often contradict modern democratic principles of equality.<sup>205</sup> The notion of traditional leadership is based on hereditary practices that often excluded women from inheriting traditional leadership positions. However, it is important to note there have been instances where women have inherited the position of traditional leader, especially in circumstances when there is no male heir or the heir-elect is considered too young to lead. By the same token, there are circumstances in which the traditional leader is chosen by the community—making this not an entirely and always undemocratic process.<sup>206</sup> In fact, Hammond-Tooke makes the following point:

In pre-colonial times, traditional leaders were not as autocratic and tyrannical as is often suggested. Chiefs in Xhosa-speaking societies, for example, did not wield absolute and unchallenged power and their influence was mediated by the community at large in effect, by civil society.

And

Decisions affecting a tribe were generally made by traditional leaders in

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<sup>203</sup> Constitution of the Republic of South Africa, 1996

<sup>204</sup> Section 4 (1)(b)(c)(d)(f)(g)(h)(j)

<sup>205</sup> Akume, A. 2013. “Egalitarianism, Traditional Authority and Local Governance in Nigeria: A Reflection.” *International Journal of African and Asian Studies – An Open Access International Journal* Vol. 2. Pp. 28-37

<sup>206</sup> Bekker, J.C. 1989. *Seymour’s Customary Law in Southern Africa*. Juta, Cape Town.

consultation with their councillors who broadly speaking, represented the interests of different sectors of the community.<sup>207</sup>

However, an argument was made that not only is the institution of traditional leadership incompatible with democracy values and principles, in fact many of the traditional leaders were installed by and served as collaborators with the Apartheid government.<sup>208</sup> Siting scholars such as Van Kessel & Oomen<sup>209</sup>, George<sup>210</sup> and Khunou<sup>211</sup>, Mathonsi and Sithole make the point that whilst historically, traditional leaders have consistently, and to some extent stating the fact, that a number of them were at the forefront of resistance against apartheid (including their central role in the formation of the ANC in 1912 and the writing of the Freedom Charter of 1955), equally many of them have been collaborators with the apartheid regime and legitimized its segregation policies in the Bantustans. Where the chief or headman was seen as being counter-productive to the apartheid agenda, the apartheid government simply replaced these leaders with more amenable ones in order to use the traditional leaders to keep communities in line. In the end, a number of the chiefs were installed not in line with customary laws, but by the Apartheid government for their allegiance to the policy of segregation.<sup>212</sup>

Furthermore, whilst the 1993 interim constitution had cemented the importance of tradition leaders in a post-apartheid democratic South Africa, three were significant challenges with respect to the roles and responsibilities of the traditional leaders vis-à-vis elected local government officials.

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<sup>207</sup> See Hammond-Tooke, W.D. 1975. *Command or Consensus*. David Philip, Cape Town. Pg. 17. In Ntonzima, L. and Mohamed Sayeed Bayat. 2012. "The Role of Traditional Leaders in South Africa a Relic of the Past, or a Contemporary Reality?" *Arabian Journal of Business and Management Review* (1), 6. Pp. 88-108

<sup>208</sup> See Ntonzima, L. and Mohamed Sayeed Bayat. 2012. "The Role of Traditional Leaders in South Africa a Relic of the Past, or a Contemporary Reality?" *Arabian Journal of Business and Management Review* (1), 6. Pp. 88-108

<sup>209</sup> Van Kessel, I. and Oomen, B. 1997. One Chief, one vote: The revival of traditional authorities in post-apartheid South Africa. *African Affairs*, 96:561–585.

<sup>210</sup> George, K. 2010. *The Role of Traditional Leadership in Governance and Rural Development: A Case of the Mgwalana Traditional Authority*. Dissertation Submitted in Partial Fulfilment of the Requirements of the Degree of Masters in Development Studies, Faculty of Business and Economic Science at the Nelson Mandela Metropolitan University, Port Elizabeth, NMMU.

<sup>211</sup> Khunou, F.S. 2011. Traditional leadership and governance: Legislative environment and policy development in a democratic South Africa. *International Journal of Humanities and Social Science* 1(9):287–290.

<sup>212</sup> Mathonsi, N. and S. Sithole. 2017. "The Incompatibility of Traditional Leadership and Democratic Experimentation in South Africa". *African Journal of Public Affairs*. (5), 9. Pp. 35-46. The issue of possible collaboration between some traditional leaders and the Apartheid government was of the thorny disagreements between the ANC and the IFP, which contributed to the almost collapse of the pre-1994 multiparty negotiations.



The existence of traditional leaders may even be argued to add a fourth layer of government, which in turn could affect service delivery.<sup>213</sup> However, in a 1995 study by the Traditional Authorities Research Group, it was found that many communities still regarded the role and positions of traditional leaders as sacrosanct. The Traditional Authorities Research Group (TARG)<sup>214</sup> states thus:

Traditional authorities are still recognized and respected by the different traditional communities interviewed. The idea of the abolishment of the institution of traditional authorities was received with resistance and it was mentioned by the communities interviewed that such a step will lead to chaos. The traditional leader is seen as one who is *kgosi ke kgosi ka batho* (“a chief is a chief through his people”) and he has a definite role to play in traditional communities. He or she is seen by many people as the embodiment of law and order, the upholder of values and as a provider for the needs of the community and, in some instances, even as an institution created by God. This idea was mentioned by men, women and youth members present during the research interviews conducted.

The TARG further observes that according to the views of various communities across the country:

Traditional leaders have a definite role to play at national, provincial and local levels of government. At national and provincial levels they should be more involved in the formulation and decision-making process regarding policy and planning. At local level their function is to see to the proper implementation of policy and planning, especially regarding development in their relevant areas. In district or rural councils where more than two traditional authorities are present, forums should be established to assist with the formulation of policy, decision-making and planning at local level. Another opinion was that since the rendering of services is the function of local government, traditional authorities are not to be involved in the actual implementation of development projects. The traditional authorities and their communities are, however, to be consulted in this regard.<sup>215</sup>

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<sup>213</sup>Beal, J. “Decentralisation and Engendering Democracy: Lessons from Local Government Reform in South Africa.” *Crisis States Programme Working Paper Series No. 1*. Pp. 1-21

<sup>214</sup> Traditional Authorities Research Group. 1999. “The Role and Future of Traditional Leaders in South Africa.” *Koersjournal* (64), 2/3, Pg. 297.

<sup>215</sup> Ibid, Pg. 298

Despite these and related criticisms of the traditional leadership, the Constitution, particularly the Bill of Rights, recognizes group rights (sometimes referred to as collective rights such as those of trade unions, political parties and traditional communities). It is from this recognition that traditional authority is recognized and protected by the Constitution, which gave rise to the formation of the National House of Traditional Leaders that is made up of representatives from the different provincial houses of traditional leaders. Established through the National House of Traditional Leaders [Act 22 of 2009], section 11 stipulates that the powers and duties of the House of Traditional Leaders are:

- (a) to cooperate with the provincial houses of traditional leaders, to promote—
  - (i) the role of traditional leadership within a democratic constitutional dispensation;
  - (ii) nation building;
  - (iii) peace, stability and cohesiveness of communities;
  - (iv) the preservation of the moral fibre and regeneration of society;
  - (v) the preservation of the culture and traditions of communities;
  - (vi) socio-economic development and service delivery;
  - (vii) the social well-being and welfare of communities; and
  - (viii) the transformation and adaptation of customary law and custom so as to comply with the provisions of the Bill of Rights in the Constitution, in particular by—
    - (aa) preventing unfair discrimination;
    - (bb) promoting equality; and
    - (cc) seeking to progressively advance gender representation in the succession to traditional leadership positions; and
- (b) to enhance co-operation between the House and the various provincial houses with a view to addressing matters of common interest.

(2) The House—

- (a) must consider Parliamentary Bills referred to it by the Secretary to Parliament  
In terms of section 18 of the Framework Act;
- (b) may advise the national government and make recommendations relating to any of the following:
  - (i) Matters relating to policy and legislation regarding traditional leadership;
  - (ii) the role of traditional leaders;
  - (iii) customary law; and

- (iv) the customs of communities observing a system of customary law;
- (c) may investigate and make available information on traditional leadership, traditional communities, customary law and customs;
- (d) must, at the request of a member of National Cabinet, advise him or her in connection with any matter referred to in this section;
- (e) must be consulted on national government development programmes that affect traditional communities;
- (f) must complement and support the work of government at national level;
- (g) must form cooperative relations and partnerships with government at national level in development and service delivery

### *Municipal Systems*

In addition to the Municipal Structures Act, government passed the Municipal Systems Act of 2000. The expressed purpose of the Act is:

To provide for the core principles, mechanisms and processes that are necessary to enable municipalities to move progressively towards the social and economic upliftment of local municipalities, and ensure universal access to services that are affordable to all...to provide for the manner in which municipal powers and functions are exercised and performed; to provide for community participation; to establish a simple and enabling framework for the core processes of planning, performance management, resource mobilization and organizational change which underpin the notion of developmental local government.<sup>216</sup>

It is the Municipal Systems Act that operationalizes the Municipal Structures Act. Section 53 of the Municipal Systems Act stipulates the roles and responsibilities of the municipal structures that are established by the Municipal Structure Act. Section 59 of the Systems Act provides for the delegation of some the municipal council's authority to office bearers within the municipality. This is to ensure efficiency in service delivery and the smooth operation of the municipality through accountability.<sup>217</sup> Section 16 (1) of the Municipal Systems Act, in line with the Constitution, stresses the importance of the participation of the community in the planning, budgeting, decision-

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<sup>216</sup> Local Government: Municipal Systems Act, 2000 (Act 32 of 2000)

<sup>217</sup> See de Visser, Jaap. 2010. "The political-administrative interface in South African municipalities assessing the quality of local democracies." *Commonwealth Journal of Local Governance, Special issue*, Bahamas. Pp. 86-101

making and even the performance management processes of the municipality. “Moreover, the Act states that municipalities have an obligation to build the capacity of the local communities to participate in these processes as well as the capacity of councilors and staff to foster community participation.”<sup>218</sup> The Systems Act identifies the Integrated Development Planning (IDP) as one of the instruments through which public participation could be promoted.

Derived from the Local Government Transition, Amendment Act of 1996, the Municipal Systems Act identifies parameters of the IDP as a tool for planning in a developmental local government level. The Department of Constitutional Development<sup>219</sup> defines developmental local government as a “local government committed to working with citizens and groups within the community to find sustainable ways to meet their social, economic and material needs and improve the quality of their lives.” Central to the notion of developmental local government, which the IDP later was meant to give expression to were:

- Maximizing economic growth and social development: local government is instructed to exercise its powers and functions in a way that has a maximum impact on economic growth and social development of communities.
- Integrating and coordinating: local government integrates and coordinates developmental activities of other state and non-state agents in the municipal area.
- Democratic development and public participation: local government becomes the vehicle through which citizens work to achieve their vision of the kind of place in which they wish to live.
- Leading and learning: municipalities must build social capital, stimulate the finding of local solutions for increased sustainability, and stimulate local political leadership.

In this regard, Harrison notes that the minimum contents of the IDP are:

- A vision of the long-term development of a municipality;
- An assessment of the current level of servicing, and of economic and social development, in a municipality;

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<sup>218</sup> Smith, Terence. 2008. *The Role of Ward Committees in Enhancing Participatory Local Governance and Development in South Africa: Evidence from Six Ward Committee Case Studies*. Community Law Centre. Issues pertaining to the participation of the public in municipal affairs are dealt with at length in Chapter Three of this dissertation.

<sup>219</sup> Department of Constitutional Development, 1998. *White Paper on Local Government*, Pretoria

- The municipal council's development priorities and objectives for its elected term;
- The local council's development strategies (which must be aligned with any national or provincial plans);
- A Spatial Development Framework (which must include guidelines for a land-use management system);
- Operational strategies;
- Sectoral plans required by other legislation (e.g. water plans, transport plans, waste management plans, disaster management plans and housing strategies);
- A financial plan; and
- A set of key performance indicators and performance targets.<sup>220</sup>

Through the IDP, and the aforementioned minimum contents, the Municipal Systems Act provides a framework within which municipalities must realize the objectives as set out in the constitution. By defining the systems and processes in terms of municipal functions, the Act ensures uniformity across the different municipalities as opposed to the varying systems for the different municipal authorities under the Apartheid era.<sup>221</sup>

### *Municipal Finance*

Sections 227 and 229 of the Constitution provide for financial matters concerning local government. Section 227 (1) (2) state that the municipalities can generate income in three ways: first, municipalities are entitled to an equitable share of the revenue raised by the national government; second, municipalities can generate their own income through the imposition of rates on property,<sup>222</sup> surcharges, levies, fees for services and duties within their jurisdiction;<sup>223</sup> third, municipalities can generate income from intergovernmental transfers, which can be conditional or

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<sup>220</sup> Harrison, Phillip. 2006. "Integrated development plans and Third Way politics". *Democracy and Delivery: Urban Policy in South Africa*. HSRC Press, Cape Town. Pp. 186-207. The IDP is dealt with extensively in Chapter Three.

<sup>221</sup> Some variations are still permitted due to the different categories and depending on the resources and some other variables for each municipality. However, the fundamental principles of the Municipal Systems Act still remain.

<sup>222</sup> Only the metros and local government municipalities can impose property rates. The district municipalities cannot charge rates on properties because they do not by themselves have constituencies or citizens. They are closer to coordinating structures in areas where several local government municipalities exist.

<sup>223</sup> Section 227 of the Constitution

unconditional. This empowerment of municipalities to generate their own income is part of the transformation to ensure that local government is not heavily dependent on provincial and national spheres of government and that the distribution of resources in a municipality is done fairly. This comes from the struggle slogan against the then local government structures of Apartheid: “one city, one tax base”.<sup>224</sup>

In line with the transformation agenda on local government and following the bankruptcy of local governments in the 1980s, the Local Government: Municipal Financial Management [Act No. 56, 2003] was enacted to “secure sound and sustainable management of financial affairs of municipalities and other institutions in the local sphere of government.”<sup>225</sup> This Act deals particularly with the administrative aspects of municipal finances. These include processes of the drafting and approval of budgets, as well as the budget control and early warning systems of financial problems.

### The Final Phase

The year 2000 marked the end of the interim phase and the beginning of the final phase as envisaged by the LGTA. Van Donk and Pieterse<sup>226</sup> give an appraisal of the design of the post-Apartheid local government in South Africa. They argue that in 2000 several decisions had to be taken before the elections that would finalize the shape of local government in South Africa. One of the main decisions was the redrawing of municipal boundaries. This process resulted in the reduction of the number of municipalities from 883 to 284 (6 metros, 232 local municipalities and 46 district municipalities) at the end of the re-demarcation process. The decision was predominantly influenced by 2 main points: the financial and economic viability of the municipalities (which had been considered during the interim phase) on the one hand, and the party-political ideologies that influenced policies at the time. “For example, the re-demarcation of municipal boundaries was in large part driven by an ideological perspective that redistribution is

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<sup>224</sup> See van Ryneveld, Philip. 2006. “The development of policy on the financing of municipalities”. *Democracy and Delivery: Urban Policy in South Africa*. HSRC Press, Cape Town. Pp. 157-184

<sup>225</sup> Local Government: Municipal Finance Management Act, 56 of 2003

<sup>226</sup> Van Donk, Mirjam and Edgar Pieterse. 2006. “Reflections on the design of a post-Apartheid system of (urban) local government.” In Udesch Pillay, et al (eds.) *Democracy and Delivery: Urban Policy in South Africa*. HSRC Press, Cape Town. Pp. 107- 134

best facilitated by linking municipalities with a tax base and significant institutional capacity to those that lack a proper tax base and adequate human resources.”<sup>227</sup> Consequently, fewer but larger municipalities were established and the two-tier system for metros was scrapped in favor of single-tier metro municipal system. Ultimately, the decision regarding the demarcation of municipalities’ borders rested with the Municipal Demarcation Board (MDB) as established by the Constitution.

However, as van Donk and Pierrse note, while the two-tier system was ended for metros, it was introduced for other municipalities. This meant amending several pieces of local government legislations. For instance, the Municipal Structures Act, 1998 was amended in 2000, 2002 and 2003 to formally establish three municipal categories for different areas: Category A (Metros with an option of a mayoral executive system or collective executive system); Category B (two-tiered local municipalities, which would be coordinated by a district municipality in a given region); and Category C (which provided coordination functions for Category B municipalities in a given region).<sup>228</sup> This configuration caused and continues to cause significant confusion amongst people. The amendments also established ward committees<sup>229</sup> for the different wards in order to improve public participation. It was also the responsibility of the MDB to determine the number of these wards, which in turn could only be established once the Minister of Provincial and Local Government had determined the formula by which the number of councilors and an average number of voters per councilor could be established.<sup>230</sup> Once this was done, it was declared that there would be a total of 8951 councilors in municipalities around the country.<sup>231</sup>

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<sup>227</sup> Ibid: 115

<sup>228</sup> Ibid: 114

<sup>229</sup> Ward committees are dealt with at length in the following chapters, as they are often at the centre of public participation in municipal affairs.

<sup>230</sup> See Cameron, Robert. 2006. “Local government boundary reorganization.” In Udes Pillay, et al (eds.) *Democracy and Delivery: Urban Policy in South Africa*. HSRC Press, Cape Town. Pp. 76 – 106

<sup>231</sup> Ibid

### 3.5 Transformation of Local Government in KwaZulu-Natal

The realization of the historical differences in the structures and overall powers of local governments in the country led to the decision that local forums, which were established by the LGTA, were responsible for negotiating the transformation of local government under the supervision of the provincial government. In KZN, such negotiations took place in an environment of acute hostility and political violence. The violence between the supporters of the Inkatha Freedom Party (IFP)<sup>232</sup> and the ANC meant serious contestation in the design of the new local government system. There were a number of points that were to prove controversial between the negotiating parties in KZN, more so than in the other provinces.<sup>233</sup> For KZN, a number of issues needed to be taken into account in during the transformation process: these included the vast differences between urban and rural areas; the type and size of transitional body; and the role and status of traditional authorities.<sup>234</sup>

Polunic<sup>235</sup> states that one the first major sources of contestation was the participation of the IFP in local negotiations as a non-statutory participant. The objection from the ANC and the Pan-Africanist Congress (PAC)<sup>236</sup> was that because the IFP had participated in the Black Local

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<sup>232</sup> The Inkatha Freedom Party (IFP) was formed in 1975, by Principle Mangosuthu Buthelezi, as a largely a national, cultural liberation movement. Originally called Inkatha Yenkululeko Yesizwe, it was based on Zulu nationalism, as driven by the Zulu royal family to which Chief Mangosuthu belonged. Although it was not formed strictly as a political party, Buthelezi had in fact been a member of the African National Congress Youth League, and positioned the Inkatha to also pursue political agendas. "We in Inkatha see ourselves as committed to the ideals of the ANC – not as it operates now but to the ideals propagated by the founding fathers in 1912". Mare, G. 2000. "Versions of Resistance History in South Africa: The ANC Strand in Inkatha in the 1970's and the 1980's". *Review of African Political Economy* 83.Pg. 67. However, as Mottiar observed, the over time the balance between a cultural national liberation and a political party became difficult to define and maintain. The more the IFP, especially its leader, grew in strength, the more there was an ideological rift created between it and the ANC. Mottiar, Shauna. 2005. "The Turnover Of Power In Kwazulu-Natal A Growing Commitment to and Engagement with the Democratic Process". *Journal of African Elections* (3) 2. Pp. 47 - 58

<sup>233</sup> See Polunic, 2008: 61

<sup>234</sup> Khan, Sultan et al. 2006. "Transcending traditional forms of governance: prospects for co-operative governance and service delivery in Durban tribal authority areas" in *Transformation: Critical Perspectives on Southern Africa*. 62. Pp. 84-117

<sup>235</sup> See Polunic, 2008

<sup>236</sup> The PAC was formed in April 1959 as a breakaway movement from the ANC. In 1953, the ANC formed an alliance with a number of organisations, which came to be known as the Congress Alliance. The racial and ideological diversity of the Congress Alliance, based on a vision of a united South Africa, led to the drafting and adoption of the Freedom Charter in 1955. Amongst its provisions, the Freedom Charter stated that South Africa belongs to all who live in it, black and white. The formation of the Congress Alliance and the subsequent adoption of the Freedom Charter was viewed by some with the ANC—who considered themselves Africanists—to be a betrayal of the struggle for African people. Pan Africanisms or African nationalism was an exclusive form of



Authorities,<sup>237</sup> which had been discredited by the anti-Apartheid movement, and the KwaZulu government,<sup>238</sup> it should be part of the statutory participants. Of course the IFP and its supporters did not want this, so a dispute ensued ultimately leading the IFP to participate in the negotiations as non-statutory participant.

Despite the tensions with regard to the participation, several Local Negotiating Forums were established for the different areas of KZN.<sup>239</sup> The issue with which these forums had to grapple, particularly in urban areas, was the type and size of the transitional bodies that would run these areas until elections, as per the Local Government Transitional Act.<sup>240</sup> The Act provided for a choice between three options: Transitional Local Councils (TLC) mainly aimed at “single-tiered government in smaller urban and in rural areas”;<sup>241</sup> or the Transitional Metropolitan Council (TMS) with the Transitional Metropolitan Substructure (TMS) option as a two-tiered local

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nationalism that was adopted by the PAC, who argues—through its leaders such as Robert Sobukwe—that the interests and needs of the African majority must take priority over those of any other racial group. The Freedom Charter, therefore, represents the betrayal of the material interests of the indigenous African people. After the banning of the liberation organisations in 1960, the PAC formed Poqo as its military wing 1961. In 1968, Poqo was replaced with the Azanian People’s Liberation Army (APLA), whilst the ANC had formed uMkhonto Wesizwe as its military wing. See Raboroko, P.N. undated. *Congress and the Africanists: The Africanist Case*. Pp. 24-32/ Online: <https://www.sahistory.org.za/sites/default/files/DC/asapr60.5/asapr60.5.pdf>; Delport, T. 2016. “Asazi ukuthi iyozala nkomoni1 : Robert Mangaliso Sobukwe’s historical imagination of the future”. *PINS*, 50. Pp. 35-52. Online: <http://dx.doi.org/10.17159/2309-8708/2016/n50a3>; Mafole, M. 2018. “Introduction to the Pan Africanist Congress of Azania.” *Freedom Park*. Online: [https://www.freedompark.co.za/images/Heritage\\_Knowledge/publications/Introduction\\_To\\_The\\_Pan\\_Africanist\\_Congress\\_of\\_Azania.pdf](https://www.freedompark.co.za/images/Heritage_Knowledge/publications/Introduction_To_The_Pan_Africanist_Congress_of_Azania.pdf)

<sup>237</sup> Black Local Authorities were established through The Black Authorities [Act 102 of 1982]. This Act provided for the establishment of local government structures, such as village committees and local committees for black people in urban or peri-urban areas. The black local authorities were elected from within their communities and used rents for their administration budgets. The authorities were themselves subordinate to the Bantu Administration Board that was mainly white and appointed by government.

<sup>238</sup> This was a black authority that was first formed in 1970 around the area of Nongoma, and later restructured into a wider area under the jurisdiction of the KwaZulu Legislative Authority in 1976. This formed part of the strategy to form and provide certain homelands with certain executive government powers. The KwaZulu homeland was part of that strategy and was afforded limited powers almost akin to self-government by the apartheid government, with a capital in Ulundi. The KwaZulu government was led by Chief Mangosuthu Buthelezi as chief minister. See Vickerman, Rosemary. 2009. *Buthelezi's Emergence as a Key National Politician in Apartheid South Africa and his Decline in Status Thus Far, in the Country's Democratic Context*. Masters Dissertation. University of Cape Town. Online:

[https://open.uct.ac.za/bitstream/handle/11427/14080/thesis\\_hum\\_2009\\_vickerman\\_rosemary.pdf?sequence=1](https://open.uct.ac.za/bitstream/handle/11427/14080/thesis_hum_2009_vickerman_rosemary.pdf?sequence=1)

<sup>239</sup>Polunic, 2006 notes that by August 1994 only 12 negotiating forums had been approved by the MEC for Local Government, Peter Miller because most of the urban areas were late in their transitional processes.

<sup>240</sup> Ibid

<sup>241</sup>Bekker, et al. 1997: 42

government arrangement for metropolitan areas.<sup>242</sup> The third option that the Act proposed largely as a strategic political option was a Local Government Coordinating Committee (LGCC). This option was aimed at allowing predominantly white local governments in racially defined areas to continue operating in conjunction with LGNF until democratic elections were held.<sup>243</sup> Consequently, 61 TLCs and 1 TMS<sup>244</sup> were established in KwaZulu-Natal in line with the LGTA.

The second major challenge, arising out of the LGTA and the responsibilities of the TLCs, was the demarcation of boundaries. Polunic observes:

In 47 out of the 61 KwaZulu-Natal TLCs, the provincial Demarcation Board proposed alternative boundaries to those proposed by the negotiating forums, which in 11 cases, included portions of tribal authority areas. The board made some contentious proposals, for example, combining Scottsburg and Umzinto (South Coast), joining Dundee and Glencoe (Northern Natal), consolidating Dalton and Cool Air (Midlands).<sup>245</sup>

She notes further that after an agreement between the MEC and the Provincial Committee on Local Government (PCLG), 53 of the 61 TLCs were settled, leaving only eight cases unresolved. The problem with the resolution of such cases was part of the bigger debate about the role of traditional authorities in the post-Apartheid local government arrangements. At the heart of the issue, as Khan<sup>246</sup> notes, is the party political disagreement between the IFP and the ANC about the role of the traditional authorities in the post-Apartheid South Africa.

For the IFP, the traditional authorities have historically provided a strong base for party in rural areas. In the years following 1994, the IFP was strongest in the rural areas of KZN with traditional authorities. In turn, the IFP protected the interest of these authorities by arguing for the preservation and extension of the colonial, Apartheid and traditional powers they inherited.<sup>247</sup> The

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<sup>242</sup> Ibid: 43

<sup>243</sup> See Cloete, 1995: 19

<sup>244</sup> Established for the city of Durban.

<sup>245</sup> See Polunic, 2006: 71

<sup>246</sup> Khan, et al. 2006

<sup>247</sup> However, as noted earlier, traditional leaders from various parts of South Africa were instrumental in the formation of the ANC. Mottiar, 2005, notes that the IFP was formed partly as a way to revive the ANC within the country. However, the IFP rhetoric was centred on somewhat Zulu nationalism and the IFP being a Zulu organisation. This would later be used to create tribal identities and conflict between the ANC and the IFP. The importance of traditional leaders, recognised by both the IFP and the ANC, was their ability to galvanise their communities around a specific course based on the respect they commended.

ANC, on the other hand, wanted to transform local government and also use this opportunity to weaken the strong traditional base of the IFP by democratizing the institution of traditional authority. This became one of the main points of contestations such that it contributed to the postponement of elections in KwaZulu-Natal until a compromise had been reached between the ANC and the IFP.<sup>248</sup> What was clear, however, was that the constitution provided for the role of traditional leaders in the post-Apartheid South Africa. As such, the institution could not be done away with, despite the lack of clarity of the powers and functions.<sup>249</sup>

The issue of the outstanding 8 cases was settled by an agreement reached between the MEC and the PCLG to leave these areas, at least for the time being, out of any TLC jurisdiction. This arrangement was only temporary for the purposes of minimizing political tension before elections.

Having (temporarily) resolved the TLCs for the rural areas and other towns, the issue was on the formation of the TMC for Durban. Before ward boundaries could be determined for the Metro council, the boundaries of the Transitional Metropolitan Sub-structures needed to be resolved. As it was with the debate around the TLCs, there were two main issues that were at the crux of the debate. On the one hand, there was the party politics, particularly between the ANC and the IFP, that were based on the interest of political parties supporting a structure that would best consolidate their support in the metro. On the other hand, there was an interest in ensuring that the sub-structures were economically viable and also racially inclusive, in line with the requirements of the LGTA. Khan et al specifically discuss the subject of how the ANC and the IFP accused and counter-accused each other of manipulating the boundaries of the city to consolidate support in their areas.<sup>250</sup>

After taking into account factors such the balance of the population and the interest of the community including the political parties, the Demarcation Board for Durban proposed ten sub-structures.<sup>251</sup> These were to be Far West, West, iNanda/Ntuzuma, North, KwaMashu/Durban North, Pinetown, Inner West, uMlazi, Southern and Central. This proposal was vehemently

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<sup>248</sup> See Appiah, George, 2011; Khan, et al: 2006. They highlight crucial points made by several scholars about the role and perceptions of the traditional authorities from different perspectives. These points are aimed at debating the role of these authorities in service delivery in their jurisdictions.

<sup>249</sup>Maharaj, B. 1997. "The Politics of Local Government Restructuring and Apartheid Transformation in South Africa: The Case of Durban." *Journal of Contemporary African Studies*. Vol. 15 (2). Pp. 261-285

<sup>250</sup> See Khan, et al. 2006: 94

<sup>251</sup> Christianson, D. 1996. *Perspective: Institutional Restructuring in KwaZulu-Natal*. Report for DBSA.

opposed by the MEC for Local Government and Housing on the grounds that it essentially preserved the Apartheid character of the boundaries and that the establishment or promotion of Black municipalities in areas of uMlazi and iNanda/Ntuzuma would continue to disadvantage the historically disadvantaged areas as they had essentially no economic base and could not be economically viable and sustainable.<sup>252</sup> Martens and Williamson<sup>253</sup> state that having rejected the proposal of the Demarcation Board, the MEC in turn proposed six sub-structures with different boundaries. The PCLG, as Polunic<sup>254</sup> notes, agreed with the MEC on the six sub-structures that were planned according to the following areas:

- I. Outer West: which included areas such as KwaXimba, Mpumalanga, Nchanga, Drummond, etc.;
- II. Inner West: which included Pinetown, Westville, Queensburgh, KwaNdengezi, New Germany, Claremont, KwaDabeka, etc.;
- III. South Central: which included Chatsworth, Cato Manor, uMlazi, Lamontville, Bluff, Berea South etc.;
- IV. North Central: Ntuzuma, KwaMashu, Newlands, Phoenix, iNanda, Durban North, Durban Central, Springfields, Berea North etc.;
- V. North: Redcliff, Verulam, Mt. Edgecombe, uMhlanga, Tongaat, etc.;
- VI. South: Illovo, Manzimtoti, Folweni, Magabheni, Southern Suburbs etc.

The question of the inclusion or exclusion of the rural areas, on the fringes of the Durban metro, into the metro resulted in further delays in the finalization of the process, which meant that elections for this area needed to be postponed till March 1996.<sup>255</sup> Polunic notes how the Electoral Court process to resolve this matter actually helped in convincing IFP and the ANC to reach a compromise that would enable the elections to proceed. The same party political considerations that had affected the formation and boundaries of the TLCs in the rest of KwaZulu-Natal were at play in the dispute regarding the inclusion of rural areas in the Durban TMC. The IFP understood that the exclusion of rural areas from Durban would prevent the ANC from having substantial control of the province through the local government. The ANC on the hand, needed to win the support of rural areas to consolidate its power in KwaZulu-Natal. Ntsebeza<sup>256</sup> notes how traditional

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<sup>252</sup> See Khan, et al. 2006: 94

<sup>253</sup> Martens, A. and Williamson, A. 1996. *Urban Forum*. JSC Rapid Action Programme, Durban Metro

<sup>254</sup> See Polunic, 2000: 77

<sup>255</sup> See Khan, et al. 2006

<sup>256</sup> Ntsebeza, Lungisile. 2002. *Structures and Struggles of Rural Local Government in South Africa: The Case of Traditional Authorities in the Eastern Cape*. Unpublished PhD. Dissertation. Rhodes University, Grahamstown.

authorities complicated the negotiations by insisting that their powers (which included the distribution or allocation of land and adjudication of civil and criminal cases) be preserved and how, in some areas they ruled through fear, and supported certain political parties over others. This led to violence in some areas, with traditional leader being seen to be taking sides.

The re-demarcation process of the Final Phase, which began in the year 2000, resulted in KwaZulu-Natal having 10 districts municipalities, 50 local municipalities and 1 metropolitan. Following the re-demarcation process, the size of the Durban Metro grew exponentially in terms of the surface area and the population. Khan et al<sup>257</sup> state that before the local government elections of 2000, the surface area of the metro had increased from 1366 km<sup>2</sup> to 2297 km<sup>2</sup>. This was achieved through the integration of several rural and semi-rural areas into the metro - some of which had initially resisted the idea of being integrated into the metro before. The role of the traditional leaders was crucial in the integration of rural areas into the metro. The shift in some of their political allegiances meant that many were beginning to embrace the new local government setup, provided that space was open for them to retain their powers and functions as much as possible.

As a way of accommodating these concerns, traditional authorities were allowed to exercise some traditional powers in certain areas that had recently been integrated into other municipalities, such as the Durban Metro. The Metro even resolved to ensure that 20% of all traditional leaders who resided in the tribal traditional authorities within the boundaries of the municipality would be provided with observer status in council.<sup>258</sup>

### **3.6 Conclusion**

The history of local government in South Africa is a long and complex one. At the center of this history is the question of the role of race in the design and delivery of services in local government in the country. A close analysis of the many pieces of legislations promulgated during the different periods in South Africa's political history indicates that ideological considerations have always shaped the laws relating to the structure and purpose of local government. Prior to the year 1994 -

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<sup>257</sup> See Khan, et al, 2006: 96

<sup>258</sup> Ibid: 99

especially during the Apartheid era - local government was used as an instrument for reinforcing the ‘principle’ of race differences with whites being considered superior to blacks. The transformation of local government began to receive attention towards the end of the Apartheid regime in the late 1980s. Through the discussion of the complex history of the transformation of local government in South Africa, this chapter has demonstrated how local government was considered instrumental in reversing the legacy of Apartheid by re-demarcating municipal boundaries and de-racializing municipal focus. An inclusive and non-racial local government was considered sacrosanct by the liberation forces. They perceived the democratization of local government central to the attainment of the values and goals of the Freedom Charter—chief amongst which was dignity and equality. It was, after all, at local government that the real effects of colonial and Apartheid segregation were felt. Black people were limited in or not permitted to run their own local municipal affairs through authorities that they have selected, and which have powers not limited by a white provincial authority. Since the establishment of the first local government in the Cape, local government was established to serve largely the needs of a few. A post-Apartheid local government system needed to be inclusive and promote the participation of the citizens in the decisions pertaining to their welfare.

In addition to addressing the race question, the chapter has also discussed the important consideration of the role of local government beyond segregation and service delivery. Parties to the negotiations considered the notion, a developmental local government, as defined by the Department of Constitutional Development. Whereas in the past the objective was to preserve ‘separateness’, the purpose after 1994 was improving service delivery through development. Not only would local government be responsible for the delivery of basic services, in the post-apartheid era it is expected to also ensure the enhancement in the quality and distributional parity of such services. This means the mandate of local government after 1994 is to improve the quality life for the communities.

The Chapter also discussed the difficult issue of the location of traditional leaders within a democratically transformed local government system. Suspicions about the role of some of the traditional leaders as collaborators with the Apartheid government and their perceived or real party-political allegiances, which was further complicated by the issues around retaining some of the historical traditional powers and functions, in context of elected local government officials.

However, this chapter did not discuss in detail the role of the citizens in local government. This is discussed substantially in the following chapter. The purpose of this chapter is to provide a context in which the role of the citizens in the ‘developmental local government’ can be discussed.

## Chapter 4: Public Participation and Service Delivery at Local Government

### 4.1 Introduction

Historically, the question of public participation in South Africa can be considered from two perspectives: access and culture. The colonial and Apartheid regimes prior to 1994 had established limited avenues of public participation in government through the enactment of legislation<sup>259</sup> that disenfranchised the African majority and other non-white race groups. This effectively limited the rights of the general public to participate in the governance of the country. This was exacerbated by the later establishment of homelands, which effectively derecognized Africans as South African citizens - declaring them as belonging to their respective homelands where they would enjoy civil and political rights as citizens.<sup>260</sup> Consequently, black<sup>261</sup> people in general, and Africans in particular, had very limited access to public institutions, especially public participation mechanisms. Their limited participation was largely through representation by white people or those appointed by the Apartheid government. In essence, black people had no access to public participation mechanisms pertaining to government in areas outside the homelands and their designated peri-urban areas later.

On the other hand, the limited official spaces for public participation by black people inevitably created frustrations, which could be used and channeled by liberation organizations to recruit members and supporters. Through these liberation organizations, the culture of vibrant public participation was instilled by way of mass protest action. This mass participation was not formal engagement with the state on policy decision-making. Rather, it was participation against the state and its policies. This continued until and eventually contributed towards the collapse of Apartheid. From this, the culture of mass-based public participation was born and cultivated amongst the previously disadvantaged. It is to be noted, however, that up until the negotiation processes, participation by black people was still outside of formal government structures.

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<sup>259</sup> These included legislation such as the Groups Areas Act of 1950, which created different areas for different races and led to forced removals; the Separate Representation of Voters Act 46 of 1951, which led to the disenfranchisement of colored people; Bantu Authorities Act 68 of 1951, which established homelands and abolished the Native Representative Council.

<sup>260</sup> This was cemented by the Bantu Homelands Citizens Act of 1970.

<sup>261</sup> This denotes the non-white race groups that were previously disadvantaged (Indians, coloureds, Africans).



The purpose of this chapter, therefore, is to look at the theoretical foundations of public participation as well as the legislative and policy framework in South African local government. The chapter begins with a conceptual discussion of democracy and public participation. Of importance here is the critical debate on the value of participatory democracy particularly in relation to development. The chapter then looks at the various legislative foundations of public participation in local government. Reference is made to the global influences on not just the shape of local government, but also the mechanisms of public participation in local government.

#### **4.2 Legislative and Policy Framework for Public Participation**

With respect to public participation in local government, section 152 (e) of the Constitution of South Africa states that one of the objectives of local government is to ‘encourage the involvement of communities and community organizations in the matters of local government’.<sup>262</sup> In realization of this constitutional requirement the Municipal Systems Act and Municipal Structures Act provide the actual framework for the structural arrangements for public participation in local government. With reference to the Municipal Systems Act, Barichievy argues that the first aspect of the public participation agenda, which perhaps is the most important in terms of the Act, is the definition of a municipality. Governing structures, the administration and people are defined as the municipality, and this, according to Barichievy, is testament to the importance of the people as is required by the constitution.<sup>263</sup> The decision-making is no longer left to elected councilors and appointed officials only. Chapter 4 of the Municipal Systems Act provides for the “development of a culture of community participation.” Section 61(1) states,

A municipality must develop a culture of municipal governance that complements formal representative government with a system of participatory governance, and must for this purpose (a) encourage, and create conditions for, the local community to participate in the affairs of the municipality...

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<sup>262</sup> The Constitution imposes this responsibility on other state institutions, especially the legislative institutions.

<sup>263</sup>Barichievy, 2006: 23

Section 17 establishes the processes, mechanisms and procedures for the participation of the public in the affairs of the municipality. Section 18 compels the municipality to communicate information pertaining to the available mechanisms for public participation, the rights and responsibilities of community members regarding participation and matters on which community participation is encouraged. One of the mechanisms of community participation established by the Municipal Systems Act is the Integrated Development Planning process.

*a) Integrated Development Planning*

The 1996 Constitution extended the responsibility of municipalities from just service delivery to being at the very centre of development. Municipalities are tasked with the responsibility of promoting social cohesion and economic growth within communities through the prioritization of basic needs. They are also expected to promote public participation. Bekker and Leidlé observe, rather accurately, that the Integrated Development Planning (IDP) was created to drive this objective.<sup>264</sup> Section 25 (1) of the Municipal Systems Act states:

Each municipality council must, within a prescribed period after the start of its elected term, adopt a single, inclusive and strategic plan for the development of the municipality which—

- (a) Links, integrates and co-ordinates plans and takes into account proposals for the development of the municipality;
- (b) Aligns resources and capacity of the municipality with the implementation of the plan;
- (c) Forms the policy framework and general basis on which annual budgets must be based;
- (d) Complies with the provisions of this Chapter; and
- (e) Is compatible with national and provincial development plans and planning requirements binding on the municipality in terms of legislation.

Section 26 of the Systems Act provides nine core components of the IDP. These components place emphasis on issues such as development, transformation, needs assessment, strategy alignment and financial planning, amongst others. Section 35 stipulates that the IDP is binding on the

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<sup>264</sup> See Bekker S. and A .Leildé. "Residents' perceptions of developmental local government: Exit, voices and loyalty in South African towns." *Politeia*, 22(1). Pp. 144-165)

municipality and it serves as the guide for all development, planning and management decisions within a municipality.

Harrison<sup>265</sup> observes that the IDP was in fact influenced and shaped by a ‘global policy network’ consisting of various international agencies. The aim was to ensure that the new local government framework was in line with accepted international trends and norms of the time in terms of governance and administration. He refers to these as New Public Management approaches. At the heart of the New Public Management approach is the idea of ‘Third Way’ or ‘centre-left’ governance approach based neo-liberal principles, such as efficiency. Harrison observes that the aim was to adopt corporate culture into the public service.<sup>266</sup> “Key elements of the approach often include professional and flexible management at the top of the public sector bodies; the separation of policy-making from operations; the disaggregation of public sector departments into corporatized units; the introduction of competition into service-delivery; outsourcing and competitive tendering; and an emphasis on output-based performance evaluation.”<sup>267</sup> IDPs also serve as instruments for intergovernmental relations, particularly between local and district municipalities and between municipalities and provincial government.

Bond concurs with the notion of an increased pressure on the African National Congress and other negotiating parties to adopt neo-liberal policies to appease the international community, particularly the financial institutions.<sup>268</sup> Gasper notes that this NPM approach emerged in places such as New Zealand, Australia, the United Kingdom and some parts of the United States.<sup>269</sup> Gasper states that, “dominant forces of capital and ideas have demanded privatization, as a general principle, insisting that it could slash the government deficit and depoliticize business decisions.”<sup>270</sup> Therkidsen concurs by stating that “...donors are a major driving force in the reform.

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<sup>265</sup> Harrison, Philip. “Integrated development plans and Third Way politics”. In Udesch Pillay et al. *Democracy and Delivery: Urban Policy in South Africa*. HSRC Press. Pp. 186-229.

<sup>266</sup> Ibid, pg. 188.

<sup>267</sup> Ibid

<sup>268</sup> See Bond, Patrick. 2000. *Elite Transition: From Apartheid to Neo-liberalism in South Africa*. Pietermaritzburg, Natal University Press.

<sup>269</sup> Gasper, Des. 2002. “Fasion, Learning and Values in Public Management: Reflection on South African and International Experience”. *Africa Development*, Vol. XXVII, Nos. 3&4, Pp. 17-47.

<sup>270</sup> Ibid, pg. 20

They contribute substantial funds and technical assistance to most initiatives, often linked to demands for particular institutional changes.”<sup>271</sup>

The heavy reliance of developing countries, especially in Africa, on foreign financial and human capital (based on the lack or scarcity of skills) limited the ability for these developing countries to properly contextualize the proposed governance approach to respond to their specific conditions, taking into account their unique histories and cultures. The impact on such reliance can be seen in the similarity of the local government policies adopted in the post-Apartheid South Africa with those of countries such as the United Kingdom. Harrison<sup>272</sup> considers these similarities by pointing out that in the UK, as in SA, programmes and structures have been introduced to support decentralization. For instance, the concept of Area-Based Management in South African local government is quiet similar to the area-based Local Strategic Partnerships in the United Kingdom. Area-Based Management is essentially about the coordination of various stakeholders and resources in a given municipal area in order to improve the delivery of services and the identification local needs through broad-based participation.<sup>273</sup> Local Strategic Partnerships, by the same token, were established in the United Kingdom from the early 1990s in order to “enhance community leadership, improve policymaking, improve services, increase stakeholder engagement, increase accountability and improve confidence.”<sup>274</sup>

The IDP itself was designed to promote participatory development through the creation of spaces and platforms where ordinary citizens could meaningfully participate in the planning of municipal

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<sup>271</sup>Therkildsen, Ole. 2001. “Efficiency, Accountability and Implementation: Public Sector Reforms in East and Southern Africa.” *Democracy, Governance and Human Rights Programme Paper Number 3*. United Nations Research Institute for Social Development. Whilst the argument can be made that the influence of donors played a role in shaping the ideological position of the ANC, in particular, the ANC’s own ideology was also not very decidedly clear. The adoption of neoliberal policies was also a result of pragmatic thinking within the ANC and other organizations, based on lack of experience with democratic local government and the need for international benchmarks. By the same token, it reasonable for a donor to make certain demands regarding how they wish their funds to be utilized. The Cold War was based on the idea of alignment of ideology and material support from either the West or the Soviet Union.

<sup>272</sup> Harrison, pg. 190

<sup>273</sup> See Pillay, Collin. 2015. “Area Based Management (ABM): Understanding ABM in a Transforming Local Government Context”. *Municipal Institute of Learning*. online:  
<http://www.mile.org.za/QuickLinks/News/Documents/ABM%20BACKGROUND.pdf>

<sup>274</sup> See Russell, H. *et al.* 2010. “The role of Local Strategic Partnerships and Local Area Agreements in promoting equalities.” *Equality and Human Rights Commission Research report 63*. Online:  
<https://www.equalityhumanrights.com/sites/default/files/research-report-63-the-role-of-local-strategic-partnerships-and-local-area-agreements-in-promoting-equalities.pdf>

programs and projects. The idea is that through public participation, there would be a nurturing of local government transparency and accountability. Participation through the IDP would enable the municipal officials to draw on the experiences of the citizens; the citizens on the other hand would be exposed to information regarding the intricacies of service delivery at local government level and the municipal budgeting. The plans drawn would not only consider the bureaucratic, grid and spatial issues; they would also consider the social issues such as economic development, poverty, social cohesion and safety and security.<sup>275</sup>

Unlike the previous South African planning system with its emphasis on land-use management and structure planning, strategic planning provided a broader strategic and developmental focus on the planning and management of the city as a whole.<sup>276</sup>

Such a strategic focus is based on the need to prioritize objectives in line with an integrated vision of the municipality in a given timeframe and available resources.

