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Examination of centralisation practices in South African Local Government

A dissertation submitted in partial fulfilment of the requirements for the degree of

Master of Philosophy (MPhil.) in Public Policy and Administration

In the department of political studies at

University of Cape Town, Faculty of Humanities

Supervisor: Professor Robert Cameron

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Abstract

Democratic decentralisation in South Africa was undertaken as part of post-apartheid restructuring. This signified a shift on local government’s status from being a tier to being a sphere with its own and powers functions. The empowerment of local government is evident in five tested indicators, which are the areas that are empowered to lift local government’s autonomy as stipulated in the constitution and in supporting legislations. These areas include legal, financial, functional, human resources and public participation. However, these areas are facing challenges which lead to scholars and government to view local government as inefficient and ineffective. As a result, central government is intervening in local government’s affairs claiming to ensure the intended constitutional objectives.

This dissertation examines the evidence of centralisation by testing five areas that are constitutionally empowered to ensure democratic decentralisation. In South Africa, these indicators are evident in empowering of local government based on the national legislations and supporting local government policies. However, the central government’s interference has undermined these powers and function. It is with this that this dissertation argues that the evidence of centralisation practices signifies a shift away from autonomous local government with its own powers and functions to a local government that serves as an administrative arm of central government.

Key findings on the centralisation practices include:

- The proposed Constitutional Seventeenth Amendment Bill undermine the legal autonomy.
- The introduction of the Municipal Financial Management Act (2003), the removal of Regional Service Council levies, and the increasing conditional grants undermine the financial autonomy.
- ‘Unfunded and underfunded’ mandates as well as the limited power on ‘high-impact areas’ undermine the local government’s functional autonomy.
- Central appointments, politicization of human resources and the proposed Single Public Service (SPS) Bill undermine local government’s autonomy over human resource.
- Nationalisation of local election, negotiated participatory politics, politicised participation and decentralised centralism all undermine the underlying objective of participation.
Abbreviations

ANC- African National Congress
BLA- Black Local Authorities
Category A- Metropolitan municipalities
Category B- Local municipalities
Category C- District municipalities
COGTA- Cooperation of Government and Traditional Affairs
DA- Democratic Alliance
DLG- Developmental Local Government
DMA- District Management Areas
DORA- Division of Revenue Act
DPLG- Department of Provincial and Local Government
DPSA- Department of Public Service and Administration
EDI- Electricity Distributing Industry
GDP- Gross Domestic Product
GEAR- Growth, Employment and Redistribution
HAD- Housing Agency Development
IDP- Integrated Developmental Planning
IEC- Independent Electoral Commission
IGRF- Intergovernmental Relations Framework
IMF- International Monetary Fund
KZN- Kwa-Zulu Natal
LED- Local Economic Development
LGNF- Local Government National Forum
LGSETA- Local Government Sector Education and Training Authority
LGTAA- Local Government Transitional Act
MDB- Municipal Demarcation Board
MFMA- Municipal Finance Management Act
NDR- National Democratic Revolution
NGO- Non-Governmental Organisation
NP- National Party
PR- Proportional Representation
R293- Rural small towns
RC- Regional Council
RDP- Reconstruction and Development Programme
RED- Regional Electricity Distributor
RSA- Republic of South Africa
RSC- Regional Service Council
SALGA- South African Local Government Association
SANCO- South African National Civic Organisation
SAP- Structural Adjustment Programme
SPS- Single Public Service
UNDP- United nations Development Programme
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CHAPTER 1

Introduction

1.1 Background

Writings of decentralisation have been largely influenced by Rondinelli (1981), who defines decentralisation as a transfer of authority, responsibilities and resources from central to local levels of government (Mohan and Stokke, 2000; Kulipossa, 2004). There are numerous types of decentralisation, namely financial, administrative and political. A point made by the literature on decentralisation in this regard is that political decentralisation becomes democratic decentralisation when it is combined with both financial and administrative decentralisation. This dissertation focuses on democratic decentralisation, which is considered to be the international third or fourth wave of decentralisation of the 1980s and 1990s respectively, depending upon where it was undertaken.

