

Are district municipalities still relevant?

A lot of talk and discussion documents have been making the rounds in the past two or three years about the imminent restructuring of the state machinery and the review of provinces. Yet little or nothing is said about the inevitable question: what is the future of district municipalities?

The role of districts in intergovernmental relations

The Intergovernmental Relations Framework Act requires that, within one year of its coming into operation, districts must have established district intergovernmental forums (DIFs). Most districts have established these forums. In their functioning, some DIFs are realising the vision of the Act with regard to facilitating intergovernmental relations between district and local municipalities as well as discussing national and provincial policies affecting municipalities. However, some are not yet dealing with substantive issues. Many local municipalities have questioned their districts' ability or capacity to provide leadership and action.

The assumption behind the exclusion of local municipalities from the Premiers' intergovernmental forums was that communication with local municipalities could be facilitated via district municipalities and the DIFs. Clearly this assumption does not always hold true. There is no guarantee that the DIFs can serve as effective conduits of communication between a province and local municipalities.

The relationship between district and local municipalities varies from cordial and cooperative to conflictual and unproductive. Having two political structures that must cooperate on numerous complex

matters sets the stage for political conflict. The DIFs cannot always sustain their roles as consultative forums for the district and authoritatively engage local municipalities in service provision, coherent planning and development.

One is tempted to also assume that district municipalities were entrusted, through the Intergovernmental Relations Framework Act, with the convening, agenda-setting and alignment of strategic plans of local municipalities – firstly, by virtue of having fiscal and political authority over local municipalities in their jurisdiction and, secondly, because the White Paper on Local Government envisaged that district municipalities, as significant centres of municipal capacity, would play a strong redistributive and developmental role.

Political and fiscal authority of districts over local municipalities

Until recently, and specifically up to 30 June 2006, district municipalities derived their fiscal authority largely from regional services council (RSC) levies, collected from businesses in all local municipalities within their areas of jurisdiction. The base of RSC levies was gross sales and total payrolls of businesses within municipal areas. Despite their deficiencies, RSC levies were an important source of revenue for metropolitan and district municipalities, making up 9% or R5.5 billion of total local government revenue in the 2003/04

municipal fiscal year. Metropolitan municipalities collected two-thirds of the RSC levies, which accounted for a small but significant percentage (7%) of their overall income. District municipalities, on the other hand, collected only a third of RSC levies, but these accounted for a much larger share (34%) of overall district municipality income.

With this financial muscle, district municipalities were able to fund and influence the prioritisation of projects by local municipalities and monitor the implementation of projects identified in the integrated development plans (IDPs) of local municipalities. Hence district municipalities could, with ease, determine the agenda of intergovernmental forums.

The national government has, with effect from 1 July 2006, removed these levies as a local tax instrument. This step has severely weakened the political authority of district municipalities over local municipalities. An anomaly has thus cropped up in the district municipalities' functioning: for the first time they have to plan, budget and operate largely on the basis of allocations from national government. It is unheard of, in the field of local government, to have funding of a municipality's IDP and most, if not all, of its operations entirely reliant on an outside source.

As the old maxim puts it, "capacity defines the potential for development". The capacity of district municipalities to manage intergovernmental responsibilities requires considerable scrutiny. With the loss of RSC levies the district municipalities may no longer be able to fulfil the key functions set for them in the White Paper on Local Government, namely those of coordination, redistribution and cross-subsidisation among and within their local municipalities. Apart from the service delivery functions provided for in section 84 of the Municipal Structures Act of 1998, it is becoming increasingly doubtful that district municipalities will be able to fulfil the broad functions set out as follows in section 83 (3):

- A district municipality must seek to achieve the integrated, sustainable and equitable social and economic development of its area as a whole by—
 - (a) ensuring integrated development planning for the district as a whole;
 - (b) promoting bulk infrastructural development and services for the district as a whole;
 - (c) building the capacity of local municipalities in its area to perform their functions and exercise their powers where such capacity is lacking; and

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- (d) promoting the equitable distribution of resources between the local municipalities in its area to ensure appropriate levels of municipal services within the area.