In addition to efficiency, the IDP, as observed by Cash and Swatuk,<sup>277</sup> was adopted as a tool through which the objectives of the Reconstruction and Development Programme (RDP)<sup>278</sup> would be achieved. These objectives included primarily the need to drive towards social and economic equality. As noted in Chapter Two, prior to 1994, local government planning followed the Apartheid policy position; reinforcement of the spatial and amenities differences along race lines was what drove local government before the transformation.

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<sup>275</sup> Coetzee, Johnny. The Transformation of Municipal Development Planning in South Africa (post-1994): impressions and impasse.

<sup>276</sup> Ibid, pg. 12

<sup>277</sup> Cash, Corrine and Larry Swatuk. 2010. "Integrated Development Planning in South Africa: Lessons from the Dwars River Valley." *Urban Reform*(2011) 22: 53-73

<sup>278</sup> The Reconstruction and Development Programme, better known as the RDP, was conceived as a comprehensive socio-economic policy framework of the ANC and its alliance partners, aimed at giving expression to the ideals of the Freedom Charter and provide a roadmap, as a programme of government, for the post-Apartheid South Africa. *The Reconstruction and Development Programme: A Policy Framework* states that the RDP "seeks to mobilize all our people and our country's resources toward the final eradication of apartheid and the building of a democratic, non-racial and non-sexist future." Pg. 4. The RDP was founded on six basic principles: an integrated and sustainable programme; a people-driven process; peace and security for all; nation building; linking of reconstruction and development; democratization of South Africa. Over the years, the RDP was replaced by a number of socioeconomic policies such as the Growth, Employment and Redistribution (GEAR) policy and the Accelerated and Shared Growth Initiative of South Africa (ASGISA).

## b) *Ward Committees*

The Municipal Structures Act also provides for the establishment of Ward Committees for category A and Category B municipalities<sup>279</sup> to augment participation in local government. The Ward Committees are to be elected from amongst residents of a ward and the committees are chaired by the ward councilor. The ward committees have a primary responsibility of making recommendations to the ward councilor and the municipalities must make the necessary administrative arrangements to enable the ward committees to function effectively and efficiently.<sup>280</sup> In 2005, the then Department of Provincial and Local Government promulgated the Guidelines for the Establishment and Operation of Municipal Ward Committees. “The guidelines state that the object of ward committees is to enhance participatory democracy in local government.”<sup>281</sup> Certain powers and functions are provided to municipalities to delegate to ward committees.

Ward Committees are required to meet regularly and ensure that ward meetings, involving the whole community, also occur as frequently. These meetings are aimed at ensuring that the Ward Committees, and the ward councilor, are always in touch with the concerns of the community through free public participation. In order to promote effective public participation, the elections of ward committees must take into account the demographics and the geography of the ward in order to ensure fair representation.

The election procedure for members of the ward committees can be through either sectoral or geographic representation. In the case of the former, the different interest groups in the ward are first identified and then organizations and individuals representing each sector are invited to stand for election onto the ward committee. In the case of geographic representation, the municipality identifies the different geographic areas, villages or clusters of farms that will represent an equitable geographic spread of the residents of the ward, and then calls for nominations from each area.<sup>282</sup>

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<sup>279</sup> Category C municipalities are District municipalities with no specific wards, as they have local municipalities - with wards - that fall within their jurisdiction.

<sup>280</sup> See Part 4 of the Municipal Structures Act 117 of 1998 (as amended).

<sup>281</sup> Smith, Terence and Jaap de Visser. 2009. *Are Ward Committees Working? Insights from six studies*. Community Law Centre, University of the Western Cape. Pg. 10.

<sup>282</sup> Smith and de Visser, 2009: 12

One of the key provisions of the guidelines is that the ward committees must not be politically aligned. This is to allow for fair representations of diverse views and interests with regard to service delivery issues. Party politics has a way of strangling public participation through the limitation of access to the ward committee engagement for some people deemed to be non-members of the dominant party. In addition, ward committees do not only facilitate democratic engagement, they also provide transparency and a platform for accountability.

In addition and linked to Ward Committees, Operation Sukuma Sakhe<sup>283</sup> - a flagship program of the KwaZulu-Natal provincial government - calls for the establishment of War Rooms (Ward Task Teams) in each ward in order to address different aspects of service delivery through public participation and integration. War Rooms are comprised of provincial government departments, local government, community based organizations, business and civil society. These structures are parallel to Ward Committees and are coordinated by the ward councilor with the assistance of a secretariat, who would be a Community Development Worker.<sup>284</sup> The idea of war rooms is premised on using members of the community, such as Youth Ambassadors<sup>285</sup> who are paid a stipend by the provincial government, to solicit information and concerns of the community by visiting each household in the ward and then consolidating these concerns to be referred to the war rooms and the provincial task team. This exercise is a form of public participation by members of the community in governance. It is believed that through this integration, service delivery could be more efficient, in terms of the objectives of Operation Sukuma Sakhe.

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<sup>283</sup> Operation Sukuma Sakhe was launched in 2011 by the premier of KZN. Its specific goal is “to rebuild the fabric of society by promoting human values, fighting poverty, crime, diseases, deprivation and social ills, ensuring moral regeneration, by working together through effective partnerships. Partnerships include civil society, development partners, communities and government departments, to provide a comprehensive integrated service package to communities.” See KZN Provincial Government. 2011. *Operation Sukuma Sakhe: KZN Service Delivery Model*. Online: <http://www.mile.org.za/QuickLinks/News/PresentationsILO%20IE%202018/Day%201-Operation%20Sukuma%20Sakhe.pdf>. The programme has 6 main objectives, which include the establishment of tasks teams at various levels within the province; the profiling of communities and households at ward level; and the development of a stakeholder engagement plan.

<sup>284</sup> Operation Sukuma Sakhe has several aspects and structures designed to drive the operation at different levels of government and society in the Province.

<sup>285</sup> These are young people selected from communities as part of job creation to partake in various activities such as household surveys, and serve as mentors to young people in communities.

### **4.3 Conclusion**

The design of local government in South Africa in the post-Apartheid era is based on the theory of participatory democracy and the need for democracy to facilitate development. Although participatory democracy is a complex theory that engenders robust debate, the fundamentals of citizen involvement in government are sacrosanct. In this case, public participation is critical in addressing the structural issues of Apartheid local government, in relation to the legitimacy and responsiveness of government to the needs of the community.

Given this understanding, this chapter has briefly discussed the legislative and policy framework that underpins public participation in local government in South Africa. Central to this framework is the Constitution of South Africa, which stipulates the autonomy of local government and the requirement that this sphere of government must promote public participation. In line with this, the Municipal Systems Act and the Municipal Structures Act respectively establish institutions and mechanisms through which public participation can be promoted at municipal level. From the Integrated Development Program to the formation of ward committees, these mechanisms are designed to enhance public participation and encourage government responsiveness.

However, this chapter has also highlighted the fact that much of the structures and mechanisms of local government in the post-1994 South Africa were influenced by global public planning trends. The involvement of international bodies and planning experts limited the possibility for South Africa to develop a more organic local government framework that would most appropriately address the historical peculiarities of local government. This has implications on the functionality and appropriateness of these mechanisms and structures and how these affect the efficiency of service delivery in local government.



## **Chapter 5: Public Participation versus efficient service delivery**

### **5.1 Introduction**

At the center of this dissertation is the question of the relationship between democracy, through public participation, and efficiency in service delivery at local government level. The dissertation attempts to discover if the relationship between public participation and efficient service delivery is an antagonist one or whether these can coexist. The burden placed on local government by the Constitution is such that they are required to strike a seemingly precarious balance between delivering basic services to communities efficiently whilst simultaneously effectively promoting the participation of the community in local government governance. Given the numerous challenges facing local government, does public participation hamper or improve the efficiency of service delivery? What impact do the public participation mechanisms and processes, mentioned in the previous chapter, have on the ability of the municipalities to deliver services?

This chapter continues the themes from Chapter Three beyond the public participation mechanisms, by considering the challenges and effectiveness of these in achieving the goals of participatory democracy, in the post-Apartheid South African local government context. More specifically, the focus is on Ward Committees, Community Development Workers and Ward Task Teams, otherwise known as War Rooms, as these are the structures designed to enhance public participation at community level. It is important to focus on these in order to understand the relationship between municipalities and the communities with respect to engagement and service delivery.

### **5.2 Efficiency in Service Delivery**

Barichievy<sup>286</sup> notes that in dealing with service delivery, often there is an interchangeable and incorrect conceptual use of effectiveness and efficiency. Efficiency is defined by the Merriam-Webster dictionary as “the ability to do something or produce something without wasting materials, time or energy.” Whereas effectiveness is defined as being able to produce a result that

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<sup>286</sup>Barichievy, 2006: 31

is wanted.<sup>287</sup> From this we can, therefore, deduce that although these terms are often be employed interchangeably, they in fact mean different, albeit, related things. Efficiency is essentially about the mechanisms (time and resources) by which a result is arrived at. In other words, efficiency is mainly about how quickly and economically the result was produced.

Conversely, effectiveness is not so concerned about the time and resources, as it is about the impact of the result. For something to be effective, it must simply produce the desired goal. Such goals are measured in terms of quality as opposed to quantity that, to a large extent, would be a measure of efficiency. Consequently, as has been noted by Barichievy,<sup>288</sup> with regard to governance and service delivery, it is possible to be efficient without being effective; or be effective without being efficient. A programme could have the desired outcomes with a wasteful use of resources. Alternatively, it could be economical in the use of resources without sufficiently meeting the outcomes.

Given the scope of this thesis and context of South African local government, the dichotomy between efficiency and public participation is the focus here in relation to service delivery. More often than not, the concerns raised by the protesting communities and researchers are that there are clear problems of efficiency in the delivery of services.<sup>289</sup> Borge et al<sup>290</sup> claim that efficient provision of services is now a concern of many governments and that the functions of political systems are critical in considerations of efficiencies. And it is now generally agreed that public participation is essential for effective service delivery. The involvement of citizens legitimizes the service delivery and targets areas that members of the public have raised as priority areas. However, the question of efficiency remains unresolved.

Whilst a distinction between effectiveness and efficiency can fairly easily be made, it is very difficult to measure efficiency, particularly in the public sector. This is particularly challenging because of the differing preferences and priorities by the citizens and other stakeholders, such as business, trade unions and non-governmental organizations. Again Barichievy<sup>291</sup> elected to use

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<sup>287</sup> See Merriam-Webster Dictionary

<sup>288</sup>2006: 32

<sup>289</sup> It has to be noted that some of the problems identified with regard to inefficiency pertain to issues of corruption and lack of technical and managerial skills at local government.

<sup>290</sup>Borge, Lars-Erik et al. "Public Sector efficiency: the roles of political and budgetary institutions, fiscal capacity, and democratic participation." *Public Choice* (2008) 136: 475-495

<sup>291</sup>Barichievy 2006

time as a variable with which to measure efficiency. His premise is that the involvement of citizens in decision-making, invariably affects the amount of time it takes to arrive at a decision; which in turn affects efficiency. The structure of decision-making bodies, in as far as the involvement of citizens is concerned, in local government is what this research focuses on.

### Decentralisation

Against the Apartheid backdrop of a centralised government system in which local government had very little decision-making powers and resources, South Africa opted to decentralise local government powers to municipalities. The purpose of this was to improve efficiency and accountability through the involvement of the public in the provision of services. Such an involvement of citizens in public affairs is seen as an essential aspect of good governance. “The benefits of decentralization are considered to include improved efficiency in public service, provision, more appropriate services, better governance, and the empowerment of local citizens”.<sup>292</sup> With respect to efficiency and effectiveness, Stanton<sup>293</sup> states, “the argument was that decentralising the delivery of public services removed public service monopolies, introduced competition, as well as improved the allocation resources”. In fact the United Nations<sup>294</sup> defines decentralization as:

A process through which powers, functions, responsibilities and resources are transferred from central to local government and/or other decentralised entities. In practical terms, decentralization is a process of striking a balance between the claims of the periphery and the demands of the centre. Decentralisation, when appropriately structured, provides an arrangement through which the crucial issues (such as those of national unity and indivisibility, how to safeguard national interests and ensure coordinated and even development, equity in the distribution of resources and local autonomy) can be recognised.

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<sup>292</sup> Francis, P. and James, R. 2003. *World Development*. Volume 31, No. 2. Pp. 325-337.

<sup>293</sup> See Stanton, 2009.

<sup>294</sup> United Nations. 2009. <http://www.unpan.org:80/Directories/UNPublicAdministrationGlossary>

The premise of this principle is the notion that local governments are best positioned to understand the preferences of the people on the ground and can respond to those needs much more efficiently than national or provincial governments. The autonomy of local government enshrined in the Constitution allows for them to be in direct control of their budgets and revenue. This in turn increases a sense of responsibility in relation to service delivery expenditure. Thus promoting efficiency in service provision.<sup>295</sup>

One of the ways in which decentralisation is said to improve efficiency in service delivery is through competition between local governments. Azfar et al<sup>296</sup> postulate that competition between local governments to provide good quality services efficiently can also be driven by the phenomenon of people “voting with their feet”. This phenomenon describes a situation where voters show their preferences or level of dissatisfaction by moving to a municipal jurisdiction where services are perceived to be of better quality and where delivery is more efficient. The possible loss of citizens to other municipalities encourages competition for citizens and therefore revenue. As a result, efficiency and responsiveness improve. At least this is what the Public Choice Theory postulates.<sup>297</sup>

In addition Azfar et al identify what they refer to as three ways in which decentralisation improves service delivery: allocative efficiency of resources, the reduction of corruption and the promotion of public accountability. These are linked to various dimensions of decentralisation: political

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<sup>295</sup>Oates, W. 1999. “An Essay on Fiscal Federalism. *Journal of Economic Literature*. Volume 37, 3. PP. 1120 – 1149.

<sup>296</sup>Azfar, O. et al. 1999. *Decentralization, Governance and Public Services: The Impact of Institutional Arrangements, a review of the literature*. Iris Center, University of Maryland.

<sup>297</sup> Carefully considered, Public Choice Theory does not seem to take into account several factors that contribute to municipal efficiency in relation to participation through leaving. In order for “voting with feet” to be an effective tool of motivation towards improved efficiency, the socio-economic conditions of the competing municipalities must allow for some form of parity of economic resources between municipalities. If two municipalities are very different in terms of efficiency, largely as a result of unequal resources, the departure of citizens from the poorer municipality to the richer one would not help to improve efficiency in the former. Secondly, there is an assumption that municipalities pursue service delivery efficiency and compete with each in order to attract citizens. Whilst certainly municipalities can draw revenue from more citizens, its obligations and challenges with respect to efficient service delivery to all the citizens also increase. This burden can be observed in the rapid urbanisation, which puts pressure on certain municipalities, such as eThekweni, Msunduzi, Tshwane, Jo’burg, to provide more services such as housing, sanitation and electricity to increasing numbers of people—many of which are too poor to contribute meaningfully towards the municipality’s revenue. Lastly, the Public Choice Theory makes the assumption that citizens want to and can afford to change their municipal residencies based on service delivery concerns. This may be an elitist view that in fact defeats the purpose of advancing the agenda of effective public participation in local government in order to enhance the efficiency and effectiveness of service delivery.

decentralization, market decentralization, administrative decentralisation and fiscal decentralization.<sup>298</sup>

Allocative efficiency is closely related to fiscal decentralisation. The idea here is that providing local government with fiscal autonomy improves efficiency in service delivery as local government can allocate resources more quickly and more effectively. Priority areas can be more easily identified through engagement with communities by the authorities as part of the Integrated Development Plans of municipalities. This further creates a sense of ownership on the side of the community, which minimises opposition and protests against plans and use of resources, provided that the allocation is per the agreement and in line with the identified priority areas.

The local government structures are empowered by legislation to exercise substantial budgetary and fiscal responsibilities autonomously. Over and above the subsidies from the central grants, municipalities are also able to raise revenue through taxes, property rates user charges. In some instances, municipalities may even have the authority to borrow money from financial institutions in order to meet their service delivery needs. All of this is geared towards ensuring allocative efficiency through direct control of the municipal purse.

However, Sow and Razafimahefa warn that fiscal decentralization can result in inefficiency if economy of scale is important. “Devolution of public service delivery to a small-scale local government can decrease efficiency and increase costs if economies of scale are important in the process of production and provision of some specific public goods.<sup>299</sup> The size of the municipality and the population could affect efficiency. The smaller the municipality the less likely fiscal decentralization would lead to allocative efficiency because of the small revenue and skills availability to ensure the efficiency. It was perhaps this realisation that led to the adoption of the two tier system for category B and category C municipalities. Category C municipalities (district municipalities) have a responsibility of providing bulk services within the areas of their influence, thereby assisting the smaller local municipalities they coordinate.

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<sup>298</sup> Stanton, 2009;

See also Grindle, M. 2007. *Going Local*. Princeton: Princeton University Press.

<sup>299</sup> “Sow, Mousse and Ivohasina Razafimahefa. 2015. “Fiscal Decentralization and the Efficiency of Public Service Delivery. *IMF Working Paper*. WP/15/59

Siddle and Thomas propose the following as the definition of political decentralisation, having taken into account the various definitions posited by others:

Political decentralization is the process whereby the sub-national governments, elected by local participants, are established within the constitutional framework and granted political power and authority to govern over particular geographical areas. In short, it is the transfer (whether whole or partial) of the political power and authority from central to sub-national governments, and therefore involves balancing the exercise of power between various levels of government.<sup>300</sup>

Such a definition captures an aspect of what political decentralization is. Authority is conferred upon local government through legitimate elections by the local community and transference of powers and responsibility from the central government. The local governments have authority to legislate in the form of by-laws; to make policy decisions in relation to their jurisdiction in line with the constitutional framework; to deliver services in accordance with the municipal plans; and to foster effective public participation. Fostering effective participation is a crucial pillar of political decentralization as it encourages accountability and responsiveness from the elected officials.<sup>301</sup> The knowledge that citizens themselves elect officials encourages efficiency and responsiveness, for fear of losing votes during elections.

However, Kauzya<sup>302</sup> contends that such an understanding of political decentralization is limited in that it places emphasis on the vote. A more comprehensive and effective understanding of political decentralization also focuses on the “voice” of the people. That is to say, over and above the mechanism put in place for electing representatives, there should be structural arrangements geared towards empowering people with respect to decision-making. The people must be able to influence “implementation, monitoring, and evaluation of decisions that concern their socio-political, economic wellbeing and to constantly demand accountability from their local leaders.”<sup>303</sup>

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<sup>300</sup> Andrew Siddle and Thomas Koelble. *The Failure of Decentralization in South African Local Government: Complexity and Unanticipated consequences*. 2012. UCT Press. Pg. 22

<sup>301</sup> See Heller, P. 2001. “Moving the State: The Politics of Democratic Decentralization in Kerala, South Africa and Porto Alegre”. In *Politics & Society*. Vol. 23. Pp. 131 – 163.

<sup>302</sup>Kauzya, John-Mary. 2007. *Political Decentralization in Africa: Experiences of Uganda, Rwanda and South Africa*. Unpublished.

<sup>303</sup>ibid: Pg. 4

Political decentralization is also meant to create an environment of transparency and openness in governance. This in turn would minimize corruption and fraud. To this extent, the legislative framework provides for the establishment of a number of structures with various responsibilities and terms of reference in order to facilitate political decentralization.

### **5.3 Public Participation Structures and Decision-making**

#### Integrated Development Plan

As noted previously there are a number of public participation structures and mechanisms established by way of legislation and policies. Chief amongst these is the IDP process, which is designed to promote participatory development through the creation of spaces and platforms where ordinary citizens could meaningfully participate in the planning of municipal programs and projects. The IDP is the primary tool through which the needs and concerns of the citizens can be taken into account during decision-making. As such, there is a requirement for the IDP to enhance public participation and improve the efficiency of service delivery in local government.

Binns and Nel<sup>304</sup> posit that there two central pillars of the IDP are the centrality of citizen participation - at grassroots level - in democratic planning; and the move towards refocusing the mandate of local authorities towards development over and above service delivery: hence the legislative requirement to link the municipal budget with the IDP.<sup>305</sup>

The IDP is an all-encompassing process in which all aspects of local government issues are considered in relation to each other and in relation to the needs of the people they affect, with the involvement of the said people in identifying and addressing them. It is for this reason that the IDP is a compulsory tool, as prescribed by the Municipal Systems Act of 2000. Van Rooyen states,

The planning process, which results in structured integrated development plan, indicates a local council's medium and long-term development strategy. The plan

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<sup>304</sup>Binns, Tony and Eteinne Nel. 2002. "Devolving Development: Integrated Development Planning and Developmental Local Government in Post-Apartheid South Africa". In J. Mawson (ed.) *Regional Studies*, Vol. 36 (8). Pp. 921-945.

<sup>305</sup>Pycroft, Christopher. 2000. Democracy and delivery: the rationalization of local government in South Africa". *International Review of Administrative Sciences*, Vol. 66. Pp.143–159.

is a collective vision of the development that is envisaged for the municipality. It provides guidelines for resource utilization to ensure sustainability.<sup>306</sup>

The IDP is developed to coincide with a term of office of the municipal council, which is five years. By the same token, “a municipality is required to review its IDP annually. Reviews allow the municipality to expand up or refine plans and strategies, to include additional issues and to ensure that these plans and strategies inform institutional and financial planning.”<sup>307</sup>

However, there are several scholars who have raised concerns about the extent to which, through the IDP, public participation has been enhanced and the efficiency of service delivery improved. Mohamed states that “the IDP processes are still far from achieving full community involvement in policy-making as stipulated in the legislation - they remain very much top-down and the communities are merely allowed to comment on proposals developed by city officials rather than being invited to contribute to the content before its drafting.”<sup>308</sup> Naidu<sup>309</sup> concurs by stating that the reading of the IDP documents demonstrates a disjuncture between contextual realities and the plans as drawn up by the elites and bureaucrats. The powers of the citizens, in so far as decision-making is concerned, is limited to consultation. Mohamed<sup>310</sup> further holds that even during such ‘public participation platforms’, there are large sections of the population that remain excluded from the purposes.

Furthermore, giving impetus to the aforementioned argument, a number of municipal IDP’s are drafted by professional consultants<sup>311</sup>, whose approach to service delivery and public budgeting is not adequately informed by the history and socio-political context of the municipalities. The outsourcing of the IDP drafting process results in the perpetuation of the disconnect between the

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<sup>306</sup>van Rooyen, Enslin. 2001. “Integrated Development and the Brownfields Phenomena”. *Journal of Public Administration*. Vol. 36 (1) Pg. 71.

<sup>307</sup>Valeta, L and G.K Walton. “Integrated Development Planning and Budgeting at Local Government.” *Journal of Public Administration*. Vol. 36 (1) Pg.381

<sup>308</sup>Mohamed, Salah E. 2006. “From ideas to practice: The involvement of informal settlement communities in the policy-making at city level in South Africa.” *South African Review of Sociology*, 37(1).Pg. 41.

<sup>309</sup>Naidu, Rama. 2008. “Deepening local democracy and participation: Experience from practice.” In Bertus de Villiers (ed.) *Review of Provinces and local governments in South Africa: Constitutional Foundations and Practice*. Konrad-Adenauer-Stiftung, Johannesburg. Pp. 83-92.

<sup>310</sup> See Mohamed, 2006.

<sup>311</sup> It is worth mentioning that outsourcing of the drafting of the IDP and other municipal services is largely a result of the shortage technical skills, particularly financial and engineering, at local government in general. The situation is especially acute in smaller and rural municipalities that find it hard to attract and retain people with the requisite skills.



municipal officials and the communities: between the intended beneficiaries of the IDP and those who are tasked with the responsibility to implement it. Outsourcing dilutes the very purpose of participatory democracy in that it removes the sense of ownership of the construction of the IDP by the citizens and their elected officials. This further results in the production of IDPs that do not reflect the aspirations and priorities of the communities for which they are intended. It is, in certain instances, a technocratic de-contextualized exercise.

However, the outsourcing of the IDP and the relative exclusion of the community in the conception and implementation of the process means that the IDP can be drafted rather quickly by the consultants, with the technical knowhow. In such instances, the public consultation forums are merely to rubberstamp the process and the plan.

### Ward Committees

As noted in Chapter 4, the Municipal Structures Act provides for the establishment of Ward Committees in all municipal wards to serve as platforms to assist the ward councilors in service delivery. These are critical as platforms for citizen participation, as their constituted by residents of the wards. Naidu<sup>312</sup> makes the following point that:

A ward committee is meant to be: an advisory body; a representative structure; an independent structure; and an impartial structure that must perform its duties without fear, favour or prejudice. The ward committee system is an attempt to ensure that democracy not only is the preserve of a central parliament but that citizens have a stake in governance at the local scale. Ward committees are instruments through which the Freedom Charter clause ‘the people shall govern’ may be realized.

The notion of ward committees was established to respond to the constitutional principle of local government driving the broader participation of the citizens over and above electoral processes. In other words, they were established to ensure that local government becomes the sphere of government in which vibrant citizen participation takes place, closest to the needs and contexts of the people. Key to this vibrancy and effectiveness, ward committees are meant to be representative

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<sup>312</sup> Naidu, Rama. *Public Participation and Ward Committees*. Unpublished

of the community in which they operate. They also have a duty to promote wide participation of citizens in their wards and liaise between the municipality and the ward community.

The broader powers and duties of ward committees are defined through the Municipal Systems Act, read together with the Municipal Structures Act. Nominated by the community members, ward committees are meant to function in a non-party political manner. That is to say, their primary interest must be to the citizen and therefore not be aligned to political parties. Instead they should act as an advisory body to the ward councilor, who also chairs the ward committee, driven by the views and needs of the ward citizens.

Beyond advising, the ward committees have very limited decision-making powers and duties, except those specifically delegated by municipal councils.<sup>313</sup> Section 74(b) of the Municipal Structures Act states that ward committees have “such duties and powers as the metro or local council may delegate to it in terms of section 32.”<sup>314</sup> This makes it possible for municipalities to empower ward committees in terms of decision-making, enhance their efficiency and effectiveness, provided that such delegated powers do not include executive powers. Through this legislative provision, it becomes clearer to see the centrality of ward committees—at least intentionally—in deepening democracy at local government level through enhancing participation by citizens. Although limited by the legislation, progressive municipalities could empower the ward committees with the necessary powers to assist the ward councilor in the delivery of services, beyond just mere advising. This would be possible as ward committees represent the diversity of views and interests within a ward and are informed, through deliberative engagement, with the citizens of the ward.

The importance of ward committees as instruments of public participation at local government is based on the transformation of local government as envisioned by the Freedom Charter. In 1955 the Congress of the People, as organized and convened by the Congress Alliance, adopted the Freedom Charter, which was a vision of South Africa, informed by the wishes of the people to reverse the legacy of Apartheid and colonialism. One of these legacies, amongst many, was the

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<sup>313</sup> Ibid. 2

<sup>314</sup> See Municipal Structures Act

disempowerment of the black majority in terms of participation in the overall governance of the country. In response to this reality, the Freedom Charter<sup>315</sup> stated:

The People Shall Govern!

Every man and woman shall have the right to vote for and to stand as a candidate for all bodies which make laws;

All people shall be entitled to take part in the administration of the country;

The rights of the people shall be the same, regardless of race, colour or sex;

All bodies of minority rule, advisory boards, councils and authorities shall be replaced by democratic organs of self-government

It was therefore imperative that during the overall post-Apartheid transformation, democratic principles of public participation and representation are infused in all spheres of government. Consequently, in line with the principle of a wall-to-wall municipal system, the view was that municipalities must be organized according to wards, to which each citizen would belong. Each ward would have a councilor to represent its interest at a municipal level. And to assist the councilor and also provide an additional mechanism for public participation, ward committees, consisting of 10 people elected by the community elected by citizens, were established. As of 2015, 4277 ward committees had been established across the country.<sup>316</sup> Msunduzi Local Municipality has 37 “functional ward committees”<sup>317</sup> whilst eThekweni Metropolitan Municipality has 102 functional ward committees.<sup>318</sup>

### *Effectiveness of Ward Committees*

In terms of the effectiveness of ward committees in fostering meaningful public participation as intended by legislation, substantial research by several scholars has, over the years, unfortunately concluded that there are significant challenges. A few issues appear as common across the country, although to varying degrees depending on the context of the municipality. Naidu<sup>319</sup> argues, using the work of Smith and De Visser,<sup>320</sup> that the issues can be broadly grouped to the following themes:

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<sup>315</sup> See The Freedom Charter. 1955

<sup>316</sup> Cooperative Governance and Traditional Affairs. 2015. *Annual Report for the Financial Year 2014/15*.

<sup>317</sup> Msunduzi Local Municipality. 2016. *Draft IDP for 2016/17-2020/21*

<sup>318</sup> eThekweni Municipality. 2015. *2015/2016 IDP*

<sup>319</sup> See Rama Naidu (unpublished)

<sup>320</sup> Smith, T and De Visser, J. 2009. *The Role of Ward Committees in South Africa*. Community Law Centre.

representivity; powers and functionality (including levels of skills); access to information and influence on decision making; and relationship to other structures. Given that these are broad themes, it is only logical to align the argument along them, in no particular order.

#### a) Representivity

The first major issue is that of representivity. The legislative framework provides that ward representation is the responsibility of the ward councilor. By the same token, ward committees are there to provide assistance and advice to the councilor, who also chairs and convenes the ward committees. Having being elected by the community, ward committees are meant to deepen democracy through deliberation and representation of the diversity and the different sectors within the ward. Piper and Deacon<sup>321</sup> make an astute observation around the inherent flaw in the design of the system. Quoting Yunus Carrim, they state: “essentially, the system overall seeks to provide a balance between giving residents the fullest space to participate in municipal affairs and ensuring the right of councilors to ultimately govern.” The flaw is illustrated by Steyn<sup>322</sup> who argues, using research conducted by Friedman,<sup>323</sup> that often ward committees are undermined or sidelined in the processes. In some instances they are simply used for compliance purposes, with decisions having already been taken at a municipal government level. In this regard, only the voice of the councilor is given credibility in terms of the representation of the ward.

Part of the problem regarding representivity is the issue of the way in which the ward committees are constituted in some places. Whilst committee members are supposed to be elected by the community during a community meeting to represent the different interests within the ward, there is evidence of ward committees being deeply politicized along party lines. Evidence suggests that ward committees are hotly contested party political spaces. More often than not, most, if not all,

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Cape Town

<sup>321</sup>Piper, L. and Deacon, R. (2009). “Too dependent to participate: ward committees and local democratisation in South Africa”. *Local Government Studies*, 35(4): 415-433

<sup>322</sup> Steyn, Ibrahim. “Towards Transformative Local Participatory Governance”. *Democracy Development Programme*

<sup>323</sup>Friedman, S. 2005. *On whose terms? Participatory Governance and Citizen Action in Post-Apartheid South Africa*: Paper for International Institute of Labour Studies Workshop, 9 – 10 December 2005

of the ward committee members will be aligned to the same political party as the ward councilor. Ward issues are often conflated with party issues. And given that the councilor chairs the ward committee meetings, and often councilors also chair the political party branch in that ward, the meetings of the ward committee can be confused with the branch meetings of the political party.<sup>324</sup> In such instances, often it is the views of the dominant party members or supporters that are often prioritized. Consequently, the diversity that exists within wards is at times not comprehensively represented in the ward committees, making them less democratic than intended in the legislation.

Despite the local government electoral system that allows citizens to vote directly for their ward councilor, the party political system of the country heavily influences the nature and scope of participation. Ward councilors are the only government representatives that are elected directly by citizens. The other municipal councilors are elected through the Proportional Party Representation System. Section 46 of the Constitution of South Africa provides for an electoral that: (a) is prescribed by national legislation; (b) is based on the national common voters roll; (c) provides for a minimum voting age of 18 years; and (d) results, in general, in proportional representation. This means political parties compile internal lists of candidates, in order of priority, for the various legislatures. Voters vote for the party (not the individuals nominated by the party) and the number of seats allocated each political party in the legislatures is in proportion to the number of votes that party receives during the elections. The Electoral [Act 73 of 1998] as amended, regulates the general electoral process in the country.

In line with the Constitution of South Africa and the Electoral Act, municipal elections are regulated by the Local Government: Municipal Electoral [Act 27 of 2000]. This Act provides for the election of ward councillors as well as councillors to serve as proportional representative councillors. Organisations are permitted to submit a list of candidates nominated for municipal council and or names of nominated individuals to contest as ward councillors. Moreover, individuals can also contest ward councillor elections through either being nominated by an organisation or by a citizen in good standing in the specific ward. The seats in municipal councils

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<sup>324</sup> See Piper, L. and Bettina von Lieres. 2008. "Inviting Failure: Citizen Participation and Local Governance in South Africa. *Citizen DRC Special Issue. Vol. 1 No. 1*

are allocated in proportion to the number of votes each contesting organisation received during the elections.

In many cases, candidates contesting for ward councilor, often align themselves with certain political parties and campaign, as individuals, under the banner of those parties. This results in the dominance of party political interests in terms of how municipal councils engage with citizens. The party lines, depending on how debates are structured in the dominant party within that municipality, binds the ward councilors, who in turn have to do their best to ensure that their ward committees follow suit. In other words, the quality of the work of ward committees is dependent on the decisions taken at a party level, which councilors, as members of those parties, are expected to implement. In such instances, ward committees are not sufficiently representative of the communities in which they are located. The different sectors in communities may find it difficult to have a voice in community affairs because of the often competing party-political agendas.

#### b) Powers of Ward Committees

One of the more serious challenges of ward committees is the notion that, although municipal councils could delegate certain powers to ward committees, they rarely ever do so, which leaves ward committees with no powers to effectively conduct their business of representing the various views and interests of ward citizens. Of this Naidu states, “Hamlin’s (2005) study of ward committees in the city of Johannesburg noted a high level of frustration among ward committees. They indicated that many of their ideas and proposals were not taken seriously.”<sup>325</sup> Steyn<sup>326</sup> concurs, referring to Msunduzi municipality, that:

The evidence shows that where ward committees are functional they remain under the influence of the local party branch –the party remains the dominant player. In this way, party political influence not only impinges on the autonomy of ward committees, but also serves to ostracize a broader repertoire of different voices.

Even when there are vibrant and more inclusive discussions at a ward committee level, ward committees have no powers in relation to their municipal councils. Because the ward councilors

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<sup>325</sup> Naidu, Pg. 4

<sup>326</sup> Steyn, Pg. 9

chair the ward committees, they are expected to represent the interest of their wards in the municipal councils. The extent to which they are able to do this effectively depends, in many cases, on their rank in the party political structures. “One of the key impediments to ward committees appears to be the limited power most ordinary ward councilors have within the deliberation processes of municipal councils. This becomes especially evident when a ward councilor is not a member of the majority party.”<sup>327</sup> This therefore means that not only do ward committees have no power to take binding decisions in relation to their communities; they also have no power to hold the elected municipal officials accountable. They are simply advisory bodies that serve at the behest of the ward councilor and are constituted for municipal compliance or party political agenda.

... a ward committee is not a structure with a mandate to govern in the ward. This duty rests solely with the ward councilor. Members of the ward committee do not carry any mandate from constituency...Ward committee members are merely people within a community, that know sectors of the community well, and are thus able to assist the ward councilor around certain issues of governance.<sup>328</sup>

c) Access to information and influence on decision making

In addition to the absence of power, some ward committees, depending on the socioeconomic profile of the ward itself, have very little skills to engage effectively with the information related to municipal functions, particularly service delivery. Masotho<sup>329</sup> and Madumo<sup>330</sup> opine that such lack of skills is often due to the absence of effective training, financial and political support for ward committees by either the municipalities or the provincial government. In some instances a lack of higher education leaves some space open for deliberate exclusion of ward committee members through the use of sophisticated and technical language by municipal officials. This

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<sup>327</sup> Naidu, Pg. 4

<sup>328</sup> Anon. 2006. *Policy on public participation in the city of Johannesburg* (Johannesburg Metro: Johannesburg) in Everatt, David. 2010. Participation...for what Purpose? Analysing the Depth and Quality of Public Participation in the Integrated Development Planning Process in Gauteng. *Politikon*, 37 (2-3), 223-249

<sup>329</sup> Masotho, Malebese A. 2013. *An assessment of the Effectiveness of Public Participation Programmes on Service Delivery in the Capricon District Municipality, Limpopo Province*. Unpublished. Online: [http://ul.netd.ac.za/bitstream/handle/10386/1100/mosotho\\_ma\\_2013.pdf?sequence=1](http://ul.netd.ac.za/bitstream/handle/10386/1100/mosotho_ma_2013.pdf?sequence=1)

<sup>330</sup> Madumo, Ongkopotse S. 2011. *The Role of Ward Committees in Facilitating Public Participation with Particular Reference to Mamelodi, South Africa*. Unpublished. Online: <http://www.repository.up.ac.za/bitstream/handle/2263/28524/dissertation.pdf?sequence=1>

results in a lack of proper understanding of the roles and responsibilities of ward committees, as well as the understanding the complexities of municipal processes and functions. For instance, Everatt et al<sup>331</sup> argue that the quality of public participation in IDP forums is severely hampered by the technical and sophisticated language used in the process. Even ward committee members, especially in poor wards, often find it difficult to engage effectively with draft IDP documents; often choosing to simply adopt the draft without serious scrutiny. This in turn could mean that the views of the community (which may even be contrary to what is proposed) are not taken into account in the final IDP, which affects service delivery in such wards.

This is perhaps a consequence of flawed process design, which ensures that public participation, through ward committees, remains ineffective, even though the impression of public participation has been created. In some instances, even municipal officials also lack the necessary technical skills to engage with and interpret the IDP document, and other municipal documents, for the general public. This is so as consultants are often employed to draft the IDP documents, without sufficient consultation with citizens, through structures such as ward committees. Ndletyana and Muzondidya<sup>332</sup> argue that the shortage of skills within municipalities affects their ability to deliver service including promoting public participation and strengthening ward committees. For participation to be effective, communities must understand and shape municipal policies and decisions. This requires information to be accessible to them and to have informed forums that could provide them with more information where necessary. An interview respondent of this study<sup>333</sup> in Msunduzi Municipality stated:

In my ward, a lot of people do not attend meetings. I don't even know who the ward committee members are and what they do. Every time when you attend a meeting nobody actually knows anything.

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<sup>331</sup>Ibid

<sup>332</sup>Ndletyana, Mcebisi and James Muzondidya. 2009. "Reviving Municipal Capacity in the Context of Local Government Reform: 1994-2009." In Jackson, Paula et al. (eds.) *South African Governance in Review: Anti-corruption, local government, traditional leadership*. HSRC Press, Cape Town.

<sup>333</sup>Interview with civil society (MCS41)



#### d) Relationship to other structures

The legislative framework of local government places the ward committee system at the centre of public participation.<sup>334</sup> However, there are often other participation mechanisms that are effective in certain contexts, which the introduction of ward committees undermines. For instance, in rural areas there are Community Forums where broad community issues are discussed, with the guidance of the traditional leader. Ward committees in these areas become a parallel and sometimes adversarial structure.

Furthermore, ward committees can be seen to undermine the community-based organizations that have long track records in working with communities and providing certain services, such as public education and providing lines of communication with the municipality. Their voices as organizations are suppressed through the much politicized ward committee structures.

#### Community Development Workers

In addition to the ward committees and the complexities thereof, there are also Community Development Workers (CDW). This initiative was intended to augment the identified gaps and challenges of the ward committees and the ward councilors by serving as information bridges between municipal officials and community members. They are meant to provide information on the various government programmes and resources; also provide municipal officials with information on the various concerns of the communities. This would be possible because, unlike ward committees, CDWs are selected and formally trained on how local government works. They are selected (not elected) from amongst the communities<sup>335</sup>. Ndletyana and Muzondidya state that the programme for CDWs was based on the following principles:

- Popular participation and self-initiative to tackling community concerns.
- Collective action and joint decision-making.
- Initiatives based on the actual needs of the community.
- Community awareness of their own problems and what government does.

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<sup>334</sup>Naidu, Pg. 5

<sup>335</sup> DPLG, 2007: 10

- Promoting community leadership, and not expecting government to do everything.<sup>336</sup>

Despite the many successes the CDWs have achieved in bridging the gap between community members and municipal officials, their existence creates a number of related challenges in terms of both efficiency and enhancing democracy. Firstly, CDWs occupy a peculiar space in local government. Whilst they are meant to improve the quality of service delivery and communication between communities and the municipality, in so doing their direct communication with government departments can be perceived as undermining the ward councilors and the ward committees. Their functions overlap significantly with the functions of the ward councilors and ward committees. By engaging directly with various government departments, the CDWs are perceived by some councilors and ward committee members as undermining the relevance and ‘authority’ of the elected structures. Consequently, this creates a feeling of resentment and rivalry. The result is political interference in their work within communities. In some instances, this takes the form of party ‘deployment’ to CDWs in order to ensure that party line is toed. In other instances, the very existence of the CDWs is questioned through the budgeting purpose.

Secondly, CDWs add another layer in an already cluttered and highly complex service delivery web in local government. They are based in communities, as are ward committees and ward councilors. As such, it is often confusing for ordinary citizens to understand the need to have CDWs, ward committees and a ward councilor operating in the same space, purportedly towards the same purpose of improving the efficiency of service delivery. Given that the CDWs are often more accessible and more effective than ward committees, the need to participate in ward meetings is negated, especially where party politics merge with ward committee functions. In places where there is effective coordination and cooperation between the different structures in a ward, questions can be raised about the relevance of having all structures. What is the point in having ward committees, which have no real powers and largely communicate with the municipality through the ward councilor, when the CDWs can bypass even the ward councilor and liaise directly with the relevant department?

Furthermore, CDWs require significant amount of resources in order to discharge their duties effectively. One of the most important resources is transport in order to engage with the community

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<sup>336</sup> See Ndletyana and Muzondidya, 2009: 32

within their own context. The scarcity of resources affects the nature and availability of transport for CDWs that would enable them to initiate and sustain community programmes. This is especially the case in large rural wards where physical access to infrastructure is very limited. In addition to transport, there is also serious limitations in certain instances with regard to communication resources, such as mobile devices and internet access. By the same token, ward committees face the same challenges in engaging with community members in similar contexts. They too require resources, from the same source, dedicated to support their work. The duplication of resources creates competition between different ‘service delivery’ vehicles and strains the public purse.

### Operation Sukuma Sakhe (War Rooms)

The provincial government of KwaZulu-Natal as led by the Premier, adopted Operation Sukuma Sakhe in 2009 as a mechanism for coordination of all government departments and municipalities to address concerns and needs more efficiently and effectively. The principle is to bring government as close as possible to the people on the ground in a single forum involving all stakeholders. The main goal of Operation Sukuma Sakhe is to rebuild the fabric of society through fighting poverty, crime and other social ills and promote human values through community partnerships involving civil society, government departments and citizens. These partnerships seek to integrate services and improve efficiency by promoting and widening public participation.<sup>337</sup>

In terms of how the initiative is structured, the office of the Premier is generally responsible for the coordinating of the project. There are several hierarchal structures that are then meant to spearhead the operations at various levels. There is a Provincial Task Team (PTT) that is meant to coordinate the operation at a provincial level. That is complemented by the District Task Teams, for district coordination, Municipal Task Teams, which coordinate activities at municipal level and the Ward Task teams, otherwise known as the War Rooms.<sup>338</sup> Government departments, community-based organizations, youth ambassadors, ward task teams, ward committees and

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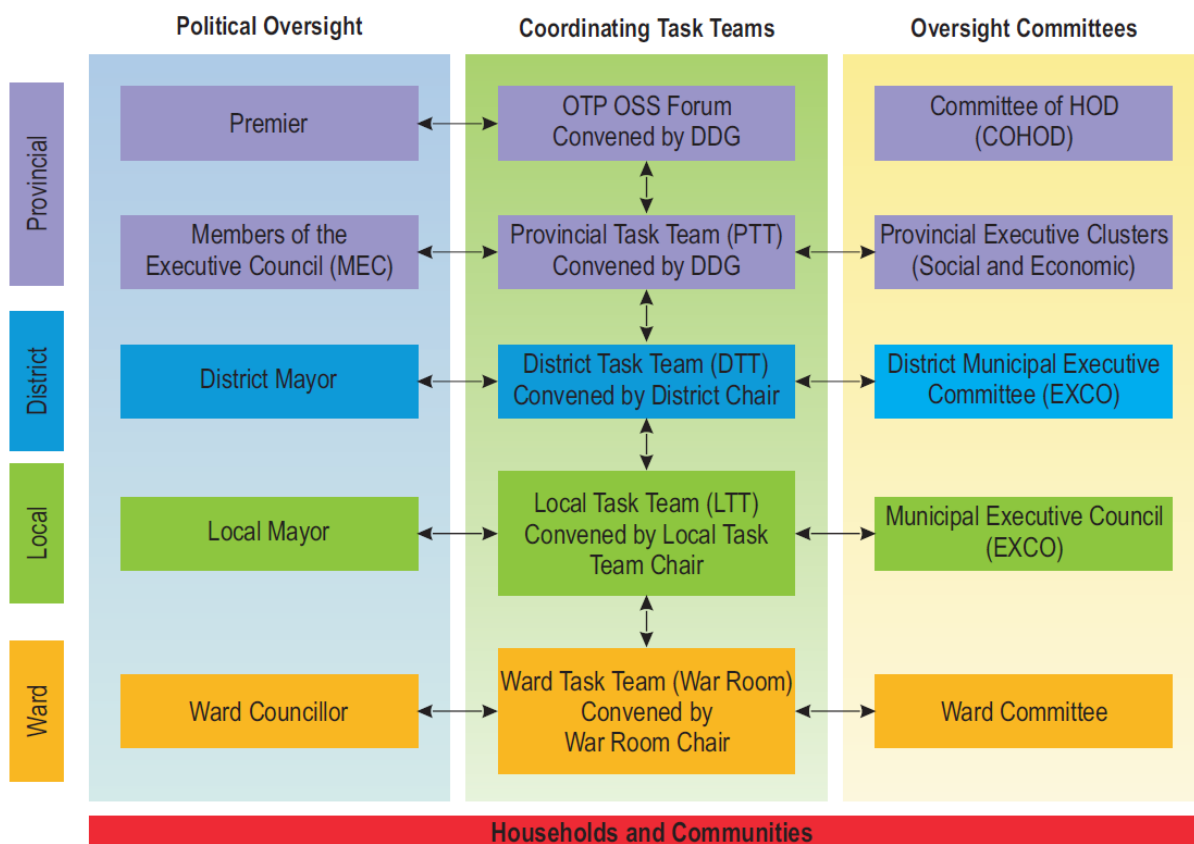
<sup>337</sup> Province of KwaZulu-Natal. Operation Sukuma Sakhe: KZN Service Delivery Model.