Democratic decentralisation refers to the creation of an autonomous local government vested with powers over various areas of local governance. This idea of autonomous local government emphasises a minimal role for central and provincial or federal government in local affairs, as opposed to an integrational system of local government that perceives local and central government as part of a single state, which can allow for central intervention should that be necessary.

Evidently, democratic decentralisation has been commended due to its ability to enable responsiveness, break through bureaucracy, and foster public participation, to note the significant ones. However, particularly in developing countries, democratic decentralisation has faced challenges such as a lack of financial resources, the unwillingness of central government to decentralise power, and a lack of transparency.

Democratic decentralisation in South Africa became apparent in the final phase of decentralisation in South Africa as a result of a constitutional commitment to empower local government as an independent and distinct sphere. The final phase commenced after the 2000 municipal election, and this trend has signified the promotion of local government and granting of power and autonomy to local government that began to develop since the adoption of the final Republic of South Africa (RSA) Constitution (1996). The powers and functions of local government are further supported by legislations that ensure the
independence of local government, particularly evident in the White Paper on Local Government that created the term, Developmental Local Government (DLG) to describe local government. Democratic decentralisation is particularly evident in five areas that are vested with power and authority, namely legal autonomy, financial autonomy, functional autonomy, autonomy on human resources and public participation. This stipulates that local government functions in its own right and enjoys powers in decision making without justified interference from national and provincial government.

Nevertheless, local government in South Africa has experienced great challenges and it is a result of these challenges that it has been regarded as ineffective and in need of central government’s intervention. However, intervention strategies adopted by national government threaten local government autonomy. The intentions motivating these strategies have been questioned in the South African local government literature, with an argument that they will result in a diminished role for local government as a sphere.

In addition to these challenges, there is a degree of interference that comes from the national and provincial government as per legislation. To scholars such as Steytler (2005), the role of local government was never very strong from the beginning as local government is perceived by national government as its service delivery arm. This is evident in the delegation of local government to perform ‘high impact’ functions such as housing and the imposition of national policy on local government.

The growing centralisation is the concerning factor with regard to local government. This is not to ignore the evident challenges facing local government; however, it is the response from the national government that is most worrying as it undermines the autonomy of local government. This is exacerbated by the fact that the ruling party seems to push for centralisation as part of its policies hiding behind the developmental policy banner.

1.2 Problem statement
This dissertation is mainly interested in the final phase of decentralisation in South Africa that commenced after the 2000 municipal elections. This is a phase that signifies the promotion of local government from a role of a tier to that of a sphere. The promotion of local government to become a sphere is provided for in the RSA Constitution (1996) and these powers have been further strengthened in various supporting legislations. This means that local government obtains the status of autonomous local government – neither provincial
nor national government have the right to interfere with local government’s functions without a valid justification to do so. This implies that local government exists in its own right and enjoys powers in terms of decision-making and its financial resources inter alia.

However, local government has also experienced challenges which in turn have resulted in it being unable to deliver services effectively and efficiently in fulfilling its objectives. It is due to these challenges that local government has been labelled ineffective, with national government stepping-in to ‘rescue’ local government by taking away some of the powers. It is believed that central government’s interference by means of introducing legislations as a response to these challenges weakens local government and it signifies the emerging centralisation trend in which local government - like in the era of apartheid - is going to be somewhat of an administrative arm of local government taking orders from national and provincial government. The initiated strategies to combat challenges faced by local government proposed by national government include the Municipal Financial Management Act (MFMA) (2003), the proposed Single Public Service (SPS) and the proposed Constitutional 17th Amendment Bill among others. These strategies, as argued in South African local government literature, undermine the autonomy of local government.

