

MUNICIPAL GOVERNMENT: ACKNOWLEDGING DEMOCRATIC IMPERATIVES

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ABSTRACT

Since the new democratically elected national government assumed power in 1994 all systems of government and administration on all spheres in South Africa had been reconsidered. Every process, procedure and structure had been scrutinized to ensure that every remnant of the previous apartheid system was eradicated and replaced by a fully democratic system of government with a commensurate system of administration and management. This article reviews the system of municipal government and administration that was established since 1994 to determine whether it meets the requirements of a truly democratic system i.e. a system in which the citizens are afforded maximum opportunities to participate in governance.

INTRODUCTION

It is often argued that local government is indeed government closest to *the people*. However, it is required to establish whether the local sphere of government established since the democratic system of government came to power in 1994 actually succeeds in bringing people closer to the governing function and whether they are fully recognized in the municipal administration and management. Furthermore, attention should be devoted to the mechanisms utilized to obtain regular and meaningful contact between the governing and administrative structures on the one side and the communities comprising *the people* on the other side.

This article focuses mainly on developments in the Republic of South Africa since the introduction of a new system of democratic national, provincial and local government in 1994. In the case of the local sphere of government, a new transformed system was introduced in December 2000. The discussions that follow will mainly concern developments since the introduction of the current system after the municipal elections of December 2000. The emphasis will be mainly on whether the mechanisms available could facilitate

community involvement sufficiently to enable them to make worthwhile contributions to the quality of municipal government and administration

DEMOCRATIC IDEALS

It is trite to state that democracy is government or rule by the people. In any 21st century state and for that matter in any contemporary city or town direct rule by the citizens/inhabitants would be impractical. Therefore, it is necessary to rather consider the attributes of democracy and establish whether the ideals are still valid and acknowledged. It is, for example, necessary to determine whether (*cf. Badger, S. et al 1994:106*):

- accountability by public officials and political office bearers is acknowledged and recourse is possible
- governmental authority is limited by constitutional rule
- political competition is allowed, to prevent one group or person exercising a monopoly in prioritizing or effecting public policy
- majority rule and minority rights are counter balanced
- individualism and individual liberties are recognized in the sense that the individual is at the centre of the political order and government
- civil liberties are guaranteed and that arbitrary uses and abuses of government authority are obviated.

Democracy is usually viewed as an inherent characteristic of most contemporary states and their subsidiary institutions on the regional and municipal levels or spheres of government. The challenge is thus not to persuade a government to introduce democratic government as most Western and even quite a number of African states profess to have established democratic government. The bigger challenge is rather to maintain the democratic system of government by ensuring that governments are regularly subjected to review and that governmental institutions remain responsive to societal needs and expectations and render account for their actions and inactions to society or in the case of municipal government to the particular residents of the town or city.

The article does not investigate the tenets underlying democracy as these are well known. It is mainly focused on the ways and means available in local government to identify community needs; mechanisms to acknowledge the contributions of different sections of a municipal community; processes to incorporate community views into policies and services; and methods to allow individuals and communities to call the elected municipal council and its officials to render account for the policies and actions resulting from its community deliberations and resolutions.

It must be noted that democracy is dependent on two major cornerstones i.e.

- regular free and fair elections
- public accountability.

Should anyone of these two building blocks fail, democracy is under threat. A municipality consists of elected representatives, executive institutions and inhabitants. Constitutional provision is usually made for regular free (and fair) elections of the representatives of a municipal council. In the case of South Africa, the *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996) determines unequivocally (section 159 as amended by Act 65 of 1998) that the term of a municipal council may not be more than five years. The election of members is also provided for in section 157 of the Constitution, 1996 (as amended by Act 18 of 2002) thus entrenching the right to submit councils to regular review and to decide on whether they could be entrusted with the authority to represent a particular community. Similar arrangements regarding regular municipal elections exist in most African states. The different systems are not discussed in detail as the issue under discussion does not concern the introduction of democratic principles. The question that has to be addressed concerns the implementation and the maintenance of the philosophy of democratic governance implying an acceptable degree of participation of a municipal community in the governance of a municipality.

FACTORS PROMOTING DEMOCRACY

Bearing in mind the emphasis on accountability as a requirement for democratic government, a brief reference to the factors that promote public accountability should be made (Cloete, 1996:24-30). The presence of these phenomena should serve as warning signs. If these characteristics are present, democratic government is under threat.