<sup>338</sup> See Macwele, Benedict. 2014. *Assessing the Impact of Integrated Service Delivery on Poverty and Employment Creation: a case study of Operation Sukuma Sakhe in the eThekweni Metropolitan Municipality*. Unpublished

community development workers are supposed to be represented in all of these various task teams throughout the province to ensure proper integration. Deliberations and issues emerging out of War Rooms are then cascaded to Municipal Task Teams, followed by the Provincial Task team.

Figure 1. Illustrates the complexity of the organizational structure on which the OSS is based. One of the key elements of OSS is the oversight setup between the different structures at the multiple levels. At ward level, the ward committees, which are chaired by the ward councillor, exercise oversight responsibilities over the Ward Task Teams (War Rooms)

Figure 1. Operation Sukuma Sakhe Structure<sup>339</sup>



In addition to the task teams, there are Community Care Givers and Youth Ambassadors. The Community Care Givers (CCG) are selected from amongst community members and trained to

<sup>339</sup> Source: Province of KwaZulu-Natal. Operation Sukuma Sakhe: KZN Service Delivery Model.

fulfill various functions. They are regarded as fieldworkers who are primarily responsible for profiling households for the provincial government. They also serve as advocates for different programmes and campaigns of government. In other words, they are instrumental in relaying information about government programmes to communities, whilst at the same time assisting government in understanding the needs of each community through understanding the profile of the households in any given area. The Youth Ambassadors also perform similar functions with the CCGs. However, their focus is mainly on effecting positive behavioral changes amongst the youth in wards. This is in line with the goal of OSS to rebuild the fabric of society. Both these structures are designed to report to the War Rooms.

### *War Rooms*

Operation Sukuma Sakhe envisages War Rooms as fundamental to the process in that they are the OSS structure closest to communities. Based in wards, the War Rooms are composed of officials from all government departments, community-based organizations, business, non-governmental organizations, traditional leaders, ward councilors, municipal officials and representatives from the Local Task Team. To structure their work, they have leadership in the form of a chairperson, deputy chairperson and a secretariat.<sup>340</sup> And the Local Task Teams, together with the CDWs for the ward must mobilize resources for the War Rooms with respect to their functions. This includes providing training to the members.<sup>341</sup>

It is in the War Rooms that the reports are received from the CCGs and Youth Ambassadors in terms of the profile of the needs of the households and the community in the ward. Through the involvement of several stakeholders, the War Rooms are designed to improve service delivery efficiency through integration and coordination. They serve not just as platforms for engagement, but also spaces of referral.

However, there are a few challenges pertaining to the War Rooms and efficiency in service delivery. The first stems from the establishment and functionality of these structures. In a report

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<sup>340</sup>Province of KwaZulu-Natal. 2012. *Operation Sukuma Sakhe: Implementation Model, Guidelines for Coordination*.

<sup>341</sup> Given the plethora of different interests represented through many structures, it is immediately evident to this researcher that the political and personal dynamics pose, perhaps, the biggest challenge these War Rooms face—making their name apt.

by the Maurice Webb Race Relations Unit, only 11% of the 785 War Rooms in KwaZulu-Natal were fully functional.<sup>342</sup> Amongst the reasons for this is the lack of sufficient resources support for the War Rooms. This includes lack of an appropriate venue, shortage or absence of office equipment to enable effective functioning of these structures, lack of real commitment from the various abovementioned War Room participants.

The second challenge is one that pertains to the politicization of the War Rooms. Data collected on the OSS, particularly the War Rooms, by Macwele suggests that there is confusion regarding the role of the War Rooms with respect to service delivery.<sup>343</sup> Given the interference by some politicians in the operations of the War Rooms, community members get confused about the role of these structures. Instead of discussing community-related issues, the agenda would shift towards focusing on party politics, particularly electioneering. This may be particularly acute in contexts where various political views are inserted into the deliberations.

Moreover, the distinction and relationship between War Rooms and Ward Committees is not always clear. Both structures are aimed at improving service delivery efficiency through the active participation of community members. Each structure is meant to represent, albeit in varying degrees and focus, the different sectors or interests within the communities. For Ward Committees, such representation is through the elections of individuals within the communities for all community members. The engagement with the communities is mainly in the form of ward meetings where issues are supposedly discussed freely and openly for the ward councilor to take up. On the other hand, War Rooms structure representation in the form of groups. The involvement of community members is through engagement with Youth Ambassadors and CCGs, who largely collect information from individual households for the purposes of profiling. Such information is then transferred to Community Development Workers, who are also embedded in Ward Committees, and then transferred to the other structures of OSS until it reaches the premier's office and the relevant government departments.

In addition, there is the question of oversight. Figure 1 above suggests that Ward Committees have oversight responsibility over War Rooms. However, as stated earlier, Ward Committees have no significant powers. They are regarded as important, but 'advisory' bodies. Their agendas are set

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<sup>342</sup> Maurice Webb Race Relation Unit. 2012. *Report on the Functionality of OSS in KZN* for the Office of the Premier

<sup>343</sup> See Macwele, 2014: 93.

by the ward councilor, whom they are meant to assist in terms of addressing the service delivery issues of the ward. As such, the extent to which they are able to exercise oversight over the War Rooms, if at all, is limited by the political dynamics between the ward councilor and the leadership of the War Room. The efficiency of delivery of service may be limited by lack of real accountability and limited meaningful public participation.

## 5.4 Conclusion

In looking at the nexus between public participation and developmental planning in local government, Olivier<sup>344</sup> makes a number of important observations regarding problems associated with structures or forums of public participation in local government. He postulates that structures create, amongst others, the following risks: the dominance of elites and special interest groups; undermining the political process by by-passing the elected officials; serve as platforms for opposition political mobilization; can be energy, resource and time demanding; and deepen social exclusion. More crucially for purposes of this chapter, he states:

...The risk is that participatory structures demand and receive so many resources that development becomes impeded. There is a widely held view that at government level that too much participation may be considered to undermine the capacity for development by putting too much strain on resources and institutions, particularly where mechanisms and structures are not sufficiently institutionalized. This perspective then argues that there might be too much participation i.e. a point beyond which community participation becomes self-defeating and fails to meet broad objectives. A call has been made that this has indeed been the case in the most recent round of IDPs.

Given the number of public participation structures at local government and the need to ensure their functionality, this argument about resource scarcity in relation service delivery has merit. In fact, Irvin and Stansbury<sup>345</sup> argue that one of the disadvantages of public participation is in relation to costs.

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<sup>344</sup> Olivier, André. *A Critical Review of Public Participation in Development Planning within South African Local Governments*. ODA Occasional Paper. Pp. 17 – 18

<sup>345</sup> Irvin, Renee A. and John Stansbury. 2004. "Citizen Participation in Decision-making: Is it Worth the Effort?" *Public Administration Review*, Vol 64 (1). Pp. 55-65

Although comparative costs have not been subject to close scrutiny, the low end of a ‘per-decision’ cost of a citizen participation group is arguably more expensive than the decision-making by a single agency administrator, even if the citizen participants’ time costs are ignored.<sup>346</sup>

The argument is that it can be cheaper and more efficient for a well-trained and politically astute official to arrive at the same decision that the community might also arrive at. The resources spent on the very process of public participation - which include organizing logistics for meetings and equipment for community forums - could in fact be spent on the implementation of service projects. Mayoral Imbizos are often very financially costly as they often also include entertainment to try and maximize attendance and possibly participation by community members. In some instances, such as in very large or rural wards, where transport is a problem, there are costs in terms of facilitating transport arrangements for community members to get to the meetings.

However, despite the costs and inefficiencies with respect to public participation and service delivery, this chapter takes the position that the costs and inefficiencies can be also be attributed to the way in which participation is structured. There are various structures and processes ideally aimed at improving service delivery through enhanced coordinated service delivery. However, as the chapter has indicated, these processes place very heavy demands on very limited resources; they may cause confusion amongst citizens in terms of their individual roles and responsibilities; they provide multiple platforms for party political competition. With the multiple structures of public participation and service delivery at local government, there is increased redundancy, which creates bottlenecks in terms decision-making and service delivery efficiency.

Flowing from the discussions in this chapter, the next chapter discusses the question of public participation and service delivery efficiency in the context of Msunduzi Local Municipality.

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<sup>346</sup> Ibid: Pg. 7



## **Chapter 6: The Case of Msunduzi Local Municipality**

### **6.1 Introduction**

The purpose of the chapter is to examine the central question of this dissertation and the discussions of the previous chapters within the context of Msunduzi Local Municipality. The chapter begins by providing a brief profile of the Municipality, which includes the history of political violence and the intraparty political squabbles that have at some point affected the Municipality's ability to deliver services. The Municipality's organizational structure, its ambitions to be declared a metropolitan municipality (Category A) are discussed specifically in relation to an underlying tension embedded in a multitier local government system and its impact on both service delivery and public participation. Having discussed the municipal mechanisms in relation to service delivery and public participation and its over real or perceived performance based on official reports and opinions from interviews, the chapter concludes that there seems to be a positive relationship between effective public participation and improved efficiency in service delivery.

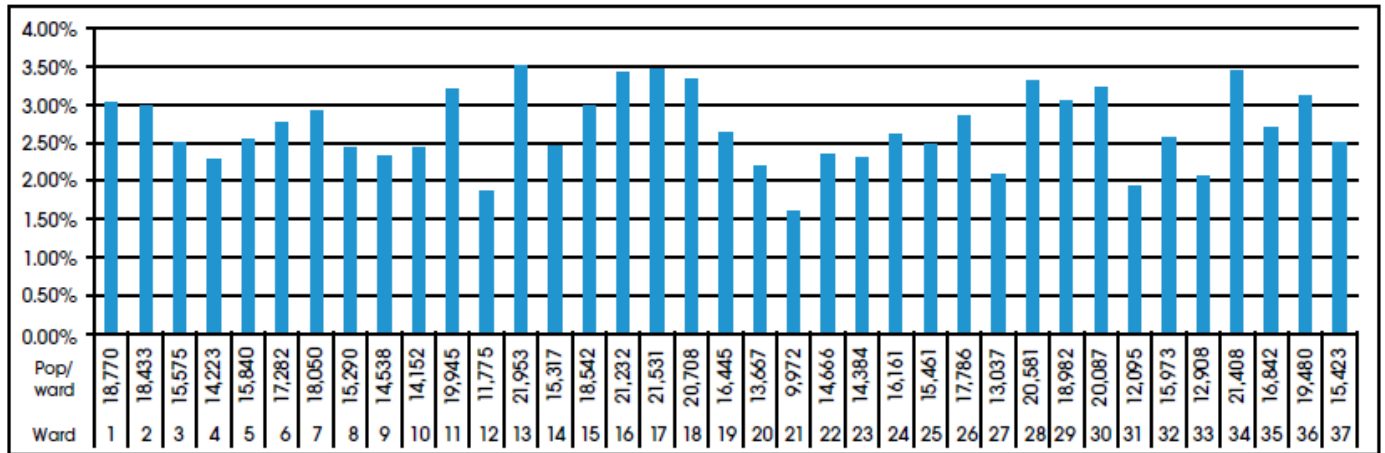
### **6.2 Msunduzi Local Municipality Profile**

Msunduzi Local Municipality is Category B municipality, which was established in the year 2000 in terms of Section 12 of the Local Government - Municipal Structures Act 117 of 1998 (as amended). The Municipality is located in the KwaZulu-Natal Midlands and serves a population of 618000 (African= 81.1%, White = 6%, Indian/Asian = 9.8%, Coloured = 2.9%).<sup>347</sup> The main centre of the municipality is the city of Pietermaritzburg, which also serves as the administrative and legislative capital of the Province of KwaZulu-Natal. The city also serves as the seat of uMgungundlovu District Municipality to which Msunduzi Local Municipality, as a category B, municipality belongs. It is the main economic centre of uMgungundlovu district - the second largest in the province, after eThekweni Metropolitan Municipality. Table 1 is the distribution of the population per ward according to the 2011 Census.

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<sup>347</sup> See Statistics South Africa 2011 Census

Table 1: Ward Population Distribution<sup>348</sup>



One important point to note from Table 1 is the relative equitable distribution of the population across the wards. Although there are variations in population sizes, there is no ward that is significantly larger than the rest. However, ward 21 is the only ward with a population less than 10,000 people. However, the relative evenness (for lack of a better term) of the wards in terms of population sizes does not automatically translate to evenness in terms of political and economic influence. The full significance of the table can be better understood with a more in-depth analysis of each of the wards and the demographic profile of its residents.

<sup>348</sup> Source: Stats SA, 2011 Census

Table 2: Unemployment rate in Msunduzi<sup>349</sup>

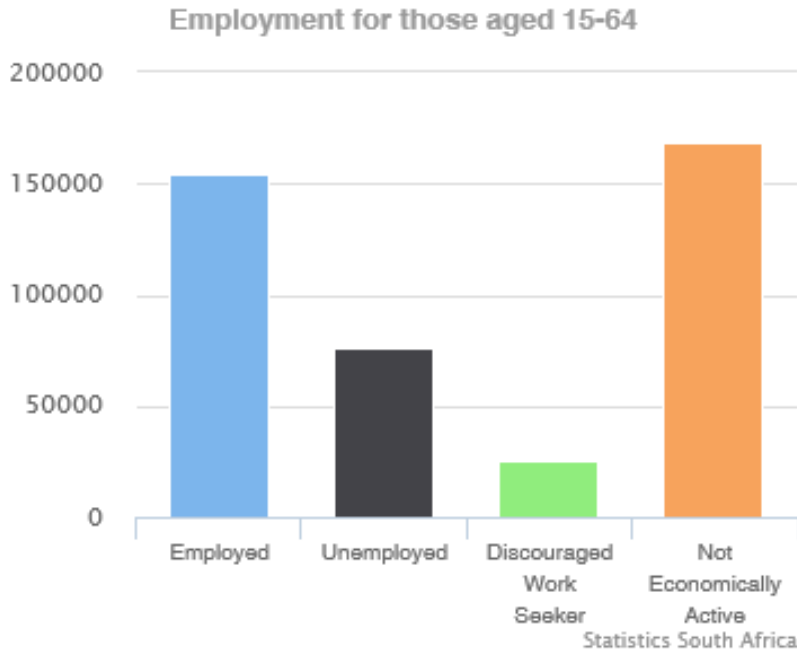


Table 2 illustrates the unemployment rate of 33%. The economy of the municipality is mainly driven by services, as many of the provincial government departments are based here. The strong manufacturing base has significantly shrunk, which contributes to the 33% unemployment rate. According to Stats SA, youth unemployment stands at 43.1%.<sup>350</sup>

Msunduzi Municipality is a highly politically contested municipality because of its strategic political position as the seat of the provincial government and its influence in the uMgungundlovu District. The contestation takes several forms. Firstly, there is the party political contestation based on local government elections. During the last days of Apartheid and the transition period, Pietermaritzburg was one of the many places in KwaZulu-Natal that saw fierce political violence. Francis states that estimates of casualties of the violence in the province between 1984 and 1994

<sup>349</sup> Source: Stats SA 2011

<sup>350</sup> Ibid

vary from 11000 to 16000.<sup>351</sup> The violence was largely between IFP and the ANC, which were fighting for political influence and control of the province and its cities. The violence took the form of urban/rural divide, where the ANC seemingly controlled the urban or peri-urban areas and IFP, through traditional leaders, controlled the rural areas of the province.<sup>352</sup> The rural areas reached very closely into the urban and peri-urban areas of Durban and Pietermaritzburg in a way that the interface between the two different lifestyles acted as a catalyst to the violence. Of this, Adam and Moodley<sup>353</sup> state:

The A.N.C. ethos embodies the urban views of those who have left tribalism behind. They dress in suits and ties on many occasions, and tend to watch and/or participate in traditional ceremonies with amused smugness, in much the same way as westerners enjoy folk dances. The A.N.C.'s internationalism and cosmopolitan universalism limits its appeal to the African rural population. For many of them, the A.N.C. appears as an elitist urban group whose leaders speak English and look down upon the ethnic customs of the peasants. Many people in rural communities and migrant hostels deeply resent the political crusades of urban-based youths who are challenging a traditional order, in which children 'obeyed', and left politics to, their elders. The older generation views such activism as ungratefulness, as well as wasteful of educational opportunities for which the parents sacrificed so much. On the other hand, the latter are accused by their children of having compromised themselves with the system. This generational conflict has torn apart many families and pitted communities against each other, particularly in the semi-urban settlements surrounding Pietermaritzburg, where the squeezed rural lifestyle and the urban values directly clash under conditions of great impoverishment.

This urban-rural dynamic still exists in some form when it comes to local government elections and, to some extent, in provincial politics. On average, 6 political parties contest local elections in

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<sup>351</sup> Francis, Suzanne. 2011. *Institutionalizing Elites: Political Elite Formation and Change in the KwaZulu-Natal Provincial Legislature*, Afrika-Studiecentrum Series. Pg. 55. Online:

[https://openaccess.leidenuniv.nl/bitstream/handle/1887/18561/ASC-075287668-3104\\_01.pdf?sequence=2](https://openaccess.leidenuniv.nl/bitstream/handle/1887/18561/ASC-075287668-3104_01.pdf?sequence=2)

<sup>352</sup>Certainly there were other factors that perpetuated the violence. These include the work of the Apartheid government to fuel violence between the ANC and IFP and characterise it as 'black-on-black violence' in order to make a case for its segregation policies. The other factor was the political rhetoric from leaders from both the ANC and IFP that emphasised the issue of differences between the parties and exacerbated the violence. There were other issues related to village wars and taxi violence that masked themselves as political violence. See Jones, N. J. 2005. "News values, ethics and violence in KwaZulu-Natal: Has media coverage reformed?" *Critical Arts* Vol. 19 (1). Pp. 150-166

<sup>353</sup> Adam, Heribert and Kogila Moodley. 1999. "Political Violence, 'Tribalism', and Inkatha." *The Journal of Modern African Studies*, Vol. 30 (3), Pp. 485-510

the municipality, with the ANC dominating the ballot. The IFP historically received most of its votes from wards in the rural areas, such as Vulindlela and Sweetwater. However, this is changing as the ANC has made significant inroads in rural areas over the years within the municipality since the year 2000. The IFP's support declined from 17.63% in the year 2000 to 5.13% in 2016. The ANC on the other hand has had its support increase steadily in the municipality from 56.5% in the year 2000 to 65.35% in 2016.<sup>354</sup> As a result of this, the way in which reforms or municipal projects are received by communities can also be linked to this dynamic, as it will be noted later with the establishment of ward committees.

However, Francis cautions against oversimplifying the nature and root cause of the violence as being a conflict simply between the ANC and the IFP, which also led to the rural/urban divide. Citing several scholars, she states:

The violence became diffused through other conflicts that made it incoherent (Johnston 1994: 188-189). These include conflicts over the regulation of, and access to, resources and services (such as minibus taxi rivalries and access to basic services such as water supplied through standpipes), clan or tribal conflicts over succession rights, vendetta type local rivalries, crime and intergenerational conflict. Minaar documents one such conflict between youth and their parents which escalated into a hostel versus 'civic' structure conflict, and then ANC-IFP conflict as those involved turned to political parties for assistance (Minaar 1992).<sup>355</sup>

Furthermore, there are pronounced intra-party political squabbles - particularly within the ruling party - which inevitably affect the functions of the municipality. The Municipality is not only the capital city of the province of KwaZulu-Natal; it is also the seat of uMgungundlovu District

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<sup>354</sup> For a detailed comparison of the results, see The Independent Electoral Commission results dashboard: online: <https://www.elections.org.za/LGEDashBoard2016/> The IFP failed to win any municipal ward in both 2011 and 2016 local government elections. However, the decline in the IFP support over the years, in both rural and urban areas, cannot be attributed automatically to the growing popularity of the ANC and other political parties. Several factors can be associated with the IFP's electoral decline, including the formation of the National Freedom Party, which broke away from the IFP led by the popular former Zululand Mayor, Zanele kaMagwaza-Msibi.

<sup>355</sup> See Francis, 2011. Pg. 55. She further argues that essentially there are four plausible possible causes of the violence. The first relates to the legacy of apartheid in terms of producing inequality and poor socioeconomic conditions. Secondly, the Apartheid apparatus played a role in pitting one side against the other in order to instigate and sustain the violence. The third is that the violence was a turf contest between the IFP and the ANC. The fourth reason, Francis states as "the breakdown of political institutions as regulating mechanisms, enabled emerging competing interests in opposition politics (and other non-political areas), autonomy in the self-regulation of force, at the same time as social and political cohesion broke down and new parallel structures of authority emerged." Pg. 57

Municipality and Msunduzi Local Municipality. Consequently, there are several simultaneous layers of contestations taking place within the political parties regarding positions in the different government structures that reside in the Municipality. Intra-party contestations are often about the control of resources within the different government structures in the city. To control the dominant party in the region means to have considerable powers of deployment and patronage. This also means that there are issues around conflation and interference between the administrative and political officials, which, at times, can severely impact on the municipality's effectiveness and efficiency in service delivery - as the elite within the ruling party seeks to control municipal resources.

In accordance with section 139 of the Constitution for maladministration and financial mismanagement in 2010 the Msunduzi Local Municipality in KwaZulu-Natal was placed under administration for maladministration and serious financial mismanagement - having failed to collect over R500 million in debts.<sup>356</sup> “In February it was reported that the municipality had enough money to function for a week. The municipality's net available cash fell from R120 million in 2007/2008 to R1.7m in 2008/2009.”<sup>357</sup> According to some respondents there are several reasons why the municipality was placed under administration. This meant that the provincial government, through the Department of Cooperative Government and Traditional Affairs took over the running of the municipality and appointed an administrator in accordance with section 39 of the Constitution of South Africa. In this regard, Piper and Africa state, “Unfortunately the quality of governance in the city has suffered since 2006 due to ANC factionalism and the rapid change of officials, although corruption and incompetence also contribute to instability in office.”<sup>358</sup> Chief amongst these reasons was the internal political squabbles within the ruling party in the region. The contestation of positions within the ruling party and the subsequent blurring of the “boundaries between politicians and officials”<sup>359</sup> in the municipality meant senior political figures in the region interfered with the administration of the municipality, which left the control systems vulnerable to exploitation. For instance, in 2011 the political squabbles regarding local government positions

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<sup>356</sup>News24. 29 April 2010. *Msunduzi Expects R600 mln Shortfall*. Online: <http://www.news24.com/news24/archives/witness/msunduzi-expects-r600-mln-shortfall>20150430

<sup>357</sup>IOL News.11 March 2010. *Everything is in Turmoil Right Now*. Online: <http://www.iol.co.za/news/south-africa/everything-is-in-turmoil-right-now-473784>

<sup>358</sup> Piper, L and Cherrel Africa. 2012. “Unpacking race, party and class from below: Surveying citizenship in the Msunduzi municipality.” *GEOFORUM*, 43. Pp. 219-229

<sup>359</sup> See de Visser, 2010.

within the ANC led to the unsuccessful burning of the ANC regional offices in uMgungundlovu District<sup>360</sup> and “the dissolution of Executive Committees torn apart by struggles for mayoral nominations in the KwaZulu-Natal (KZN) municipalities of uMgungundlovu and Msunduzi.”<sup>361</sup>

Furthermore, despite the internal governance and political challenges affecting the municipality, Msunduzi has ambitions of becoming a metropolitan municipality (a category A municipality). In 2008 it emerged that the Council of Msunduzi Municipality wanted the Municipality to be declared a Metro. Not long after that, confusion began around the status of uMgungundlovu District Municipality,<sup>362</sup> to which Msunduzi belonged, which also wanted a metro status if the latter was granted one. This resulted in a political debate which, amongst other things, halted the declaration of Msunduzi as a metropolitan municipality.<sup>363</sup> In 2015, new calls for Msunduzi Municipality to be declared a metro, before the 2016 elections, resurfaced.<sup>364</sup> However, the same questions around the makeup of the new proposed metro and the status of uMgungundlovu District Municipality remained thorny and unresolved.

Several respondents<sup>365</sup> further reported that one of the concerns regarding the declaration of Msunduzi as a metro was the ongoing problem of political interference in the administration of the municipality. A few municipal managers<sup>366</sup> have been removed from their positions partly for refusing to ‘make resources available to political leaders’ or to follow external political instructions. With the larger budget that comes with being a metro, and the lack of proper financial prudence which led to the administration period, there were heated debates around the readiness of Msunduzi to be declared a metro. Consequently, a decision was taken to postpone the decision

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<sup>360</sup>Mail and Guardian.01 July 2011. *Rank and file at odds with ANC leaders*. Online:

<http://mg.co.za/article/2011-07-01-rank-and-file-at-odds-with-anc-leaders>

<sup>361</sup>Masiko-Kambala, Pamela. 2011. *Local Politics and Factionalism: local government as a site of contestation*. Online: <http://www.afesis.org.za/local-governance/local-governance-articles/148-local-politics-and-factionalism-local-government-as-a-site-of-contestation.html>

<sup>362</sup> *The Witness Newspaper*. 2018. “Push for Midlands Metro”. Online: <https://www.news24.com/SouthAfrica/News/push-for-midlands-metro-20180812>

<sup>363</sup>Mthembu, Bongani. 08 September 2008. “Call for Another KZN Metro.” *IOL News*. Online: [www.iol.co.za](http://www.iol.co.za)

<sup>364</sup> *The Witness Newspaper*. 2015. “No Metro Status for Msunduzi Anytime Soon.” Online: <https://www.news24.com/SouthAfrica/News/No-metro-status-for-Msunduzi-any-time-soon-20150514>

<sup>365</sup>Interview with municipal official (MO9) and interview with civil society (MCS49)

<sup>366</sup> For instance, in 2016, Mxolisi Nkosi was suspended and subsequently removed as the municipal manager “in what was ascribed to ANC factional turmoil in the province.” *The Witness Newspaper*. 2016. “Who is the new Municipal Manager?” Online: <https://www.news24.com/SouthAfrica/News/who-is-the-new-msunduzi-manager-20160605>

until year 2021.<sup>367</sup> What complicates the issues even further is that uMgungundlovu District Municipality is located in the same city of Pietermaritzburg, which is governed by Msunduzi Local Municipality.

Chapter 4 of the Municipal Structures Act provides for different executive leadership structures that municipalities can adopt, with certain provisos and in conjunction with Part 2 of the Act. They can choose between executive committee and executive mayor systems.<sup>368</sup> Accordingly, Msunduzi is demarcated in 37 wards and has adopted an executive committee system composed of 9 members.<sup>369</sup> The functions of the executive committee system, according to the Municipal Structures Act:

(2) The executive committee must-

- (a) identify the needs of the municipality;
- (b) review and evaluate those needs in order of priority;
- (c) recommend to the municipal council strategies, programmes and services to address priority needs through the integrated development plan and estimates of revenue and expenditure, taking into account any applicable national and provincial development plans; and
- (d) recommend or determine the best methods, including partnership and other approaches, to deliver those strategies, programmes and services to the maximum benefit of the community.

(3) The executive committee in performing its duties must-

- (a) identify and develop criteria in terms of which progress in the implementation of the strategies, programmes and services referred to in subsection (2) (c) can be evaluated, including key performance indicators which are specific to the municipality and common to local government in general;
- (b) evaluate progress against the key performance indicators;
- (c) review the performance of the municipality in order to improve-
  - (i) the economy, efficiency and effectiveness of the municipality;

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<sup>367</sup>Municipalfocus. 19 March 2015. "Mergers". Online: [www.municipalfocus.co.za/mergers](http://www.municipalfocus.co.za/mergers)

<sup>368</sup>Ss. 42-45 of the Municipal Structures Act states that should a municipality opt for the executive committee system, sufficient number of councilors must be elected to the committee, provided that no more than 20% or 10 councilors are elected. The executive committee must reflect the proportional representation of the municipal council. By the same token, should the executive mayoral system be chosen, Ss. 54-60 stipulate that the council must elect an executive mayor and (with the approval of the MEC for local government) a deputy mayor within 2 weeks of its election.

<sup>369</sup> See Annexure A



- (ii) the efficiency of credit control and revenue and debt collection services; and
  - (iii) the implementation of the municipality's by-laws;
  - (d) monitor the management of the municipality's administration in accordance with the policy directions of the municipal council;
  - (e) oversee the provision of services to communities in the municipality in a sustainable manner;
  - (f) perform such duties and exercise such powers as the council may delegate to it in terms of section 32;
  - (g) annually report on the involvement of communities and community organisations in the affairs of the municipality; and
  - (h) ensure that regard is given to public views and report on the effect of consultation on the decisions of the council.
- (4) An executive committee must report to the municipal council on all decisions taken by the committee.

Headed by the mayor, and reporting to the municipal council through various standing and portfolio committees, the executive committee is the decision-making body tasked with the leadership responsibility of the municipality. In this regard, the municipality adopted an administrative organizational structure which is aligned with the National Key Performance Areas for municipalities. "There are five Business Units in the Municipality, which mirror the committee portfolios and report to the Municipal Manager. These Business Units, each headed by a Deputy Municipal Manager, ensure that services are delivered to the people of the Msunduzi Municipality, and are structured as follows:

- Infrastructure Services;
- Community Services;
- Economic Development;
- Financial Services; and
- Corporate Services”<sup>370</sup>

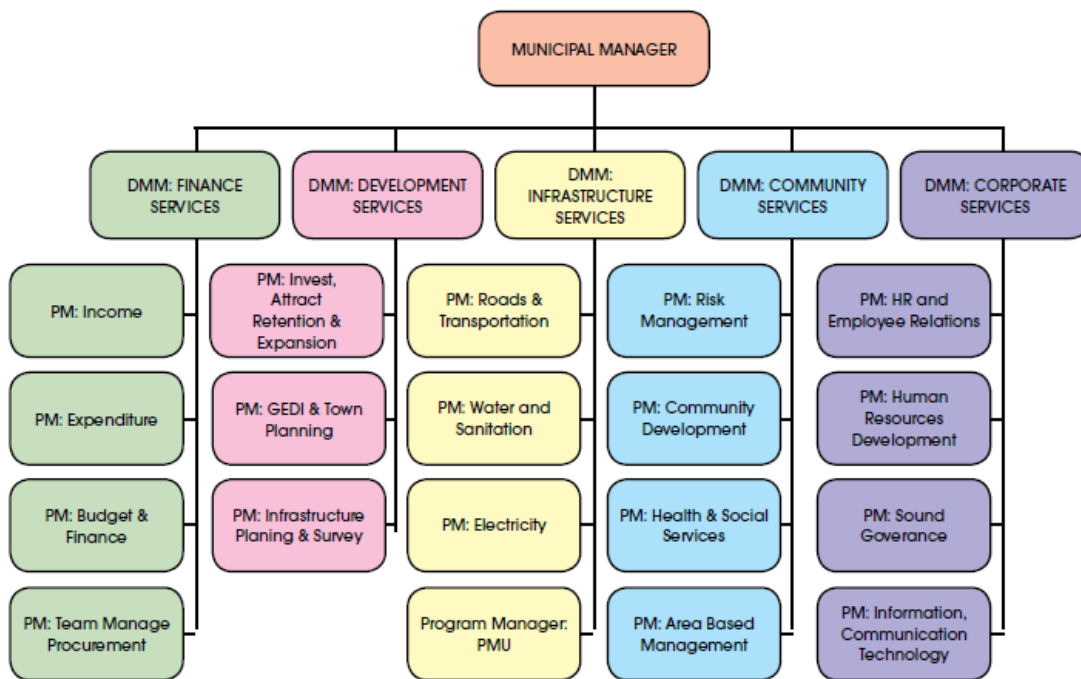
Figure 2 illustrates the administrative structure of the municipality. In addition, and most pertinent for this study, the municipality also developed an Area Based Management model (ABM), which

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<sup>370</sup> Msunduzi Local Municipality. *Draft Integrated Development Plan for the 2016-2017 to 2020-2021 Financial Year*. Pg. 106

falls within the ambit of Community Services Business Unit. Msunduzi Municipality defines ABM as being about community facilitation, increasing participation, conflict resolution, community advocacy, relocation of communities, monitoring and speeding delivery through the decision tracker. It is this Unit that drives public participation through Ward Committees and other forums. There are two main approaches to ABM: hard-core ABM, which is about decentralization of functions and soft-core that focuses on community interaction. Msunduzi adopted the latter approach as it supposedly promotes service delivery integration, close proximity location of offices to communities and minimizes red-tape by creating a centralized service delivery centre located within communities to address certain needs without the need for citizens to engage with various municipal departments.

Figure 2: Top Administrative Structure of Msunduzi Municipality.<sup>371</sup>



<sup>371</sup> Source: Msunduzi Municipality IDP Review for 2015/17-2016/17

A closer analysis of the administrative structure illustrated above, Area-Based Management falls under the third tier management level under community service. It is unclear how actual coordination and integration of service through ABM occurs within the context of the illustrated structure, at the same functional management level with the other community service-based areas. Based on the structure, in order for the ABM unit to be successful at driving public participation in integrated service delivery, it is almost entirely depended on the cooperation of the other units falling the Community Services business unit. This, in fact, may add to the inefficiency and the red tape. It is also unclear from this structure how ABM, specifically the unit, fits within the broader provincial Operation Sukuma Sakhe programme, in relation to public participation and service delivery integration.

### **6.3 Public participation in Msunduzi Municipality**

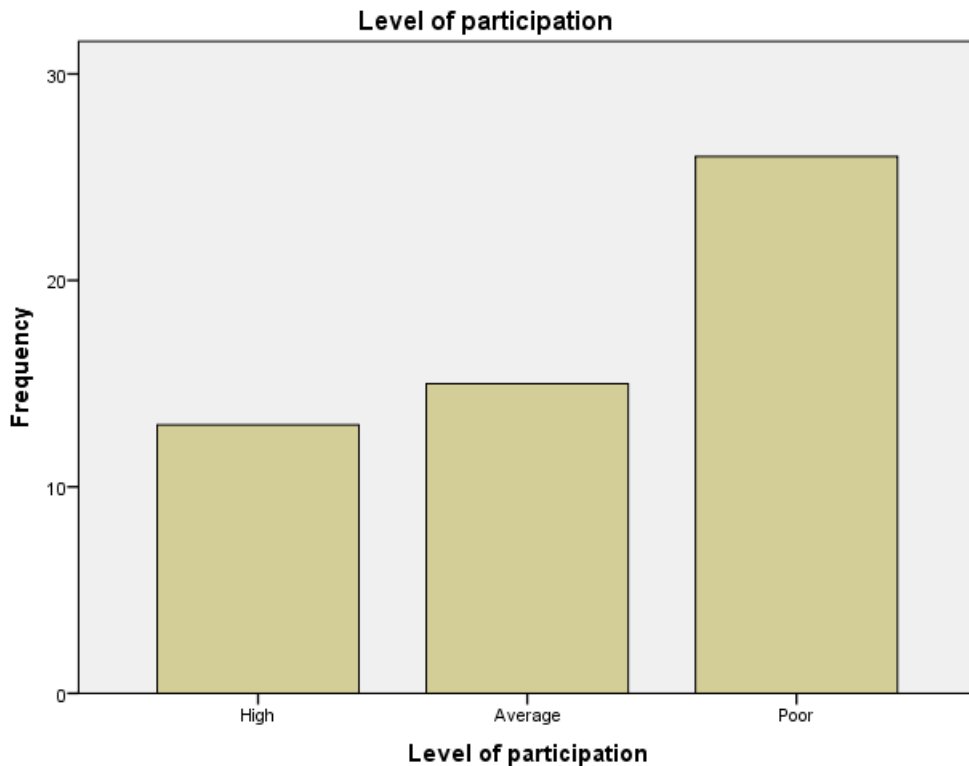
Public participation in Msunduzi Municipality is guided by the Msunduzi Municipality Community Participation Policy (the Community Participation Policy). The Community Participation Policy is based on the prescripts of the Municipal Systems Act, which require municipalities to encourage the involvement of citizens in municipal affairs, particularly in decision-making. To achieve this, the Municipal Structures Act provides for the establishment of Ward Committees as one of the mechanisms of public participation. In addition to the ward committees, the Community Participation Policy further makes provision for use of Izimbizo and Community Meetings as additional participatory mechanisms.

The values underpinning the policy are that public participation leads to better service delivery, more effective decision making, priorities setting by staff and committees, an increase in community satisfaction, enhances community development, and leads to greater accountability. The policy makes no mention of efficiency in service delivery, except by way of a ‘better service delivery’ statement, which is not clearly defined. In fact, the Community Participation policy does not contain much by way of clear details on community participation.

In general, a few key findings emerged from the interviews with both municipal officials and civil society with regard to patterns of participation in the Municipality. Firstly, levels of public participation in the municipality are generally low, as demonstrated by the responses from both

municipal officials and civil society. Table 3 is an analysis of the responses on the levels of public participation.

Table 3: Levels of Public Participation in Msunduzi Municipality<sup>372</sup>



Whilst public participation is generally low, the levels of participation are higher in more affluent wards and amongst more affluent people. This can be attributed to the differences in access to information and the tools to engage with the information more confidently. For instance, one respondent, a councilor of a ward, stated that residents of his ward participated better in comparison to other wards because they have multiple mechanisms for participation. Over and above regular ward meetings, they had access to the internet, personal transport and telephones. This allows them to engage with the municipality continuously online, through email or call the municipality to express their views and attend meetings. Such resources are not as easily available in poorer, mostly black, areas. Given the difference in economic resources, the nature and level of

<sup>372</sup> source: SPSS analysis of interview responses on levels of participation

participation is lower in poorer wards. Residents of these wards often lack the resources, such as computers, telephone and transportation to engage with the municipality over and above ward meetings.<sup>373</sup>

In addition to the socioeconomic dynamics, but closely related to it, race also seems to be a factor in the levels of participation. Some respondents observed that white people tended to participate more in municipal affairs, compared to other race groups. This is largely because white people generally have access to multiple mechanisms of participation and have easier access to information (through the internet, access to various forms of media and information and technology devices). This is further exacerbated by the issue of language. Although some documents do get translated into isiZulu, only a few documents actually get translated due to resource constraints. This means English remains the dominant language of communication at least in relation to official documents, of the municipality. Even in instances where meetings are conducted in isiZulu, some critical technical terms and concepts cannot be easily translated and therefore understood in isiZulu. This is perhaps more clearly observed budget-related discussions.

Furthermore, multiple respondents both from the municipality and civil society stated that the levels of participation are much higher amongst women compared to men and the youth.<sup>374</sup> This phenomenon was common across the socioeconomic class and race. There a number of possible reasons for this. These go beyond the remit of this study. However, it is noted here that perhaps the most likely reason is that women, particularly black women, are the group mostly affected by socio-economic inequality and poverty. Community concerns can hardly be divorced from family concerns. It is mostly women who are caregivers to their families, which, therefore means their interests are intertwined with those of the community. This is an area for further investigation through a more focused study.

It must be noted that from personal observation the Msunduzi Municipality has multiple forums in which people can freely engage in municipal affairs. Meetings of municipal committees are open to the public and, upon request, the right to speak is afforded to the public. However, such opportunities are often utilized by organized formations (such as CBOs), politically astute individuals and people with in-depth knowledge of how the municipality functions. Ordinary

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<sup>373</sup>Interview with municipal official (MO22).

<sup>374</sup>Interview with civil society (MCS48)

citizens, many of whom are not highly educated, often find engagement intimidating and too technical. Often there is little attempt from the municipal officials to simplify the discussion to allow for a more open engagement.

An additional point of frustration, particularly amongst the respondents from civil society - including some opposition parties - is that in a politically contested space such as Msunduzi Municipality, public participation in municipal forums can be an exercise in compliance with the legislation as opposed to genuine engagement. The lack of decision-making powers for the public can be used to stifle debate, especially when, as it happens in some instances, decisions appear to have been taken at a party level and imposed in the committee. In such situations, influencing decisions at party level can be more useful, which defeats the very purpose of free and open public participation in local government. This imposition of external party decisions on the municipal committees has the effect of over-politicizing the municipality to the detriment of genuine public participation, and contrary to the spirit of the Constitution.

### **6.3.1. Integrated Development Plan**

One of the ways in which public participation is fostered in the municipality is through the Integrated Development Plan (IDP). In line with the Municipal Systems Act, the municipality has to develop an IDP, which informs the municipal budget. The process must be an inclusive and open one, based on the participation of the public and the different stakeholders. In this regard, Msunduzi Municipality fulfills the public participation obligation in various ways. The first way or mechanism - in no particular order - is the IDP Representative Forum<sup>375</sup>. The IDP Representative Forum is composed of the following:

- Exco Members,
- Councillors,
- Traditional leaders,
- Ward Committee Chairpersons,
- Stakeholder representatives of organized groups.
- Advocates of unorganized groups,

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<sup>375</sup> See Msunduzi Municipality Integrated Development Plan (IDP) Review for 2015-2016. Pg. 181.

- Resource persons,
- Other community representatives,
- National and provincial departments' regional representatives,
- NGOs, and
- Parastatal organizations

This Forum has the responsibility, amongst other things, to:

- Represent the interest of the municipality's constituency in the IDP process;
- Provide an organizational mechanism for discussion, negotiation, and decision making between the stakeholders inclusive of municipal government;
- Ensure communication between all stakeholders representatives, inclusive of municipal government;
- Monitor the performance of the planning and implementation process;
- Institutionalize participation in integrated development planning;
- Ensure geographic and social representation; and
- Analyse issues, determine priorities, negotiate and reach consensus.

The IDP process, is driven by the IDP Steering Committee, which consists of various municipal officials. These include the Mayor, City Manager, Strategic Executive Managers and union representatives.<sup>376</sup> What is worth noting with the composition of the IDP Steering committee and the IDP in general is that the component of public participation is traditionally vested in the office of the Municipal Speaker in Msunduzi Municipality. However, the Speaker is not involved in the operations of the municipality, including the planning and implementation of the IDP, including the aspect of public participation in the IDP. Although this is to be expected and in line with the law, it does add to the complexity and even confusion regarding public participation in the municipality. This further adds to the point raised earlier regarding political interference. There are simply too many structures of participation with very little coordination.

More importantly, although the structures and mechanisms for participation in the IDP process seem to have been effectively established, the levels of participation remain low. This is largely

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<sup>376</sup> The IDP Steering Committee functions are to: Provide terms of reference for all reviewing and planning activities; Commission IDP planning studies, programs, and projects; Process, summarize, and document outputs from subcommittees, teams etc.; Recommend amendments to the contents of the IDP; Prepare, facilitate, and document meetings and workshops; Ensure alignment and participation in the determination and prioritization of plans and programs in the spirit of cooperative governance. See Msunduzi Municipality Integrated Development Plan (IDP) Review for 2015-2016. Pg. 182.

due to poor communication with communities about these participation mechanisms. In fact, the Msunduzi Municipality's own Living Conditions Survey 2016/2017 of community satisfaction concluded that most participants were not aware of the IDP workshops and therefore did not participate. Moreover, it was concluded that "We find that in the last year 77.6% of the respondents have NOT attended any other consultative meeting with the Municipality. Furthermore 70.9% of the respondents are NOT satisfied with the opportunities that they have for consultation on Municipal affairs."<sup>377</sup> Table 4 below is an illustration of the survey findings, which are in line with the findings from the interviews.<sup>378</sup>

It is unclear from the research what causes the lack of awareness or lack of communication. The municipality contends that IDP processes and events are marketed throughout the municipality through posters, leaflets, community newspaper adverts and loudhailers. Evidence of this could be observed around the city. Nevertheless, the claim by the communities that there is lack of or inadequate communication from the municipality remains.