These centralisation practices pose a significant challenge on the constitutional objectives of providing for three independent and autonomous but also interrelated and interdependent spheres. There are various specific reasons why South Africa undertook democratic decentralisation, but as a democratic country the objective was to empower local government to promote democracy at a local level as it is closer to communities. In order to do so, it is necessary to empower local government in legal autonomy, revenue-raising, functional responsibilities, power of recruitment and provide it with structures of public participation. When national government intervenes and limit autonomy in these areas, this has serious implication on the autonomy itself as decision-making will be top-down, the channels of accountability will be upward and local government will serve as an administrative arm with no powers nor autonomy in decision-making. As this dissertation’s main objective, centralisation practices are demonstrated, how they occur and in turn how they undermine the autonomy of local government.

With this in mind, this dissertation views it as crucial to highlight that the decentralisation and the ‘recentralisation’ trend is not unique to South Africa. When
examining the literature on developing countries and decentralisation, the trend has and is still occurring in developing countries beyond South Africa. The ‘recentralisation’ trend has been noted by scholars such as Gershberg (1998), Kulipossa (2004) and Mosca (2006), who argue that it is favourable in developing countries, since decentralisation has been ineffective due to a variety of factors and challenges.

1.3 Research question

Examination of the centralisation practices in South African local government.

The centralisation practices in South Africa are evident as a result of the local government’s powers and autonomy being eroded by national government. The five indicators of democratic decentralisation that signify autonomous local government have, due to taking local government’s powers away, signify leaning towards an integrational model of local government where local government will ultimately serve as an administrative arm of central government.

1.4 Methodology and Research design

This dissertation seeks to examine evidence of the emerging centralisation on areas that were previously empowered with the prior aim of ensuring autonomous local government. This will be done by testing the five indicators of democratic decentralisation in order to measure how autonomous local government has been practiced in South Africa. The argument made is that the legislations, which are proposed by national government, result in the centralisation of powers. This empowers national government at the expense of local government and thus in the long term, the local government will be left with no powers or autonomy.

This dissertation will make use of secondary data to examine the centralisation practices in the South African local government. National policies of the apartheid government as well as national policies of the democratic government, most notably the RSA Constitution (1996) will therefore be examined. Building on the constitutional provision, supporting local government legislations such as the White Paper on Local Government (1998), Municipal Structure Act (1998) and Municipal Systems Act (2000) are examined, mainly to identify powers and autonomy granted to local government. In addition, the analysis is largely based on the existing published articles and literature on South Africa local government.
1.5 Outline of Chapters

The research report is divided into five chapters (including this chapter). The second chapter is the literature review chapter, which aims to review the literature on the types and forms of decentralisation, the advantages and disadvantages of decentralisation as well as the waves of decentralisation, from what is considered to be the first wave in 1945 until the early 1990s. This chapter also looks at the ways in which decentralisation has been implemented to create an autonomous local government vested with power and authority in five key areas, that is, legal, financial, functional, human resources and public participation.

The third chapter looks at the development of democratic decentralisation within South Africa. This discussion takes the South African local government under apartheid as its starting point, arguing that local government served as an administrative arm to the central government and as a means of enforcing the separatist laws at the local level. Further, this chapter looks at local government during democratic era. The main argument presented in this chapter is that local government experienced an upliftment of local government from its status of being a tier to being a sphere. In doing so, each indicator is clearly demonstrated how it is empowered with the main aim to present the powers and functions vested in these areas of local government.