Knowledgeable citizens

As a result of political, economic and historical considerations in South Africa various individuals and even whole communities were deprived access to quality educational and other social developmental facilities. This has resulted in some communities, even in the current democratic Republic of South Africa, lacking the knowledge required to evaluate public service in general and municipal services in particular being provided by the particular executive institutions. This state of affairs is particularly rampant in the rural areas in South Africa. This lack of civic knowledge regarding service provision standards is not unique to South Africa. Various other African countries who had been subjected to colonial rule, experience similar situations e.g. Angola, Mozambique, Zimbabwe, Lesotho and Kenya to name but a few.

One of the important pre-requisites for effective democratic local government and administration is that communities should be capacitated to participate. This implies participation in the decision-making processes as well as in the evaluation of the services received. Should citizens be ignorant of the services they are entitled to they cannot call municipal councillors and officials to account for inefficiency, ineffectiveness or non-performance.

It should be obvious that accountable government requires a knowledgeable community. Municipal communities should be capacitated to articulate their needs and

requirements in accordance with their particular value systems and perceptions regarding the need for services. Thereafter they would be in a position to demand effective and efficient service delivery and in the case of inefficiency demand redress.

Probity

In the local sphere of government corruption appears to be more prevalent than on the provincial or national spheres as the councillors as decision-makers and the appointed officials as the decision-implementers in municipalities are in close proximity to one another. It is relatively easy for councillors and appointed officials to be drawn into the web of corruption as pressure from influential members of society, business people and other prominent individuals could endeavour to influence the various managerial processes. Thus opportunities are created for dishonest bribable, fraudulent or dishonourable actions. This situation contributes to an inability to establish whether the correct policy-guidelines and managerial processes had been followed in the procurement of goods and services or the appointment of personnel. Thus, public accountability is negated. It could, therefore, be argued that probity and honesty are important prerequisites for maintaining accountability and consequently also democratic government.

Effective government

In South Africa, the *Constitution of the Republic of South Africa*, 1996 (section 151(a)) as is the case in various other countries, a municipal council is vested with both the legislative and the executive authority. This implies that the elected body takes enforceable decisions and simultaneously has to give guidance – or steer – the council's policy proposals to achieve its policy goals. To this also has to be added the requirement of a council to supervise the executive actions.

Should a municipal council, acting in its governing capacity fail to heed the needs identified by its civil community, it fails in its governing function. Should council then also refrain from responding to requests from the community it serves, it implies that no account is provided for its decisions and actions and thus it reflects characteristics of unaccountability. It should be obvious that responsive and effective government are imperative to ensure that community values and needs are timeously identified and attended to through effective governmental policies.

Effective legislative enactments and decisions

A legislature is empowered to take enforceable decisions. As the elected representative body acting on behalf of society or a specific community, a municipal council is required to take decisions (resolutions) regarding the functions to be performed by its employees and then to call its executive structures to explain the reasons for their actions or inactions. However, it should be noted that an important prerequisite is that the legislative enactments and decisions should reflect the needs of the community it serves and also be responsive to its needs.

Lack of responsiveness to community needs and views is indicative of a council's failure to represent the electorate. Thus, it detracts from the tenets of democracy and results in unaccountable government. It should be obvious that a municipal council, acting in its capacity as the legislature, is obliged to remain responsive to the needs and expectations of the electorate it represents. A responsive council is probably one of the most effective mechanisms to maintain democracy.

Productiveness

It is required of all public institutions to operate efficiently and effectively. These conditions are non-negotiable as public institutions utilize public resources for the benefit of society in general or a municipal community in particular. Especially when social services are provided, the benefits of public services are often difficult to measure in quantifiable terms. Irrespective of the scale used for measuring efficiency, appointed officials and elected representatives are obliged to optimize their output in the form of services rendered in relation to the input required (e.g. human resources, financial resources and infrastructural resources).

Should appointed officials fail to optimize their output it reflects an insensitivity towards the community it serves. Thus unproductiveness curbs the legislative and executive institutions' ability to provide services optimally. It also prevents the elected bodies from proving that they perform effectively and efficiently in accordance with societal needs and expectations. Productiveness by all governmental officials and in particular municipal employees should promote efficiency and effectiveness to prove to the community they serve that all resources have been utilized optimally.