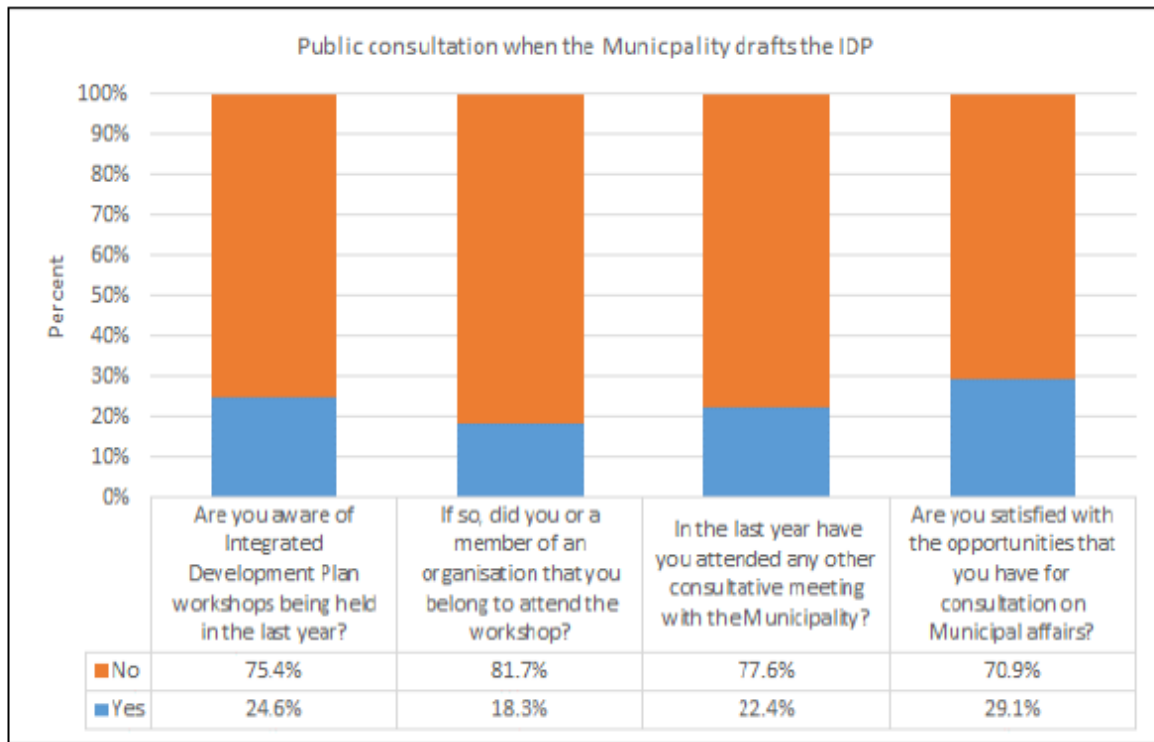
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<sup>377</sup>*Msunduzi Municipality Living Conditions Survey 2016/2017*. Pg. 30

<sup>378</sup>See Table 2



Table 4: Public Participation in Msunduzi Municipality IDP<sup>379</sup>



There seems to be an inconsistency in terms of what the municipality claims about communication and what the community states. It appears that public participation in IDP processes in Msunduzi is also affected by political frustration on the side of the citizens. The activities that led up to the placing of the municipality under administration, and the continuous political squabbles, have created a situation of mistrust between the municipality and its citizens. Feelings of hopelessness and being ignored are not uncommon in the municipality, as was specifically underscored by civil society respondents. “There is a feeling in the communities we are involved with that their voices are not and cannot be heard when politicians are busy enriching themselves and fighting amongst themselves.”<sup>380</sup> The frustration is also caused by what communities refer to as ‘ukushela’ (courting)<sup>381</sup>, which refers to politicians engaging with communities more seriously towards or during local government elections or bi-elections and then disappearing afterwards. This does not

<sup>379</sup> Source: Msunduzi Municipality Living Conditions Survey 2016/2017.

<sup>380</sup> Interview with civil society (MCS45)

<sup>381</sup> Ibid

only lead to frustration but also the depression of civic engagement and growth in apathy, especially amongst men and the youth.

### 6.3.1.1 Ward Committees

As mentioned earlier, the Municipal Systems Act provides for the establishment of ward committees for each ward in category A and category B municipalities. Given that Msunduzi Municipality has 37 wards, a corresponding number of ward committees had to be established. However, Hulane makes the point that the establishment of ward committees was difficult and highly contested.<sup>382</sup> He states:

The Msunduzi Municipality appointed Lavender and Associates as consultants to facilitate the process of establishing ward committees throughout the municipality. This team of consultants then went on a roadshow (mobile vehicles where information was provided to residents) in all wards to empower communities with the necessary knowledge on the role and significance of ward committees, and people agreed that they were ready to participate in the actual establishment of these committees. Follow up meetings were then arranged where elections were to take place. One of the key issues that had to be agreed upon with the communities was that there was a need for ward committees that were representative of the community, including gender and geographical conditions of the ward. It was at these meetings that communities voted for their ward committees. This proved to be a serious challenge as there was more interest from communities than originally anticipated which made counting a very daunting task.<sup>383</sup>

As a result, several objections and reservations were made regarding the legitimacy of the process. And given the geopolitical divide in the municipality, acceptance of the ward committee system depended very much on urban-rural lines and party political allegiances. People living in urban wards, especially in townships dominated by the ANC, accepted the legitimacy of the process and the outcomes of the election of ward committees. For the people living in urban areas, especially suburbs dominated by the Democratic Alliance (DA),<sup>384</sup> the process was viewed as having been

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<sup>382</sup>Hulane, Zwelitithini. 2003. *An Analysis of Communication in Development in the eThekweni and Msunduzi Municipalities*. Masters dissertation. Unpublished.

<sup>383</sup> Ibid. Pg. 34.

<sup>384</sup> The Democratic Alliance was established through the amalgamation of the Independent Party, the Progressive Federal Party and the National Democratic Movement in 1989. In the year 2000, the Democratic Party became the

manipulated by the ANC to ensure control of most, if not all, ward committees in the municipality. On the other hand, people living in the rural wards of Vulindlela, which is largely under traditional authorities and previously dominated by the IFP, objected to the process as they saw it as an attempt at undermining the authority of the traditional leadership and entrenching the dominance of the ANC.<sup>385</sup> Despite the initial objections, the city gradually established ward committees in most wards.

However, Piper and Deacon<sup>386</sup> found in their study of the ward committees in Msunduzi Municipality that there is a multitude of problematic issues with ward committees as instruments of public participation. One of the more critical issues pertains to the conflation of party politics and ward committee operations. Piper and Deacon state:

In Msunduzi between 2001 and 2006 almost all the IFP ward committees, many ANC ward committees and some DA ward committees appeared to be subject to their respective party's control. Notably, the perception of the party politicization of ward committees seems to be shared by a range of respondents, ranging from the DA, and the African Christian Democratic Party (ACDP) to some Residents' or Ratepayers' Associations and the Speaker, Colin Gardner. In this regard the official in charge of public participation stated that the 'politicisation' of ward committees is especially a problem in historically-black areas. Noteworthy in this respect is that, of the 10 wards described as 'politicised' by Mngadi, seven ward councilors refused to talk to us, including four of five IFP wards. Indeed Mngadi claims that the IFP ward committees are seen as extensions of the IFP branch, and that individuals aligned with other parties, and principally the ANC, are simply not welcome.<sup>387</sup>

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Democratic Alliance after merging with the New National Party and the Federal Alliance. The Democratic Alliance is a liberal organisations with strong antiapartheid struggle credentials, with roots dating the establishment of the Progressive Party in 1959. It is currently the official opposition at a national level and has grown steadily over the past general elections. However, the combination of its liberal ideology and its history, the DA struggles rid itself of the perception that it is a party of white liberals. However, recent history indicates deep-rooted ideological differences with the DA's interpretation of liberalism in the context of the post-Apartheid South Africa. These revolve largely around the role of the state in addressing the challenging legacies of apartheid—driven by the demands and expectations of a growing black party membership. See Koekemoer, Anja. 2017. *How the ANC, the DA and the EFF Construct South Africa as a Nation*. Masters Thesis Stellenbosch University. Online: [https://scholar.sun.ac.za/bitstream/handle/10019.1/102844/koekemoer\\_construct\\_2017.pdf?sequence=1&isAllowed=y](https://scholar.sun.ac.za/bitstream/handle/10019.1/102844/koekemoer_construct_2017.pdf?sequence=1&isAllowed=y)

<sup>385</sup>See Piper Laurence and Bettina von Lieres. 2008. "Inviting Failure: Citizen Participation and Local Governance in South Africa". *Citizenship DRC Special Issue Vol. 1 No. 1, January*

<sup>386</sup>Piper, Laurence and Roger Deacon. 2006. "Deepening Democracy, Enhancing Elite Control or Just Ineffectual? Ward Committee Politics in the Msunduzi Municipality." *CCS Grant Report*.

<sup>387</sup>Ibid. Pg. 15

In fact Piper and Deacon further make an example of how some ward meetings turned into political party branch meetings. This is possible largely because of the way in which ward committees are elected and how they function. In many cases, the leadership of the dominant party branch also becomes the ward committee. And the chairperson of a ward committee, the councilor, is predominantly also the chairperson of the branch of the dominant political party. This has serious implications on the accessibility and the functionality of the ward committees. Steyn<sup>388</sup> makes the following observation:

The evidence shows that where ward committees are functional they remain under the influence of the local party branch – the party remains the dominant player. In this way, party political influence not only impinges on the autonomy of ward committees, but also serves to ostracize a broader repertoire of different voices.

This phenomenon continues to plague ward committees in the municipality. A number of respondents, particularly from civil society, reported that participation in ward committees is based on party political affiliation and influence within a particular party, which dominates the ward. Party discipline is enforced even in ward meetings to the extent that people cannot engage freely to the extent of criticizing their own ‘comrades’ in public meetings - lest they invite the fury of the party branch leadership. “If you are not one of them - their political party - they call you all sorts of names. And as soon as you say something they don’t agree with ‘point of order.’”<sup>389</sup> This insertion of branch political party agenda in contributes to the low levels of participation in ward meetings and the low levels of functionality amongst wards.

With respect to ward committee functionality, COGTA reported that in 2015, for instance, 23 of the 37 wards were non-functional. Table 5<sup>390</sup> provides a summary of the report on the functionality of wards within Msunduzi municipality. The report states that part of the non-functionality can be

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<sup>388</sup>Steyn, I. *Towards Transformative Local Participatory Governance*. Unpublished.

<sup>389</sup>Interview with civil society (MCS51)

<sup>390</sup>Department of Co-operative Government and Traditional Affairs. 2015. *Msunduzi Municipality Ward Committee Functionality Verification Report*.

attributed to a number of issues. These include the absence of a ward committee, non-compliance with reports to the municipality, and few or no ward committee/community meetings.

Table 5: COGTA: Msunduzi Municipality Ward Committee Functionality Verification Report<sup>391</sup>

<b>Name of Municipality</b>	<b>No of wards</b>	<b>No of Functional wards</b>	<b>Functional wards</b>	<b>No of non-functional wards</b>	<b>Non-functional wards</b>	<b>Comments</b>
Msunduzi	37	14	(7,8,9,11,16,18,19,23,27,28,32,33,34,37)	23	(1,2,3,4,5,6,10,12,13,14,15,17,20,21,22,24,25,26,29,30,31,35,36)	No ward committee/community meetings/ward reports

The functionality of ward committees can also be affected by the very broader diversity of representivity. Because municipal wards are contested political spaces, ward committees are viewed as extended political spaces for inter-political party contestations. This is especially acute in mixed income wards with mixed racial and class demographics, such the wards in Northern Areas, CBD, Ashburton and Eastern Areas (e.g. wards 36, 35, 25, 29, 24). In such wards, class and race politics is often used to suppress different opinions or push certain ideologies without compromise. This is done mainly as a continuation of broader regional and national competition between political party differences - as opposed to genuine ideological differences. In this regard, one respondent stated, “If you allow the enemy to succeed in implementing their plans unchallenged in the ward, you are cementing their control of the ward. This is not acceptable.”<sup>392</sup> Whilst this strategy is intended to undermine the dominant party in the ward, in preparation for the next local government elections, it has clearly understood and politically acceptable (amongst the

<sup>391</sup> COGTA: Msunduzi Municipality Ward Committee Functionality Verification Report

<sup>392</sup>Interview with civil society (MCS45)

politicians) negative effects on service delivery and public participation in ward committee and community meetings.

An additional challenge affecting public participation in ward committees, especially in wards that are diverse in terms of race and socio-economic class is the issue of language. Sebola<sup>393</sup> posits that language, as communication tool, is critical in public participation processes. The ability to engage meaningfully in public participation processes is enhanced or hindered by the confidence of community members to converse in the language of the dominant elite in the process. In racially mixed wards in Msunduzi, English is the dominant language, which, given historical colonial legacy, is the preferred communication tool for the community members. In some instances, English is used as a way of including as many participants as possible, without giving any local language a preference over others. In other instances, it is deliberately used to exclude or limit public participation.<sup>394</sup>In the case of the racially and socio-economically diverse wards of Msunduzi, the use of English is based on the principle of inclusivity; however, given the literacy and poverty rates, it is one of the factors that contributes to low participation levels amongst black working class people. Referring to environment-related public participation processes, Hamann states:

For instance, representatives from poor communities criticized the fact that meetings were held in the town centre in the evenings, which made attendance difficult due to considerable distances from townships. Another concern was that information provided during the participation process was too difficult to understand for those with English as their second or third language.<sup>395</sup>

Language can be used as a tool to provide access or barrier to information and to (dis)empower people. Perhaps the view above can also be extended to include unspoken language, which is non-verbal communication by municipal officials and politicians towards community members. In this regard, the packaging of the information and structuring of the agenda for discussion in ward committee meetings go beyond the oral usage of the language. Even in instances where the medium

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<sup>393</sup>Sebola, M.P. 2017. "Communication in the South African Public Participation Process: The Effectiveness of Communication Tools." *African Journal of Public Affairs* Vol. 9 (6). Pp. 25-35

<sup>394</sup>See Haase, A.Q. 2008. "Instant Messaging on Campus: Use and Integration in University Students' Everyday Communication." *Information Society* Vol. 24 (2). Pp. 105-115

<sup>395</sup>Hamann, R. 2003. "South African Challenges to the Theory and Practice of Public Participation in Environmental Assessment." *South African Journal of Environmental Law and Policy*. Vol. 1(1). Pp. 21-37

of engagement is commonly understood, the manner in which certain views are dismissed or ignored can be interpreted through the lens of language acceptance: that is to say, views that are aligned to thinking of certain people can be easily understood by such people at the exclusion of others.

Furthermore, the notion of powerlessness of individuals and ward committees in relation to service delivery is a theme that emerged largely during the interviews. Ward committees have no decision-making powers and can very easily be undermined by the ward councilor in their recommendations. The effect of this ripples down to individual members of the community, who can gradually lose trust in local government systems and feel disempowered to participate meaningfully.

### **6.3.2 Service Delivery Efficiency**

In his comprehensive study of the relationship between democracy and efficiency in local government, Barichievy<sup>396</sup> argued that Msunduzi municipality structured its operations in a way that takes full advantage of the law to improve efficiency through more streamlined and quicker decision-making processes. The Municipal Council delegated much of its powers to the executive committee to take and implement decisions, except for those that the law demands ought to be in the exclusive jurisdiction of the Council (approval of bylaws and budgets). To assist the executive committee, a number of sub-committees and portfolio committees are established in order to make informed recommendations to the executive council for implementation.

Using the length of time it takes to make a decision, Barichievy concluded that the centralization of power in the executive committee, whose composition is proportional to political party representation in the municipality, does indeed promote greater efficiency as the executive committee is generally small in size. This is despite the fact that executive committee meetings are typically very long and the existence of a backlog, which can be attributed to excessive workload for the executive committee members.

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<sup>396</sup>See Barichievy, 2006: 96

However, whilst the focus on time to arrive at a decision is an important measure of efficiency, it does not account fully for efficiency in service delivery in a local government context. Irvin and Stansbury<sup>397</sup> argue that efficiency is also about better decisions being taken. Notwithstanding this, in the context of low levels of participation, a centralized model of decision-making is justified on the grounds of efficiency. Siswana opines, on the other hand, that “efficiency in the public sector means satisfying the most essential needs of the community to the greatest possible extent using limited resources that are available. Effectiveness on the other hand is more about the impact that has been or will be caused by a service delivered or to be delivered.”<sup>398</sup> This means time in relation to decision-making cannot be a sufficient measure of efficiency by itself. The quality of the decisions, which is partly informed by the process by which decisions are made, resources and outcomes are critical in relation to efficiency in municipal service delivery. Such a view found expression amongst the respondents in Msunduzi.

### *Perception*

The research into the perception of efficiency in the delivery of services by Msunduzi Municipality found that 61 percent of the respondents viewed the municipality as being inefficient. Some of the main issues identified as impeding on efficiency are political interference in the administration of the municipality, which is largely caused by party political infighting and corruption, as well as lack of consultation or effective public participation. One responded stated:

How can the municipality be efficient when you have municipal managers being changed haphazardly? People in political party structures demand access to resources and insist on giving instructions to the municipal officials...what led to the municipality being placed under administration was that people were fighting over resources and threatening officials that they would be dealt with at a party level for refusing to assist their ‘leaders’ with resources. Party leaders at the regional and provincial level, who were also employees of the municipality, were claiming huge amounts of money as overtime and travel reimbursements for party

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<sup>397</sup>Irvin, Renee and John Stansbury. “Citizen Participation in Decision-Making: Is it Worth the Effort? Unpublished.

<sup>398</sup>Siswana, Batandwa. 2007. *Leadership and governance on the South African Public Service: An overview of the public finance management system*. Unpublished Thesis. University of Pretoria. Pg. 55.



political work...people campaigning for positions in their parties with municipal time and resources.<sup>399</sup>

Another respondent stated:

You know when the municipality became bankrupt, no one was held accountable for that. Instead, you saw a number of politically connected people in the municipality and in the region accumulating and displaying wealth.<sup>400</sup>

This suggests that corruption in the municipality, at least in terms of the perceptions of some, is so systemic that it also manifests in ward committees. Ward committees are often used to pursue corrupt agendas by those that are politically connected or for the benefit of a political party. Systemic corruption that is politically connected is difficult to resolve because occurs within certain networks of partisan ward committees and other municipal structures: what Francis<sup>401</sup> refers to as networks of factions. Ward committees therefore are breeding grounds for political and social elite networks. Francis states:

This is suggestive of a system of social capital, of networks of trust and reciprocity established through past political action. These values expressed are not underpinned by any substantial substantive programme of action, but on notions of the state as the key arena of privilege or reward.<sup>402</sup>

In the South African context, many municipalities are controlled by the dominant ANC, which also dominates other spheres of government. Such dominance has, in some instances, led to internal political squabbles for positions within the party and in local government. In 2011 the political squabbles regarding local government positions within the ANC led to the unsuccessful burning of the ANC regional offices in uMgungundlovu District<sup>403</sup> and “the dissolution of Executive Committees torn apart by struggles for mayoral nominations in the KwaZulu-Natal

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<sup>399</sup>Interview with municipal official (MO25)

<sup>400</sup> Interview with municipal official (MO39)

<sup>401</sup> Francis Suzanne. 2011. *Institutionalizing Elites: Political Elite Formation and Change in the KwaZulu-Natal Provincial Legislature*, Afrika-Studiecentrum Series.

<https://openaccess.leidenuniv.nl/bitstream/handle/1887/18561/ASC-075287668-3104-01.pdf?sequence=2>

<sup>402</sup> Ibid. Pg. 221

<sup>403</sup>See Mail and Guardian.01 July 2011. *Rank and file at odds with ANC leaders*. Online:

<http://mg.co.za/article/2011-07-01-rank-and-file-at-odds-with-anc-leaders>

(KZN) municipalities of uMgungundlovu and Msunduzi.”<sup>404</sup> In 2015 the African National Congress disbanded the Regional Executive Committee of Nelson Mandela Bay and replaced it with a task team. The mayor of the Nelson Mandela Bay Metro was also replaced. This was as a result of ongoing infighting in the ANC, which had, amongst other things, severely affected the municipality’s functionality, which included a R400 million budget deficit. In 2016 the Member of Executive Council (MEC) responsible for CoGTA in KwaZulu-Natal, Nomusa Dube, placed Ingwe Municipality under administration - ostensibly because of political instability and infighting that has left certain critical positions unfilled and the municipality dysfunctional with no approved annual budget. This demonstrates the effects of intra-party political squabbles in the region that spillover to the municipalities.

The contest for positions in the regional structures of political parties, particularly those in charge of municipalities, is - more often than not - related to access to government resources in the form of municipal tenders and business contracts. Booysen observes that service delivery protests have, at times, been a continuation of intra-party political conflict by the different factions.<sup>405</sup> The protests are used as a tool against councilors during or after internal political contestations, by exploiting legitimate service delivery concerns.<sup>406</sup> The potential ripple effect of such intra-party political squabbles at a regional level are sufficiently substantial to affect service delivery in the entire district municipality, including its subsidiary local municipalities.

The common policy of cadre deployment further affects the efficiency of service delivery and coordination between district municipalities and their local municipalities. “A particular manifestation of the conflation of party and state at local government level is the practice whereby party office-bearers populate the municipal administration.”<sup>407</sup> Issues of service delivery through

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<sup>404</sup>Masiko-Kambala, P. 2011. *Local Politics and Factionalism: local government as a site of contestation*. Online: <http://www.afesis.org.za/local-governance/local-governance-articles/148-local-politics-and-factionalism-local-government-as-a-site-of-contestation.html>

<sup>405</sup> The point about intraparty elite networks, which may be considered factions, is made very clearly by Francis (2011) where she argues that these networks are organised on the basis of a number of factors and are used to advance the interests of their members, according to whatever binds the elite network.

<sup>406</sup>Booyesen, S. 2001. “Beyond the Ballot and the Brick: Continuous Dual Repertoires in the Politics of Attaining Service Delivery in South Africa?” in Lennan, Anne and Barry Munslow (eds.) *The Politics of Service Delivery*. The Wits P&DM Government Series. Wits University Press, Johannesburg.

<sup>407</sup>De Visser, J. 2010. “The political-administrative interface in South African municipalities assessing the quality of local democracies.” *Commonwealth Journal of Local Governance, Special issue*, Bahamas. Pp. 86-101

skilled and competent municipal officials are side-lined for political expediency. Members of the majority party in the municipal council are instructed to ensure the appointment of people that are approved by the party leadership. In turn this makes accountability and protocol observation all but impossible. Municipal councils find it difficult to hold the administration - populated by party political seniors or those approved by party leadership - to account as this would have career-ending ramifications. This power dynamic also affects the relations between the various local municipalities within the district and the district municipality.<sup>408</sup>

This echoes the sentiments shared by a number of respondents that part of the challenges facing Msunduzi Municipality with respect to efficient service delivery is the party-political squabbles within the governing party, which plays out in the municipality. “Service delivery efficiency suffers even worse during election years. This is why the ANC offices were burned in 2011.”<sup>409</sup> However, during such election years, it is also when the political parties and their candidates are most visible - canvassing for votes.

There are two points worth noting with respect to perceptions on efficiency in Msunduzi municipality. Firstly, this study was conducted at the time when the municipality was recovering from its dire financial and management situation, which contributed to its being placed under administration by the provincial government. Coupled with this was a certain level of anxiety and frustration amongst the populace regarding the obvious corruption, mismanagement of the municipal resources and disappointment with party political squabbles in the regional ANC. As a consequence of this frustration, whilst many respondents acknowledged that the efficiency was improving, the section 139 intervention had instigated bad, albeit justified, perceptions of the municipality’s service delivery efficiency.

Secondly, in line with the point covered above, there is substantial confusion or misunderstanding of the municipality’s responsibilities, particularly in relation to services such as RDP or low cost housing. Given that the municipality acts as the implementing agent for the provincial government

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<sup>408</sup>See Nene, S. 2016. “Enhancing Service Delivery: A Review of South Africa’s Dual Local Government System”. *Politeia*. 35 (1). Pp. 19-40

<sup>409</sup>Interview with civil society (MCS46)

with respect to housing, there is an expectation from some communities that it is the responsibility of Msunduzi Municipality to provide social housing from its own budget. As such, any challenges with resources for housing are often blamed on the municipality without the necessary understanding of the intergovernmental coordination issues involved with other spheres of government. Consequently, housing challenges contribute to the perception of Msunduzi as an inefficient municipality. This further relates to the sometimes misunderstood role of the district municipality in relation to the local municipality.

The confusion regarding the functions and responsibilities of the local municipality is also caused by politicians and political parties who make promises to the community, which fall outside of the structure they are contesting.<sup>410</sup>

In some instances, even some municipal officials, especially ward councilors, do not understand the different functions and responsibilities of local government in relation to the district municipality and the provincial government. One of the reasons for such lack of understanding is the manner in which candidates are nominated to contest local government positions. There is no stipulated requirement that candidates must first demonstrate a certain minimum understanding of municipal processes.

### *Municipal Annual and Audit Reports*

In addition, if efficiency is about how the available resources are used to achieve the most in the best possible way, then it is also critical that in the assessment of service delivery efficiency consideration be made of the audit reports of the municipality. The analysis of the annual reports in relation to the Service Delivery and Budget Implementation Plan (SDBIP) provides the right springboard on which to assess the efficiency of the municipality in terms of service delivery efficiency and public participation. The SDBIP<sup>411</sup> includes and applies to the Public Participation Unit, Community Service Units, Infrastructure Services Units and Economic Development Units.

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<sup>410</sup>Interview with municipal official (MO13)

<sup>411</sup> The Municipal Finance Management [Act 56 of 2003] requires municipalities to develop the Service Delivery and Budget Implementation Plan (SDBIP), which stipulates in detail the service delivery implementation plan for the financial year. It requires that municipalities set key performance areas with clear deliverables. These are in turn set according to the performance or functional areas of the municipality.

Central to the SDBIP are the key performance indicators and the performance agreements that are signed by the managers. Table 6 below is a comparative review of Msunduzi Municipality’s performance for the 2014/15 and 2015/16 financial years, as analyzed through the SDBIP.

Table 6: Msunduzi Municipality Performance<sup>412</sup>

OPERATIONAL PLAN 2014/2015 & 2015/2016 GRAPHICAL REPRESENTATION OF PERFORMANCE: ALL PROJECTS

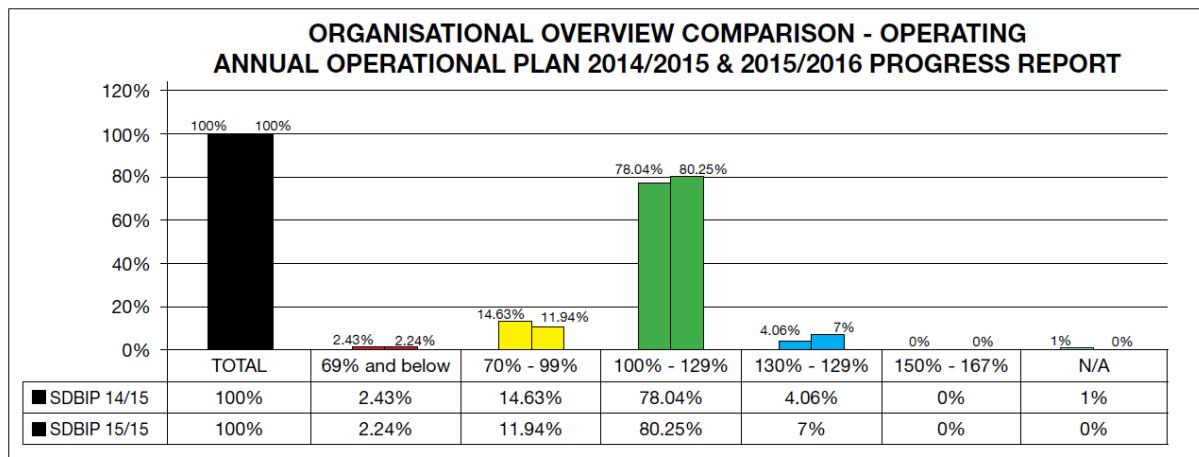


Table 6 indicates an improvement of 2.21% in terms meeting targets on all (133) projects from 78.04% in the 2014/2015 financial year to 80.25% in the 2015/2016 financial year.<sup>413</sup> The gradual, albeit slight, improvement in the service delivery performance is important given the history of poor performance that even led to the placement of the Municipality under administration. A curious observation with respect to the performance figures is that the improvement in the 2015/16 financial year followed after a general election year in 2014.

<sup>412</sup> Source: Msunduzi Annual Report 2015/2016

<sup>413</sup> See Msunduzi Annual Report 2015/2016 Financial Year.

Figure 3: Graphical Representation of Projects<sup>414</sup>

OPERATIONAL PLAN GRAPHICAL REPRESENTATION OF PERFORMANCE: ALL PROJECTS

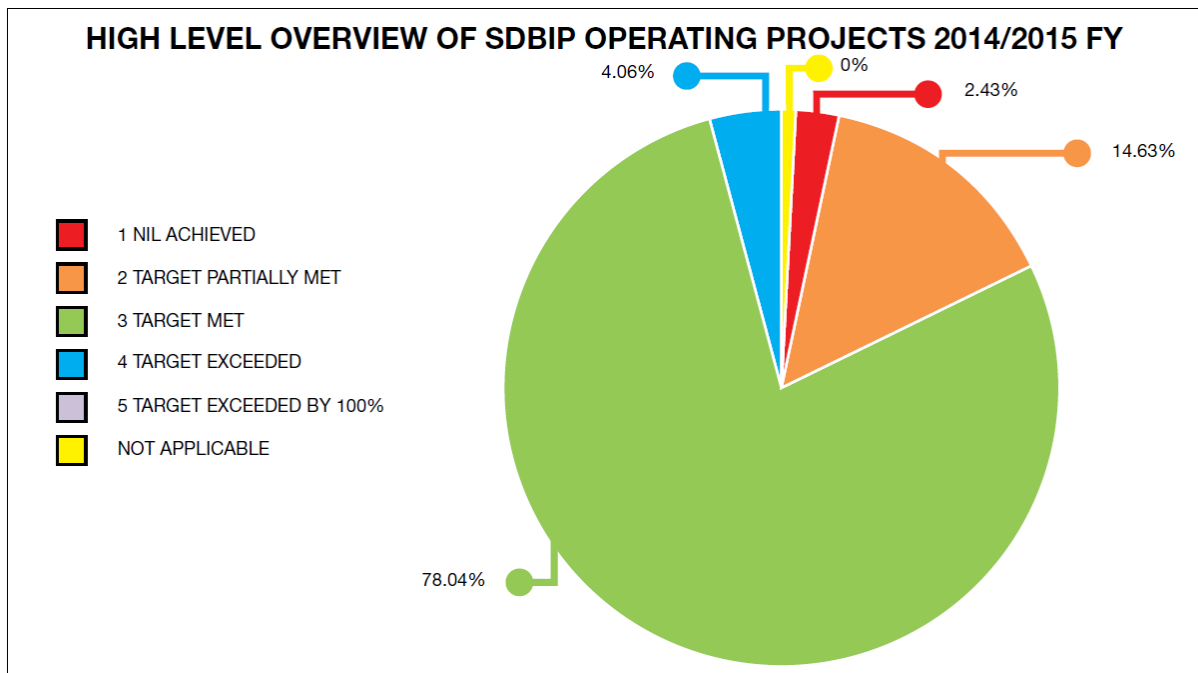


Figure 3 shows a 0.37% improvement in meeting targets on all (131) projects from 77.67% in the 2013/2014 financial year to 78.04% in the 2014/2015 financial year.<sup>415</sup> A total of 78% of targets were achieved for all (112) projects in the 2013/2014 financial year.<sup>416</sup> The target achievement rate was lower in the 2012/2013 financial year with 63% of 278 projects.<sup>417</sup>

The annual reports of the municipality are by and large supported by the findings of the Auditor-General (AG) with respect to financial performance.<sup>418</sup> The audit outcomes of the AG demonstrate a gradual improvement with respect to Msunduzi Municipality’s financial performance for the period between 2012 and 2015. In 2012 and 2014, the AG gave the municipality unqualified reports with minor findings that related largely to the 9.1% fruitless and wasteful expenditure in

<sup>414</sup> Source: Msunduzi Annual Report 2015/2016

<sup>415</sup> See Msunduzi Annual Report 2014/2015 Financial Year.

<sup>416</sup> See Msunduzi Municipality Annual Report 2013/2014.

<sup>417</sup> See Msunduzi Municipality Annual Report 2012/2013.

<sup>418</sup> The correlation between service delivery and financial performance is critical in understanding efficiency, given that efficiency has to be considered in the context of use of available resources.

2014; in 2015 the report was unqualified with no findings. However, in 2013, the audit report was qualified. Amongst the issues identified by the AG was material under spending of the conditional grants and capital budget; material losses and irregular expenditure amounting to R34.91 million were largely found to be through weaknesses in supply chain management.<sup>419</sup>

From the above, one can conclude that despite public participation challenges and the perceptions of some community members, the Municipality's efficiency in terms of service delivery shows signs of gradual improvement. The systematic weaknesses that had been identified by the Administrator had been attended to and Municipality may also have developed mechanisms to insulate its processes from party-political interference.

### **6.3.3 Service Delivery and Provincial Government**

One of the key issues around service delivery in local government is how the different spheres of government relate to each in delivering basic services. Section 40 (1) of the Constitution establishes three spheres of government, which are distinctive, interdependent and interrelated. Each sphere has its own jurisdiction and must respect the areas of influence of the other spheres. However, the different government spheres must coordinate their activities in order to deliver services to the communities. The Intergovernmental Relations Framework Act 13 of 2005 seeks to provide for mechanisms through which proper and sufficient coordination between different government spheres and structures should occur.

In relation to Msunduzi, as a local municipality, there are two critical government structures that have an impact on service delivery: uMgungundlovu District Municipality and the KwaZulu-Natal Provincial Government. The relationship between the provincial government and Msunduzi municipality emerged as an important issue amongst some respondents in relation service delivery. Some respondents argued that service delivery in Msunduzi is also affected by political and factional interference, which can mask itself as provincial government intervention.<sup>420</sup> The placing of municipalities under administration by the provincial government through section 139

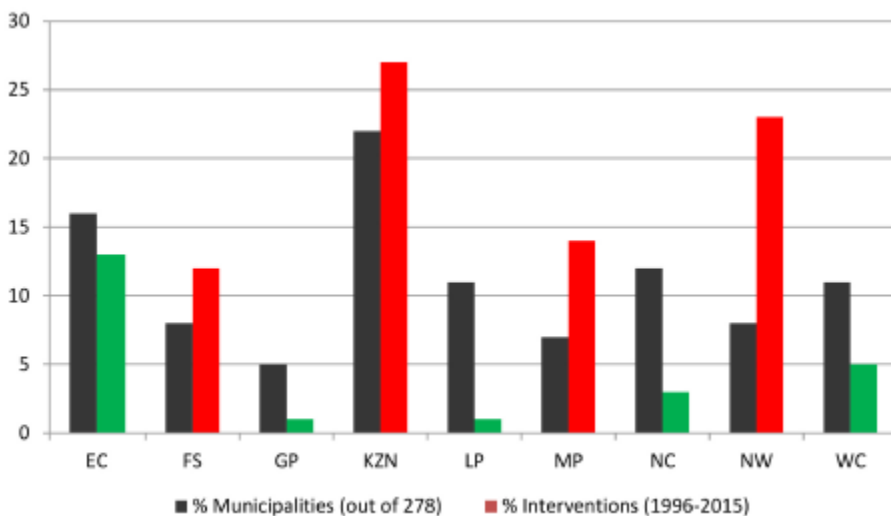
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<sup>419</sup>See Municipality Money. The Msunduzi Local Municipality in UMgungundlovu, KwaZulu-Natal. Online: [www.municipalmoney.gov.za](http://www.municipalmoney.gov.za)

<sup>420</sup>This point was raised largely in confidence by respondents.

interventions, which has service delivery implications, is viewed by some as political interference - this was certainly the case with Msunduzi municipality. This view is echoed by Graffrath and van der Walt<sup>421</sup> by stating that there is inconsistency in the way section 139 interventions are done throughout the country. Their argument is that it is not always the municipalities that are dysfunctional that are put under administration. Some dysfunctional municipalities in the Eastern Cape and Limpopo provinces are not placed under administration, and other less dysfunctional municipalities in KZN are placed under administration. The table below illustrates the intervention nationally between 1996 and 2015.

Table 7: National Analysis of Section 139 Municipal Intervention: 1996-2015<sup>422</sup>



With specific reference to Msunduzi, some respondents argued that “the intervention was politically motivated; the provincial government acted after the ANC in the province had issues with the regional ANC.”<sup>423</sup> Part of the municipality’s challenges, with respect to service delivery inefficiencies and general dysfunction, is lack of funding and or insufficient coordination with the provincial government on capital projects that should be funded by the provincial government.

<sup>421</sup>Greffrath, W and G. van der Walt. 2016. “Section 139 interventions in South African local government, 1994-2015.” *New Contree*, No. 75. Pp. 135-160

<sup>422</sup> Source: Municipal IQ, 2015

<sup>423</sup>Interview with municipal official (MO16)



One area where the coordination between the provincial government and Msunduzi municipality impacts on service delivery is human settlement or RDP housing. The Housing Act 107 of 1997 allocates certain functions and responsibilities to provincial government relation housing. Section 7 of the Act states:

- 7 (1) Every provincial government must, after consultation with the provincial organizations representing municipalities as contemplated in section 163(a) of the Constitution, do everything in its power to promote and facilitate the provision of adequate housing in its province within the framework of national policy.
- 7(2) For the purpose of subsection (1) every provincial government must-
  - (a) Determine provincial policy In respect of housing development;
  - (b) Promote the adoption of provincial legislation to ensure effective housing delivery;
  - (c) Take all reasonable and necessary steps to support and strengthen the capacity of municipalities to effectively exercise their powers and perform their duties in respect of housing development;
  - (d) Co-ordinate housing development in the province;
  - (f) When a municipality cannot or does not perform a duty imposed by this Act (107 of 1997), intervene by taking any appropriate steps in accordance with section 139 Of the Constitution to ensure the performance of such duty; and
  - (g) Prepare and maintain a multi-year plan in respect of the execution In the province of every national housing programme and every provincial housing programme, which is consistent with national housing policy and section 3(2) (b).

Thus, “Housing delivery is the responsibility of the Department of Housing (DoH). The Municipality assists as implementing agent or contractor on behalf of the DoH.”<sup>424</sup> The municipality has an estimated housing backlog of 7000 homes, with over 30 000 units having been built between 1996 and 2010. This is in the context of wider housing backlogs in the province of KZN coupled with funding shortages. In a 2003 study, Aiyer<sup>425</sup> found that the provincial government was very often the source of problems with regard to the provision of RDP houses. The provincial government allocated both the land and the funding for housing and at times the

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<sup>424</sup>Msunduzi Municipality Integrated Development Plan 2006/2007 to 2010/2011 and Beyond. Pg. 162

<sup>425</sup>Aiyer, T.C. 2003. *The Implementation of Housing Policy in Msunduzi Municipality*. Masters Degree Dissertation. University of Natal. Unpublished.

identified land was unsuitable and funding insufficient. In some instances, the municipality would not be involved in the process of housing and land allocation despite being the relevant local municipality. The provincial government also acknowledges this by identifying a number of challenges related to housing. These include high settlement densities, rapid urbanization, lack of adequate funding for bulk infrastructure and inadequate coordination and alignment with municipalities. In this regard, in 2011, the Democratic Alliance in KZN filed a complaint with the Office of the Public Protector<sup>426</sup> to investigate irregularities in the tender processes related to the Vulindlela Housing Project,<sup>427</sup> located within Msunduzi Municipality. The provincial government pressured Msunduzi municipality to cancel its own tendered processes related to RDP housing in the area, which affected service delivery in this regard.<sup>428</sup> Appendix E shows the extent to which the municipality is reliant on funding from the provincial government in relation to the housing project for the 2011-2016 period.

The challenge with this arrangement where some funding comes from the provincial department is that it places municipalities in positions where they are vulnerable to provincial party political squabbles finding expression in the provincial government. This is particularly acute in situations where regional and provincial leadership of a party that is governing both the municipality and the province are divided at a party level. In such situations, government resources are used to punish, cohere or reward certain party political behavior.

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<sup>426</sup> The Office of the Public Protector is established by the Public Protector [Act 23 of 1994] as amended, in line with section 181 of the Constitution of South Africa. The Public Protector is charged with the responsibility to investigate and report on any conduct by any state or government entity or officer in any sphere of government in relation to allegations or suspicion of improper conduct. The Public Protector also has the power to take remedial action with respect to the findings of an investigation.

<sup>427</sup> The Vulindlela Housing project was a planned project by the KZN Department of Human Settlement to build 25 000 low cost houses and related infrastructure in Vulindlela, Msunduzi Municipality at a cost of R2.1 billion. The project was mired in controversy and suspected corruption. For instance, the Department of Human Settlement had entered into an exclusive contract with a company controlled by amakhosi (chiefs), without a proper open tender process. The Built Environment Support Group stated in its report that the Msunduzi Municipality's idp "had been manipulated without public consultation while the Municipality was under provincial administration; with the effect that a project planned initially for 200 housing units across 4 wards underlying Vulindlela, suddenly increased to 25 000 units across all 9 wards." See BEG. *The Vulindlela Rural Housing Project – a housing intervention case study*. Online:

[http://www.besg.co.za/images/Overview\\_of\\_the\\_Vulindlela\\_Rural\\_Housing\\_Project.pdf](http://www.besg.co.za/images/Overview_of_the_Vulindlela_Rural_Housing_Project.pdf)

<sup>428</sup> *Politicsweb*. 2011. "Why the Vulindlela tender stinks – DA KZN." Online:

<http://www.politicsweb.co.za/documents/why-the-vulindlela-tender-stinks--da-kzn> Accessed: 10 March 2014

From a public participation point of view, especially in such context as described above, the value of public participation at a municipal level can be eroded by the actions or decisions of the provincial government, which does not have answer directly to the communities in the way that municipalities have to. The case of the Vulindlela Housing Project provides a good example of how public participation may be negated through unilateral amendments of IDP documents, which are ideally based on the views of the public.

Furthermore, the Municipality, like many in the province, has to absorb the shortfalls in the housing budget allocations from the provincial government. In this regard, Coovadia<sup>429</sup> argues that the mandate from the provincial government in relation to housing puts municipalities under serious financial constraints. Table 8 shows the funding shortages related to housing in the province.

Table 8: KZN Provincial Housing Shortfall: 2011-2016<sup>430</sup>

<b>Provincial Housing Allocations to TMM in comparison to TMM Capital Budget</b>					
<b>Allocations from PDHS to TMM</b>	<b>Audited 2011/12</b>	<b>2012/13</b>	<b>2013/14</b>	<b>2014/15</b>	<b>2015/16</b>
Current projects		R 84 184 000.00	R 56 000 000.00		
Planned projects		R 598 848 000.00	R 1 305 600 000.00	R 1 242 800 000.00	
		R 683 032 000.00	R 1 361 600 000.00	R 1 242 800 000.00	
<b>TMM Capital Budget</b>	R 223 000 000.00	R 460 000 000.00	R 475 000 000.00	R 254 000 000.00	R 242 000 000.00

The analysis and implication of the table 8 is more succinctly captured by Coovadia, where she states at length that:

The capital budget for TMM has been approx. R223million for2011/12 (audited outcome), and is currently R460million (2012/13 capital budget), then grows to R475million for 2013/14 while it decreases to R254million in 2014/15 and

<sup>429</sup>Coovadia, Y. 2013. *Housing – SEDis and CBD LAPS*. Note prepared for Royal HaskoningDHV. Pg. 9

<sup>430</sup> Source: Coovadia, Y. 2013. *Housing – SEDis and CBD LAPS*. Note prepared for Royal HaskoningDHV

R242million in 2015/16. The value of current and planned housing project allocations for TMM from the Provincial department of Human Settlements for the medium term is higher than the total capital budget of TMM.