The fourth chapter examines the evidence of centralisation in post-apartheid South Africa by examining five indicators presented in the previous chapter. In presenting this chapter, for each indicator, evident challenges will be presented and will be followed by the evidence of centralisation. This is not to suggest that challenges are the direct causes of centralisation, however, their influence on the national government’s decision to intervene cannot be ignored. In doing, this chapter details how

The fifth chapter presents the summary of the research as well as the specific research findings on the occurring centralisation. Following this, the areas for future research are identified.
CHAPTER 2

Literature Review

2.1 Introduction

This chapter presents a theoretical framework on decentralisation; this includes its types and forms as well as its advantages and disadvantages. Following this, developing countries’ different waves of decentralisation are examined with an argument that democratic decentralisation was adopted during the third or the fourth wave depending on where it was undertaken. The last part of the chapter is development of indicators of democratic decentralisation based on the conceptualisation of Totemeyer (2000) who gives an explicit definition of what democratic decentralisation.

2.2 Decentralisation

The type of decentralisation that this dissertation examines is decentralisation of government powers from the centre to lower levels of government. As such, this conceptualisation excludes other forms of decentralisation that are typically applied to the private sector such as privatization and divestment. There are various conceptualisations of decentralisation, but decentralisation generally refers to the transference of authority - legislative, judicial or administrative - from a higher level to a lower level of government (Crook and Manor, 1998; Rivera, 2000; Work, 2002; Steiner, 2005; Fritzen and Lim, 2006; Sharma, 2006). The process of decentralisation signifies reversal of centralisation, allowing power to be dispersed to a multitude of autonomous local bodies concerned with the formulation and application of policy in particular localities in answer to local and variable requirements (Reddy, 2006).

2.2.1 Financial decentralisation

Financial decentralisation is directly linked to budgetary practices and it occurs when higher levels of government cease their influence over budgets and financial decisions to lower levels. What is significant about this form of decentralisation is that it cannot take place without the presence of political powers at the lower levels. This suggests that financial decentralisation requires autonomy especially when it comes to making decisions on the allocation of budgets. These budgetary practices include resource allocation to local levels of government in a way that makes local government responsible for local revenues and
expenditure assignments. In essence, financial decentralisation thus aims to change the distribution and source of financial resources available to local government, which include authorisation of local borrowing, and available revenue sources such as taxes, user fees and contributions (Work, 2002; Steiner, 2005; Fritzens and Lim, 2006; Sharma, 2006). Moreover, arrangements of financial decentralisation are often negotiated between bodies of central and local government and are based on various factors such as interregional equity, availability of resources at all levels of government and local fiscal management capacity (Work, 2002, Olowu, 2001).

2.2.2 Administrative decentralisation

Scholars do not necessarily agree on what kind of responsibilities and functions get transferred to the local level of government and for what purpose, but they do agree that administrative decentralisation involves the transfer of functions and responsibility (Work, 2002; Steiner, 2005; Fritzen and Lim, 2006; Sharma, 2006). For instance, according to Work (2002), administrative decentralisation involves transfer of authority, resources and responsibilities for the delivery of a selected number of public services while Steiner (2005) on the other hand, argues that administrative decentralisation entails a hierarchical and functional transfer of executive powers on different levels of government. Fritzen and Lim (2006) on the other hand argue that administrative decentralisation refers to the transfer of policy making, planning and management responsibilities from central government to local government while Sharma (2006) argues that administrative decentralisation entails moving personnel from central to local levels of government.

There are however two forms of decentralisation that are associated with administrative decentralisation namely, deconcentration and delegation (Work, 2002; Fritzen and Lim, 2006; Robinson, 2003; Rivera, 2000; Sharma, 2006). Deconcentration refers to the process by which branches of central government are geographically dispersed, but no real authority is being transferred to lower levels (Sharma, 2006 Robinson, 2003). This suggests that deconcentration is a process by which the central government disperses responsibilities for certain services to its regional branch offices without involving any transfer of authority to lower levels of government. In essence then, deconcentration is the transferral of authority and responsibility from one level of the central government to another while maintaining the same hierarchical level of accountability from local units to the central government ministry or agency (Mawhood, 1993; Work, 2002; Fritzen and Lim, 2006; Reddy, 2006). However, it
is worth noting that this form of administrative decentralisation does not directly relate to decentralisation to local government as it does not necessarily mean responsibilities will be transferred to local government - instead branches and personnel of central government are transferred to local government, giving no powers or influence to local government itself.