IDENTIFYING CIVIL SOCIETY (COMMUNITY)

Participation by communities in local governance has been a continuous debate for decades. It is considered as one of the most important prerequisites for sustainable democratic and accountable local government and administration. However, this does not imply that civil society or a civic community is clearly defined. Neither does it imply that civil society within a municipality is homogeneous and can simply be consulted as one group.

Municipalities as the constituent units of the local sphere of government (in South Africa) consist of a variety of communities and interest groups e.g.

- business community
- Muslim community
- Hindu community
- Christian community
- sports community
- residential community(ies)
- multilingual communities (e.g. English, Zulu, Xhosa, French, German speaking).

Thus an elected municipal council and its officials should take cognizance of the plethora of communities and their, often divergent, values and needs. It should also be borne in mind that most individuals are members of various communities e.g. a business leader may adhere to the Muslim religion and may be English speaking and have children of school going age and participate in a particular sports activity. Thus even within one particular family one may find representatives of a variety of "communities".

To obtain the views of "the community" requires complex actions and a thorough knowledge of the inhabitants of a municipality. Particular reference is required to local government institutions in rural areas that may include traditional leaders and the members of their tribes. The issue is particularly complicated as males and females are often dealt with differently in the tribal system. Customary law may even be biased against women (Mokgoro, T, McKintosh, A. & French, C., 1994:7). Therefore to include civil society, consisting of various communities in governance would require firstly, identifying the relevant sub-communities. Secondly it would be required to establish ways and means to consult them as language, cultural, social and other considerations may prove to be inhibiting consultation. Thirdly it would be necessary to establish possible links amongst the sub-communities and determine the extent to which co-membership of different groups may affect liaison.

JUSTIFICATION FOR INVOLVEMENT

The question may be asked: why community involvement if a government has been democratically elected? There is probably no simple or singular answer to this dilemma. However, it is important to note that any local government, in performing its governing function, has to attach weights (or values) to the needs it identifies. The governing body also has to gauge the views and intensity of the demands of its constituents. Thus in the process of formulating its policies the elected council has to obtain expert advice from its appointed officials, other advisers and equally importantly the value considerations from its constituency, that is the community(ies) it serves.

No attempt is made to venture into the realm of the policy sciences, but reference has to be made to the fact that policy provides the guidelines for all other administrative and managerial actions within any institution. To this should be added that "...policies come mainly from skills and not from academic knowledge" (Wagle, U, 2000, 311). The deduction could thus be made that policymakers, irrespective of their academic background or knowledge otherwise acquired, need the assistance of as widely as possible and as diverse as possible a base to formulate policies to satisfy community needs and meet aspirations.

In this regard attention should also be devoted to the degree of democratization present in representative government. To this should also be added the dilemma of ensuring that the bureaucratic apparatus is kept in check. This is required to prevent the bureaucracy from becoming an extension of an unresponsive government. It may be argued that communities, especially in developing countries, may lack the ability to contribute positively to highly technical policies. However, any so-called technical policies have to be supported by a more comprehensive policy aimed at improving the living conditions of a

community or a section of a particular community. Disadvantaged communities are not necessarily negatively inclined towards governmental activities (Wagle, 2000, 213). Their exposure to public services may even be limited, but they are the community to be served or they form part of the municipal community. To obtain their support for the execution of policies their understanding of the justification for particular actions are vitally important.

Policies formulated by a municipal council need not affect every inhabitant, but in many cases policies have a side effect. A policy providing for industrial development may appear to affect only the industrial sector. However, it has an effect on employment, housing, traffic in the area, pollution and infrastructure required to support industrial development. Thus it may affect various other "communities", such as the teaching community, the unemployed, the indigent and the sector providing transport. It could also be argued that the involvement of communities has the added benefit of informing the community of developmental opportunities.

Involving communities in policy formulation contributes to their comprehension of the activities of a governmental institution. It may even encourage formerly excluded sections to contribute meaningfully to the efforts to find solutions for existing challenges. The dictum remains that the sum total of the knowledge of a group usually exceeds the knowledge of an individual (or e.g. that of a municipal council).

Considering the justification for community involvement, attention can now be devoted to ways and means to involve the community. However, it should be emphasized that the involvement should not be restricted to only policy formulation. Communities could also become partners in giving effect to policies e.g. through public/private partnerships.