And

This implies that the creation of assets in TMM is externally driven (from a provincial capital grant) and may in most instances create non-revenue generating private assets given that many properties funded by housing capital subsidies are not billed for rates and also receive Free Basic Services (except for social housing). This is exacerbated by the fact that the capital subsidy currently represents an under-funded mandate imposed on municipalities by provincial and national government. For example, the actual cost of a 'RDP' house (land, services and top structure) is on average R140, 000 in metros, while the maximum capital subsidy is approximately R60, 000. Therefore, the metro absorbs the difference of R80, 000, but this figure does not include further public investment in public spaces and community facilities required within the development. In-situ upgrading costs can cost up to R6, 000 more than RDP development, and excludes the operating cost for the management of the informal settlement prior to and during upgrading. The structural fiscal gap is the term used to describe the difference between the capital subsidy and the actual cost of development. So while TMM is praised for providing social benefits to alleviate poverty and hardship it is at the same time planning for huge amounts of revenue foregone. This ultimately puts the municipality in greater financial difficulty and is fiscally and financially unsustainable.<sup>431</sup>

#### **6.3.4 Public Participation vs. Service Delivery Efficiency**

Having considered the results of the research in relation to the levels of public participation and levels of service delivery in Msunduzi Municipality, it remains central to this study to consider the relationship or correlation between public participation and efficiency. The central question of the study is whether public participation has negative effects on municipal efficiency in a sense that the time and resources allocated to public participation could be better utilized for actual delivery, especially in a resource-scarce context. For instance, the Msunduzi Municipality spent R7, 958.87 and R6, 769.80 in 2015 and 2014 respectively on ward committee costs.<sup>432</sup> Some of these costs go

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<sup>431</sup>Coovadia, Y. 2013. *Housing – SEDis and CBD LAPS*. Note prepared for Royal HaskoningDHV. Pg. 9

<sup>432</sup>See Msunduzi Annual Report 2014/2015 Financial Year

towards organizing the logistics of the ward committee meetings and ward community meetings, in addition to the administration costs. Some wards are geographically very large and require that people must be transported to a central location for meetings to take place. This is especially the case with some of the wards of Vulindlela, which are predominantly rural. Of interest to this study, is whether this, for instance, would have any impact on the efficiency of service delivery within the Municipality

To test this question, the respondents were asked to comment on their thoughts on the relationship between public participation and service delivery efficiency. Overwhelmingly, 73% argued quite strongly that high public participation leads to improved efficiency in service delivery, as it strengthens accountability and legitimacy. By the same token, 26% thought that there is no relationship between public participation and service delivery efficiency. 1% could not comment on this. Surprisingly, none of the respondents were of the view that public participation negatively affected service delivery efficiency, despite the costs associated with it.

To explain this, one respondent stated:

I can see why one would be tempted to think that public participation costs time and money, therefore inefficient. Does this not remind you of Apartheid, where government thought they knew what was best for us poor black people? We can't repeat that mistake. The truth is that the municipality becomes efficient when it takes the right decision the right way, informed by the demands or needs of the people. The only way to be sure of the community's views is by asking them. This increases the municipality's ability to deliver the right service, at the right time for the right people. This is efficiency because, just imagine what happens when people want a community hall and the municipality decides to spend money on speed humps?<sup>433</sup>

Other respondents argued to the effect that the question of resources and time does not even arise when it comes to public participation and service delivery efficiency because these are things that should be provided for in the municipal budget. After all, resources are linked to specific and identified municipal activities over a specific period of time.<sup>434</sup> If the municipal budget is drafted in line with the legislation and includes meaningful engagement with the municipal citizens, it

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<sup>433</sup>See interview with municipal official (MO24)

<sup>434</sup>Interviews with municipal officials (MO15) and civil society (MCS54)

enables the municipality to implement its programmes, confident in the knowledge that the programme of action is based on agreements with and needs of the people. This in turn minimizes challenges that could delay the delivery of the services at a later stage.

In line with the thinking of Hookana<sup>435</sup>, the research findings indicated a dispute of cost efficiency as an appropriate measurement for public service efficiency. Thus,

Technical or productive efficiency refers to the use of resources in the technologically most efficient manner in order to obtain the maximum possible output(s) from a given set of inputs. When productive efficiency is determined in monetary terms, it is sometimes known as cost efficiency.<sup>436</sup>

Cost efficiency analysis is an instrument that is largely a private sector tool that is aligned to quantifiable processes and productivity, with little consideration for quality and effectiveness. In a way, it is like an audit processes in that it considers compliance with regulations, adherence to plans and the outputs. This fails to account for the nuances in government, particularly local government. “The municipal culture is still quite far removed from business-oriented culture, and the processes are more functional- than process-based.”<sup>437</sup>

Consequently, many respondents considered efficiency to be about the quality of the input and processes, as well as effectiveness of the output. Despite the improvements in the municipality’s technical efficiency, as demonstrated by the annual reports and the Audit-General’s reports since 2012, the low levels of public participation inform the perception of inefficiency in service delivery. Municipal residents are not adequately informed about their municipality to see the efficiency. There is a substantial distance between the municipality and the community, which is particularly acute in relation to previously disadvantaged areas and informal settlements.<sup>438</sup> This is exacerbated by the seeming low levels of trust<sup>439</sup> in the municipality by the citizens, which is

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<sup>435</sup>Hookana, Heli. 2011. “Measurement of Effectiveness, Efficiency and Quality in Public Sector Services: Interventionist Empirical Investigations.” *Managing Sustainability? Proceedings of the 12<sup>th</sup> Management International Conference, Slovenia, 23-26 November*. Pp. 491-510

<sup>436</sup>van der Westhuizen, G. and B. Dollery. 2009. “Efficiency measurement of basic service delivery at South African district and local municipalities.” *Journal of Transdisciplinary Research in Southern Africa*, 5(2), Pp. 162-174

<sup>437</sup>Ibid, Pg. 506

<sup>438</sup>See *Msunduzi Municipality Living Conditions Survey 2016/2017* for the results satisfaction levels amongst residents of informal settlement, which make up about 25% of the municipal population.

<sup>439</sup> However, it could be argued that the situation could be worse in the context where there complete absence of public participation mechanisms in a society that is founded on constitutional democratic values.

caused by the perceived tumultuous nature of political squabbles in the region<sup>440</sup>, lack of accountability outside of party political structures,<sup>441</sup> the placing of the municipality under administration in 2011 and the technical problems such as the billing crises within the municipality.<sup>442</sup>

Central to this gap is the dysfunctionality of ward committees, which are designed to bridge the gap between the elected representatives and the people. Since inception, ward committees have been touted as aiming to improve service delivery efficiency through public participation. Their weakness is a reflection of inefficiency in the municipality, as the service delivery plans 'lack' significant input legitimacy - even if there are other avenues for public participation.

## 6.4 Conclusion

The placing of Msunduzi Municipality under administration in 2011 has provided a negative reference point for citizens and observers in the measurement of the municipality's performance amongst the municipal residents. The effects of this are still being felt in a number of functional areas of the municipality. This means that the findings of the research, particularly in relation to opinions and perceptions, have to be understood in the context of this experience.

Nevertheless, this chapter provides an insight into the relationship between public participation and service delivery efficiency in the municipality. Msunduzi has low levels of participation, which is paralleled by low levels of efficiency - despite improvements in cost efficiency over the past few years. Based on the opinions of the respondents and the Msunduzi Municipality Living Conditions Survey, there is a link between public participation and service delivery efficiency. The relationship is a positive one: effective public participation has positive effects on efficiency.

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<sup>440</sup>interview with municipal official (MO10)

<sup>441</sup>Interview with civil society (MCS44)

<sup>442</sup>When Msunduzi Municipality was placed under administration in 2011, it suspended its indigent policy, which is designed to cushion the poor. This, together with years of estimating metre readings for water and electricity, through a seemingly arbitrary formula, resulted in some people receiving bills of ranging from R2000 to R700 000. Some of these people were occupants of RDP houses, whose electricity was disconnected as a consequence. Although the indigent policy was reinstated, the billing problem remained and affected thousands of people. See *News 24*. "City's murky electricity plan." <http://www.news24.com/SouthAfrica/News/citys-murky-electricity-plan-20170316>; *The Witness*. "Msunduzi still has a long way to go." <http://www.news24.com/Archives/Witness/Msunduzi-still-has-a-long-way-to-go-20150430>

Public participation increases transparency and public accountability. This in turn ensures that municipal resources are managed prudently and transparently; whilst the services are delivered in line with the wishes of the community within the commonly accepted resource and contextual parameters.

The findings of this chapter seem to suggest that a symbiotic relationship exists between public participation and service delivery efficiency. Public participation apparently is an integral and critical aspect of service delivery efficiency in local government. It must be built into the systems and processes of the municipality to the extent that it is not considered a separate activity. However, no evidence of this is provided in terms of what actually characterizes the Municipality. This symbiotic relationship is expressed more in terms of the responses of the interviewees, which could also be viewed as a wish or vision of how the Municipality could be more efficient.

On the other hand, the findings of this chapter highlight certain patterns in terms of participation. Although participation levels are generally low, women and people from comparatively affluent areas - mostly white people - have higher levels of participation compared to the other groups in the municipality. Yet it is the predominantly the poor and the youth that are most affected by service delivery inefficiencies. This speaks to the way in which the municipality communicates with the different groups and perhaps the manner in which different needs are addressed through service delivery. Although reference has been made to issues pertaining to access and opportunity to participate, participation in municipal affairs may have serious cost implications for individual municipal residents. These may include costs related to transport, particularly in large and mainly rural wards. This may help explain the very low levels of participation amongst the poor.

Furthermore, the failure to minimize the phenomenon of party political control of ward committees will continue to contribute to low levels of participation and weaken the quality of participation, perhaps even the functionality of the municipality. The opportunity to engage freely in an open discussion, based on a reasonable expectation that the different views will be considered in decision-making, is a fundamental requirement for effective public participation. The absence of this will continue to fuel the perception of the municipality's inefficiency in service delivery amongst the municipal residents, many of whom are not card-caring members of political parties that control participation forums.



However, accepting this gives rise to the question regarding the extent beyond which high levels of public participation could possibly become problematic. If all the structures and mechanisms of public participation functioned at the highest possible level, would this automatically lead to high levels of efficiency in service delivery by the municipality, given the different needs of different individuals and the time it could possibly take to reconcile these? This is addressed more meaningfully in the conclusion of this thesis.

The following chapter (7) discusses in depth similar issues in relation to EThekweni Metropolitan Municipality.

## **Chapter 7: The Case of eThekweni Metropolitan Municipality**

### **7.1 Introduction**

The purpose of this chapter is to explore the central question of this study in the context of the eThekweni Metro and in relation to the previous chapter on Msunduzi Municipality. The chapter begins by discussing the profile of the eThekweni Metro. Central to this discussion are the similarities and differences with respect to how these two municipalities are structured and function for purposes of service delivery. By looking at similar factors as the previous chapter, this chapter concludes that despite numerous challenges, eThekweni Metro is considered more efficient than Msunduzi Municipality in terms of service delivery efficiency.

However, despite having more formal and more sophisticated public participation policies and mechanisms, the level of formal participation in the municipality—through these formal mechanisms—is relatively low. Furthermore, it is within the eThekweni Metro context where the chapter finds the rural-urban public participation and tension between traditional and elected government officials more pronounced. This notwithstanding, the culture of participation through civil society and mass protest action is stronger and more effective in influencing service delivery.

Having considered a number of factors, the chapter reaches the conclusion that service delivery efficiency within eThekweni Metro may come at a cost to public participation

### **7.2 eThekweni Metro Profile**

Section 2 of the Municipal Structures Act<sup>443</sup> provides for the establishment of a category A municipality in an area that has, inter alia, high population density; extensive development, multiple business districts and industrial areas; a complex and diverse economy; and strong social and economic linkages between different units. In line with these criteria, the Demarcation Board proposed the creation of eThekweni Municipality through the merger of several local authorities (Durban Metropolitan Municipality, uMkomaas Transitional Council and Ndlovu Regional Councils) in the year 2000, with the city of Durban as its center. eThekweni is the only

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<sup>443</sup> See Municipal Structures Act 117 of 1998

metro in the province of KwaZulu-Natal. It is also the largest city in the province - the third largest in the country - with a population estimated at 3.5 million (African = 73.8%, Indian = 16.7%, White = 6.6%, Coloured = 2.5%, other = 0.4%).<sup>444</sup> This amounts to 33% of the population of KwaZulu-Natal and 7% of the national population. The estimated unemployment rate is 30.2%, with youth unemployment estimated at 39%.<sup>445</sup>

With its strategic location on the coast of KwaZulu-Natal, eThekweni Metro is not only one of the important economic centers of South Africa, it also has the busiest port in the African continent and the Southern hemisphere by volume. It is partly this port that gives credence to the notion of South Africa being the gateway to Africa. Ranked 5<sup>th</sup> in the country in terms of combined personal earnings of people earning above R51 000 a month,<sup>446</sup> the estimated Gross Domestic Product (GDP) of the Metro is R230, 8 billion. “Presently eThekweni’s GDP comprises 65.5% of KwaZulu-Natal’s GDP and 10.9% nationally.”<sup>447</sup> The capital budget of the municipality, which relates to service delivery, is approximately R6 billion, with an operating budget of R33 billion.

It is for this reason that the Metro, like Msunduzi Municipality, is fiercely contested politically. The municipality is contested by several political parties, and more recently there is a growth in the number of independents. Often the contestation has manifested itself through political violence, especially in places such as Section A in KwaMashu and uMlazi townships. However, although there is some political violence in the municipality, this is not to say that it is all linked to municipal party political competition. Table 9 below illustrates the electoral representation of political parties in the Metro from 2011 to 2016.

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<sup>444</sup>See eThekweni Municipality: 2015/16 IDP

<sup>445</sup> Stats SA, 2011.

<sup>446</sup>See the Institute of Race Relations comfort/deprivation index of 2016

<sup>447</sup>eThekweni Municipality: Draft 2015/2016 IDP. Pg. 43

Table 9: eThekweni Metro Political Party Representation 2011-2016<sup>448</sup>

PARTY NAME	WARD SEATS	PR LIST SEATS	TOTAL
African Christian Democratic Party	0	2	2
African National Congress	79	48	127
Azanian People's Convention	0	1	1
Congress of the People	0	1	1
Democratic Alliance	19	26	45
Inkatha Freedom Party	1	8	9
Minority Front	3	5	8
National Freedom Party	0	10	10
Truly Alliance	0	1	1
Independent	1	0	1
TOTAL SEATS	103	102	205

One of the major differences between Msunduzi Municipality and eThekweni Metro is on the stability of governance or administration. Since its formation, the Metro has had long-serving key office barriers such as the mayor and municipal manager. For instance the previous mayor, Obed Mlaba, served from 1996 to 2012 and the previous municipal manager, Mike Sutcliffe served from 2001 to 2011. In that time, Msunduzi Municipality had had several municipal managers and mayors.<sup>449</sup> This means the Metro has had better continuity in terms of leadership, which, although not automatic, can have a positive impact on policy certainty.

The Metro was established as a collective executive system in terms of Notice 343 of the Kwazulu-Natal Provincial Gazette of 2000. The executive committee is composed of 11 members from different political parties and reports to the city council of 219 members. In line with section 8(c) of the Municipal Structures Act, eThekweni Metro has collective executive system with a ward participatory system, which was effected through Notice 648 of 2005. To this extent, the Metro is demarcated into 103 wards, amongst the most of any metro in the country. In addition, ward

<sup>448</sup> Source: eThekweni Municipality 2013/2014 Annual Report

<sup>449</sup>See Piper, Lawrence and Lubna Nadvi. 2010. "Popular mobilization, party dominance and participatory governance in South Africa." In *Participatory Governance in South Africa*.

committees were established to give effect to the community participation legislative requirement.<sup>450</sup>

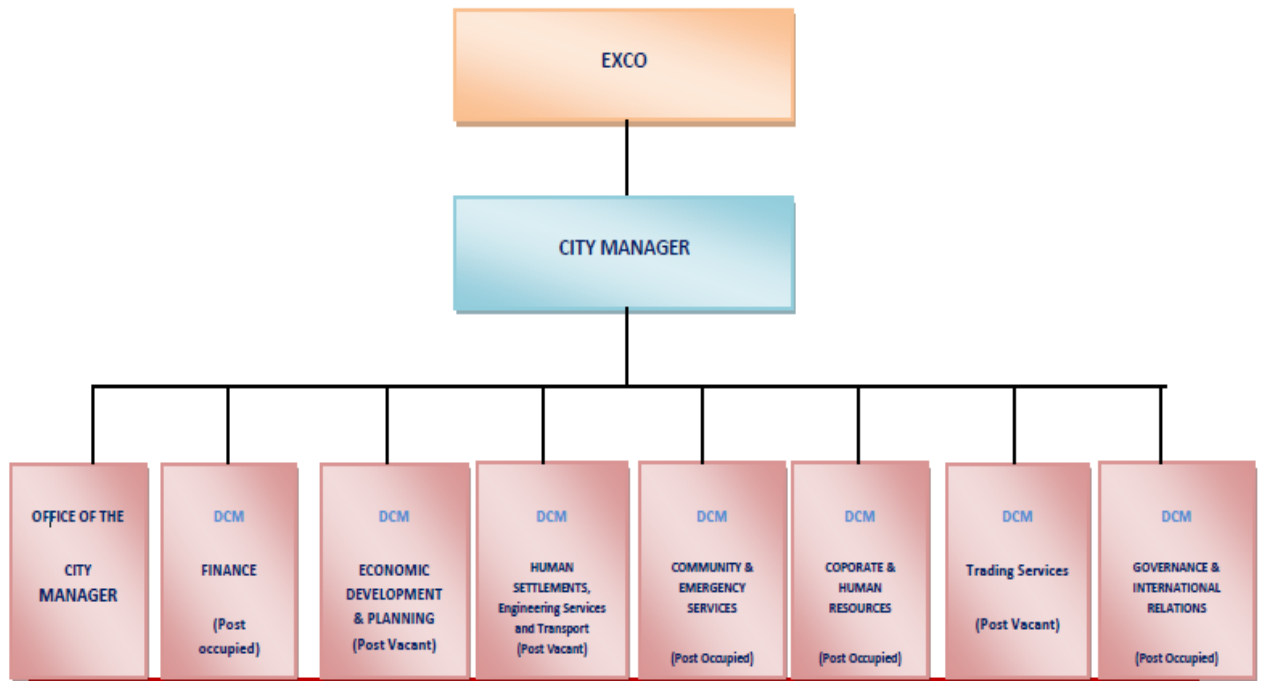
As with Msunduzi Municipality, the Metro has an administrative structure that is aligned with the National Key Performance Areas for Municipalities. Headed by the Municipal Manager (MM) the city management structure is based on a cluster model, with seven clusters. These clusters are headed by deputy city managers. Figure 4 below is diagram of the organizational structure of the Metro's senior management. For purposes of clarity, the clusters are:

1. Community and Emergency Services;
2. Corporate and Human Resources;
3. Finance;
4. Governance and International Relations;
5. Economic Development and Planning;
6. Human Settlements, Engineering and Transportation;
7. Trading Services;

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<sup>450</sup>This is dealt with in depth later in the chapter.

Figure 4: Organizational Structure of Senior Management of eThekweni Metro<sup>451</sup>



Each of these clusters coordinates the activities of different units. For instance, under the Community and Emergency Services cluster are the following units: Health, Security Management, Fire and Emergency, Safer Cities and ITRUMP, Disaster Management and Emergency Control and Parks, Recreation and Culture. Of importance for purposes of this research, is the Governance and International Relations cluster, which, inter alia, houses the Community Participation and Action Support Unit.

### 7.3 Public Participation in eThekweni Metro

Public participation in the Metro is informed by the *Community Participation Policy: Creating an Enabling Environment for Citizens' Involvement in Matters of eThekweni Municipality* of 2006.<sup>452</sup>

The stated main purpose of this policy is:

<sup>451</sup> See eThekweni Municipality: Draft 2015/16 IDP.

<sup>452</sup> The policy was a result of a year-long (May 2004 to June 2005) consultative process named Citizens Action Support Programme. This was funded through the United States Agency for International Development.

Provide guidelines for increasing the level of active citizen participation in the decision-making process of local government and to create an enabling environment for civil society in which ordinary citizens and social groups may find platform upon which they voice out their concerns and take part in the fundamental decision making on issues affecting their lives.<sup>453</sup>

In addition to the several objectives stated, amongst which is strengthening democracy and keeping local government abreast of citizens' needs, the policy stipulates 9 practice principles for community participation. These are: structured participation, clarity of purpose, commitment, communication, flexibility and responsiveness, timelines, inclusiveness, collaboration and diversity. These principles are supported in the policy by a detailed discussion of citizen participation levels, including definitions of what the municipality considers active citizenship and the several roles of citizens in the municipality. Below is an extract from section H of the Policy, which is the section that details clearly with the roles of citizens in the municipality:<sup>454</sup>

Communities shall participate at different levels that are appropriate for that given issue.

### **Active citizenship**

34. Active citizenship means sharing the authority on the basis of which administrative agencies carry out legislative mandates. It goes beyond voting, paying taxes, or using government services. The City shall through community mobilization programme encourage communities to be active citizens.

35. Communities shall ensure maximum democratic accountability of the elected political leadership for the policies they are empowered to promote. eThekweni Municipality shall partner with relevant service providers to ensure that eligible community members are voting.

36. As participants in policymaking, citizens shall express via different Ward Committees and stakeholder forums, their views before, during and after the policy development process in order to ensure that policies reflect community preferences as far as possible.

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<sup>453</sup>eThekweni Municipality. 2006. *Community Participation Policy: Creating an Enabling Environment for Citizens' Involvement in Matters of eThekweni Municipality*

<sup>454</sup> eThekweni Municipality. 2006. *Community Participation Policy: Creating an Enabling Environment for Citizens' Involvement in Matters of eThekweni Municipality*. Pp. 19 – 22.

37. Citizens are called upon to be more than voters, by helping to identify important issues, to help carry out solutions, and to judge whether results have been achieved or not.

### **Citizens as owners or shareholders**

38. Communities are viewed as the “owners” of government. Through their rates payments, citizens are investors in local government services and municipal owned assets.

39. Through their votes, citizens are shareholders who elect the “boards of directors” responsible for government performance. Councillors are the people’s stewards not only to manage finances but also to produce results. An “owner” wants to know whether government is getting the job done.

40. Through rates, they invest in public services and assets. Communities are shareholders: through their votes, they elect the board of directors or Councillors who govern. Representation through political party candidates shall cater for this. Citizens as customers or consumers

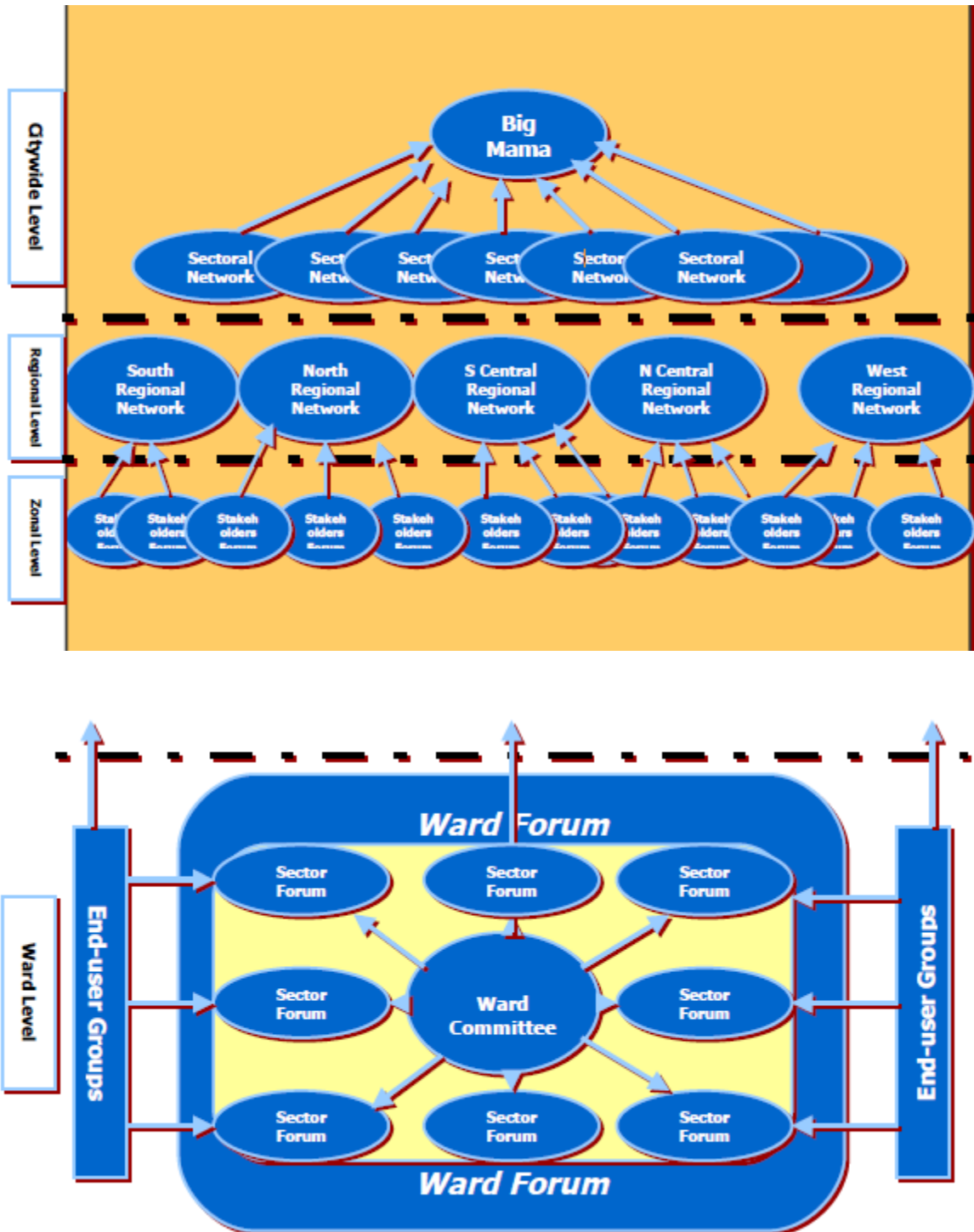
41. Communities are principal users and clients of municipal services and shall be treated as valued customers by the Municipality. This shall be done by practicing Batho Pele principles and through City’s Customer Care Centres. Citizens as policy makers and issue framers

42. Communities are vision builders: helping define desirable future and strategic plans. Communities through Ward Committees and other set up structures shall contribute by providing advice to municipal policymaking process.

The policy further establishes various public participation structures in different levels of operation. These include ward committees, ward sector forums, ward forums, zonal stakeholders’ forum, regional network, stakeholders’ forum and citywide sectoral networks. The relationship and coherence between these structures is illustrated in the two diagrams below.



Figure 5: eThekweni Public Participation Process<sup>455</sup>



<sup>455</sup> Source: eThekweni Municipality Community Participation Policy

The above figures have to be understood as forming an illustration of a single process. The bottom figure indicates that the basic unit of community participation is the ward committee, which is driven by sector forums, whose role is to inform and influence the ward committees. That engagement between the ward committee and sector forums representing different stakeholders in the ward is referred to as a Ward Forum. Ward forums are then clustered into zones in what is called Stakeholder Forums. These forums focus mainly on issues of common interests across the wards. As it is with ward forums, the stakeholder forums are clustered into five main regions called Regional Networks. Together with city-wide networks that represent the different sector, regional networks form part of the city-level engagement forum called Big Mama, led by the Mayor. Ideally, it is at the Big Mama forums that the views of the citizens across the different levels and communities of the city are consolidated into actionable programmes of service delivery.

A key feature of the policy is the emphasis on community-based planning. The closest structures to the community are the ward committees, which are meant to be established in every ward. eThekweni Metro envisages ward committees to be the drivers of community-based planning. To ensure this, the Metro effected *Rules Regulating the Establishment and Operation of Ward Committees*. Informed by the Municipal Structures Act, the rules state that “the objective of the Ward Committee is to enhance participatory democracy in local government.”<sup>456</sup> Amongst other things, the ward committee is impartial, not politically aligned, serves as an advisory body and “an integrative umbrella body responsible for coordination of ward developmental initiatives.”<sup>457</sup> Whilst ward committees are chaired by ward councilors, the Speaker of the municipality may, in consultation with the Whips<sup>458</sup> of the different political parties, deploy PR councilors to serve as ex-officio members on ward committees.

As instruments of community-based planning and public participation, the ward committees may form subcommittees based on the identified needs - ensuring representation of the diversity in the ward. Moreover, the ward committees must convene public meetings in order to engage the community on municipal issues affecting the ward. Available to ward committees, if they so

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<sup>456</sup>See eThekweni Municipality. *Rules Regulating the Establishment and Operation of Ward Committee*. Unpublished.

<sup>457</sup>Ibid. Pg. 3

<sup>458</sup> The whips are political party representatives within municipal councils, who are designated with the task or keeping party discipline amongst members of their parties with the municipal council. They are rule-enforcers for each party in the municipal council.

choose, is the right to establish Ward Sector Forums, which shall be composed of people or organizations with common interests. This is in addition to the Ward Forums, which serve as advisors to the Ward Committees and represent the ward in the IDP process. The Ward Forums are inclusive of the different civil society formations, school governing bodies, political parties and other civic groups.

Furthermore, the Rules specifically state that there shall be no remuneration of ward committee members except for reimbursement of personal expenses incurred whilst performing ward committee-related work. In this regard, eThekweni budgets about R1000 monthly stipend for each ward committee member for the 103 wards. This amounts to a R1, 030,000 monthly budget dedicated to compensating ward committee members. On this, Nzimakwe and Reddy<sup>459</sup> argue that the non-payment of ward committee members may be necessary to ensure the independence of the ward committees even though this might discourage certain people from availing themselves. It is, however, unclear how the non-payment of ward committee members would ensure their independence. The independence of the ward committees and other forums is more likely to be compromised by the political parties rather than the Municipality itself. In this regard, it is important to keep in mind the distinction between the Municipality (as a legal entity) and the political party that governs such an entity. Therefore, the stipend is unlikely to compromise the ward committees' independence. However, it could have an impact, in the context of high unemployment levels, on the competition for ward committee positions.

The task of providing support to ward committee members in the form of training and administrative support falls within the ambit of the Community Participation and Action Support Unit of the Metro. Specifically the administrative support includes:

- i. The promotion of Ward Committees in the community – informing the communities of the roles and responsibilities of Ward Committees. A practical example in this regard may be the provision of formal identification cards to Ward Committee members so that they are recognized as legitimate Ward Committee members amongst the communities;
- ii. To identify or arrange central meeting places in the ward where communities have access to information and where Ward Committees can meet;

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<sup>459</sup>Nzimakwe, T.I. and PS Reddy. 2008. "Community Participation in eThekweni Municipality with Particular Reference to Ward Committees." *African Journal of Public Affairs* (2)1. Pp. 32-43

- iii. Assisting with the translation of information and documentation for the community;
- iv. Developing and providing capacity building and training programmes for Ward Committees on an ongoing basis during their term of office; and
- v. Facilitation of Ward Committee elections.<sup>460</sup>

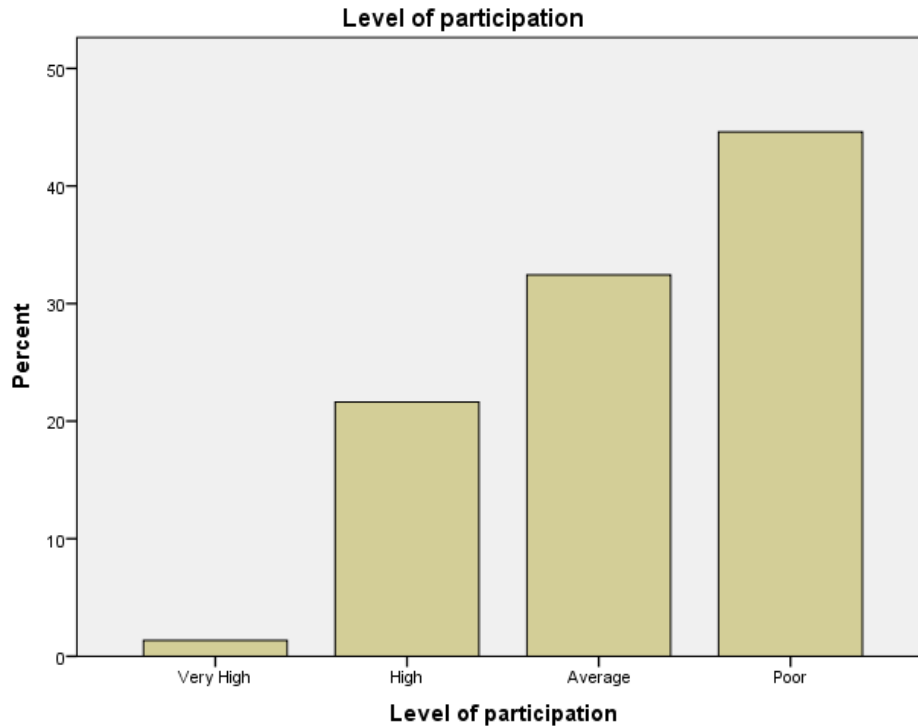
In essence, the Community Participation and Action Support Unit is responsible for the formation, equipping and functioning of ward committees and the overall community participation policy of the Municipality. It is an administrative unit that should operate above party politics, but whose work has to consider these party politics in terms of how they manifest in different communities. The Unit must do all of these things as part of promoting the quality and level of community participation in the Municipality. This understanding is critical when considered in context of the findings below.

In terms of the key findings of the study, with respect to the level of participation in eThekwini Metro, of the respondents interviewed 44.6% were of the view that participation levels were low, 32.4% thought participation was average, 21.6% regarded participation as high, and 1.4% thought participation was very high. Table 10 below is a graphical illustration of these results based on the analyses of the interview responses.

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<sup>460</sup>See eThekwini Municipality. *Rules Regulating the Establishment and Operation of Ward Committee*. Unpublished.

Table 10: Level of Participation in eThekweni Metropolitan Municipality<sup>461</sup>



These results are almost in line with the findings of the *eThekweni Municipal Services and Living Conditions Survey Four Year Trend Report* of 2015, which stated: “It is of concern that municipal financial viability and management as well as governance and public participation, despite showing improvement, have still received poor ratings for each of the four years in this trend.”<sup>462</sup> There are a few things to be noted from these results.

Firstly, a number of respondents stated that while the levels of participation are generally poor, they were particularly so in rural areas when compared to urban areas. eThekweni has a very diverse population, with diverse ways of life informed by the four types of areas that form the municipality: urban, peri-urban, informal settlements and rural areas.<sup>463</sup> The rural areas, although

<sup>461</sup> Source: SPSS data analyses of interview responses

<sup>462</sup> See *eThekweni Municipal Services and Living Conditions Survey Four Year Trend Report* of 2015. Pg. 18. It is also worth noting that the survey is based on a four-year period.

<sup>463</sup> Sutherland, Catherine, et al. 2013. *Durban City Report*. Online: <http://www.chance2sustain.eu/63.0.html>

growing in population and developing to varying degrees, are less densely populated and are largely located in the periphery of the municipality in the north, south and west. The rural areas tend to be geographically vast with poor infrastructure, particularly transport infrastructure. Moving from home to a meeting point is more expensive and more difficult in rural areas. The challenging geographic terrain of the Metro<sup>464</sup> adds to this problem. This makes organizing and actually having community meetings very difficult. Often it is those closest to the meeting place and those with resources that participate in community meetings. According to Statistics South Africa, the Metro’s settlement patterns are as the table below.

Table 11: eThekweni Metro Settlement Type<sup>465</sup>

<b>Municipal Area Type</b>	<b>Percentage</b>
Urban	84.8%
Tribal/Traditional	14.7%
Farm	0.5%
TOTAL	100%

Moreover, the level of education and exposure to current and relevant information in rural areas is lower than in the urban areas. The best sources of information remain the radio and television. In some instances, word of mouth is still the best form of communication. These areas are more likely to suffer brain drain as the youth and educated people tend to move to urban areas for better access to resources and opportunities. South Africa’s problem of migrant labor<sup>466</sup> also affects the family

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<sup>464</sup> The Metro, like much of the KZN province, has a mountainous and rough terrain. Some areas are not easily accessible via motor vehicle transportation.

<sup>465</sup> Source: Stats SA. 2011 census

<sup>466</sup> The migrant labour system in South Africa can be traced back to the discovery of diamond and gold in the 1800s. Initially, it was designed to provide cheap labour to the mining and agricultural industries by recruiting largely unskilled workers from countries such as Tanzania, Zimbabwe, and Mozambique. Later the system was complicated by the Apartheid policies, which, on the one hand created Bantustans in order to control the number of black people in urban areas; on the other hand, by not developing rural areas and Bantustans, the need for urbanisation in order to secure better opportunities increased amongst the same Africans, which meant more population control measures need to be enacted. In order to ensure an abundant supply of cheap labour, the Apartheid government prevented black people from forming organised trade unions, limited the nature and level of skills gained through formal training of black people and concentrated economic industries in urban areas. As a result, and due to failure to rapidly and adequately develop rural areas, the phenomenon of urbanisation for economic reasons continues in the post-Apartheid South Africa. Job opportunities still are still better in urban areas than in rural areas—which compels many people to seek employment in urban areas, often leaving their

structures and demographic makeup of rural areas - which also has a negative impact on public participation.<sup>467</sup> As a result of the legacies of colonialism and Apartheid, the rural areas were designed to be economically dependent on but, socially and physically, separated from urban cities. This means that they were not economically viable, resulting in the mass exodus of mostly men who worked in the mines and other urban industries in order to support their families in rural areas. A consequence of this is a disproportionate number of women in rural areas, who are left to be the primary care givers to their children, work on farms and engage in community activities - despite limited opportunities to do so freely and meaningfully.

However, as noted by several respondents, there is a growing phenomenon of people moving from urban areas to rural areas due to comparatively cheap land and the low cost of living.<sup>468</sup> This phenomenon creates, as a byproduct, tensions between ‘urbanites’ who, at times, have different perspectives than the traditional rural populace. This, consequently, affects the nature and level of participation in some areas. For instance, one councilor stated, “the urbanites tend to either stay away from community meetings or, if they do come, they tend to undermine other people. They consider the others as barbaric and do not respect the traditional ways.”<sup>469</sup> For their part, the ‘traditional’ rural populace views the ‘urbanites’ as arrogant and disrespectful. An example of such arrogance is the use of the English language in community meetings. This makes community meetings difficult to run, if and when they happen.

The problem is exacerbated in situations where there is lack of synergy and coordination between the traditional leader and a ward councilor. The advent of democracy brought with it an inherent conundrum of elected public representatives, co-existing with unelected traditional leaders in rural areas. In instances where the traditional leader and the councilor are of different party political persuasions, the problem can be more pronounced to the extent that it creates a difficult environment for effective participation by the citizens who are conflicted between respecting traditional authority and exercising their democratic rights. Given the historical urban-rural divide

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families behind. See Bank, Leslie. 2017. *Migrant Labour in South Africa*. Conference and Public Action Dialogue Report. University of Fort Hare. Online: <http://www.hsrc.ac.za/en/research-data/ktree-doc/17864>

<sup>467</sup>Harrington, J.S. *et al.* 2004. “A century of migrant labour in the gold mines of South Africa.” *The Journal of The South African Institute of Mining and Metallurgy*. Pp. 65-72.

<sup>468</sup>Interviews with municipal official

<sup>469</sup>Interview with civil society (MO36)

along the ANC and IFP lines, which manifested in political violence in the province and within the Metro, it is not uncommon for traditional leaders to be active in political parties that oppose the party of the councilor or vice-versa. To this effect, one respondent stated:

Let me tell you my brother. This thing of having traditional leaders can be a serious challenge in some rural areas. The previous councilor in my ward had to ask the municipality to intervene because the traditional leader would sabotage his work. Whenever he called a ward meeting, the chief would call an imbizo on the same day. If not that, the chief would instruct the councilor on what services needed to be delivered where. He would publically reprimand the councilor and remind him that he is the chief and the councilor his subject.<sup>470</sup>

Furthermore, participation tends to be differentiated along economic lines. The more affluent middle income areas have higher levels of participation compared to the poorer areas.<sup>471</sup> As it is with Msunduzi Municipality, this is largely due to access to information and resources needed for participation. The residents of affluent areas are able to explore different methods of participation, in addition to the institutionalized mechanisms. This is mostly technology-enabled in the form of access to the internet, emails and phone calls. The growth in social media space has provided a further platform for effective participation by those with the resources and the technical skills. This is in contrast to poorer - especially rural - areas where the best route of participation is through community meetings, often held in open spaces due to lack of community halls. In these areas participation is strictly time-bound with limited informal civic engagement and the agenda remains in the hands of the councilor.

The third factor influencing participation is the nature of public participation processes and structures. eThekweni's public participation is highly regulated and institutionalized, in what

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<sup>470</sup>Interview with civil society (TMCS50)

<sup>471</sup>It is worth noting that although levels of participation are lower in less affluent areas, through engagement with a number of municipal officials and civil society respondents, it seems there are surprisingly high levels of participation amongst dwellers of informal settlements. This is corroborated by the findings of Selmeczi who details the conditions and experiences of residents of informal settlements in eThekweni. Their participation is driven in part by the feeling of exclusion and abandonment by the municipality. However, as it is noted later, their chosen methods of participation involve public mobilisation, public protests and land invasions. See Selmeczi, Anna. 2012. *"We are the people who do not count": Thinking the Disruption of the Biopolitics of Abandonment*. Doctoral Thesis. Central European University, Hungary.



Galvin and Goldberg<sup>472</sup> refer to as invited spaces. This refers to spaces or mechanisms specifically and deliberately ‘created’ to promote participation - often in a form of consultation and informing<sup>473</sup> - between the citizens and their elected government representatives. These include the IDP processes, ward committees, ward forums, stakeholder forums and sectoral networks. There are a number of issues with regard to these ‘spaces’ that affect the levels of participation. The first is captured succinctly in the words of a responded who stated:

...there are many of these ways or mechanisms for participation that the city puts in place. But if you look at them you realized that they are controlled by the city. The Ward Committee for instance is chaired by the ward councilor. The ward forums, where they might exist, have no powers and advise the advisors. When people get there, they are given a list of things to discuss and the discussion is controlled. The power is still very much with the municipality and its officials.<sup>474</sup>

These mechanisms, as many of the civil society respondents stated, fail to promote genuine and in-depth engagement between the citizens and the municipality on critical issues. Members of the community do not feel that their views are actually taken into account by those making decisions. There is no clear connection between the discussions and the decisions taken in these forums. Essentially, the concern is that the views of the community members are not valued enough to actually become decisions. Central to this concern is the absence of clear and immediate feedback loops on how community views informed policies before the decisions were taken. In other words, communication is linear and not complex enough to provide multiple stages of engagement between citizens and the municipalities on matters governance and service delivery. When the municipality reports, it is after the implementation has already commenced, leaving no space for the community to verify and refine their contributions to the plans prior to their implementation.

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<sup>472</sup>Galvin, M. and Goldberg, K. 2011. *What is the Scope for Civil Society Advocacy Around Water Issues?* Unpublished.

<sup>473</sup>Anstein, 1969. Degrees of Citizen Power. In Anstein’s theory, there are eight different ascending levels of citizen participation. In this ladder, informing and consultation are third and fourth steps respectively. Informing is when the government simply informs or tells citizens of decisions without the chance of citizens influencing those decisions. Consultation, on the other hand, is when citizens are provided with an opportunity to influence decisions. But the decision still rests with government.

<sup>474</sup>Interview with civil society (TMCS57)

This is further complicated by the multiple layers of participation mechanisms, as directed by the community participation policy. Given these layers, communities can hardly recognize their voices in the broader municipal plans. The smaller and poorer communities are the ones like to have their voices drowned out in the multilayered processes, especially if their concerns are at variance with interest of other more affluent communities. For instance, there have been a number of protests related to the provision houses for poor families located close to affluent areas of Westville, Morningside and Ballito. The protesters often argue that their needs are not considered when informal houses are demolished and settlements declared land invasion.<sup>475</sup> In fact, these mechanisms can at times reinforce historical distributions of privilege, often to the disadvantage of the poor.<sup>476</sup>

### **7.3.1. Integrated Development Plan**

The Integrated Development Plan is one such process that is indicative of invited spaces, as it is a regulated and scheduled process. The Municipal Systems Act, as noted previously, requires municipalities to formulate a development plan, which will inform their budgets, through a process that is inclusive and promotes active participation by the community. “It seeks to promote public participation in development planning, needs prioritization through strategic focus, integration and equity in the planning and allocation of scarce resources.”<sup>477</sup> The eThekweni Metro’s approach to the IDP is through what it calls Community Based Planning (CBP). A key element of the CBP is “ensuring that people are active and involved in managing their development, in claiming their rights and in exercising their responsibilities.”<sup>478</sup> The responsibility for driving this CBP,

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<sup>475</sup> See *News24*. 2018. “Durban motorists urged to be cautious in Springfield after violent housing protest.” Online: <https://www.news24.com/SouthAfrica/News/durban-motorists-urged-to-be-cautious-in-springfield-after-violent-housing-protest-20180914>

<sup>476</sup>Burger, R. 2006. “What we have learnt from post-1994 innovation in pro-poor service delivery in South Africa: a case study-based analysis.” *Development South Africa*. Vol. 22(4). Pp. 483-500

<sup>477</sup>Fuo, On. 2013. “A Critical Investigation of the Relevance and Potential of IDPs as a Local Governance Instrument for Pursuing Social Justice in South Africa”. *PER/PELJ* (16)5. Pp. 220-286

<sup>478</sup>eThekweni Municipality: 2015/16 IDP. Pg. 144. There are several principles that inform the CBP. These are: the need to ensure that poor people are included in planning; Systems need to be realistic and practical, the planning process must be implementable using available resources within the district / local government; Planning must be linked to a legitimate structure; Planning should not be a once off exercise, but should be part of an ongoing process, with planning, implementation, monitoring and evaluation, and annual reviews; The plan must be people – focused and empowering; building on strengths and opportunities not problems; Plans must be holistic and cover all sectors; Planning should promote mutual accountability between community and officials; There must be

particularly in relation to the IDP process, is given primarily to the ward committees. However, unlike Msunduzi Municipality, the Metro did not establish the IDP Representatives Forum in line with the Municipal Systems Act—which also stipulates the composition of this forum. Instead, the Community Participation Policy provides for the establishment of, amongst others, Ward Forums and the citywide Stakeholders Forum, defined in the community participation process above. . These forums are meant to be central to the IDP process and represent the different community-based plans, as agreed to primarily be at ward level, and be inclusive of political parties and a range of other stakeholders. Buccus emphasizes this point by stating:

The eThekweni municipality does not convene IDP forums, but rather its own ‘Big Mama workshops’, which included many sectoral stakeholders, such as business forums, unions and civil society organisations, as well as geographically-based representatives. These workshops constitute consultative forums on the city’s development plan, and the budget process too.<sup>479</sup>

For the Metro, the structured and coordinated participation process by which the IDP is formulated must feed into and be in line with what is referred to as the 8 Point Plan, which itself is aligned with the national and provincial government programmes and plans such as the National Government’s Outcome 9 Priorities.<sup>480</sup> The 8 Point Plan contains the following points:

- Develop and sustain our spatial, natural and built environment;
- Developing a prosperous. Diverse economy and employment creation;
- Creating a quality living environment;
- Fostering a socially equitable environment;
- Creating a platform for Growth, empowerment and skills development;
- Embracing our cultural diversity, arts and heritage

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commitment by councillors and officials to both plan and implement, and there must be someone responsible to ensure it gets done.