Delegation, on the other hand, is a form of administrative decentralisation in which the central government transfers responsibility for decision-making and administration of public functions to local government or semi-autonomous organisations that are not wholly controlled by the central government but are ultimately accountable to it (Work, 2002; Fritzen and Lim, 2006). This involves redistributing authority and responsibility to local units of government or agencies that are not always necessarily branches of local offices of the delegating authority. This therefore involves assigning certain tasks to the local level without granting them authority over those tasks, but nevertheless leaves local government substantially accountable to the central government even though they are not in direct control (Work, 2002; Fritzen and Lim, 2006; Robinson, 2003; Rivera, 2000; Sharma, 2006).

2.2.3 Political decentralisation

This type of decentralisation involves the transfer of power and authority to lower levels of government with the aim of empowering local government bodies. These bodies in turn, are accountable to communities through the establishment of oversight boards or new forms of citizen participation in development projects and policymaking (Work, 2002; Fritzen and Lim, 2006; Steiner, 2005). This suggests that elected representatives are granted authority in political decision making at the local level and are in turn accountable to citizens who elected them.

Political decentralisation is associated with devolution, which refers to central government’s transfer of authority for decision-making, financial allocations and management to quasi-autonomous units of local government (Bergh, 2004). This entails the creation of the autonomous sub-national administrators that have supreme authority over local affairs. This also includes the shifting of resources and functions to local levels of authorities, which are independent and democratic; and grant them with the authority and power to raise their own revenue (Rivera, 2000; Bergh, 2004; Steiner, 2005; Sharma, 2006; Reddy, 2006).
It is significant to note that political decentralisation’s success depends on, among other things, fiscal and administrative decentralisation, which denotes that local government has to be granted financial autonomy and functional responsibilities. This suggests that transfer of authority and power should be accompanied by necessary resources and functions in which the political authority will be exercised on. These include a legal framework to ensure accountability and transparency; and institution restructuring and development of linkages with civil society and the private sector (Manor, 1997; Olowu, 2001; Work, 2002; Kulipossa, 2004). A successful political decentralisation is therefore considered to be democratic decentralisation as it emphasises the linkages between the state and the people, and consequently between decentralisation and participation (Manor, 1997; Crook and Manor, 1998; Olowu, 2001).

### 2.3 Advantages and Disadvantages of decentralisation

As has been mentioned already, decentralisation is advantageous as political representatives get closer to citizens and such proximity will enable a better mobilisation and more efficient allocation of resources; it may lead to more creative, innovative and responsive programmes by allowing local experimentation and it may provide better opportunities for local residents to participate in decision-making (Crook and Manor, 1998; Bergh, 2004).

Democratic decentralisation in developing countries in particular, also has the ability to hold failing states together; promote ethnic harmony; enable democratization; and empower grassroots citizens and civil society (Ribot, 2002; Fritzen and Lim, 2006). Specific benefits of democratic decentralisation include responsiveness; breaking through bureaucracy and allowing increased citizen participation in government decision-making.

Firstly, decentralised government is more responsive to the needs of the poor than central government due to its geographical proximity. As a result, it is easily informed about local realities and can be more sensitive to local priorities and needs by conceiving and implementing pro-poor policies given the requisite operational flexibility (Goldman and Manor, 1998; Work, 2002). Furthermore, given sufficient autonomy, local government does not need to seek approval from above, and can act more rapidly and responsively. Some local tax rates, fees and user charges can be fixed locally, allowing local government to optimise local sources of revenue, resulting in increased efficiency (Easton, 2001; Olowu, 2001; Johnson et al, 2004).
Secondly, as decentralisation refers to the transfer of power, among other things, from central to lower levels of government, this implies unblocking an inert central bureaucracy, curing managerial log jams (Goldman and Manor, 1998). This is because decentralisation improves direct access for the people to the government and vice versa. There are consequently better prospects for public accountability. In the case of poor or non-delivery of services, communities can put pressure on officials via their councillors; and once citizens see that their representatives can influence officers, they may contact the officers themselves more often (Barnett, Minis and VanSant, 1997; Martin and Boaz, 2000; Robinson, 2003).