WAYS AND MEANS FOR INVOLVING COMMUNITIES

Various ways and means could be employed to involve civil society (i.e. communities) through its respective communities in local government and administration. The particular mechanism will depend on the composition, needs and other characteristics of a particular community. Secondly, the aims or goals with such involvement will also affect the nature of the involvement. Thirdly, the extent of involvement required will also determine how and when the community has to be consulted or involved.

The current system of local government and administration in South Africa demands through legislation, that is the *Local Government: Municipal Systems Act, 2000* (Act 32 of 2000), that provision be made for community involvement. The particular legislation (Act 32 of 2000) requires *inter alia* that a municipality must develop a culture of municipal governance that complements formal representative government with a system of participatory government (Section 96). The Act furthermore requires a municipality to (Section 160):

- encourage and create conditions for local community participation
- involve communities in its performance management system; in monitoring the impact of its performance; in preparing the budget; and in strategic decision-making
- contribute actively to building the capacity of the local community to participate in the affairs of the municipality

- foster community participation
- use its resources and to annually allocate funds in the budget to promote community participation.

Legislation in South Africa provides for specific mechanisms, processes and procedures to obtain effective community participation (Section 17 Act 32 of 2000). It is *inter alia* required that the required community participation should take place through

- the political structures (i.e. the council and its committees)
- mechanisms, processes and procedures contained in legislation or established by the municipality
- councillors as the elected representatives of the municipal inhabitants.

One of the most significant democratic principles contained in the South African municipal legislation refers to the need to involve as many as possible individuals in governance. The already quoted *Municipal System Act, 2000*, required that in developing mechanisms, processes and procedures to facilitate community participation a municipality must take into account the special needs of (Section 17(3)):

- people who cannot read or write
- people with disabilities
- women and
- other disadvantaged groups.

It is obvious that the framers of the legal policy framework for the new system of local government were cognizant of the need to practise democracy and not to simply acknowledge the philosophy thereof. Therefore, the current municipal legislation also compels a municipality to communicate to its community(ies) information concerning *inter alia*

- the available mechanisms, processes and procedures available to facilitate community participation
- the matters with regard to which community participation is encouraged (e.g. the compilation of an integrated development plan)
- the rights and duties of members of the local community
- municipal governance, management and development (it is a constitutional requirement that municipalities must be developmental – section 153, *Constitution of the Republic of South Africa, 1996*, cf. also, Reddy, P.S., Sing, D. & Moodley, 2003: 176 *et seq.*)

The democratically based system of local government is quite extensive regarding civil society's involvement in governance. Apart from the requirement that notice must be given to the public of council meetings, legislation prescribes that meetings of council and its committees are open to the public, including the media (sections 19 & 20, Act 32 of 2000). Particular exceptions are set out, but simultaneously the legislation compels a council to admit civil society when the budget is tabled; when a draft integrated devel-

opment plan is tabled; when a draft performance management system is tabled; or when a service delivery agreement decision is to be taken.

If the dictum “power to the people” (Mbeki, 1997: in SALGA/IULA: 5) is accepted it could be argued that “the people” i.e. civil society should be empowered to exercise their democratic rights. This requires amongst other issues the need to communicate with different groups within civil society. The South African municipal legislation is quite clear regarding this issue by requiring that a municipality must communicate with the local community (Section 21, Act 117 of 1998) by way of local newspaper(s); and/or by means of radio broadcasts; in the official languages determined by council or languages of preference and usage in the area. It is also required that a council has to provide for illiterate members of civil society to make oral representations during office hours. In cases where forms have to be completed by illiterate individuals, staff members of the municipality must provide reasonable assistance.

As had been referred to earlier, each municipality in South Africa must adopt an integrated development plan. This plan is aimed at providing for the long term development of a municipality and must *inter alia* specifically provide for the inclusion of communities who lack access to basic services (Section 26, Act 32 of 2000). The process to compile such a plan must provide for community consultation and participation (Section 29(1), Act 32 of 2000). This emphasizes the South African government’s commitment to practising democratic governance. Civil society is not only involved in the normal decision-making and service delivery issues, but also contributes directly to long-term development plans. A council also has to report annually on the extent to which civil society had been involved in council affairs.