<sup>479</sup>Buccus, Imraan. 2011. “Community Development and Engagement with Local Governance in South Africa: a view from KZN.” *Good Governance and Learning Network*. Unpublished Research Paper. Pg. 7.

<sup>480</sup>eThekweni Municipality: 2015/16 IDP states, “The aim of Delivery Agreement: Outcome 9 is to ensure a responsive, accountable, effective and efficient local government system so as to restore the confidence of citizens in the local government sphere. As such municipalities need to ensure that the basic needs of communities are met; build clean, effective, efficient, responsive and accountable local government; improve performance and professionalism and strengthen partnerships between local government, communities and civil society. Whilst primarily there is a reporting line to Outcome 9, the municipality also reports on Outcome 8 which concentrates on human settlements.” Pg. 9

- Good governance and responsive local government
- Financially accountable and sustainable.

Each plan has a number of strategic focus areas, sub-plans, programmes, budgets and key performance indicators that form part of the review scorecard and are aligned to the National Key Performance Areas.

To ensure the proper alignment of the IDP with the numerous other programmes and plans, and in an effort to promote public participation, the Metro develops a lengthy, comprehensive process for developing and reviewing IDPs. The process plan identifies the number of steps that are to be taken in the process, the timeframes envisaged, the roles and responsibilities of identified internal and external stakeholders, and the associated costs of the process. One of the central pillars of the process is the focus on public participation, especially at ward and regional level through budget hearings, the production of simplified IDP documents in isiZulu and English, mayoral imbizo's - culminating in an IDP festival for the whole Metro.<sup>481</sup>

Whilst the Metro has developed comprehensive policies and strategies with respect to the IDP -as an instrument of development and public participation promotion - there are several challenges with respect to public participation. Firstly, the IDP Review Process Plan does not seem to be clearly aligned to the public participation policy. The different structures established by the public participation policy are not reflected in the process plans. In fact, the Process Plan makes no reference to the public participation policy, which is supposed to guide all public participation processes in the municipality. The exact structures to be involved and the manner of involvement is unclear from the Process Plan. "The public participation process is varied and includes ward level participation to regional hearings with both written and verbal comments."<sup>482</sup> The Process Plan further states that "the mayor will also consider hosting an IDP festival as part of the participation process."<sup>483</sup> This emphasizes the misalignment with the public participation policy.

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<sup>481</sup>See eThekweni Municipality *Draft Process Plan for IDP Review 2016/2017*.

<sup>482</sup>eThekweni Municipality IDP Review Process Plan 2016-2017.

<sup>483</sup>ibid. Pg. 9

This also seems to give the mayor an inordinate amount of power to determine what comprises the IDP festival too

Furthermore, the Process Document identifies internal and external stakeholders that are critical in the process. With respect to external stakeholders, the document identifies traditional leaders, civil society, cross border municipalities, national and provincial departments. Internal stakeholders include the Municipal Council, Mayor, Municipal Manager, Councilors and Plan owners. In both internal and external stakeholders identified there is no mention of communities or individual municipal citizens as critical stakeholders in the process. This is indicative of the Metro's cavalier attitude with respect to community and individual citizen participation in the IDP process. Focus is placed upon established structures and organization, at the exclusion of individual citizens.

Additionally, the other challenge is that the process is an 'invited space'. Of invited spaces, Bucuss<sup>484</sup> again argues that access to these is a privilege of a select few partly because they are not sufficiently advertised or accessible to marginalized people. Moreover, as Piper and Africa argue, "invited spaces of participation are ineffective and even sterile."<sup>485</sup> "In 'invited' spaces of participation, public authorities (or private developers) invite residents to raise their views or share their opinion on policies or projects, therefore remaining more or less in control of the agenda and the terms of the engagement."<sup>486</sup> On paper and for all intents and purposes, these processes improve political inclusion. However, this is not supported by any significant correlation in the distribution of resources.<sup>487</sup> Moreover, invited spaces provide opportunities for municipal authorities to cherry-pick policy contributions from communities in a way that best suits their original agenda. Font and Smith offer one explanation of why cherry-picking happens in relation to local government public participation policy proposals. They state, "it is easy to understand that a single proposal supported by an overwhelming majority of the members of a community in a

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<sup>484</sup>See Bucuss, 2011. Pg. 10

<sup>485</sup>Piper, L., Africa, C., 2012. Unpacking Race, Party and Class from Below: Surveying Citizenship in the Msunduzi Municipality. Pp. 219-229. In Bénit-Gbaffou, C and Piper, L. "Party Politics, the poor and the city: Reflections from the South African Case." *Geoforum* 43 (2), Pp. 173-177.

<sup>486</sup>Bénit-Gbaffou and Piper, 2012. Pg. 175

<sup>487</sup>Mitlin, D. and Jan Mogaladi. 2013. "Social movements and the struggle for shelter: a case study of eThekweni (Durban). *Progress in Planning* 84. Pp. 1-39

ballot has a much higher likelihood of being adopted than one of seventy ideas that emerged from a two-hour meeting involving twenty participants.”<sup>488</sup> The majority in this respect often works in instances where voting is involved. Where discussions and debates are involved—having noted several challenges regarding the capacity and opportunity to participate—the views of the majority can be assumed and or bought. In certain instances, given the powers of the Mayor for instance—these can be ignored.

The sentiment about the IDP as an invited space was expressed by a number of respondents, who argued that although the Metro’s commitment to public participation - at least on paper - is commendable, the reality is that authorities still set and control the agenda. Community-based planning is not in reality a bottom up approach to planning; rather it is the process by which citizen’s views are sourced to legitimize the municipality’s proposed plans and budgets. Given that the Metro is substantially controlled by the ANC, community participation is essentially a way in which the community’s views are sourced to legitimize ANC plans and budgets. Evidence of this, they contended, is in the process plan which is drafted by the Metro and simply implemented without input from the community. The draft IDP plans are presented as drafts, which limits the extent to which the community can actually inform the process, as opposed to joining the process midway. As such, IDP planning is not really based on community planning. It often is a compliance exercise. Madzivhandila and Maloka<sup>489</sup> state:

The situation highlights the complexity around the relationship between government and citizens and, most importantly, the failure to satisfy some of the obligations that flow from such convolution. In fact, this is a real concern because municipal IDPs lack specific relevant information, which should be provided to households, about services in a given period of time. This implies that there is a lack of transparency. Concurrently, participation alone has not resulted in visible or desirable results as it so often reduced to a mere ceremonial presence of participants in local institution. Informed discussion and rational debates on the merits and demerits of specific planning programmes are literally non-existent,

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<sup>488</sup>Font, J. and Graham Smith. 2013. “The Policy Effects of Participation: Cherry-picking among local policy proposals?” Ponenciapresentada al XI Congreso de la AECPA, UPO, Sevilla.

<sup>489</sup>Madzivhandila, T.S. and C.M. Maloka. 2014. “Community Participation in Local Government Planning Processes: A Paramount Step Towards a Successful Service Delivery.” *Mediterranean Journal of Social Sciences*, 5(16). Pg. 655

even though community participation features as a key component of planning programmes at the local level.

Linked to this is the notion that these mechanisms are often susceptible to the control of or hijacking by political parties. Political parties stand accused that they seek to control the public participation spaces to further their agendas. To this extent, participation is limited for those who have not aligned themselves with a political party or who belong to a different political party to that which controls the structure. This susceptibility arises, partly, from the creation of leadership structures in the participatory system. Where there are leadership positions involved, competition for those overshadows the purpose of the structure - as it is with ward committees. Even in situations where leadership does not translate to control of resources, the very existence of a position perpetuates competition. In the light of historical socio-economic and political conditions, leadership positions in public participatory systems are about access to resources and opportunities, on the one hand; on the other hand, they are about party political control or influence in a specific spaces - largely and preferably - at the exclusion of other political parties. Consequently, debates around service delivery through the IDP are essentially party political debates on service delivery priorities and who gets to control the delivery process.

Whilst it can be argued that political parties essentially agree on development goals, there are strong disagreements on the priority of the development areas and the instruments used to achieve these. Moreover, the question of who gets developed or where development occurs is one linked to what is the number one concern of every single political party or organization: to address, first and foremost, the interest of its constituency. For instance, the interest of Abahlali Basemjondolo is to address the concerns and needs of the informal settlement communities, whilst the interest of the Minority Front is to represent the interest of the minorities, particularly those of Indian descent.

Finally, a few respondents raised an unexpected and yet fundamental critique of the IDP public participation process and the less than desirable participation levels in the eThekweni Metro. They argued, in relation the point made by Font and Smith above, that public participation meetings of the IDP are often held once in a specific place for a specific community. Such meetings typically last only a few hours, within which the community must discuss a wide range of issues arising out of the municipality's proposals. "A few hours are not enough time to engage rigorously on issues

with the communities.”<sup>490</sup> During this time, community members also want to take the opportunity to raise their personal problems, which tends to cloud the discussion. A few hours is often insufficient to ensure that community members fully understand the proposals from the municipality and to convince each other on the best argument. Consequently, the quality of engagement is such that no clear consensus on decisions emerges. For both municipal officials and community members, such forums can be a waste of time and resources. This leads to reluctance on both sides to take very seriously the IDP public participatory processes.

### 7.3.1.1 Ward Committees

eThekwini Metro put in place its ward committee system in 2006 with the adoption of the Community Participation Policy. However, it was only in 2012 that 102 of 103 ward committees were fully established and inaugurated in 2013.<sup>491</sup> Initially the *Rules Regulating the Establishment and Operation of Ward Committees* stated that the ward committee members were not to be remunerated. Instead, they would be compensated for their out of pocket expenses. However that was later reversed and the Metro provides a monthly stipend of R1000 to each ward committee member, totaling R1, 020,000.00 per month. Ward committee members, according to the Metro, are provided with various training and capacity development opportunities in order to improve their effectiveness, through the Skills Development Unit. As noted earlier, additional administrative support is provided by the Community Participation and Action Support Unit. The Metro further reports that all 102 wards are fully functional and operational.<sup>492</sup>

However, the 2015 *Back to Basics Report* attached to the 2015/16 IPD document states, for example, that in 2014 only 40 wards managed to hold the required number (4) of meetings per annum.<sup>493</sup> In addition, whilst ward councilors - who also chair the ward committees - are required to convene at least 12 report back meetings in their wards, an overall total of 63 meetings were convened across the wards in the same year. This brings into sharp question the degree to which the wards committees are actually functional, especially in terms of the quality of their

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<sup>490</sup>Interview with municipal official (TMO20)

<sup>491</sup>Sutherland *et al*, 2013.

<sup>492</sup>eThekwini Municipality: 2015/16 IDP.

<sup>493</sup>Ibid, 416



functionality. In fact, the *Ward Committee Functionality 1<sup>st</sup> Quarter Assessment* report of the Department of Co-operative Governance and Traditional Affairs states that by the end of the first quarter of 2015, none of the ward committees were reported as functional.<sup>494</sup>

This is supported by the responses of various municipal officials and civil society respondents. Despite the monthly stipend, the level of participation at ward level is relatively low in the eThekweni Metro. Part of the low level is the poor attendance of members of meetings. At times, the chairpersons themselves are not proactive in ensuring that meetings are convened. There are a few factors that contribute to this. The first relates to the powers and responsibilities of the ward committees and their relationship with the municipality, especially in relation to the IDP. A number of respondents stated that the IDP process is designed in such a way that the community, through their ward committees, where they are actually functional, is simply consulted in the drafting and review of the IDP. There is no real meaningful engagement with the municipality to the extent that the community is not only consulted, but also gets to be involved in various aspects of the process. This includes the ability to actually make decisions, be involved in the implementation of IDP and service delivery projects, being able to monitor and evaluate the municipality and demand actual accountability. The ward committees are advisory structures whose advice can be ignored, even by the ward councilor who chairs it.<sup>495</sup>

Secondly, ward committees are a form of invited spaces. As stated before, invited spaces are vulnerable to capture by political parties, especially in a context of a dominant party. In the eThekweni Metro the African National Congress dominates most of the wards. This dominance results in a conflation of the party and the municipality to the extent that municipal structures become extensions of the party. As it is with Msunduzi, ward committees are closely linked to the dominant party branch in the ward. For ordinary members of the community or those belonging to different political parties, participation in ward committees is often very difficult. There is often a deliberate attempt to minimize the dissenting voices through ensuring that only members of the dominant party are elected into ward committees, which then become accountable to the party branch as opposed to the community. “If one so happens to be somehow elected into ward

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<sup>494</sup>COGTA, 2015. *Ward Committee Functionality 1<sup>st</sup> Quarter Assessment*. Interestingly, this report by COGTA is drawn from municipal records, which detail—amongst others—the number of times each committee met. The reasons for the contradiction is therefore unclear and the study, unfortunately, did not pursue this.

<sup>495</sup>Interview with civil society (TMCS61)

committee without belonging to the ANC, life becomes difficult. Their views are dismissed and sometimes even pressured to resign.”<sup>496</sup> In certain instances, decisions are taken elsewhere and then endorsed at ward committee level,<sup>497</sup> which has as effect of demoralizing other ward committee members. This is something that Sutherland *et al* also found in their research. “The top down approach of the ANC and its control of communities through the ward structures that have been put in place plays a critical role in demobilising civil society.”<sup>498</sup> It is discouraging for citizens who are not aligned to the dominant party to participate in structure controlled externally. Overtime, trust in the systems is eroded and participation is considered a futile exercise, unless one is part of the dominant network.<sup>499</sup>

Furthermore, as stated above, access to ward committee meetings can be very difficult for the poor and those living in rural areas. The wards in rural areas tend to be geographically large, with poor transport infrastructure, which makes coordination of meetings challenging.<sup>500</sup> The central meeting place for ward committee meetings can be difficult for some to reach, which means that often those elected onto ward committees are those living closer to the meeting place and those with access to better means of transport. Due to the relatively high levels of poverty in rural wards, even providing transport to the ward committee meeting can be a very expensive and unsustainable exercise. This severely limits the levels of participation of the community in ward committees. It also means that the delivery of services often differs substantially in a large single ward - with more or better services being concentrated in some place to the exclusion of the peripheral areas of the ward.

There is also the question of meeting venues for rural wards, and some urban wards. The lack of community halls in some wards means community meetings take place either in school classrooms, churches or in an open field. Where an open field is the venue, the meetings are

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<sup>496</sup>Ibid

<sup>497</sup>Williams, J.J. 2006. “Community Participation: lessons from Apartheid South Africa.” *Journal of Policy Studies*. 27 (3). Pp. 197-217

<sup>498</sup>Sutherland et al, 2013. Pg. 47

<sup>499</sup> Francis Suzanne. 2011. *Institutionalizing Elites: Political Elite Formation and Change in the KwaZulu-Natal Provincial Legislature*, Afrika-Studiecentrum Series.

<sup>500</sup>For instance, Ward 100 has an estimated population of 37300 in an area spanning 202 square kilometres. Ward 100 is predominantly rural, with an estimated median annual household income of R14600, with an employment rate of 17.6%. Ward 105 is also a large predominantly rural ward with a population of 27600 with an area covering 236 square kilometres. The median annual household income is estimate at R15000, with an employment rate of 12.7%. See Wazimap Online: <https://wazimap.co.za/profiles/municipality-ETH-ethekwini>

weather-dependent, more so than in wards where there are community halls, schools or churches. The varying degrees of development and remoteness of rural wards in the Metro, especially in the south west regions, means some rural wards have poor or no infrastructure for community meetings and events, except open fields.

In addition, some respondents indicated that whilst levels of literacy have risen significantly over the years, and despite the translation of some documents into isiZulu, it is still difficult for many community members, including ward committee members and ward councilors in some instances, to fully understand the municipal documents and processes in order to engage meaningfully. This becomes very obvious when discussing issues of the municipal budget as it relates to the IDP and actual service delivery. Despite the induction and training that ward committees are supposed to get at the beginning of their term of office<sup>501</sup>, it can be difficult for them and some municipal technocrats to simplify the explanation of how the processes work. The technical language often used in the documents and discussions is often cited as a contributory factor in the exclusion of some in the community participation processes.<sup>502</sup> This, as discovered during the interviews, can frustrate and demotivate people from participating in processes they cannot understand. At times they can feel that the processes are made deliberately complicated into order to exclude the rest of the community so that “the corrupt politicians can continue to be corrupt whilst we remain hungry and without services.”<sup>503</sup> This view, whether real or perceived, has a detrimental effect on the levels of participation due to the lack of trust by the community of municipal structures and processes.

It is partly this difficulty in engaging with municipal documents and processes that has led to the growth in the activism of civil society in the Metro. In some areas, citizens have formed movements or groups such as Abahlali Basemjondolo Movement<sup>504</sup> and the Landless People’s

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<sup>501</sup>Ngcamu, B.S. 2014. “Responsiveness of Community Participation and Action Support Unit’s Activities to Local Communities’ Needs: a case of eThekweni Municipality.” *Administratia Publica*. 22(4). Pp. 144-159. In this research, Ngcamu concludes that the Community Participation and Action Support Unit of the eThekweni Metropolitan Municipality provides poor quality capacity development programmes to communities. This is partly due to the shortage of skills and resources within the unit and political interference, which detracts the Unit from its core mandate.

<sup>502</sup>Ndabeni, L.L. 2012. *Ward Committee Systems as an Effective Public Participation Process*. Gauteng Provincial Speakers’ Forum Strategic Session.

<sup>503</sup>Interview with civil society (TMCS67)

<sup>504</sup> This movement began in 2005 in Durban. It essentially began with a protest action around Kennedy Road settlement after land promised to citizens for housing projects was sold for industrial development. Through road

Movement<sup>505</sup> in order to have their voices heard. In other instances, professional organizations engage with community members on certain issues in order to better represent the interest of those communities in municipal affairs. Organizations such as Centre for Public Participation not only provide alternative space for community participation on service delivery, they also actively engage in public education projects to assist communities to better understand the municipal processes and documents and to access services. For the most part, civil society groups are seen not as susceptible to party political control as the formal invited spaces of public participation. Rather they form relations with the state or municipality in order to advance their specific issue or constituency. Social movements, according to Milton and Mogaladi,<sup>506</sup> are characterized by three elements: “sustained public effort (campaign), combinations of forms of public political action (demonstrations, petitions, meetings, media engagement), and public representations of the participants’ worthiness, unity, numbers and commitment to their cause.” A number of respondents agreed that generally civil society organizations were more effective in communities where they worked than structures such as ward committees, especially in relation to the provision of information and access to services. The Centre for Civil Society, for example, works with a number of civil society organizations and state entities to develop capacity in communities and provide information through research.<sup>507</sup> The Metro also acknowledges the critical role that is played by civil society in service delivery and promoting public participation.

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blockages and other forms of protests, the Movement quickly spread from Kennedy Road to beyond the eThekweni Metro borders. Its main objective is for the provision of land, housing and associated infrastructure for the poor. Part of this requires fighting against forced removals of land occupiers. It has also been instrumental in the founding of other issue-specific projects. However, throughout its existence, its leaders have been subjected to arrests, death threats and sometimes suspected murders. See Abahlali baseMjondolo, 2006. *A Short History of Abahlali baseMjondolo, the Durban Shack Dwellers’ Movement*. Online: <http://abahlali.org/a-short-history-of-abahlali-basemjondolo-the-durban-shack-dwellers-movement/>; See also Selmeczi, Anna. 2012. *We are the People who do not count*. Doctoral Thesis. Central European University.

<sup>505</sup> The Landless Peoples Movement is a movement, with international affiliations, that seeks also to represent the interest of rural and informal settlement people. The Movement was formed in 2001 following a meeting of a number of organisation representing the similar constituencies. Like the previous movement, its objectives are to advocate for the provisions of housing and associated infrastructure to people of informal settlements. See Greenberg, Stephen. 2004. “The Landless People’s Movement and the Failure of Post-Apartheid Land Reform”. *Globalisation, Marginalisation & New Social Movements in Post-Apartheid South Africa*. University of KwaZulu-Natal. Online: <http://ccs.ukzn.ac.za/files/Greenberg%20LPM%20RR.pdf>

<sup>506</sup>Mitlin, D. and Mogaladi, J. 2013. “Socialmovements and the struggle for shelter: A case study of eThekweni (Durban)”. *Progress in Planning* 84. Pg. 24 Pg. 12

<sup>507</sup>Interview with civil society (TMCS63)

The success of civil society movements in enhancing public participation can be attributed to a number of factors. The first is that they are better organized with very specific objectives, which they pursue relentlessly. For movement such as Abahlali baseMjondolo, their leaders are also victims of the injustice they are fighting against, often at great personal risk, without any financial compensation. Their interest really is about the people and issue they represent.

Secondly, they often take the time and raise resources to educate their constituencies about not only the public participation mechanisms of the Metro, but they also educate their members of their constitutional rights and alternative platforms available to them to promote and protect their rights. This allows for more meaningful participation within the operations of the movements.

Furthermore, these civil society organization are seen to be above or not impeded by party politics. Their members are from different political backgrounds and ideologies with a common goal: the provision of services for the poor and rural people at the same level as the rest of the municipality. Because of this political diversity, and the fact some are research and academic based, there is some level of insulation from party politics, which provides them with the clout of legitimacy in representing their interests through spaces and methods not controlled by the Metro.

### **7.3.2 Service Delivery Efficiency**

#### *Perception*

The result of the research into the efficiency of eThekweni municipality in terms of service delivery indicates a different picture in contrast to Msunduzi Municipality. Notwithstanding the differences in size and budgets, eThekweni is considered to be considerably more efficient than Msunduzi Municipality. 54% of the respondents stated that whilst there are significant challenges with service delivery, the municipality is, for the most part, efficient. The expected basic household services, such as water, electricity, sanitation, refuse removal are provided mostly consistently throughout the municipality: except in rural areas and in informal settlements, where some of these services - such as sanitation and refuse removal - are not provided at all or intermittently.

However, the perception becomes more nuanced once other specific areas of service delivery and the different types of respondents are considered. For instance, the Metro has a substantial backlog

on the basic housing provision. “In 2013, there were approximately 262 000 households comprising just over a million people (assuming a household size of 3, 9 people) residing in informal settlements. This represent about 27% of the Durban population.”<sup>508</sup>One of the challenges in this regard is the exponential growth in the population as a result of urbanization and the expansion in the size of the Metro over the years. This means an ever increasing number of people needing basic low cost housing, which is not complemented by a corresponding increase in the resources base. This point was crystalized by one municipal official:

The challenge that the municipality has is money, land and an ever-growing population. The city spends almost 100% of its annual budget, which includes housing budgets. Still the backlog remains because the number of people needing housing does not necessarily decrease accordingly. You can see this with informal settlements. We are finding it very difficult to end the spread and existence of informal settlements, which remain actively occupied regardless of the number of houses being built on an annual basis.<sup>509</sup>

This view was further echoed by a number other respondents who argued that the challenges around issues of housing provision are not necessarily a reflection of the municipality’s own inefficiency. Whilst some inefficiencies exist, the main problems are funding and sufficient suitable land for proper and adequate housing, as well as intrinsic intergovernmental tensions between the Metro and the provincial government. The provision of affordable housing is traditionally mainly the responsibility of the provincial government. As such, the provincial government also sets policies and regulations that guide the municipality’s own policies in terms of housing. Following the passing enactment of the Elimination and Prevention of the Re-emergence of Slums Act of 2007, which sought to upgrade and eradicate informal settlements, the Metro adopted a multipronged approach to housing provision without specifying a fixed housing policy. The main focus of this approach has been on the upgrading of informal settlements to ensure that essential services are provided as widely and as far as possible, in the context of a

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<sup>508</sup>Sutherland *et al.* 2013. Pg. 30

<sup>509</sup>Interview with municipal official (TMO13)

decline in the provision of new low-cost houses. This is further supported by programmes aimed at promoting the ownership of low-cost houses through subsidies for low income households.

However, as noted by several respondents<sup>510</sup>, this approach, together with the policy framework of the provincial government led to unrest and protests by many communities around the Metro. In the quest to eradicate informal settlements and evict illegal occupants from mainly private land, there have been large scale demolitions of informal houses and the forced relocation of residents, who often complain that they are relocated to areas much further away from economic centres in the Metro. This is why there are a number of civil society organizations that are working with communities in order to try and address the issue of housing. Some, like FedUP and Abahlali baseMjondolo<sup>511</sup> facilitate schemes that assist residents of informal settlements access financing for housing. In other instances, civil society actively engages with the communities and the municipality to help improve the living conditions in informal settlements.<sup>512</sup>

The perception of the respondents is further supported by the findings of the eThekweni Municipal Services and Living Conditions Survey of 2015, which indicated that the levels of dissatisfaction with service delivery were highest amongst people living in informal settlements or informal housing.<sup>513</sup> Table 12 below illustrates the findings from the survey on satisfaction with municipal services by dwelling type, whilst Table 13 depicts levels of satisfaction with basic household services.

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<sup>510</sup>Interviews with civil society

<sup>511</sup>Mitlin and Mogaladi, 2013. Pg. 24

<sup>512</sup>Extensive research has been conducted on the housing challenges in the eThekweni Metro (Mitlin and Mogaladi, 2013; Sutherland et al, 2013; Selemczi, 2012)

<sup>513</sup>The 2015 Mercer Quality of Life survey ranked Durban as the city with the highest quality of life in South Africa and the second best in Africa, after Port Louis in Mauritius. The rankings are based on surveys of more than 200 cities and based on a number of factors, including: political and social environment, economic environment, public services and transportation, housing, consumer good etc.

Table 12: Service Delivery Satisfaction by dwelling type<sup>514</sup>

	Average 2011-12	Average 2012-13	Average 2013-14	Average 2014-15
House/formal structure on separate stand	2.59	2.55	2.68	2.71
Formal low cost housing (RDP houses)	3.05	3.30	3.41	3.19
Flat in a block of flats	2.57	3.06	2.43	2.27
Town/Cluster/semi-detached house (simplex/duplex/or triplex)	2.63	2.34	2.08	2.29
Room/ flatlet in main dwelling	2.98	2.00	2.5	2.00
House/flat/room, in backyard	2.41	2.24	2.8	2.83
Informal dwelling/shack, NOT in backyard, e.g. in a squatter	3.67	4.28	4.0	3.00
Informal dwelling/shack, IN the backyard of a formal house	5.00	3.71	4.0	4.04
Traditional dwelling/hut/structure made of traditional material	3.38	3.53	4.29	3.38
	<b>Very satisfied (1 to 1.99)</b>	<b>Satisfied (2 to 2.99)</b>	<b>Dissatisfied (3 to 3.99)</b>	<b>Very dissatisfied (4 to 4.99)</b>

Table 12 indicates a general level of satisfaction with service delivery according to what might be called class. Since 2011 to 2015 there has been a steady level of satisfaction amongst those living in formal houses, complexes, flats, and other sturdy structures. Such often also connected to utilities. On the other hand, those living in low cost house demonstrate a consistent level of dissatisfaction. Beyond issues of the size of the dwellings, the quality of the buildings themselves have also been very substandard in some areas. There are genuine safety concerns about some of these dwellings. The safety and security concerns about the habitat structures also extends to people living in informal and rural settlements. One unexpected and interesting outcome is the very high level of dissatisfaction amongst dwellers of informal houses behind formal houses. The survey report does not provide clear explanations for this, especially in the light of Table 13 below.

<sup>514</sup>Extracted from *eThekweni Municipal Services and Living Conditions Survey Four Year Trend Report of 2015*



Table 13: Basic household services Satisfaction<sup>515</sup>

	Average 2011-12	Average 2012-13	Average 2013-14	Average 2014-15
Satisfaction with toilet facility	2.38	2.58	2.64	2.48
Satisfied with water supply	2.33	2.44	2.36	2.40
Satisfaction with refuse removal	2.2	2.29	2.56	2.39
Satisfaction with electricity supply	2.42	2.7	2.7	2.59
Average Satisfaction with Basic HH Services	2.33	2.50	2.57	2.47
	Very satisfied (1 to 1.99)	Satisfied (2 to 2.99)	Dissatisfied (3 to 3.99)	Very dissatisfied (4 to 4.99)

Despite the differentiation in terms of satisfaction with service delivery by settlement type, this table indicates a general satisfaction with basic household services across the Metro. These results bring into question actual reasons for dissatisfaction from informal settlement dwellers. A closer analysis of the eThekweni Municipal Services and Living Conditions Surveys may be necessary to understand some the results.

One of the issues that emerged from engagement with different respondents was the awareness of the differences between Msunduzi Municipality and eThekweni Metro with respect to party political interference in service delivery. A number of respondents, particularly municipal officials, stated that although party political dynamics have an influence on the programmes and priorities of the Metro, their negative impact is minimized by the strong and professionalized structures and processes of the municipality. Conversely, respondents from civil society argued that these structures and processes also fail to promote and enhance community participation in municipal affairs to the extent that the municipality can be accused of being highly technocratic and exclusionary in the way it implements supposed community-based planning or public participation process linked to service delivery.

A point of convergence for many respondents, in relation to service delivery efficiency perceptions, particularly on housing, is the issue of corruption and quality. Whilst eThekweni Metro has been widely celebrated for the biggest housing rollout of all the municipalities in the country, there is also widespread corruption in the awarding of tenders, allocation of houses to

<sup>515</sup> Extracted from *eThekweni Municipal Services and Living Conditions Survey Four Year Trend Report of 2015*

recipients using illegal lists and the selling or subletting of low-cost houses by recipients.<sup>516</sup> Some of the housing projects, and other service infrastructure, have been of such poor quality that the Metro has had to spend more time and money repairing or rebuilding homes.

In sum, the responses from the interviews and findings from different research literature indicates that, in general, most people regard or perceive the municipality to be relatively efficient in service delivery in that many basic services are delivered. However, such an understanding of efficiency is not based on the notion of time and resources. This is largely because of the lack of effective public participation forums that are able to adequately inform citizens of municipal processes, plans and budgets. In general, citizens do not know projects timelines and associated budgets in order to be able to judge whether projects and services are delivered technically efficiently.

eThekweni Metro spends on average its entire annual capital budget and receives clean audits from the Auditor-General. This would mean technically that it is efficient. But it is not efficient if service provision still maintain the spatial inequalities of Apartheid in that the predominantly white and wealthy wards still get superior quality services compared to the poor mostly black wards. Although there is some development taking place in rural and other townships areas, the nature and scale is still outpaced by the continuous development and upgrades in rich white areas of the municipality. Thus, from the standpoint of effectiveness and transformation, the municipality is not efficient.<sup>517</sup>

However, performance is measured against the key performance areas contained in the budget of the Metro. The misalignment between efficient utilization of financial resources and the inability to correct Apartheid spatial inequalities can be explained through the examination of the capital budget priority areas. This could also be a further indication of how the voices of the elites are prioritized over those of the working class.

### *Municipal Annual and Audits Reports*

To balance the perceptions of the efficiency of service delivery by the municipality, it is important to also consider the actual reports of its performance. As with Msunduzi Municipality, the annual

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<sup>516</sup> See Sabela, P.M. 2014. *Towards an Alternative Development Approach to Low Cost Housing Delivery in KwaZulu-Natal Province*. Doctoral Thesis. University of Zululand

<sup>517</sup> Interview with municipal official (TMO29)

reports are the correct tools by which to analyse the municipality's efficiency. The 2015-2016 annual report indicates that the eThekweni Metro received an unqualified audit from the Auditor-General, having spent 91% of its capital expenditure, coupled with a 101% revenue collection rate.<sup>518</sup> The 2014-2015 annual report stated that the expenditure of the capital budget was 91.6% whilst the revenue collection was 103%.<sup>519</sup> The rate of revenue collection is also consistent with the 104.8% rate of the 2013-2014 financial year, whilst the capital expenditure represents a slight increase from the 89% reported in the same period.<sup>520</sup> This is further supported by the unqualified audit reports that the municipality has received from the Auditor-General from 2012 to 2016.

From the reading of the various reports, it can be concluded that the municipality is a high-performing efficient municipality, especially when compared to the Msunduzi Municipality. The underspending over the years is, for the most part, explained by exigent factors such as the R422 million that was not spent in the 2014-2015 financial year due to the loss of 31 days of productivity as a result of a taxi strike and non-awards of contracts. In the 2015-2016 financial year, the underspending was mainly due to "environmental issues, land ownership issues, and delays in plant and equipment being delivered from overseas."<sup>521</sup> This report further notes that irregular expenditure decreased substantially from R782.5 million in 2012 to R208.32 million in 2016.

However, the annual reports and many respondents acknowledge that, whilst the municipality seems efficient in relation to service delivery expenditure, there are increasing backlogs in a number of service delivery areas. A key cause of the backlog is the constant rural-urban migration in search of better services and opportunities - mainly driven by poverty and unemployment in rural areas. One result of the migration is the increase in informal settlements and the demand for suitable housing with the necessary services, which occurs in the context of funding shortages for human settlements. Tables 14 and 15 below illustrate the housing backlog in the municipality for three financial years, whilst Table 16 illustrates the level of household connectivity over the same period.

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<sup>518</sup> See eThekweni Municipality 2015-2016 Annual Report.

<sup>519</sup> See eThekweni Municipality 2014-2015 Annual Report.

<sup>520</sup> See eThekweni Municipality 2013-2014 Annual Report.

<sup>521</sup> See eThekweni Municipality 2015-2016 Annual Report Executive Summary. Pg. 9

Table 14: Fully subsidized Housing Delivery Levels<sup>522</sup>

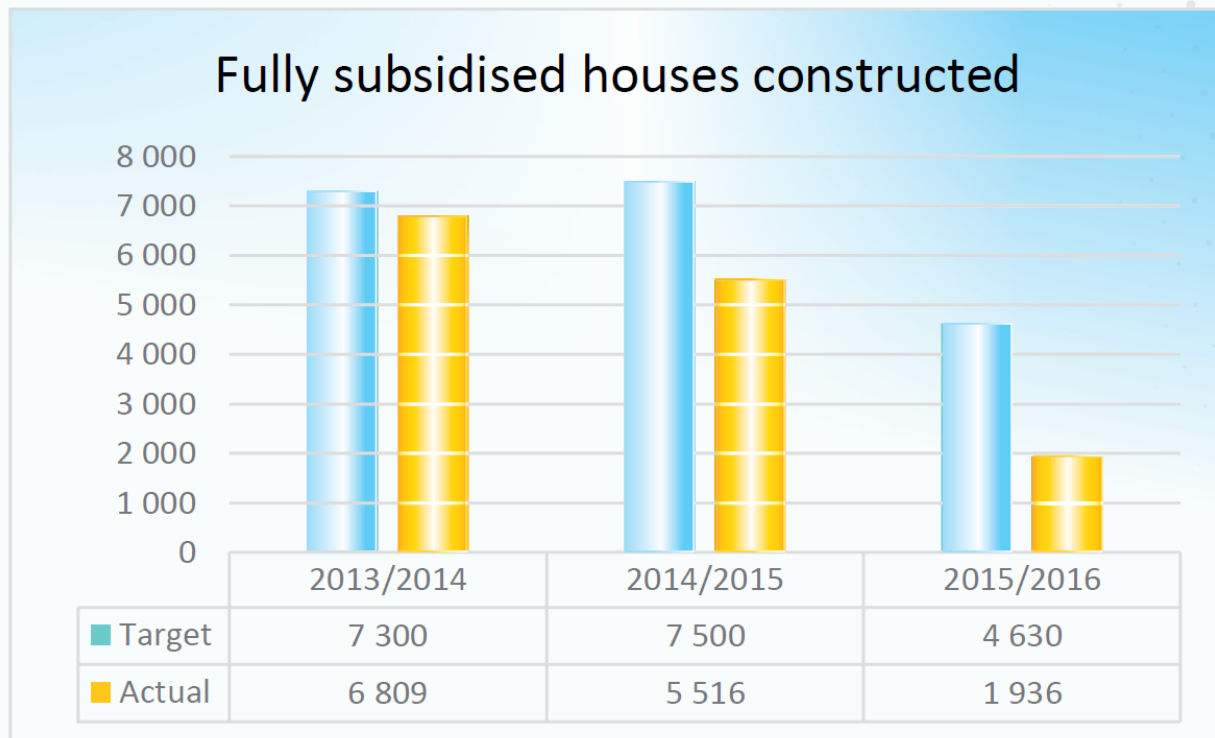


Table 14 indicates both a declining target for subsidies houses and a declining actual delivery of the said houses over three financial years. The decline in the target does not necessarily indicate a decline in the demand. The decline in the grant from the provincial government may also help explain the decline in the actual construction of the subsidized houses.

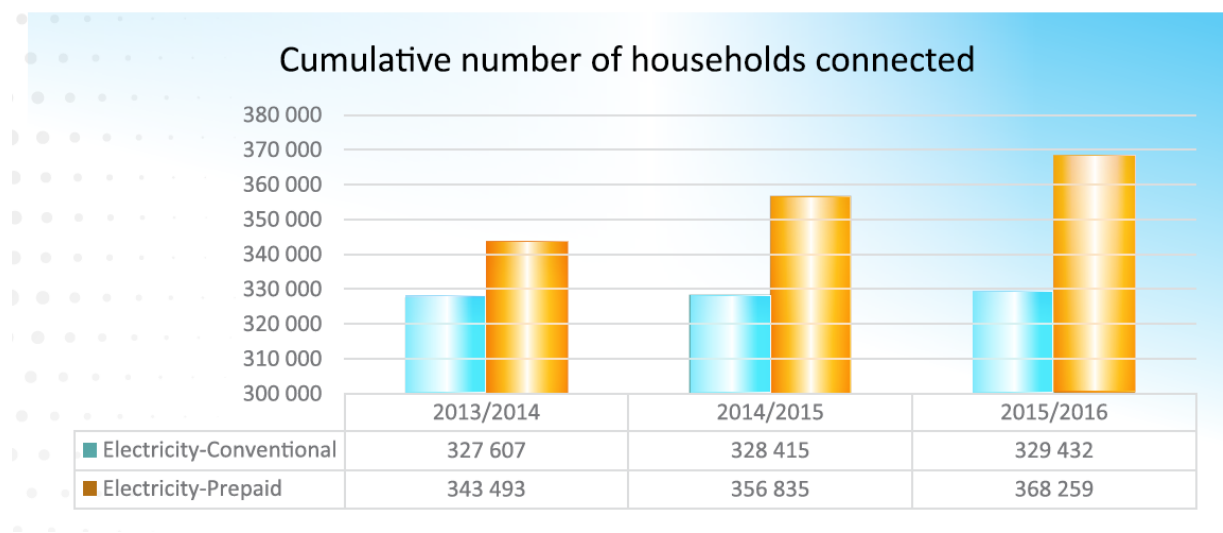
<sup>522</sup>See eThekweni Municipality 2015-2016 Annual Report

Table 15: eThekweni Housing backlog<sup>523</sup>

Indicator	2013/2014		2014/2015		2015/2016	
	Target	Actual	Target	Actual	Target	Actual
New houses constructed	7300	6809	7500	5516	4630	1936
Housing backlog (based on 2011 dwelling count, no growth rate factored in)	396992	397369	389869	391853	387289	389917
Sale of rental stock	1500	917	650	542	240	253
<b>New family units</b>	<b>100</b>	<b>48</b>	<b>210</b>	<b>144</b>	<b>120</b>	<b>144</b>

Table 15 presents a picture of the overall housing backlog in the Metro over three financial years. Of critical importance is the understanding of the backlog against actual houses constructed. More concerning for the municipality is that the backlog as presented in the table excludes the growth rate, which is one of the single biggest contributors to the backlog.

Table 16: Cumulative Number of Households Connected<sup>524</sup>



There are 945 910 households in the Metro, 421 329 of which are informal settlements. Based on the figures stated in the table above, there is a total of 26.24% of households that are without

<sup>523</sup> Source: eThekweni Municipality 2015-2016 Annual Report

<sup>524</sup> Ibid

electricity, despite the steady increase in household electrification. This suggests, at least in part, that the Metro is efficient in connecting electricity and other utilities to houses that have been constructed. The main challenge is the actual construction of new houses to house the ever-growing population, much of which cannot afford to purchase houses on their own.

### **7.3.3 Service Delivery and Provincial Government**

As noted above, whilst the Metro has several legislative functions and responsibilities, in some instances the municipality acts as an implementing agent of the provincial government. One of these instances is on the provision of RDP or low cost housing to the municipality through the Human Settlements Programme. The Programme “aims to provide a range of housing opportunities, including fully subsidised housing, rental accommodation... and to facilitate social housing and gap housing.”<sup>525</sup> This programme also includes the provision of other associated services such as water, electricity, sanitation and roads. The key focus areas of the Programme include: upgrading of informal settlements; refurbishment and upgrades to existing housing stock; urban and rural projects; providing services to informal settlements; upgrading and management of ‘hostels’.<sup>526</sup> The capital expenditure for this project is R1, 6 billion annually.

Illuminated by the abovementioned backlogs, the Human Settlement programme has a number of challenges that affect efficiency in delivery and influence dissatisfaction levels amongst poor people in rural and informal settlements. In this regard, Sabela argues:

...the whole process of housing delivery was state-driven with lack of participation of stakeholders that normally serve as a link between the government and intended beneficiaries, such as Community-Based Organisations (CBOs), Non-Governmental Organisations (NGOs) or Non-Profit Organisations (NPOs). These were totally excluded in the housing delivery systems which were found to be dominated by developers. Some of the housing units provided were credit-linked and finance was organized by the developers for the beneficiaries.<sup>527</sup>

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<sup>525</sup>eThekweni Municipality 2014-2014 Annual Report. Pg. 213

<sup>526</sup>Due to historical design and management, the hostels in the Metro have been and continue to exhibit political intolerance, which manifests itself as political violence and political killings.

<sup>527</sup>Sabela, P.T. 2014. *Towards an Alternative Development Approach to Low Cost Housing Delivery in KwaZulu-Natal Province*. Doctoral Thesis. University of Zululand

For its part, the Metro underscored the challenge of sufficient funding to effectively deal with the housing provision. The housing subsidy from the provincial government is insufficient to cover all the associated costs of implementing the programme, especially given the topography and geology of the Metro. As one respondent noted, “people look to the municipality to give them RDP houses. When we engage with the province to say ‘we need more money’ the province says we must do what we can with what we have. They also do not have enough.”<sup>528</sup>

In such situations, the Metro is left to deal with the demand for housing and protests resulting from the backlog. This brings into focus the need to revisit the grant allocation process and the relationship between the different spheres of government in relation to service delivery. Should, for example, the provincial government be responsible for any provision of housing in any municipality within its jurisdiction? Or should the provincial government simply provide funding for municipalities to implement their own service delivery programmes based on their priorities, as agreed to through the IDP? This is in essence questions the role of provincial governments in service delivery at a municipal level, and the implications of this on efficiency.

### **7.3.4 Public Participation vs. Service Delivery Efficiency**

Borge *et al*<sup>529</sup> found in their study of local government in Norway that there are three factors that contribute to local government efficiency: “high fiscal capacity and high degree of party fragmentation contribute to low efficiency”, whilst democratic participation contributes to higher efficiency.<sup>530</sup> With respect to the latter, they state:

A high degree of democratic participation in terms of voter turnout may reduce inefficiencies in public service provision through more efficient monitoring of politicians. The argument is that a higher turnout may give politicians incentives to implement policies that improve efficiency and benefit the electorate at large, at the expense of policies benefiting public sector unions and other special interests.<sup>531</sup>

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<sup>528</sup>Interview with municipal official (TMO3)

<sup>529</sup>Borge, Lars-Erik et al. 2008. “Public Sector Efficiency: the roles of political and budgetary institutions, fiscal capacity and democratic participation.” *Public Choice* (136). Pp 475-495

<sup>530</sup>*Ibid*, Pg. 475

<sup>531</sup>*Ibid*, Pg. 483

The premise for this conclusion is high voter turnout, which indicates high levels of public participation. Adversely, the implication is that low voter turnout - low participation levels - increases the potential for local government inefficiency. This suggests that the answer to the central question of this study is that public participation is desirable for the enhancement of service delivery efficiency. As the eThekweni case seems to suggest, public participation is necessary but not sufficient for service delivery efficiency. However, there is certainly no clear evidence of public participation negatively affecting efficiency.