The third advantage of political decentralisation is based on the direct access of people to the government: decentralisation is favoured due to its transparent and tangible system that enables citizen involvement, thus stimulating the whole nation to participate in national development (Barnett et al, 1997; Martin and Boaz, 2000; Robinson, 2003; Hadenius, 2003; Reddy, 2006). This is further promoted by the open channels of representation that enable power sharing and provision of information to raise awareness (Gaventa and Valderrama, 1999; Easton, 2001; Johnson, 2003; Barnett et al, 2004).

However, as can be seen from the experience of many developing countries, the disadvantages of decentralisation, especially political decentralisation are manifold. This includes firstly, economic challenges associated with the lack of financial resources due to insufficient revenue sources and the difficulty associated with collecting taxes in poor communities (Manor, 1997; Wunsch, 2001; Robinson, 2003; Kabemba, 2003; Kulipossa, 2004). This in turn becomes an obstacle to local government’s service delivery abilities. Secondly, public participation, as a mechanism which enables citizens to participate in the decision-making process, remains unequal across regions and varies from community to community (Manor and Crook, 1998; Blair, 2000; Mohan and Stokke, 2000; Gaventa and Valderrama, 2000; Charlick, 2001; Kulipossa, 2003; Robinsons, 2003). There is therefore a high possibility of the local political elite to capture power, thus leading to corruption, patronage, clientilism and mismanagement (Blair, 2000; Robinson, 2003). Furthermore, there is a very concerning challenge related to the unwillingness of central government to devolve power and authority to the local level. This is a serious problem, since insufficient powers on the part of local government seriously constrain its abilities to function.
2.4 Waves of decentralisation: The Emergence of Democratic Decentralisation

The literature indicates that scholars have different views on the number of waves of decentralisation; some argue that there have been, to date, four waves, especially within Africa (Olowu, 2001; Oyono, 2004) while others argue that there have been only two or three waves (Sorensen, 1998; Manor, 2004). Most scholars look at reasons why countries embarked on decentralisation in the 1980s; however scholars such as Cohen and Peterson (1996) and Bergh (2004) suggest that this could lead to confusion and lack of context. They argue that, in fact, decentralisation in Asia and Africa actually commenced in the 1950s and 1960s respectively, but that these attempts at decentralisation largely failed as these were considered to have been experiments of decentralisation during the post-colonial era. This is therefore viewed by some as the first wave of decentralisation, which entailed decentralisation from the state to municipalities that remains, more or less, within the logic of traditional institutions in a representative democracy (Manor, 2004). Table 1 shows the objectives of different waves of decentralisation.

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<td>To reward people who participated in war; agitation by the growing number of educated elites from the colonies, as well as the rise of social liberal parties in the colonising countries, namely France and Britain.</td>
<td>Especially in Africa, post-independence leaders wanted to dismantle the legacy of the colonial regime by centralising government’s functions.</td>
<td>Market-based development.</td>
<td>Cutting back central government expenditure; developmental approach-incorporate citizens to work hand-in-hand with the state; bottom-up approach.</td>
<td>Empowering citizens for their development.</td>
</tr>
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</table>

Table 1: Waves of Decentralisation

The first wave of decentralisation took place after World War II, from 1945 until the 1960s, during which time the decentralisation of responsibilities and functions were a way in which those who participated in the war were rewarded (Olowu, 2001; Oyono, 2004). Moreover, this phase of decentralisation was agitated by the growing number of educated elites from the colonies as well as by the rise of socially liberal parties in the colonising countries, namely France and Britain. Furthermore, this wave was characterised by a system of elected councils, a well-defined local tax system and involvement of local government in a
range of minimal infrastructure services especially in education, and health sector (Olowu, 2001; Oyono, 2004).