EXTENDING REPRESENTATION

“If local democratization does not enjoy widespread support from all sections of society, the initiative is likely to fail”. (Africa in IULA/SALGA, 1997:23). This statement by the premier of one of the provinces (regions) of South Africa clearly indicates that the maintenance of democracy is guaranteed if it is grounded in civil society. In this regard the South African system of local governance is exemplary as provision is made for ward committees (*Municipal Structures Act, 1998, section 72*).

Ward committees may be established for particular types of municipalities. Such committees consist of the ward councillor and not more than 10 other members. These members must ensure that women are equitably represented and must provide for “a diversity of interests” in a ward to be accommodated (Section 73(3), Act 117 of 1998). Thus provision is made for the extension of representation. The councillors, once elected, are not any longer the only avenue civil society possesses to make its views known to council. An opportunity has been created for interested individuals to democratically participate in local governance without necessarily participating in the normal elections or by joining a particular political party or ratepayers association.

A ward committee may make recommendations on any matter affecting its ward to the ward councillor; or the executive committee. Members of ward committees receive

no remuneration for their services and are thus civil society's (a community's) indirect representatives working in collaboration with the elected councillor.

In cities such as Tshwane Metropolitan Council as well as for example Buffalo City the council provides the administrative support to the committees. This ensures that agendas are prepared, minutes are kept and that meetings take place regularly. The system has been in operation for only three years. Therefore, it is too early to determine the effect of the ward committees on governance. However, the first indications are that some ward committees are rather active and require the councillor to report back regularly. The success of a ward committee largely depends on the involvement of the ward councillor. If the latter neglects to inspire a ward committee to meet regularly and to make suggestions regarding policy issues the system is doomed to fail.

Participation has always enjoyed moral legitimacy (Kliksberg, B. 2000:162). Thus it could be argued that the establishment of ward committees to extend participation is commensurate with this guideline. Kliksberg (*Loc.cit*) argues that participation produces superior results in the social sphere to other organisational models including bureaucratic or paternalistic approaches. Therefore, with ward committees the dangers of paternalistic notions by a ward councillor or council are countered, but only if the ward committee remains active and contributes to municipal governmental challenges. In this regard specific reference could be made to the contributions of a larger portion of civil society to budgeting and to long term planning. However, it would be imperative for a council to ensure regular feed back to ward committees regarding the extent to which their requests had been accommodated in a budget. Kliksberg (*op.cit.* 165) correctly argues that the best outcomes of participatory models do not happen by magic. This clearly indicates that in particularly social programmes, attention should be devoted to the efficiency of programmes, as well as the acknowledgement of equity and the need to ensure the sustainability of a programme. If a municipal council fails in giving effect to programmes identified by civil society through ward committees the latter will lose legitimacy and its future will be in jeopardy.

South Africa is in a rather unique situation currently. The "new" democratic system of local government has been in operation for a rather short period. Therefore, the experiment in democratizing local governance to include non-elected representatives still has to be evaluated. Most of the formerly disadvantaged communities still lack the experience, knowledge and capacity to comprehend the system of governance in all its complexities. Thus, the extension of representation should also be accompanied by social change. (Kliksberg, *op.cit.* 169). If social change could also be effected, the effectiveness of participation in local governance could greatly be enhanced.

It is imperative to obtain co-operation between a council and its ward committees. Strategic alliances could be forged to obtain a vehicle to reach inhabitants of areas represented through ward committees. Such committees could also serve as valuable communication channels to inform communities about policy initiatives and to explain the notion of financial and other resource requirements versus service delivery requirements. Even as early as 1993 the *United Nations Report on Human Development* (quoted by Kliksberg 2000:173) stated that

“(t)he increased participation of the population is no longer vague ideology based on the good intentions of a few ideologists. It has become an imperative condition for survival.”

This statement clearly coincides with the South African exercise in increasing participation in local government. Although the establishment of ward committees is restricted to particular categories and types of municipalities, it paves the way for increased participation by the diverse communities forming the larger municipalities.

CONCLUDING REMARKS

The South African system of municipal government and administration has been in operation for a relatively short period. However, it contains the ingredients required for effective democratic governance. It should be emphasized that the legal conditions have been created, but the success of the system depends ultimately on a vigilant civil society. If civil society, through its representative structures, neglect to exercise their duties on behalf of the inhabitants democracy is in jeopardy. Systems of government are only as effective as civil society demands it to be.

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