As with Msunduzi Municipality, to examine the research question, all the respondents were requested to comment on their understanding of the relationship between public participation and service delivery efficiency. 70% argued that public participation ideally ought to improve service delivery efficiency in local government through ensuring continuous and effective monitoring and accountability of elected representatives and information provision to the citizens. Accountability in local government is not just about the output, some argued. It is about the relationship between the promises made during election campaigns, the social contract between the elected representative and the electorate and the output within a specific timeframe. In other words, explained one respondent<sup>532</sup>, accountability is about making clear what the goals are and ensuring that what was promised is delivered. If councillors deliver on their promises, they are viewed as effective and therefore efficient. In an event where services are not delivered as promised, a process of accountability should ensure that the municipality, councillors in particular, explain and take responsibility for the failure.

The challenge with linking accountability with municipal efficiency, argued one respondent - particularly as it relates to ward councillors in eThekweni Metro - is that the same ward councillors are also chairpersons of the ward committees. The problem with ward committees in eThekweni is that they are, more often than not, when they are in place, dominated by members of the dominant party within the ward, which in turn are often chaired by the ward councillor.<sup>533</sup> Councillors therefore account to themselves. In this context, there are little consequences for non-performing but politically well-connected councillors. The only recourse that seems to be effective is public

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<sup>532</sup>Interview with civil society (TMCS64)

<sup>533</sup>Interview with civil society (TMCS51)



participation in a form of mass action, such as service delivery protests. “This is partly why a few years ago you saw these massive protests in places such as Cator Manor and Chatsworth.”<sup>534</sup> The inability to hold councillors responsible leads to frustrations amongst the community. Ward councillors, under the protection of their political parties, and with the powers to ignore recommendations from ward committees are essentially not accountable. They cannot be removed from office unless through a public outcry often expressed through protests.

Despite the lack of accountability on the part of elected officials, the Metro does seem to be responsive to the needs and concerns of communities. On paper, through the annual reports, the municipality demonstrates its ability to translate goals into actions, which it then publically reports on. “The problem with this is that the municipality’s reports are inaccessible to the majority of the citizens because they are bulky and very technical.”<sup>535</sup> However, the absence of effective public platforms to deliver these reports means that citizens are often not aware of the achievements and challenges of the municipality. This lack of awareness then leads to service delivery protests, which in turn affects the Metro’s efficiency. Effective public participation would prevent this and increase efficiency by minimising service disruption.<sup>536</sup> One respondent put this more succinctly:

Nobody tells us anything. So we strike and protest so that we can be listened to and provided with information. They only speak to us around election times. After they win, they forget us. If only they sat down with us and speak to us, we would not need to march and we would trust them to do their jobs.<sup>537</sup>

Respondents from the municipality agreed that in some instances, service delivery protests, as a form of public participation, can be more effective in providing short-term relief to the issue for those affected. However, the disruption and damage caused by many of such protests often have long-term negative effects, with respect to the municipal budget, on the very services the community requires. In fact, evidence of a positive correlation between public participation and service delivery efficiency can be allegedly observed with the successes brought about by the introduction of the Area Based Management System, which was aimed at accelerating

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<sup>534</sup>Ibid.

<sup>535</sup>Interview with civil society (TMCS51)

<sup>536</sup>Ibid.

<sup>537</sup>Interview with civil society (TMCS53)

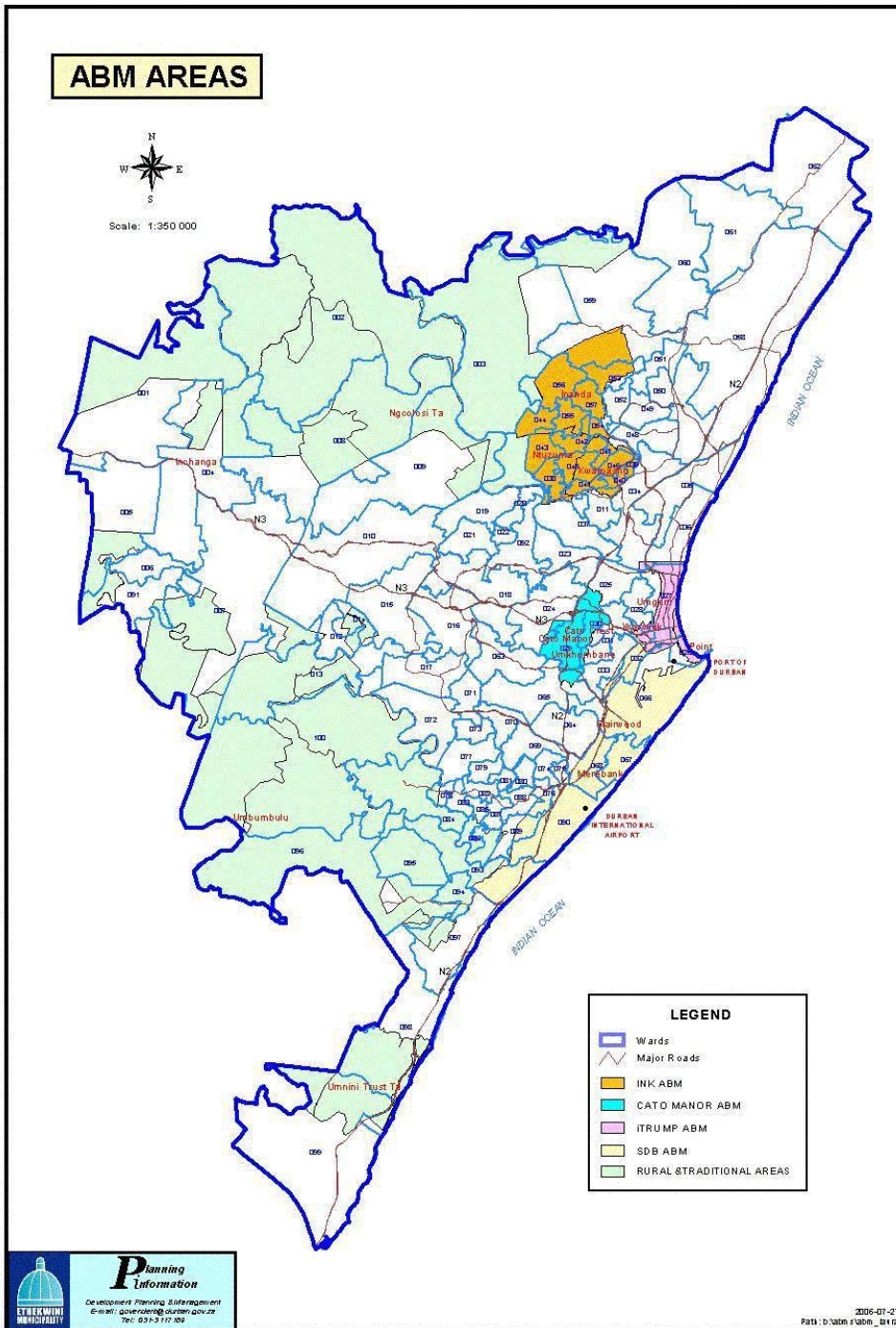
development through bringing the municipality closer to and working with the people.<sup>538</sup> The Area Based Management approach resulted in the municipality being demarcated into 5 areas: Inner eThekweni Regeneration and Management Urban Programme (iTRUMP), Southern Durban Basin ABM (SDB); Cator Manor ABM; Inanda, Ntuzuma and KwaMashu (INK); and RURAL ABM. Each of the ABM areas has its own profile and a dedicated office aimed at coordinating projects with the community and to bring services closer to the people. Figure 6 below is a map of the Area Based Management areas.

The first and most notable feature of the ABM design for the Metro is how it reinforces the Apartheid spatial planning design and do not consider integration beyond the convenience of geography. For instance, the Rural ABM is not only vast in size, but it also cuts across the logical geographical considerations of the other ABMs. More precisely, rural areas that are found on the south, west and north of the Metro are grouped together. Certain rural areas such as uMbumbulu, for instance, could be considered to fit better with the Southern Durban Basin due to their proximity to places such as uMlazi and Amanzimtoti. Their developmental needs may also be different from other rural wards such those in uMkhomazi or Mkhambathini. The Inanda, Ntuzuma, and KwaMashu ABM also excludes areas such as Newlands, which is closer even geographically to this ABM than the Cator Manor ABM. From a distance, class and race seems to have played a role in the design of these ABM areas, despite the argument that they are trying to be effective administrative structures.

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<sup>538</sup>Interview with municipal official (TMO24)

Figure 6: eThekweni Municipality ABM Areas<sup>539</sup>



<sup>539</sup>See Pillay, 2011. Pg. 5

In addition to ABM, some respondents from the municipality pointed out the improvements brought about by the establishment and activities of the Community Participation and Support Unit. “Although challenged in terms of financial and human resources, this unit has enabled the municipality to keep its ear on the ground and improve turnaround times on concerns raised by the communities.”<sup>540</sup> One of the ways in which the unit improves municipal efficiency and responsiveness through public participation is by promoting a culture of caring amongst municipal officials and public representatives, whilst simultaneously promoting a culture of consumer responsibility amongst community members. These two principles are said to greatly improve municipal efficiency by facilitating respect and collaboration.<sup>541</sup>

Conversely, 23% of the respondents stated that there is no clear correlation between public participation and efficiency. To this extent, one respondent stated that “it is possible for a government entity to be efficient without high levels of public participation; the same way it is possible for an entity to be inefficient even with high levels of participation.”<sup>542</sup> In terms of the opinions of the respondents, there are other factors that may contribute to the efficiency of the municipality. For instance, the way in which the municipality is managed and governed is important in determining its efficiency. As one municipal official emphasised, the audit history of the Metro and the accomplishments over the years indicates, for all intents and purposes, a well-managed and governed municipality. This is partly due to limited party political interference in management and governance and or the ability of the officials to resist or minimise the political interference.<sup>543</sup>

The structure of the municipal governance system vests significant decision-making powers in the executive committee, which is led by the mayor. Only the powers that are legally within the competence of the city council have not been delegated to the executive committee. The centralisation of substantial decision-making powers in the executive committee means that the

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<sup>540</sup>Interview with municipal official (TMO30)

<sup>541</sup>Ibid.

<sup>542</sup>Interview with civil society (TMCS51)

<sup>543</sup>Interview with civil society (TMCS40), who drew extensive comparisons between eThekweni Metro and Msunduzi Municipality in relation to party political squabbles, particularly within the governing party—which happened to be the ANC in both municipalities at the time.

time it takes to make a decision and implement such decisions is significantly shorter than it would be in a highly devolved or participatory system. This point is emphasised by Piper and Nadvi<sup>544</sup> when they state:

...eThekweni has been under the clear guidance of city manager Mike Sutcliffe (who, it is worth noting, is senior in the ANC to eThekweni mayor Obed Mlaba). Under Sutcliffe's close attention, eThekweni governance had evolved in a more efficient, if centralised, direction best characterised as 'managerialism'. This orientation has influenced the implementation of participatory governance, and not always in a beneficial way. At the same time – and some would argue, as a direct result of managerialism—eThekweni has experienced much more radical direct action, especially in terms of housing and rent evictions, of the 'counter hegemonic' sort typical of social movements.

Secondly, the size of a municipality's budget and its ability to collect revenue to sustain its budget may have much more effect on the efficiency of the municipality, regardless of the nature and extent of public participation. "If the municipality has money and delivers service, and people see the delivery, they might not feel inclined to participate in municipal issues because things are being done."<sup>545</sup> This is the point that Borge *et al* make when they argue that municipalities with substantial fiscal capacity can hide their inefficiencies through generally good service standards.<sup>546</sup> Consequently, it may seem like a contradiction that eThekweni is relatively efficient in the context of poor public participation. However, this is possible, according to this argument, due to a professional civil service and a healthy - although not sufficient - fiscal capacity.

## 7.4 Conclusion

This chapter focused on the structure and functions of the eThekweni Metro in relation to public participation and service delivery efficiency. The findings of this chapter, with respect to eThekweni Metropolitan Municipality in relation to the research question underpinning the research, present a seemingly contradictory - and perhaps - confusing picture of the municipality.

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<sup>544</sup>Piper and Nadvi, Pg. 227

<sup>545</sup>Interview with civil society (TMCS41)

<sup>546</sup>See Borge *et al.* 2008.

In terms of public participation, the municipality does not seem to have a strong and effective public participation culture, through established structures such as the ward committees. In fact, literature and empirical evidence on the subject indicates that ward committees are not effective due to a number of factors. These include party political interference, which forces the alignment of ward committees with ward political party branch leadership. However, a slightly better picture emerges when mass protests and service delivery protests are considered as forms of participation. These tend to be more effective in soliciting responses, albeit short term, from the municipality than any other form of participation in the municipality. However, mass protests may be effective but they are not part of the public participation strategy of the Metro and they can be counterproductive in certain instances.

The role of the civil society is also very critical in deepening democracy in the Metro. Civil society plugs the gaps left by dysfunctional or non-existent public participation structures. Their role is especially critical on social housing issues, a subject that is very thorny in the Metro, given the backlog that currently exist. Civil society is also instrumental in helping communities navigate the Metro's policy and legislative framework in order to inform people of the processes and their rights as citizens. Despite this work by civil society, by its and the municipality's admission, levels of participation still remain low amongst the citizens. Additionally, having civil society play an intermediary - as opposed to supportive - role between the citizens and the municipality is not ideal in deepening democracy and accountability in local government.

However, despite the low levels of public participation, on average citizens are generally satisfied with the municipality's performance with regard to basic household services. Empirical evidence and various research conducted on the Metro supports this perception of eThekweni as a relatively efficient municipality, with respect to service delivery. Even in areas of low citizen satisfaction, the inefficiency is partly a product of exigent factors such as lack of adequate funding from the provincial or national government and the continuous urban migration influx that the municipality constantly faces.

The seeming contradiction which emerges through the findings of this chapter is on the municipality being considered efficient despite the low levels of public participation on the one

hand, and a strong view amongst citizens, at least the respondents, that public participation ought to enhance the municipality's efficiency, on the other hand. If the municipality is relatively efficient and citizens are on average satisfied with basic household services - despite low participation levels - in what way would effective public participation enhance efficiency? The findings of this chapter, based on the interviews data and current literature on the subject in relation to eThekweni, do not provide an answer to this question.

This means, therefore, that the one conclusion that could be deduced is that, in relation to eThekweni Metro, efficiency comes at a cost to effective public participation. The relationship between public participation and efficiency is one that is ideal but not necessary for local government efficiency—but may be necessary for accountability. The Metro's approach to governance is one of centralised managerialism, where significant powers are vested in the executive committee and all municipal structures, especially the administrative structure as led by the Municipal Manager, are designed to support the executive committee to make decisions as quickly as possible for the benefit of the Metro.

The weakness or absence of ward committees limits the input by citizens on municipal activities, outside of the IDP engagements, despite the presence of a very clear public participation policy. The community engagements that take place through civil society and the Community Participation and Support Unit are riddled by inconsistencies, lack of effective municipality-wide coordination and lack of sufficient resources. Furthermore, these tend to attempt to empower and support communities in terms of engaging with the municipality without providing the actual platforms for engagement. It is empowerment without real participation opportunity.

Having considered the discussions in this and the previous chapters, the following Chapter 8 discusses the findings of this study in relation to the participatory democracy theoretical framework. Chapter also seeks to identify gaps in the research, which could held illuminate the unanswered questions on the subject of public participation and local government service delivery efficiency.

## **Chapter 8: Public Participation in Local Government**

### **8.1 Introduction**

This chapter seeks to serve two main purposes. Firstly, it discusses the relationship between public participation and service delivery efficiency, as demonstrated by the two local government case studies: Msunduzi Local Municipality and eThekweni Metropolitan Municipality. This is done through critiquing the assumptions of the theoretical framework of participatory democracy and the problems associated with the application of the conception of efficiency on local government. Secondly, the chapter identifies the gap in the research and broader literature that warrant further investigation.

### **8.2 Public participation**

Chapter 2 discussed in depth the debate on democracy and the different meanings attached to the concept by different people in different times and contexts. Fundamental to this debate is the relationship between government and the citizens. What role, if any, do citizens have in government processes of their societies? Amongst the things to emerge out of this debate is the theory of participatory democracy, which forms the theoretical framework for this study. Participatory democracy argues that public participation is the key to meaningful democracy and it improves the quality of governance and the efficiency in service delivery. Chapter 3 looked at how local government in South Africa was redesigned and transformed after the Apartheid era to be an instrument of development through the promotion of public participation. The promotion of public participation in local government was deemed so critical that it was entrenched in the Constitution of the country, and different legislative and policy instruments were enacted to operationalize this. In this regard, a lot of responsibility was placed upon municipalities to establish effective mechanisms for and support public participation initiatives within their jurisdiction. These include mechanisms such as the Integrated Development Plan and the establishment of ward committees.



### 8.2.1 Integrated Development Plan

The Municipal Systems Act requires municipalities to develop, through public participation, a single and integrated development plan, which will guide all municipal activities and decisions for a specific period. The Act stipulates the minimum content of the IDP in order to ensure uniformity and to achieve the underlying objectives. However, the findings of this research based on empirical evidence and scholarly literature indicate that the IDP processes have not been able to promote high levels of effective public participation in local government.<sup>547</sup> For both eThekweni Metro and Msunduzi Municipality, the IDP process is ostensibly used as a consultation process, in which the public's comments are sourced on already existing plans. The development of plans is not informed by contextual realities as identified and informed by citizens. In this regard, Stanton states:

Municipalities have long been criticized for their ineffective and inadequate Integrated Development Plans (IDPs). Municipalities have been accused of drafting broad objectives as opposed to specific local development plans. Whilst this criticism is mostly justified, the growing range of cross-sectoral national and provincial government programmes increase the responsibilities of municipalities, thus complicating their planning and budgeting problems.<sup>548</sup>

Part of the problem of low levels of participation, as was more clearly the case with Msunduzi Municipality, is poor communication with communities on the IDP process and its participation mechanisms. Additionally, lack of trust in processes has had a negative impact on public participation in IDP processes. Given the placement of the municipality under administration and the alleged corruption that preceded that, it is reasonable to understand the apathy that is growing driven by lack of trust in municipal processes. With regard to eThekweni Metro, the main problem is that despite a comprehensive process of developing the IDP and the enormous resources utilized by the Metro to achieve this, the process is controlled by municipal officials in such a way that inputs from the public are used to simply legitimize the plans already developed without the

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<sup>547</sup>See Mohamed, 2006. Pg. 41

<sup>548</sup>Stanton, 2009. Pg. 123

communities: what Aronstein<sup>549</sup> broadly refers to as tokenism. In turn, this affects the levels of public participation in the IDP processes.

### **8.2.2 Ward Committees**

In addition, Municipal Systems Act provides for the establishment of ward committees in municipal wards as a platform to facilitate public participation in category B and category C municipalities. Category A municipalities have an option to establish ward committees. As it is with the IDP, the Municipal Systems Act provides roles and responsibilities of the ward committees, including their powers in relation to the municipality. The findings of this study reveal a number of issues regarding the existence and effectiveness of the ward committees in the two municipalities being considered.

Firstly, whilst Msunduzi Municipality was amongst the first of the municipalities in the country to establish ward committees, as is required by law for local municipalities, eThekweni has been inconsistent in establishing ward committees as permanent structures. In some cases, the election of ward committees has been considered flawed by various sectors. For instance, the 2012 ward committee elections in eThekweni were conducted only two days after notice of such elections was given to citizens by means of posters, with no clear venues being advertised. This created a problem of legitimacy for many ward committees, which resulted in protest actions.<sup>550</sup> The ward committees that had been elected in 2007 were only provided with training, albeit inadequate, in 2010. Consequently, the lack of proper training and legitimacy of some of the ward committees affects the trust the citizens have towards these structures, which in turn affects the levels of participation of citizens.

Furthermore, a common factor with regard to ward committees is the lack of awareness of their existence by the citizens. Where they do exist, their roles and responsibilities and powers and functions, are not well known amongst the citizens. This point was emphasized strongly by the

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<sup>549</sup>Aronstein, 1969.

<sup>550</sup>Parliamentary Monitoring Group. 2012. "State of Local Government Finance Report; Ward Committees." *Cooperative Governance and Traditional Affairs Committee Meeting Summary*. Online: <https://pmg.org.za/committee-meeting/14712>.

civil society respondents during the interviews, supported by scholarly research on the subject.<sup>551</sup> Although there are various programmes aimed at assisting ward committees in both municipalities to understand their responsibilities, these programmes do not extend to informing the general public of these.

An additional issue that emerges from the research findings is that of the politicization of the ward committees along party lines. This phenomenon is perhaps the biggest obstacle with regard to the effectiveness of ward committees and has been noted as a fundamental problem affecting ward committees across the country. The alignment of ward committees with the dominant political party branch in the ward results in reduced representation for the different sectors of the ward. Without the diversity in representation, participation levels are affected, especially amongst those who feel excluded. With the ANC being dominant in both municipalities, many of the ward committees are ostensibly extensions of the ANC. Consequently, party politics become ward committee politics and political party squabbles also find expression in ward committees. The payment of a R1000 monthly stipend to ward committee members in both municipalities also exacerbates unhealthy political competition associated with ward committee membership and branch politics. The combination of high unemployment levels and the general perception of ward committees as another political space to be contested and controlled further facilitates the politicization of ward committees.

Interestingly, there is no evidence of any real attempt to deal decisively with this trend, despite an acknowledgement from the different sectors, including municipal officials, on the seriousness of this problem. One point to speculate on is that it might be inevitable that ward committees become politicized given that they are established formal municipal structures.

The absence of decision-making powers of ward committees in relation to ward councilors is a fundamental point of weakness in local government, as evidenced by the findings in both Msunduzi and eThekweni. Ward committees are by law advisory bodies to the ward councilor, who also serve as chairs. This reduces their roles to simply assisting the ward councilor in addressing ward community needs. They cannot hold the ward councilor accountable nor can they take decisions that are legally binding to the councilor. Their relationship to the ward citizens is

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<sup>551</sup>See Shembe, Sibusiso. 2014. *Role of Traditional Leadership in Service Delivery: a case study of eThekweni Municipality*. Masters dissertation. University of KwaZulu-Natal. Unpublished; Smith and de Visser, 2009.

that of relaying information on areas of concern and possible actions being taken by the councilor. Their advice to the councilor can, legally, be ignored. Consequently, whilst the ward committees were designed to be at the core of public participation in local government, they cannot promote effective participation in the absence of any real powers to not only make binding decisions, but also to hold the councilor accountable. They are beholden to the ward councilor. For instance, the Department of Cooperative Governance and Traditional Affairs states that in many cases where the ward committee is viewed as ineffective or inactive, it is because the ward councilors fail to convene regular ward committee meetings and ward community meetings.

Unsurprisingly, the research found that the levels of participation in, and effectiveness of, ward committees can also be along the urban/rural divide. The ward committees in rural areas experience low levels of participation and effectiveness predominantly due to their vast geographical spread and the challenging means of transport. The municipal wards that are largely rural in both Msunduzi and eThekweni municipalities tends to be much larger than the wards in urban areas. One of the reasons for this is population density, which is higher in urban wards than in rural wards. Given that the rural population is the most underprivileged in both municipalities, organizing and coordinating the activities of ward committees is a difficult task. The lack of adequate meeting infrastructure also affects the attendance and participation in ward committees by different sectors of the ward. As a result, it is not uncommon in rural wards to have better participation levels and service delivery in the area of the ward closest to the residence of the ward councilor compared to other corners of the ward.

The participation of ward communities in and effectiveness of the ward committees in rural areas is also affected by the parallel structure of traditional leadership in KwaZulu-Natal. Whilst both municipalities make provision for the involvement of traditional leadership in local government processes, at a ward level the public participation processes depend on the relationship between the elected structures and the traditional leaders: more specifically between the ward councilor and the chief or delegated traditional authority. Where the traditional leader and the ward councilor have a shared understanding, public participation levels are improved, such as in Vulindlela, where some ward committees coordinate meetings with the chief or delegated traditional leader in order to encourage participation in ward community meetings and service delivery processes.

It is common course that traditional leadership still enjoys substantial support amongst rural communities and the meetings convened by traditional leaders are well-attended. By contrast, the effectiveness of ward committees and the participation of people in them can be affected by political disagreements between the councilor and the traditional leaders, such as in some rural wards of eThekweni Municipality. Given the historical and often violent divide between the ‘ANC-aligned councilors’ and the ‘IFP-aligned’ traditional leaders, the relationship between the councilor and the traditional leader remains a sensitive and potentially dangerous issue affecting service delivery in KZN local government. This point was underscored in the interviews in both municipalities and has been discussed in some depth in academic literature. However, it is important to note that this IFP-ANC divide with respect to traditional leaders and elected councilors is eroding, as demonstrated by electoral results.

With regard to informal settlements, the feeling of exclusion in municipal processes including in ward committees is common across the municipalities, albeit in varying degrees. The findings of this study reveal that the informal settlement dwellers are the least satisfied with municipal service delivery, especially in relation to basic services such as housing, sanitation and electricity. Many of the informal settlement dwellers in both municipalities come largely from other mostly rural parts of the province, in search of better opportunities in the cities. The lack of economic opportunities forces many dwellers to settle in informal settlements, which are often built illegally on municipal or private land. The pitiable living conditions in these informal settlements leads to the feeling of marginalization, indignity and frustration. In socio-economically diverse wards, the challenges facing informal settlements do not often resonate with the rest of the community. In some wards, informal settlements are considered a nuisance and not prioritized in service delivery.<sup>552</sup> Consequently, their living conditions also impact upon their ability to participate meaningfully in ward committee and community meetings. The situation becomes better where

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<sup>552</sup>One of the common issues that emerged in both municipalities with respect to informal settlements was that of basic housing. A number of communities have had free RDP houses built in order to not only improve their living conditions, but also to eradicate the informal and often dangerous dwellings. It is this provision of basic housing that perpetuates the continued existence and spread of informal settlements. In some instances, due to lack of provincial coordination, some recipients end up owning multiple RDP houses in different municipalities, which they then rent out to others, especially foreign nationals. This contributes to the continued housing backlog and frustrations of municipal officials and has been highlighted as one of the issues related to xenophobic attacks. However, it must also be said that part of this relates to corruption of some municipal officials with respect to selling RDP houses.

the ward is predominantly informal settlements. The common socioeconomic condition in the ward allow for some sense of equality, which is also important for public participation.

However, although largely excluded from formal processes and mostly dissatisfied with service delivery, informal settlement dwellers, who are predominantly young people, can often mobilize and engage in alternative public participation processes such as protests, lobbying and engaging with civil society. In some instances, they can even engage in litigation in order to protect their rights and demand services from their municipalities. Despite notable victories, they remain trapped by their socio-economic conditions and the limited political spaces for their concerns and contributions to be heard in terms of municipal governance.

Furthermore, the research also found that although not the focus of the study, ward committees are dominated by men whilst it is mostly women who participate in community meetings and development initiatives in both municipalities. This point was not investigated in any detail as it emerged more clearly during the analysis. However, it is worth noting given that women, particularly black women, continue to face economic and political exclusion in general, in a country where they are the majority of the population.

It is clear from looking at the findings, with respect to public participation in IDP and ward committees, that the levels and nature of public participation in both municipalities are generally poor. The continued politicization of ward committees and the shortcomings with respect to communication with community members are clear reasons for the low levels of participation.

The implications of the low levels of participation on the research exploration can only be clearly understood in the context of the other critical element of this study: efficiency in service delivery in Msunduzi Local Municipality and eThekweni Metropolitan Municipality.

### **8.3 Service Delivery Efficiency**

Analysis of the data from the interviews and literature indicate that the two municipalities, despite both experiencing low levels of participation, albeit in varying degrees, perform differently in terms of service delivery efficiency. Msunduzi, a category B municipality, is considered an improving but not efficient municipality. The municipality's own annual reports, the AG's reports,

the provincial government reports, the living conditions survey and the interview responses all lead to the conclusion that the municipality is relatively inefficient. By inefficiency in this regard, the study found that the municipality is unable to use its limited resources to achieve the maximum results in terms of service delivery. The placing of the municipality under administration in 2011 by the provincial government, as well as years of financial mismanagement practices, which the AG has raised through audit findings, are indicative of the municipality's inefficiency. This is despite the fact that the Municipal Council delegated many of its powers to the Executive Committee in order to improve efficiency.

The inefficiency in Msunduzi can be attributed to several reasons, chief amongst which is the party political interference in the administration and management of the municipality. Amongst others, this takes the form of party deployment to several critical municipal positions of people without the necessary and requisite skills. Moreover, the municipality is susceptible to interference as a result of intra-party political conflicts of the dominant regional party. As discussed in Chapter 5, Msunduzi suffered tremendously when the political contestations within the regional ANC spilled over to its district municipality (uMgungundlovu District Municipality). As a result of the political interference, several competent municipal managers and other municipal officials have been haphazardly removed from their positions in order to install those perceived to be more sympathetic to, or controllable by, the dominant faction of the time.

In contrast, despite significant challenges such as the housing backlogs, eThekweni Metro is considered relatively efficient. In fact, it is considered one of South Africa's best run municipalities and has received a number of awards in this regard. Its comparatively large budget and high collection rates enable the municipality to maximize service delivery, whilst minimizing wasteful and under expenditure. One of the reasons for this is the structure of the Metro's management and administration, which largely shields it from undue political interference. This is strengthened by the professionalization of administration in order to ensure that the right people with the requisite skills are placed in critical positions - as opposed to deployment.<sup>553</sup> As it is with Msunduzi, eThekweni Council delegated much of its powers to the Executive Committee in order to improve the speed and quality of the decisions being taken in terms of service delivery. The whole structure

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<sup>553</sup>This is not to say that no political interference or deployment occurs in eThekweni Metro. It is to say that the study did not find significant evidence of this being raised as an issue through either interviews or the literature.

of the Metro is designed to ensure that quality decisions are taken as quickly as possible in line with the available resources.

#### **8.4 Public Participation and Service delivery Efficiency**

The question that this study explores is whether public participation has negative effects on service delivery efficiency, given that public participation is time and resource consuming in a way that delays and derails service delivery. Given the generally held view that public participation leads to service delivery efficiency, is there a correlation between public participation and service delivery efficiency in local government? There are two major findings emerging out of this study.

The first finding relates to the correlation between public participation and service delivery efficiency. Chapter 5 concluded by stating that Msunduzi Municipality has a challenge of low levels of public participation in municipal governance, especially through the formal structures such as the ward committees and the IDP processes. In addition, the municipality cannot be regarded as efficient. Despite this, the majority of the respondents were of the view that effective public participation would improve efficiency by ensuring accountability and transparency in the processes. In other words, the inefficiency in service delivery can partly be explained by the low levels of participation, which are in turn affected by frustrations regarding municipal inefficiency. From this, it can be deduced that there is positive correlation between public participation and municipal efficiency in service delivery; when public participation is effective and valued, service delivery becomes efficient. Such a deduction is consistent with common thinking and the views of the respondents.

eThekwini Metro on the other hand presents a different picture with respect to the correlation between public participation and service delivery efficiency. The Metro has low public participation levels in municipal governance structures such ward committees and IDP processes. The inconsistency in establishing ward committees and ensuring their sustainability and effectiveness suggests that the municipality, despite a comprehensive public participation policy and a budget for ward committees, does not place real value in public participation processes, especially regarding service delivery issues. However, unlike Msunduzi Municipality, the study found the Metro to be efficient. Chapter 6 also concluded that the majority of the respondents were



of the view that public participation ought to improve service delivery efficiency although they believed that the municipality was efficient despite low levels of participation. The challenge therefore is on explaining the efficiency in the context of low participation. In this regard Chapter 6 further concluded that for an economically large municipality, there is no necessary and clear correlation between public participation and service delivery efficiency. A well-managed and governed municipality, with a relatively large purse, can appear to be efficient even with little input from the community.

Perhaps, an argument can be made that there is in fact a correlation; the less effective public participation is, the more efficient the municipality is. To support such an argument, reference could be made on the living conditions survey, which found that the major point contributing to the dissatisfaction levels was mainly the shortage of decent housing in per-urban and rural areas. However, such an argument would not be plausible given Msunduzi's experiences.<sup>554</sup>

Consequently, with respect to the eThekweni, the study finds that there is no correlation between public participation and service delivery efficiency. The link between the two is, at least for the Metro, a value link which would be concerned mostly about the legitimacy of the decisions and service delivery processes in a democratic society than a discernable improvement in service delivery efficiency.

Secondly, the research finds that public participation cannot be said to adversely affect local government service delivery efficiency, as shown by data from the two case studies. This is primarily because the research question rests on the assumption of a correlation between public participation and service delivery efficiency in local government. This assumption can be expressed in the following terms: the higher the level of public participation, the lower the efficiency of the municipality in delivering basic services. By extension, the lower the levels of public participation, the higher the municipality's service delivery efficiency. It is obvious from this study that neither of the two propositions can be regarded as scientifically valid. As stated above, the study found that there is no obvious and necessary correlation between public

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<sup>554</sup>This raises a further point regarding correlations—causality. Does public participation improve efficiency or does efficiency improve participation? This point is discussed later in this chapter.

participation and service delivery efficiency in local government: at least not in the two case studies.

This therefore poses certain conceptual challenges for the participatory democracy theory, specifically as it relates to local government in South Africa. The dominant position in democratic governance is that the participation of communities in various forms and aspects of governance, including budgeting, improves the effectiveness of the outcomes, enhances governance, empowers citizens and improves the lives of the poor. This is because participatory democracy improves accountability, responsiveness, transparency and efficiency. Focusing on an aspect of participatory democracy, Participatory Budgeting (PB) in Brazil, Touchton and Wampler<sup>555</sup> make the point that the arguments on the tangible benefits of participatory democracy in relation to the governance services are often not based on empirical evidence. Font and Smith concur with this view by citing a number of studies which reveal that little evidence exists of the impact participatory processes have on decision making by political authorities.<sup>556</sup> Often there is gap between the participatory process and the decisions. Where such connections might exist, there is no public participatory process to monitor the implementation. This brings into question the theoretical and evidentiary foundations of the transformation of local government in South Africa, as advocated by the New Public Management approaches in the 1990s. There was little or no evidence at the time proving that participation actually leads to the stated benefits in similar local government contexts.

However, there is emerging evidence that participatory democracy might improve the overall social wellbeing of communities if it is coupled with the power of public authority and supported with significant resources. In this regard, the example of Brazil's PB systems is hailed as a benchmark of the actual benefits of participatory democracy in improving social conditions and government efficiency at a local level.

PB in Brazil is a yearlong decision-making process through which citizens exercise voice and vote—they negotiate amongst themselves and with government officials in annual or biannual meetings over the allocation of new capital investment spending on public work projects, such as health care clinics, schools, and street paving...the presence of vote is an important innovation because it helps citizens

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<sup>555</sup>Touchton, M. and Brian Wampler. 2014. "Improving Social Well-Being Through New Democratic Institutions". *Comparative Political Studies*. Vol. 47 (10) Pp. 1442-1469

<sup>556</sup>Font, J. And Graham Smith. 2013. "The Policy Effects of Participation: Cherry-picking among local policy proposals?" Ponenciapresentada al XI Congreso de la AECPA, UPO, Sevilla.

overcome the collective action problem—Citizens are mobilized to vote for specific projects, which then induces them to maintain pressure on government officials.<sup>557</sup>

A comprehensive review by de Renzio and Wehner<sup>558</sup> of 38 empirical studies on participatory budgeting suggests that there is a gap in understanding the exact intervention that produce the desired outcomes and under the conditions that facilitate this. It is this gap that ultimately leads to the conclusion of this study that the participatory democracy theory is founded on a causal link between participation and government efficiency for which there is very little evidence. As it is in Brazil, the advocacy of participatory democratic structures in local government was mainly about political reforms and ideological appeasement. The assumption, in so far as local government is concerned, is that ward committees and IDP processes, as public participation platforms, would lead to improvements in government efficiency and over wellbeing of the communities. The fault in this assumption is that it does not consider the power of communities to actually make policy decisions, as opposed to simply expressing their opinions to be considered by municipal authorities. In the PB case in Brazil, communities are actually empowered to make decisions in terms of how budgets are allocated. The result is more budgets being allocated to address social issues such as health care: something that does not exist in local government in South Africa. Ward committees and IDP processes do not necessarily have the power to make decisions. Ward committees are expressly advisory bodies.

Furthermore, participatory democracy theory has a false assumption of causality and impact being the same in any context; it does not necessarily take into account non-western contexts with different ideological and traditional predispositions. The phenomena of ward committees may not be appropriate for all municipalities, given financial, ideological and cultural differences. Ward committees in rural areas, where traditional councils also exist, may not be effective and appropriate, given the nuances of participation in rural areas. They may also not be appropriate in smaller wards where community meetings may be the most appropriate platform. To require ward committees in all category C and B municipalities assumes sufficient homogeneity across the wards such that ward committees can work in any local setting.

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<sup>557</sup>Touchton and Wampler, 2014: 1447

<sup>558</sup>deRenzio, Paolo and Joachim Wehner. 2015. "The Impacts of Fiscal Openness: A Review of the Evidence." *Incentives Research*. Global Initiative for Fiscal Transparency.

It also cannot account for government efficiency in the contest of poor or low levels of public participation. As discussed in Chapter 6, eThekweni is an efficient municipality with low levels of participation. By all accounts eThekweni also has the best quality of life in the country. If one takes into account the stated benefits of participatory democracy, in the context of some municipalities, these can be achieved without effective public participation. Obviously, some other factors must be considered in order for there to be a clear and valid causal correlation between public participation and service delivery efficiency. To illustrate this point, Category C and Category B municipalities share responsibility in terms of service delivery. However, category C municipalities cannot have ward committees, given that they do not have wards. In the case, of Msunduzi Municipality, the municipality's efficiency is also impacted upon by uMgungundlovu District Municipalities, whose role is to provide bulk services and coordinate the different local municipalities which belong to it. In the case of eThekweni Metro, the coordination with the provincial government is critical in the delivery of certain services such as RDP houses. Participation in ward committees and IDP processes would not necessarily lead to efficiency in housing delivery if there are challenges with respect to this coordination with the provincial government.

## **8.5 Areas for further research**

In conducting this research, a number of issues emerged as requiring further investigation. These include (i) structural design of local government vis-à-vis municipal efficiency; (ii) the impact of public participation on service delivery; and (ii) causality between public participation and government efficiency or effectiveness in local government.

### **8.5.1 Structural design of local government and municipal efficiency**

The structural arrangement of local government entails some overlaps with the other spheres of government in the provision of the basic services. Although section 151 of the Constitution establishes the autonomy of local government, this is subject to national and provincial legislation. In other words, the national and provincial governments still retain certain powers of 'supervision'

and intervention in municipal affairs, under certain circumstances.<sup>559</sup> However, such powers cannot be exercised to the extent that the autonomy of the municipalities is infringed upon.<sup>560</sup> This, therefore, means that municipalities are meant to be the primary providers of basic services to their communities.

To this effect, local government is organized in terms of district municipalities (Category C) and local municipality (Category B). The Municipal Structures Act of 1998 (as subsequently amended) provides for the powers and functions of municipalities. Section 8(1) gives District municipalities powers to coordinate local municipalities within their jurisdiction; to provide bulk services such as water and electricity; to develop and implement an IDP for its areas, as well as guide the IDPs of its local municipalities; improvement and maintenance of public infrastructure for the whole district.

Similarly, section 8(2) states, “a local municipality has the functions and powers referred to in section 83(1), excluding those functions and powers vested in terms of subsection (1) of this section in the district municipality in whose area it falls”.<sup>561</sup> This essentially means that both local and district municipalities have the same functions, limited only by jurisdiction. The district municipality only becomes relevant when an issue affects two or more municipalities within its sphere of operation. It is also on this basis that section 6 (2) provides for the declaration of an area as a District Management Area if the establishment of category B (local government) for that area would not be viable. These are areas in which only the district municipality has municipal authority.

As it is with provincial and local government as a whole, there is a considerable overlap of functions and powers between district and local governments. This overlap would, at times, result in disputes over jurisdiction, functions and powers. In line with the constitutional principle of cooperative government, section 86 of the Municipal Structures Act authorizes the provincial government, through the Member of the Executive Committee (MEC) for local government, to

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<sup>559</sup> See Section 44 of the Constitution

<sup>560</sup> Section 151(4) of the Constitution states, The national or a provincial government may not compromise or impede a municipality’s ability or right to exercise its powers or perform its functions

<sup>561</sup> “Chapter 5 of the Municipal Structures Act of 1998 (as amended).

intervene. In dealing with the concurrency or overlap of powers and functions between provincial and local government, Steytler et al state, “due to this overlap or concurrency, there is a degree of confusion about who does what. A lack of clarity about the role and definition may prejudice service delivery and cause conflict over resources and authority.<sup>562</sup> This was evident in the case between NokengTsaTaemane Local Municipality and Metsweding District Municipality in which there was a dispute regarding the provision of Emergency Medical Services (EMS) and the transfer of this service from the local to the district municipality.<sup>563</sup>

Furthermore, coordination between the district municipality and its local municipalities is crucial in ensuring effective and efficient service delivery to citizens. In this regard, local municipalities must align their Integrated Development Programmes with that of the district municipality. The Municipal Systems Act further states that the district municipality must adopt its own IDP after consultation with and the consideration of the proposals and IDPs of its local municipalities as well as other stakeholders within its jurisdiction. As such, a reading of the district municipality IDP and those of its local municipalities will reveal a lot of similarities as part of the coordination. This may be potentially confusing in terms of what service or function, within the scope of the IDP is meant to be the responsibility of which municipality.

In addition, coordination between local and district municipalities must also happen at a political structural level. As such, district councils were designed to be composed of 60% local councilors and 40% directly elected district councilors.<sup>564</sup> The local councilors are essentially forwarded by local municipalities to represent their interests within the district. This is meant to improve communication and accountability between the local and the district municipalities. This, in turn, would improve service delivery within the broader district.

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<sup>562</sup> “See Steytler, N. et al. *Defining Provincial and Local Government Powers and Functions: The Management of Concurrency*. Unpublished

<sup>563</sup> See *NokengTsaTaemane Local Municipality and Independent Municipal and Allied Trade Union vs Metsweding District Municipality and others* (2003) 3 JS227 (LCSA)

<sup>564</sup> Community Law Centre. 2008. *Redefining the Political Structure of District Municipalities*. Local Government Project, University of the Western Cape. Local government elections are based on a combination of a ward/constituency and proportional representation systems. See Section 23 of the Municipal Structures Act.

The Intergovernmental Relations Framework Act of 2005 further establishes the District Intergovernmental Forums (DIF), which are made up of the district and local mayors.<sup>565</sup> The purpose of this forum is to improve coordination and communication between the district and local municipalities. In this regard, the State of Intergovernmental Relations Review Report<sup>566</sup> notes that, not unlike the District councils, membership of the DIFs is premised on the same principle of representation. This means representatives of various municipalities often seek mandates from their respective municipalities before making a decision. This results in several delays in decision-making, particularly those related to issues deemed politically sensitive. It is worth noting, however, that the introduction of the DIFs has had a positive impact in the improvement of coordination between the district and local municipalities.

The existence of a number of coordination bodies only serves to highlight the complexity and redundancy of the local government structures. Decisions have to be negotiated between many different forums, which delays the efficiency of the implementation and delivery of services. This could be further worsened by the ideological dispositions of the different councils within a district. Each municipal council prioritizes according to the needs of its citizens and the ideology of the governing party.<sup>567</sup>

Palmer<sup>568</sup> concludes in his study on the performance of district municipalities that the current two-tier system of local government is not only very costly to the state, it also renders district municipalities mostly ineffective in service delivery. District municipalities are mostly funded from the national fiscus and lack viable revenue generation, especially those that operate in rural areas. The current three-tier system does not only create inefficiencies in service delivery, but also creates opportunities for fraud and corruption due to the difficulty of accountability, especially of the district municipality, which does not have actual constituencies.

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<sup>565</sup> Ibid

<sup>566</sup> Department of Provincial and Local Government. 2008. 15 Year Review Report on the state of Intergovernmental Relations Review Report.

<sup>567</sup> See Nene, S. 2016. "Enhancing Service Delivery: A Review of South Africa's Dual Local Government System". *Politeia*. 35 (1). Pp. 19-40

<sup>568</sup> Palmer, Ian. 2011. "An Assessment of the performance of district municipalities." In the Municipal Demarcation Board. *The First Decade of The Municipal Demarcation Board –Reflections on demarcating local government in South Africa*.

There is a need therefore to consider more carefully the impact the current local government design has on the efficiency in service delivery. The current, albeit limited, literature focuses largely on the relevance and effectiveness of the district municipality, given the overlaps with local municipalities. There is a need to study in more detail how the current structure of the local government maximizes public participation and service delivery efficiency. Moreover, there is a need for further research on how the current multi-tier local government design may be susceptible to or even promoting political interference in municipal governance. The research could be aimed at understanding the best possible structural design for local government in the South African context with the aim of maximizing both public participation and service delivery efficiency.

### **8.5.2 Impact of public participation on service delivery in South Africa**

This research found that based on the two case studies, there is no correlation between public participation and service delivery efficiency. This means that there is also no empirical evidence to conclude that public participation improves service delivery efficiency in local government - at least in the context of the two case studies. Substantial literature exists on the ideological and normative value of public participation in local government. More literature exists on the challenges facing different municipalities with regard to service delivery and public participation in ward committees and other local government processes.