Following this was what is considered as the second wave of decentralisation, which emerged in the 1960s and lasted until the 1970s. In Africa, the second wave took place during the post-independence era, and instead of building on the already established gains of the period, Africa’s post-independence leaders wanted to dismantle the legacy of the colonial regime by centralising government’s functions (Olowu, 2001; Oyono, 2004). This wave is considered radical as it goes against the basic rules of representative democracy. The type of decentralisation was therefore a result of a system that tried to ‘forge local administrative structures’ that were essentially instruments of control within the framework of the one-party or military state. These local governments were designed primarily for the maintenance of law and order, and only to a lesser extent for the implementation of centrally determined development plan (Olowu, 2001).

The third wave of decentralisation emerged in the 1970s and signified a new approach to development characterised by market-based strategy (Collier and Gunning, 1999; Mohan and Stokke, 2000). This strategy was therefore concerned with a particular kind of development that entailed the involvement of civil society in the development of people’s own lives, resulting in the rise of self-help groups and Non-Governmental Organisations (NGOs), but excluded the state in this development. However, based on the type of approach, this strategy did not succeed in developing countries since participation was not done by the state with the people; rather it was done ‘outside the state’ with NGOs (Gaventa and Valderrama, 1999).

Whilst some scholars have argued that the fourth wave began in the 1980s, while others have argued that it took place in 1990s. The main difference between the 1980s and 1990s was that the latter was more concerned with empowering citizens for their development, whilst the former was a developmental response to the economic crisis of 1970s. The 1970s crisis led to states thinking of possible solutions to the problems that they were facing. Structural Adjustment Programme (SAP) proposed by International Monetary Fund (IMF) was among the proposed solutions (Gaventa and Valderrama, 1999; Collier and Gunning, 1999; Mohan and Stokke, 2000; Olowu, 2001). This wave was largely supported by external donors concerned about systems based on neo-liberal policies. In this context,
decentralisation was viewed as a mechanism for cutting back central government expenditure through deconcentration and delegation. Secondly, great concern about the impact of this crisis led to the call for a developmental approach that would incorporate citizens to become part of their development, by working hand in hand with the state. This implied that citizens would become part of decision making in terms of the policies aimed at developing their lives (Cohen and Peterson, 1996; Blair, 2000; Wunsch, 2001; Johnson and Minis, 2004).

Essentially, the 1990s wave is considered as a response to the failings of the 1980s, which was largely supported by external donors concerned about systems based on neo-liberal policies (Cohen and Peterson, 1996; Manor, 1997; Collier and Gunning, 1999; Manor, 2004). In this regard, some scholars view this fourth wave of decentralisation as the shift that is evident in ceasing dependency on democratic international donors, whereby central government is increasingly turning towards communities (Manor, 2004). This new ‘localised’ trend had as its focus, institutional reform and social development, where the role of the society would be of great significance (Mohan and Stokke, 2000). This was more concerned with a bottom-up approach where the local actors could be empowered and in turn participate in decision-making regarding their lives, particularly through a locus of knowledge generation and development intervention (Mohan and Stokke, 2000).