That grand vision of redistribution as an objective has fallen by the wayside since most district municipalities now depend on national grants for their existence. Unlike local municipalities, the majority of district municipalities do not have trading accounts. Given that local municipalities will now have their capacity significantly boosted, there might be a case to review the role of district municipalities.

Powers and functions of district and local municipalities

A development plan by any sphere of government, be it a municipal integrated development plan, a provincial growth and development strategy or the national spatial development perspective of central government, is largely a translation of constitutionally allocated powers and functions into realisable projects and programmes with corresponding fiscal allocations. Ambiguous definitions of powers and functions carry with them the potential of producing ambiguous service delivery plans with unmeasurable and unattainable targets. Without doubt such a foundation tends to compromise service delivery.

The lack of clarity on the division of powers and functions between district and local municipalities is a major cause of conflict. In a survey done by the National Council of Provinces, nearly half of the municipalities cited indistinct role clarification as a problem in intergovernmental relations.

The way in which powers and functions are divided between district municipalities and local municipalities also continues to be problematic. Many district functions

defined in section 84 of the Municipal Structures Act are described as “shared functions”, for example fire fighting services. This not only creates a lot of confusion, but also results in duplication of staff, infrastructure and budgets. Furthermore, the provision that district functions can be “adjusted” from district municipalities to local municipalities when a district lacks capacity does not work in practice. In a study conducted by the Municipal Demarcation Board (MDB), it was found that the adjusted function is generally not performed in the whole of the district area by the receiving local municipality.

Are district municipalities still relevant?

South Africa’s system of local government in non-metropolitan areas is conceptualised as a “double-decker bus” with two tiers of local government, one above the other. To function effectively, local government consisting of these two decks is required to act as a collective. Putting together two (political) local government institutions, with the same constitutional objectives, and expecting them to coexist harmoniously is a recipe for conflict. A number of conflict-generating factors have some local municipalities questioning the need for districts.

In terms of section 85 of the Municipal Structures Act, the MDB is required to advise MECs for local government on the capacity of district and local municipalities to perform their functions.

The subsequent process of shifting powers and functions between district and local municipalities creates confusion about who is responsible for executing a function. More tension arises since the shift in function may affect the revenue base of a municipality. These ongoing adjustments of powers and functions by MECs between district and local municipalities create uncertainty regarding which tier of local government is finally responsible for which function. This results in unpredictability and instability at local government level.

There are quite a number of jurisdictional tensions and contests between district and local municipalities which, in some instances, result in an unnecessary duplication of services and wastage of resources. These tensions are most evident in district municipalities that have one or two secondary cities within their areas of jurisdiction. Secondary cities are big local municipalities with total budgets of, mostly, over one billion rands and total populations of close to a million. Examples are the

Amathole District Municipality in the Eastern Cape, which has the Buffalo City Local Municipality, including East London, in its area of jurisdiction, and the Msunduzi Municipality (Pietermaritzburg) in KwaZulu-Natal.

Service delivery as a victim of the district-local interchange

Due to the difficulties with cooperation and general service delivery that many districts experience, numerous non-statutory forums were established before 2005. In many instances district forums suffered from a shortage of administrative capacity, and at times overlapping responsibilities became a stumbling block in the way of service delivery. The extensive consultative process that both district and local municipalities have to go through, with a view to producing “well-canvassed” integrated development plans, tends to “bureaucratise the democratic process”-rather than deepen it in a manner that would make communities find the obligation to attend numerous consultative structures meaningful.

While much work has been done to improve the overall capacity of the state to deliver, there are visible constitutional cracks which translate into legislated structural defects with a potential to complicate service delivery. In the end forums are only as useful as the outcomes they achieve.

Comment

At this juncture, when the future of provinces is being debated, the future of district municipalities must simultaneously be questioned. After six years of experience of “double-decker” government in non-metropolitan areas, the question must be asked whether district municipalities have outlived their function.

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While Dr Mlokoti is the Chairperson of the Municipal Demarcation Board, the views in this article are expressed in his personal capacity and not as chairperson of the Board.

The forthcoming issues of the *Bulletin* will respond to this question in more depth. The Community Law Centre is conducting research on the role and function of district municipalities, the outcomes of which will be published in upcoming issues.