However, there is no literature that systematically and methodically looks at empirical ways in which public participation actually leads to municipal efficiency in service delivery, without this being explained through other factors such as the availability of resources and the professionalization of the municipal civil service. Furthermore, the question of what actually leads to the other between participation and efficiency needs to be investigated. It is inadequate to base the value of participation on an assumed effect on efficiency when the adverse could also be possible. These flaws of the participatory democracy theory were identified in this research, at least in relation to local government and service delivery efficiency. This is not to discount the participatory democracy theory entirely.

Linked to this is a need for a more thorough investigation of what is efficiency means in the context of local government service delivery. This research discussed the difficulties regarding the



conceptualization of efficiency in local government. Simply looking at time in relation to decision-making and the notion of input-output to define efficiency - without considering effectiveness and quality – provides an incomplete picture of the complexities of local government.

### **8.5.3 Causality between government efficiency and public participation**

Based on the data discussed in previous chapters, this chapter makes the argument that the exploration of the research question has resulted in the conclusion that there is no clear correlation between public participation and service delivery efficiency at local government level. Causality between the two could not be determined using data from eThekweni Metro and Msunduzi Local Municipality. Whilst the participatory democracy theory, which forms the theoretical framework for this study, has value, some of its assumptions cannot be said to be true in all contexts.

With a clear answer to the research question, this chapter has suggested three areas of investigation in relation to the subject of this dissertation. Furthermore, the chapter raises questions about the structural design of local government in relation service delivery efficiency and public participation. The legislative assumptions about the value and effectiveness of ward committees as instruments of public participation has been questioned in this chapter. This is because the differences between municipalities and their contexts in South Africa requires that policies and instruments be appropriate for and adaptable to individual context.

## **8.6 Conclusion**

This Chapter discussed the findings in relation to the relationship between public participation and service delivery efficiency, as demonstrated by the two local government case studies: Msunduzi Local Municipality and eThekweni Metropolitan Municipality. The Chapter argued that public participation was deemed so central to local government that it was entrenched in the Constitution and given expression through legislated processes such as the Integrated Development Plan, and the creation of structures such as Ward Committees. However, based on the evidence, the Chapter highlights the fact that the IDP process is not as effective in promoting public participation due to a number of factors, such as the development of plans that are not informed by contextual realities,

as stated by the citizens. Issues of poor communication (Msunduzi Municipality) and tokenism (eThekweni Metro) contribute substantially to the low levels of participation in IDP processes.

Furthermore, the Chapter discussed in detail the challenges of ward committees in both municipalities. The Chapter argued that the key issue with regard to ward committees in both case studies is the party-politicization of these committees, which leads to exclusion and their ineffectiveness in promoting effective public participation. Ward committees, the Chapter stated, become extensions of the local branch of the dominant political party. Moreover, even in instances where the ward committees are fairly representative of the ward population and diversity, their lack of decision-making powers means they can only serve as advisory bodies to the ward councilor, who may choose to disregard the advice. This adds to their ineffectiveness in promoting effective public participation.

Drawing from Chapters 6 and 7, this Chapter argued concludes that the effectiveness of ward committees can also be understood the lens or urban/rural divide. Issues such as availability and accessibility of resources, the size of the ward, the existence of parallel structures of leadership such as traditional leaders can and often impact on the nature and extent of participation in ward committees. Informal settlement dwellers often also face similar challenges with rural communities in terms of exclusion.

The Chapter concluded that, based on the data, the two municipalities performed differently in terms of service delivery efficiency, despite some similarities in the low levels of participation. Msunduzi Municipality is considered an improving but not efficient municipality, whilst eThekweni Metro is considered relatively efficient, despite its own significant challenges.

Drawing from the above, the Chapter stated that, based on the findings of the research, there are faults in the participatory democracy theory's assumption of causality and impact being the same in any context. There are several nuances that the theory does not take into account in terms of the diversity and differences within and between municipalities in South Africa, such that the promotion of a particular homogenous structure or system of public participation may not be effectively applied everywhere.

Finally, having discussed a number of other findings based on the study of the two municipalities, this Chapter identified some areas for possible further research. First, the Chapter argued that there

is need for further research in order to understand more broadly the impact of the current local government design has on the efficiency in service delivery. Secondly, there is a need for further research to look empirically at the issue of causality between public participation and municipal service delivery efficiency. Linked to this would be research aimed at clearly defining efficiency with respect to municipalities.

The following chapter, Chapter 9, provides an overall summary of the dissertation and revisits the key points of the chapters of the dissertation.

## **Chapter 9: Conclusion**

The purpose of this dissertation was to explore the relationship between public participation and service delivery efficiency in local government. Central to this exploration was the question of whether public participation had any adverse effects of service delivery efficiency in local government. To explore the answer to this, the research was located within the context of Msunduzi Local Municipality (category b) and eThekweni Metropolitan Municipality (category a). To guide the research, participatory democracy theory was used as the framework. This framework provided the lenses through which public participation in local government can be understood.... the dissertation is structured as follows.

Chapter 1 was an introductory chapter which discussed, amongst others, the rationale of the research and the research methodology. The methodology was based on qualitative and quantitative research techniques, which involved analysis of the literature and gathering of empirical data through interviews in both eThekweni Metro and Msunduzi Municipality. The collected data was analysed through the Statistical Programme for Social Sciences and discussed in the following chapters.

Chapter 2 was a review of the existing literature on the topic and discussed in detail the theoretical framework of the study. Democracy broadly and participatory democracy in particular was discussed in order to ground the exploration. The central argument the chapter makes is that the participation of citizens is fundamental to the democratic agenda, especially at local government level.

Chapter 3 is a historical analysis of the foundations and transformation of local government in South Africa. The chapter discussed the various policies and pieces of legislation in relation to democracy and service delivery, especially in KwaZulu-Natal local government. The chapter concluded by stating that the history of local government in South Africa is a long and complex one, which has at its centre issues of race and racism. The role of ideology in shaping local government policies and legislation cannot be ignored. Pre-1994, local government was used to reinforce the notion of separate development based on the superiority of whites and the subjugation of blacks. In the post-1994 context, local government has been tasked with a developmental task. Finally, the chapter discussed the contested role of traditional leaders in local government.

Following from this, Chapter 4 discussed the legislative and policy framework that underpins public participation in local government in the post-Apartheid South Africa. The Chapter placed at the centre the Constitution of South Africa, from which all the other legislation and policies emerge. Instruments such as the Municipal Systems Act, the Municipal Structures Act and other related legislation were influenced, to some extent, by global local government planning trends, which limited the space for the crafting of truly authentic and contextually relevant instruments.

Furthermore, Chapter 5 discussed the nexus between public participation and developmental planning in local government. The structures and mechanisms of participatory planning, such as the IDP and ward committees, came under scrutiny in terms of their functionality. In addition to the vulnerability of these structures and mechanisms to political interference or manipulation, the chapter also took the view that these place a heavy cost burden on the very limited resources of municipalities. There might also be an unnecessary duplication of public participation structures, which add to the logjams in terms of decision-making.

Having dealt with the theoretical discussions, Chapter 6 considered the main issues raised in the previous chapters in the context of Msunduzi Local Municipality. The chapter began by providing a comprehensive profile of the Msunduzi Municipality. Thereafter, the structures and mechanisms of public participation were critiqued in relation to service delivery within the Municipality. In conclusion, it was found that the Municipality is characterised by low levels of public participation and low levels of efficiency in service delivery, despite demonstrable improvements over the years. The finding of a positive link between public participation and service delivery efficiency has to be considered in the context of the history of poor governance within the Municipality, which led to the place of the Municipality under administration in 2011.

By the same token, Chapter 7 discussed the research question in the context of eThekweni Metro, which is currently the only metro in the province of KZN. The Chapter highlighted amongst others that the public participation policy of the Metro is very complex and does not seem to yield any real value in terms of promoting effective public participation. This is despite the considerable resources that are made available to try and make it work. It was in this chapter that the rural-urban divide in terms of public participation and service delivery became clear. Despite the challenges, the chapter concluded that the Metro is characterised by service delivery efficiency in the context of low public participation levels. However, civil society seems to be more active and effective

within the Metro. The overall administrative design of the Metro in terms of clustering the municipality into 5 Area-Based Management areas was found to posing some possible challenges in terms of participation and service delivery efficiency.

Chapter 8 discussed the overall findings in relation to the question as to whether public participation has any adverse impact on service delivery efficiency in local government. The assumptions of the participatory democracy theory were critiqued in relation to the findings of the study. Overall, the Chapter makes the point that no clear correlation between public participation and service delivery efficiency in local government could be established through this study, based on the two case studies. However, the raised questions regarding the structural arrangement of local government based on the legislative and policy framework. The argument the chapter advanced is that the differentiation of municipalities based on their context has to be considered in the design of participation and implementation tools. This also includes questions about the relationship between the different tiers of the local government systems, as well as the three spheres of government.

From the aforementioned, this study concludes that participatory democracy, on which the study is based and which also informs the design of local government structures and systems, needs to be viewed with the context in mind. Whilst the principles of the theory are sound, they cannot be said to apply as well in every context. There are contextual nuances that have to be considered in the design and implementation of participatory mechanisms. Essentially, participatory democracy has to be strengthened through the infusion of realities from developing countries, many of which still have traditional institutions that must exist alongside the new.

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In the process of gathering data, I attended two meetings of the Msunduzi Municipal Council and a ward committee meeting, as an observer, between the year 2013 and 2015. I also attended an IDP Imbizo in 2013. At an invitation of interview respondent, I attended a ward community meeting in eThekweni Metro in 2015.

Furthermore, a total of 128 respondents were interviewed in this study between the two municipalities. Given the number of interviewees who requested anonymity, identities of all interviewees have not been included in this dissertation. References to interviews have been assigned codes in the document. However, the list of the people interviewed has been provided to the research supervisor

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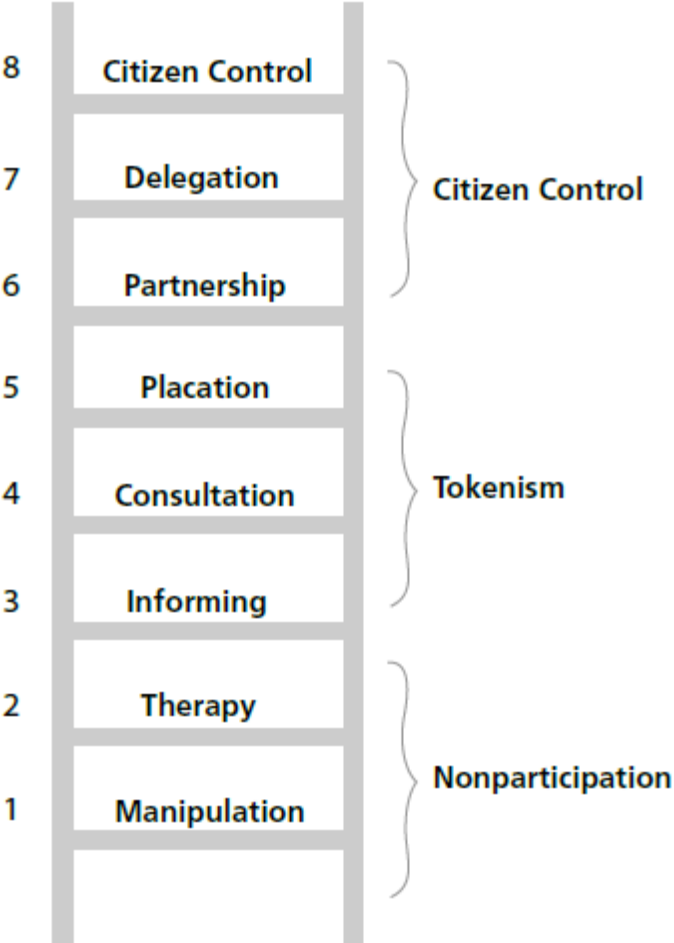
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## APPENDICES



**Appendix A: Arnstein's Ladder of Citizen Participation**

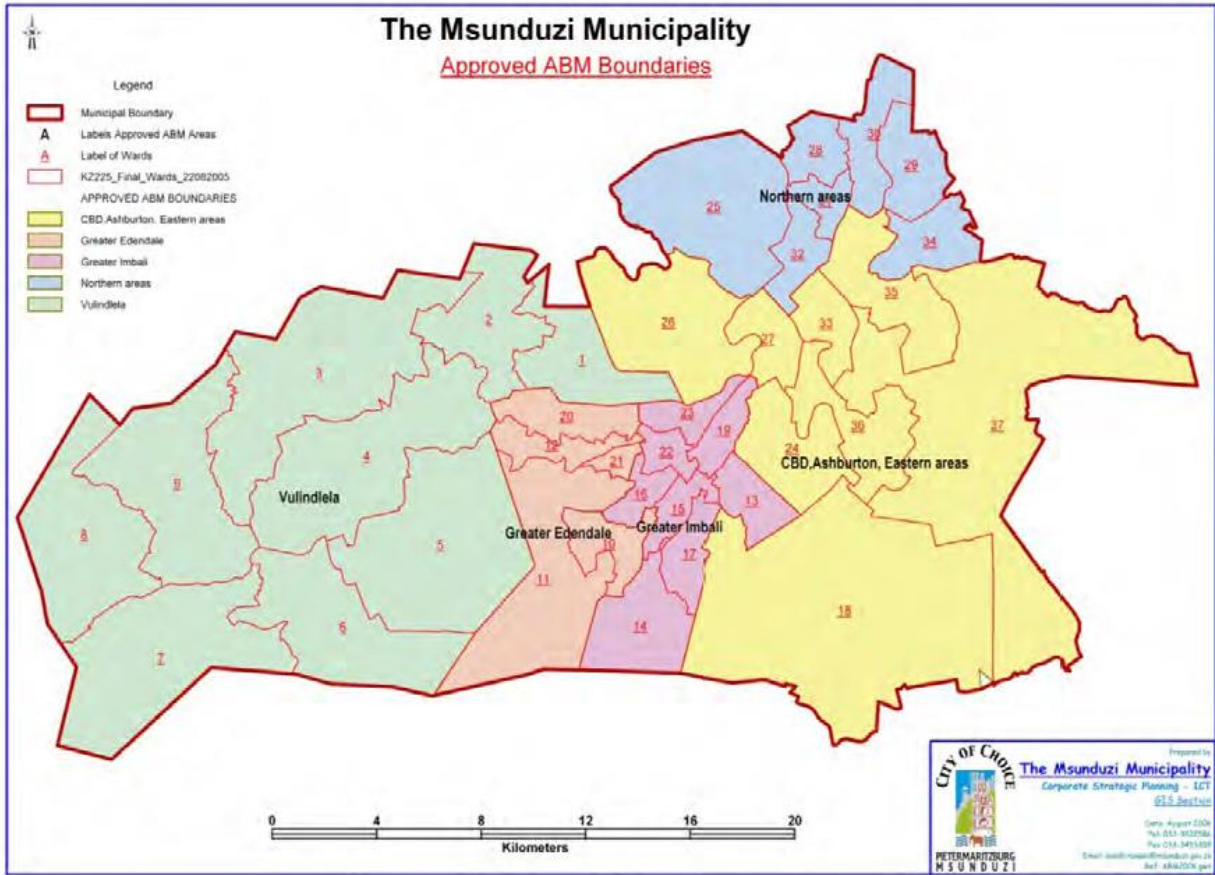


## Appendix B: Msunduzi Municipality Election Results 2000-2011

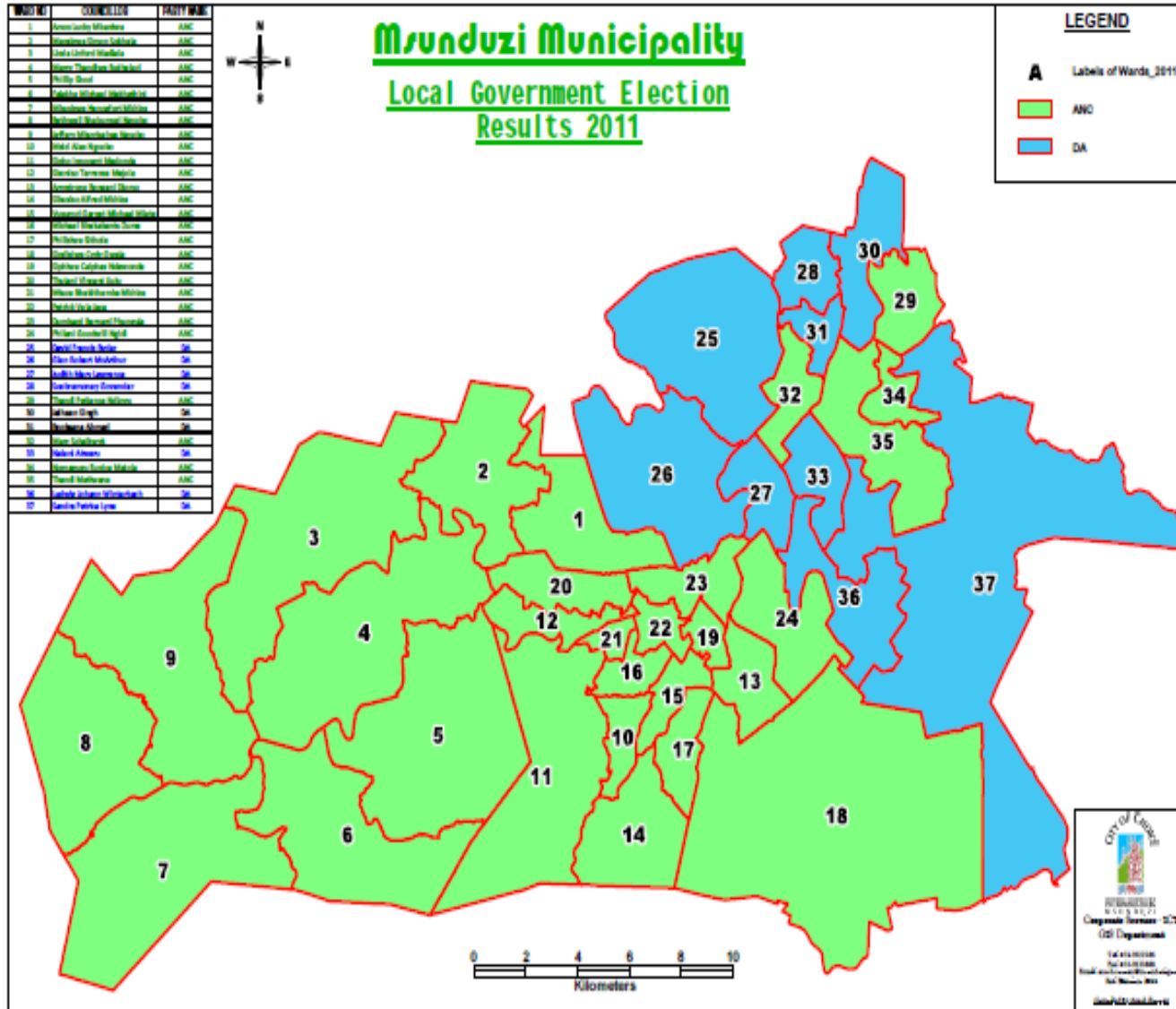
Political Party	Election year - 2000	Election year - 2006	Election year - 2011
African National Congress (ANC)	56.5%	64.62%	65.35%
African Christian Democratic Party (ACDP)	0.83%	1.49%	0.65%
Democratic Alliance (DA)	23.68%	15.53%	19.18%
Economic Freedom Fighters (EFF)	--	--	--
Inkatha Freedom Party (IFP)	17.63%	14.27%	4.7%
Minority Front (MF)	0.97%	1.12%	0.71%
Congress of the People (COPE)	--	--	0.28%
National Democratic Convention (NADECO)	--	0.73%	0.14%
National Freedom Party (NFP)	--	--	5.13%
Azanian People's Organization (AZAPO)	--	--	0.32%

Independent (IND)	3.55%	2.19%	0.39%
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# Appendix C: Msunduzi Area Based Management Plan Boundaries and Ward Boundaries



Appendix D: Msunduzi Municipality 2011 Local government Election Results



## Appendix E: Msunduzi Housing and Human Settlement Budget Plan 2011-2016

### HOUSING AND HUMAN SETTLEMENT DEVELOPMENT MANAGEMENT

Plan 2:	Quality Living Environments ( Infrastructure development and health care)
City Goal/s:	1)A healthy citizenry with access to affordable,quality health care 2) A city where everybody has access to habitable human settlements - decent houses, clean water and proper sanitation
National outcome:	8. Sustainable human settlements and improved quality of household life
Role of Local Government:	[NO.8]- Develop spatial plans to ensure new housing developments are inline with national policy on integrated human settlements
National Outcome Outputs:	[NO.8]-1. Accelerate housing delivery
National Key Spending Programmes:	[NO.8]- Increase housing units built from 220 000 to 600 000 a year
Sector Plan:	Integrated Housing Delivery Plan

PROJECT NAME	BASELINE / STATUS QUO	IDP OBJECTIVE	MEASURABLE KPI	IDP NUMBER	2011/12	2012/13	2013/14	2014/15	2015/16	SOURCE OF FUNDING	WARD
Housing Projects	Under spending of funds	Prepare housing project plan. Implementation of Housing Projects as per approved plan and report on progress	Planned development	HSDM110	0	0	0	0	0		All Wards
North East Sector (Services)	New Project			HSDM111	0	10,000,000	0	0	0	MIG	Ward 34
Allocation of Houses	Unknown	Transfer 2000 properties to approved beneficiaries	Transferred 2000 properties to approved beneficiaries	HSDM112	0		0	0	0		Wards 18, 11, 16, 21,
Housing maintenance	364 Rental Units	Prepare maintenance plan for rental stock. Initiate Maintenance in terms of plan and report	Rental stock maintained	HSDM113	0	0	0	0			Wards 33
	Dirty and un-constitutional levels of service	Prepare housing and engineering services construction programmes as per approved active projects Develop 1000 emergency housing units - Jika Joe	Decreased informal settlements	HSDM114	47,000,000	0	0	0	0		
<b>SUB-TOTAL</b>					47,000,000	10,000,000	0	0	0		







PROJECT NAME	BASELINE / STATUS QUO	IDP OBJECTIVE	MEASURABLE KPI	IDP NUMBER	2011/12	2012/13	2013/14	2014/15	2015/16	SOURCE OF FUNDING	WARD
Reduction in housing rental stock	No reduction	5% of rental stock to be sold and transferred to tenants	Reduced rental stock	HSDM133	0	0	0	0	0		
Approval of Building Plans - New Plan Approval System	Inadequate Approval	Plan approval within specific time frame.	Building plans to be approved through electronic system	HSDM134	2,000,000	2,100,000	2,205,000	2,315,250	2,431,013	CNL	All wards
Improper approval of building plans	No control as to who approves Plans	Introduction of an electronic plan approval system.	Control procedures to be prepared which prevent unauthorised staff from approving plans	HSDM135	0	0	0	0	0		All wards
Land Survey .	Serious problems in the valuation roll	Processed applications within specified timerame	Process of applications for subdivision & prepare conditions of establishment	HSDM136	0	0	0	0	0		All wards
Updated valuation roll	New VR Prepared in 2009.	Prepare terms of reference for the appointment of SP to undertake re-valuation.	Prepare new Valuation Roll in accordance with the MPRA	HSDM137	650,000	8,000,000	9,000,000	0	0	CNL	All wards
Town Planning	SDF Approved by Council in 2009. To be reviewed annually.	Complete SDF and alignment with IDP.	Preparation of SDF and review.Prepare and introduce land use management system.	HSDM138	500,000	525,000	552,000	600,000	620,000	COGTA CNL	All wards
	PMB Town Planning Scheme	Complete Land Use Scheme for Edendale	Prepare and introduce land use management system	HSDM139	500,000	525,000	552,000	600,000	620,000	CNL	All wards
Building Inspectorate SIGNAGE	Inadequate control over signage	Prepare registry for signage applications, building plan applications in accordance with signage by laws.  Reconciliation of bill board signage register and report on actions taken and hot spots identified.  Re-Enter into contracts with Bill-board operators with new rates.	Compliant and revenue generating signage	HSDM140	50,000	52,500	54,000			CNL	All wards
Emergency housing for ablution facilities	Dirty and unconstitutional levels of services	Develop a plan for cleaning ablution facilities. Clean ablution facilities as per plan	Clean Ablutions	HSDM141	100,000	100,000	100,000	650,000	100,000		Ward 33
Housing application list	No data base of informal settlements and housing application list	Develop data base to register people with housing needs	Developed a housing database for housing applications as a register including 2000 applicants	HSDM142	0	0	0	0	0		All Wards

PROJECT NAME	BASELINE / STATUS QUO	IDP OBJECTIVE	MEASURABLE KPI	IDP NUMBER	2011/12	2012/13	2013/14	2014/15	2015/16	SOURCE OF FUNDING	WARD
Feasibility studies for Vulindlela housing projects	Non existent	Pre-liminary Studies to be completed for Vulindlela (Geotech, Social, Land Audit and Services)	Completed pre-feasibility studies	HSDM143	24,000,000		50,000,000	75,000,000	100,000,000	DOHS	Wards 1 - 9
Feasibility studies for Edendale housing projects	Non existent	Studies to be completed for Edendale (Geotech, Social, Land Audit and Services) EIA (60% complete)	Completed feasibility studies for Edendale	HSDM144							Wards 21 and 22
Letting Council property	R 15 million outstanding	All arrears to be reduced by 5%	Consolidated accounts and decreased debt	HSDM145	500,000	500,000	500,000	500,000	500,000		
Reduction in housing rental stock	No reduction	5% of rental stock to be sold and transferred to tenants	Reduced rental stock	HSDM146							
Approval of building plans	No control as to who approves Plans	Control procedures to be prepared which prevent unauthorised staff from approving plans	Proper improvement of plans approval system.	HSDM147	100,000						All wards
Improper approval of building plans	No control as to who approves Plans	Prepare and introduce control procedures to prevent unauthorised staff from approving plans	Control procedures applied	HSDM148							All wards
Land Survey Valuations	Serious problems in the valuation roll	Process applications for subdivision & prepare conditions of establishment	Process of applications for subdivision & prepare conditions of establishment	HSDM149							All wards
Updated valuation roll	Serious problems in the valuation roll	Investigate valuations and correct Valuation Roll in terms of MPRA. Implement METVAL system. Prepare supplementary valuation roll. Process objections to valuation roll and finalise. Monthly report showing balance to be investigated completed and on hand to be prepared. Prepare new Valuation Roll	Spatial development framework complete and aligned with IDP. PDA Delegations in place. Law enforcement for town planning contraventions.	HSDM150	650,000	80,000	90,000				All wards
Town Planning	Unknown	Preparation of SDF and review. Finalise Planning Development Act delegations. Preparation of a complaints register for town planning contraventions. Prosecutions to be initiated and reported. Prepare and introduce land use management system.	Finalised Planning development delegations	HSDM151	500,000	750,000	500,000	750,000	500,000		All wards
Building Inspectorate	Unknown	Develop data base of people who draw building plans. Building plan applications to be processed in terms of national building regulations. Preparation of complaints register report on actions taken.	Database in place.	HSDM152							

PROJECT NAME	BASELINE / STATUS QUO	IDP OBJECTIVE	MEASURABLE KPI	IDP NUMBER	2011/12	2012/13	2013/14	2014/15	2015/16	SOURCE OF FUNDING	WARD
Building Inspectorate	Unknown	Prepare registry for signage applications, building plan applications in accordance with signage by laws. Report on application processing. Preparation of complaints register report on actions taken. Reconciliation of bill board signage register and report on actions taken and hot spots identified.	Compliant Building signage	HSDM153							All wards
Overtime	Unknown	Produce report showing overtime projections & outlining deviations there from with reason	Controlled overtime	HSDM154	100,000	100,000	120,000	120,000	120,000		
Cost containment	Unknown	Report on expenditure incurred against budget & cost containment initiatives	Cost contained	HSDM155							
Budget Spent	Unknown	95% of CAPEX & OPEX budget be spent on service delivery. Report on spend	Service delivery	SDM156H							
Processes, Procedures & Policies	Unknown	Produce updated policies & procedures manuals signed for & accepted by staff	Updated policies & procedures manuals signed & accepted by staff	SDM157H	200,000	200,000	200,000	200,000	200,000		
Budget	Unknown	Budget for coming year to be prepared and submitted to budget office. Adjustment budget for current year to be prepared and submitted to Budget Office.	Budget submitted timeously.	HSDM158							
Asset Control	Non existent	create the unit's immovable and movable asset register in terms of financial control template. Annual certificate of assets to financial control in terms of template. No adverse reporting by Auditor General.	Assets controlled.	HSDM159							
Housing projects and allocation housing				HSDM160	100,000						
Informal settlements				HSDM161							
People in need of housing				HSDM162							
Building Inspectorate Signage				HSDM163							
SUB-TOTAL					30,000,000	12,982,500	894,922,001	80,785,250	1,471,974,176		
TOTAL					593,109,684	525626571	567413226	530785250	555141013		

## Appendix F: eThekweni Metropolitan Municipality Election Results 2000-2011

Political Party	Election year - 2000	Election year - 2006	Election year - 2011
African National Congress (ANC)	46.93%	57.6%	61.07%
African Christian Democratic Party (ACDP)	1.18%	1.6%	0.74%
Democratic Alliance (DA)	26.14%	16.66%	21.02%
Economic Freedom Fighters (EFF)	--	--	--
Inkatha Freedom Party (IFP)	17.4%	11.09%	4.13%
Minority Front (MF)	4.9%	6.22%	5.31%
Congress of the People (COPE)			
National Democratic Convention (NADECO)	--	--	--
National Freedom Party (NFP)	--	--	4.7%
Azanian People's Organization (AZAPO)	0.17%	0.24%	0.14%

Independent (IND)	0.89%	2.28%	--
Truly Alliance (TA)	--	0.7%	0.72%
African People's Congress (APC)	--	--	0.3%
United Action Front (UAF)	--	--	0.17%
African Christian Alliance (ACA)	--	--	0.11%
Vryheidsfront Plus (VF PLUS)	--	0.18%	0.08%
Social Green Coalition (SGC)	--	--	0.05%
Black Consciousness Party (BCP)	--	--	0.05%
Solidarity Party (SP)	--	--	0.03%

**Appendix G: eThekweni IDP Process Plan 2016-2017**

Month	Details	Legislation	Responsibility	Estimate Budget
July 2015	Submit draft 2016/17  Process Plan for noting to  council	MSA 31  (1)(a)(b)(c) ( d)	Corporate Policy  Unit (CPU)	
	Submit 2016/2017 Process  Plan to Cogta		CPU	
	Advertise Process Plan  2016/2017		CPU	R15 972
	Summar y of IDP 2016/17	MSA	CPU	R46 585

prepared in plain English and isiZulu	25(4)(a),(b)		
Plain English and isiZulu adopted, IDP's printed and distributed	MFMA:MSC M	CPU	R302 500
Draft participation plan for internal and external stakeholders with relevant service units (e.g.CPAS, Comm) CBP alignment	MSA 29 (1)(b)	CPU, CPAS, Communication s, Speakers Offic e	
Present participation strategy to exco	MSA 30(a)(b)(c)	CPU	Exco

	Zonal Public Participation	MSA	CPU and Communication	
	CBP alignment and implementation	29(1)(b)	s	
	Continue Zonal Public Participation	MSA 29(1)(b)	CPAS and CPU	R665 500
<b>August</b>	Strategic Issues Workshop with senior Municipal officials	MSA (35) (1)(a)	CPU, senior Municipal officials	R13 310
<b>2015</b>				



	MEC Panel commences assessment on reviewed IDP		Cogta	
	Draft participation plan for internal and external stakeholders with relevant service units(e.g. CPAS, Comm)	MSA 29 (1)(b)	CPU, CPAS, Communication s, Speakers Office	Draft participation plan for internal and external stakeholders with relevant service units(e.g. CPAS, Comm)
<b>Sept 2015</b>	Alignment of the 2016/17 Process Plan with Budget, Annual Report Performance	MSA 34 MFMA	CPU, PM&E, Treasury	

	Management	21(2)(a)		
	Prepare firstdraft 2016/17 IDP based on Strategic Issues Workshop	MSA 34	CPU	
<b>September 2015</b>	Consultation on the IDP with Business (DCCI)	MSA 29	CPU	
<b>October 2015</b>	Present first 2016/17 Draft IDP to DCM Forum, EXCO, Council and for “Noting of Progress ”	MSA 29(a) 30(a)(b)(c)	CPU / Plan Owners/council ors/exco	
<b>November 2015</b>	Strategic workshop with Plan Owners and Plan	MSA (35)	CPU	

		(1)(a)		
	Representatives			
<b>December</b>		MSA		
<b>2015</b>	IDP Best Practice Conference	31(a)(b)(c)(d)	CPU	
	Prepare second draft 2016/17	MSA 34	CPU/Plans	
<b>January</b>	Complete second draft of 2016/17 IDP	MSA 34	CPU / Plans	
<b>2016</b>				
	Meeting Cogta and	MSA		

<b>February 2016</b>	Municipalities on IDP Submission and Assessment Process	31(a)(b)(c)(d)	CPU	
	Prepare third 2016/2017 IDP draft based on public comment received from public participation	MSA 34	CPU/Plan Owners	
<b>March</b>	Advertise third draft 2016/2017 IDP in press for public comment	MSA 29(1)(b)	CPU, Communication	<b>R16 637.50</b>
	Third draft 2016/2017 to be tabled at DCM forum, exco	MSA 34	CPU/Plan	

2016	and council for noting		Owner s	
	Third draft 2016/2017 to be submitte d to MECfor assessment	MSA 31(a)(b)(c)( d)	CPU/Plan Owner s	
	IDP Assessment by Cogta	MSA 31(a)(b)(c)( d)	CPU/Plan Owner s	

## Appendix H: Chapter 7 of the Constitution of the Republic of South Africa

### CHAPTER 7

#### LOCAL GOVERNMENT

**151. Status of municipalities.**-(1) The local sphere of government consists of municipalities, which must be established for the whole of the territory of the Republic.

(2) The executive and legislative authority of a municipality is vested in its Municipal Council.

(3) A municipality has the right to govern, on its own initiative, the local government affairs of its community, subject to national and provincial legislation, as provided for in the Constitution,

(4) The national or a provincial government may not compromise or impede a municipality's ability or right to exercise its powers or perform its functions.

**152. Objects of local government.**-(1) The objects of local government are-

- (a) to provide democratic and accountable government for local communities;
- (b) to ensure the provision of services to communities in a sustainable manner;
- (c) to promote social and economic development;
- (d) to promote a safe and healthy environment; and
- (e) to encourage the involvement of communities and community organisations in the matters of local government.

(2) A municipality must strive, within its financial and administrative capacity, to achieve the objects set out in subsection (1).

**153. Developmental duties of municipalities.**-A municipality must-

- (a) structure and manage its administration and budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community; and
- (b) participate in national and provincial development programmes

**154. Municipalities in co-operative government.---**

(1) The national government and provincial governments, by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions.

(2) Draft national or provincial legislation that affects the status, institutions, powers or functions of local government must be published for public comment before it is introduced in Parliament or a provincial legislature, in a manner that allows organized local government, Municipalities and other interested persons an opportunity to make representations with regard to the draft legislation.

**155. Establishment of municipalities.---**

(1) There are the following categories of municipality:

- (a) **Category A:** A municipality that has exclusive municipal executive and legislative authority in its area.
- (b) **Category B:** A municipality that shares municipal executive and legislative authority in its area with a category C municipality within whose area it falls.
- (c) **Category C:** A municipality that has municipal executive and legislative authority in an area that includes more than one municipality.

(2) National legislation must define the different types of municipality that may be established within each category.

(3) National legislation must-

- (a) Establish the criteria for determining when an area should have a single category A municipality or when it should have municipalities of both category B and category C;
- (b) establish criteria and procedures for the determination of municipal boundaries by an independent authority; and
- (c) subject to section 229, make provision for an appropriate division of powers and functions between municipalities when an area has municipalities of both category B and category C. A division of powers and functions between a category B municipality and a category C municipality may differ from the division of powers and functions between another category B municipality and that category C municipality.

(4) The legislation referred to in subsection (3) must take into account the need to provide municipal services in an equitable and sustainable manner.

(5) Provincial legislation must determine the different types of municipality to be established in the province.

(6) Each provincial government must establish municipalities in its province in a manner consistent with the legislation enacted in terms of subsections (2) and (3) and, by legislative or other measures, must-

- (a) Provide for the monitoring and support of local government in the province and
- (b) Promote the development of local government capacity to enable municipalities to perform their functions and manage their own affairs.

(6A) If the criteria envisaged in subsection (3) (b) cannot be fulfilled without a municipal boundary extending across a provincial boundary—

- (a) that municipal boundary may be determined across the provincial boundary, but only--



- (i) with the concurrence of the provinces concerned; and
  - (ii) after the respective provincial executives have been authorised by national legislation to establish a municipality within that municipal area; and
- (b) national legislation may--
- (i) subject to subsection (3, provide for the establishment in that municipal area of a municipality of a type agreed to between the provinces concerned;
  - (ii) provide a framework for the exercise of provincial executive authority in that municipal area and with regard to that municipality; and
  - (iii) provide for the re-determination of municipal boundaries where one of the provinces concerned withdraws its support of a municipal boundary determined in terms of paragraph (a).

[Sub-s. (6A) inserted by s. 1 of Act No. 87 of 1998.]

(7) 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 referred to in section 156 (1).

**156. Powers and functions of municipalities.**—(1) A municipality has executive authority in respect of, and has the right to administer—

- (a) the local government matters listed in Part B of Schedule 4 and Part B of Schedule 5; and
- (b) any other matter assigned to it by national or provincial legislation.

(2) A municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer.

(3) Subject to section 151 (4), a by-law that conflicts with national or provincial legislation is invalid. If there is a conflict between a by-law and national or provincial legislation that is inoperative because of a conflict referred to in section 149, the by-law must be regarded as valid for as long as that legislation is inoperative.

(4) The national government and provincial governments must assign to a municipality, by agreement and subject to any conditions, the administration of a matter listed in Part A of Schedule 4 or Part A of Schedule 5 which necessarily relates to local government, if—

- (a) that matter would most effectively be administered locally; and
- (b) the municipality has the capacity to administer it.

(5) A municipality has the right to exercise any power concerning a matter reasonably necessary for, or incidental to, the effective performance of its functions.

**157. Composition and election of Municipal Councils.**-( 1 ) Subject to Schedule 6A,a  
Municipal Council consists of—

- (a) members elected in accordance with subsections (2) and (3); or
- (b) if provided for by national legislation-
  - (i) members appointed by other Municipal Councils to represent those other
  - (ii) both members elected in accordance with paragraph (a) and members Councils; or appointed in accordance with subparagraph (i) of this paragraph.

(2) The election of members to a Municipal Council as anticipated in subsection (1)(a) must be in accordance with national legislation, which must prescribe a system—

- (a) of proportional representation based on that municipality's segment of the national common voters roll, and which provides for the election of members from lists of party candidates drawn up in a party's order of preference; or

(b) of proportional representation as described in paragraph (a) combined with a system of ward representation based on that municipality's segment of the national common voters roll.

(3) An electoral system in terms of subsection (2) must result, in general, in proportional representation.

[Sub-s. (3) substituted by s. 1 (b) of Act No. 18 of 2002.]

(4) (a) If the electoral system includes ward representation, the delimitation of wards must be done by an independent authority appointed in terms of, and operating according to procedures and criteria prescribed by national legislation.

(b) Where a municipal boundary has been determined in terms of section 155 (6A), a ward delimited within that municipal boundary may not extend across the provincial boundary concerned.

[Sub-s. (4) substituted by s. 2 of Act No. 87 of 1998.]

(5) A person may vote in a municipality only if that person is registered on that municipality's segment of the national common voters roll.

(6) The national legislation referred to in subsection (1) (b) must establish a system that allows for parties and interests reflected within the Municipal Council making the appointment, to be fairly represented the Municipal Council to which the appointment is made.

**158. Membership of Municipal Councils.-(I)** Every citizen who is qualified to vote for a Municipal Council is eligible to be a member of that Council, except—

(a) anyone who is appointed by, or is in the service of, the municipality and receives remuneration for that appointment or service, and who has not been exempted from this disqualification in terms of national legislation;

- (b) anyone who is appointed by, or is in the service of, the state in another sphere, and receives remuneration for that appointment or service, and who has been disqualified from membership of a Municipal Council in terms of national legislation;
- (c) anyone who is disqualified from voting for the National Assembly or is disqualified in terms of section 47 (1) (c), (4 or (e) from being a member of the Assembly;
- (d) a member of the National Assembly, a delegate to the National Council of Provinces or a member of a provincial legislature; but this disqualification does not apply to a member of a Municipal Council representing local government in the National Council; or
- (e) a member of another Municipal Council; but this disqualification does not apply to a member of a Municipal Council representing that Council in another Municipal Council of a different category.

(2) A person who is not eligible to be a member of a Municipal Council in terms of subsection (1) (a), (b), (d) or (e) may be a candidate for the Council, subject to any limits or conditions established by national legislation.

**159. Terms of Municipal Councils.**—(1) The term of a Municipal Council may be no more than five years, as determined by national legislation.

(2) If a Municipal Council is dissolved in terms of national legislation, or when its term expires, an election must be held within 90 days of the date that Council was dissolved or its term expired.

(3) A Municipal Council, other than a Council that has been dissolved following an intervention in terms of section 119, remains competent to function from the time it is dissolved or its term expires, until the newly elected Council has been declared elected.

[S. 159 substituted by s. 1 of Act No. 65 of 1998.]

**160. Internal procedures.**—(1) A Municipal Council—

- (a) makes decisions concerning the exercise of all the powers and the performance of all the functions of the municipality;
  - (b) must elect its chairperson;  
(Date of commencement: 30 June, 1997)
  - (c) may elect an executive committee and other committees, subject to national legislation; and
  - (d) may employ personnel that are necessary for the effective performance of its functions.
- (2) The following functions may not be delegated by a Municipal Council:
- (a) The passing of by-laws;
  - (b) the approval of budgets;
  - (c) the imposition of rates and other taxes, levies and duties; and
  - (d) the raising of loans.
- (3) (a) A majority of the members of a Municipal Council must be present before a vote may be taken on any matter.
- (b) All questions concerning matters mentioned in subsection (2) are determined by a decision taken by a Municipal Council with a supporting vote of a majority of its members.
- (c) All other questions before a Municipal Council are decided by a majority of the votes cast.
- (4) No by-law may be passed by a Municipal Council unless-
- (a) all the members of the Council have been given reasonable notice; and
  - (b) the proposed by-law has been published for public comment.

- ( 5 ) National legislation may provide criteria for determining-
- (a) the size of a Municipal Council;
  - (b) whether Municipal Councils may elect an executive committee or any other committee; or
  - (c) the size of the executive committee or any other committee of a Municipal Council.
- (6) A Municipal Council may make by-law which prescribe rules and orders for-
- (a) its internal arrangements;
  - (b) its business and proceedings; and
  - (c) the establishment, composition, procedures, powers and functions of its committees.
- (7) A Municipal Council must conduct its business in an open manner, and may close its sittings, or those of its committees, only when it is reasonable to do so having regard to the nature of the business being transacted.
- (8) Members of a Municipal Council are entitled to participate in its proceedings and those of its committees in a manner that-
- (a) allows parties and interests reflected within the Council to be fairly represented;
  - (b) is consistent with democracy; and
  - (c) may be regulated by national legislation.

**161. Privilege.**—Provincial legislation within the framework of national legislation may provide for privileges and immunities of Municipal Councils and their members.

**162. Publication of municipal by-laws.**—(1) A municipal by-law may be enforced only after it has been published in the official gazette of the relevant province.

- (2) A provincial official gazette must publish a municipal by-law upon request by the municipality.
- (3) Municipal by-law must be accessible to the public.

**163. Organized local government.**—An Act of Parliament enacted in accordance with the procedure established by section 76 must

- (a) provide for the recognition of national and provincial organizations representing municipalities;
- (b) determine procedures by which local government may
  - (i) consult with the national or a provincial government;
  - (ii) designate representatives to participate in the National Council of Provinces; and
  - (iii) participate in the process prescribed in the national legislation envisaged in section 221 (1) (c).

[Para. (b) substituted by s. 4 of Act No. 61 of 2001.]

**164. Other matters.**—Any matter concerning local government not dealt with in the Constitution may be prescribed by national legislation or by provincial legislation within the framework of national legislation.

## **Appendix I: Interview Questions: Civil Society**

1. What is the state of service delivery in the municipality?
2. Are there mechanisms or channels put in place by the municipality for public participation in local government?
3. How do these work and are they effective?
4. To what extent does civil society participate in local government service delivery?
5. In your opinion, what impact does public participation have on service delivery efficiency?
6. How can service delivery be improved in relation to public participation?



## **Appendix J: Interview Questions: Municipal Officials**

### Questions:

1. What services does this municipality provide to citizens?
2. How effective and efficient is the municipality in providing basic services to the people?
3. What are the mechanisms and instruments put in place in the municipality regarding public participation?
4. To what extent does the public participate in municipal government processes?
5. Is the participation of the public effective?
6. How is the relationship between the municipality and organized formations such as political parties and civil society at large in terms of service delivery and participation?
7. What impact does public participation have on the efficiency of service delivery?
8. How can service delivery be improved in relation to public participation?