### 2.5 Summary

It has been argued that decentralisation occurs in various types and forms and can be adopted in both the public and private sectors. Within the public sector, the most common types of decentralisation include financial, administrative and political decentralisation, while the most common forms include devolution, delegation and deconcentration. When combined with both financial and administrative decentralisation, political decentralisation, as the form of decentralisation that resembles a democracy can be referred to as democratic decentralisation. Democratic decentralisation has both its advantages and disadvantages. On the one hand, it has the ability to break through bureaucracy, whilst also promoting responsiveness to local needs and public participation (Barnett et al, 1997; Eaton, 2001; Olowu, 2001; Robinson, 2003). On the other hand, this form of decentralisation is prone to a lack of financial and human resources unwillingness of central government to decentralise power, as well as a lack of transparency at the lower levels of governance (Manor, 1997; Wunsch, 2001; Kabemba, 2003; Robinson, 2003; Kulipossa, 2004).
Decentralisation policy, particularly in developing countries, has been adopted in waves from 1945 up until the early 1990s. There are numerous reasons why decentralisation was adopted during this time, but the most salient one, particularly to the final wave in the 1990s relate to the improvement of service delivery due to closeness of government to its citizens and the responsiveness of local government is due to increased public participation inter alia.

In order to ensure democratic decentralisation, there are at least five areas of governance at the local level that need to be empowered. These include legal autonomy, financial autonomy functional autonomy, human resource autonomy and public participation.

2.6.1 Development of democratic decentralisation indicators

As was mentioned earlier, democratic decentralisation advocates for a fully resourced and independent local government i.e. autonomous local government. As is stated by the United Nations Development Programme (UNDP):

“[G]overnment has not decentralised unless the country contains autonomous elected sub-national government capable of taking binding decisions in at some policy areas” (UNDP, 1999).

Totemeyer (2000), on the other hand, more explicitly argues that a local authority can justify its existence when it, among other things:

- “administers a clearly-defined geographical area and a sizeable population which elects its local representatives on a regular basis;
- operates as a separate legal entity with some degree of legal independence;
- has the power of rule adjudication;
- can make decisions and implement them;
- can at least partly raise its own revenue and can allocate all revenue;
- and has the power of recruitment and has been assigned legally entrenched functions” (Totemeyer, 2000).

Based on the above conceptualisation, five indicators of democratic decentralisation emerge, namely legal autonomy, financial autonomy, functional autonomy, autonomy on human resources, as well as public participation. In doing so, these indicators will be
examined both under autonomous and local government that serves as an administrative arm with no powers of its own in order to demonstrate the difference in autonomy that local government obtains under each model. The argument that is being made is that an autonomous local government is desired due to the power and authority that is granted to local government, thus democratic decentralisation. First, each indicator is examined how it operates under autonomous model and then compare to how the same indicator operates under local government with no powers of its power, simple referred to as integrational model of local government. Table 2 below shows how much authority and power each indicator is granted under the two models of local government.

<table>
<thead>
<tr>
<th>Democratic decentralisation indicator</th>
<th>Autonomous local government</th>
<th>Integrational local government (Local government with no powers of its own)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Legal</strong></td>
<td>Separate legal entity; independent decision-making body; and the role of central government is strictly advisory and inspectorate.</td>
<td>Major policy decisions remain with central government.</td>
</tr>
<tr>
<td><strong>Financial</strong></td>
<td>Autonomous sources of revenue; power to decide on budget implementation</td>
<td>Dependence on intergovernmental transfers; budget implementation is centrally determined</td>
</tr>
<tr>
<td><strong>Functional</strong></td>
<td>Responsible for constitutionally separate functional areas</td>
<td>Functional interdependence; transfer of workload from central to local government</td>
</tr>
<tr>
<td><strong>Human resources</strong></td>
<td>Separate personnel model: Power of recruitment</td>
<td>Integrational personnel model: Local government’s executive is composed of central civil servants.</td>
</tr>
<tr>
<td><strong>Public participation</strong></td>
<td>Open opportunities for communities to take part in government’s decision-making.</td>
<td>Role of local government is to serve central government through delegation and deconcentration.</td>
</tr>
</tbody>
</table>

Table 2: Indicators of democratic decentralisation: Autonomous vs. Integrational model of local government
2.6.2.1 Legal autonomy

Legal autonomy under the autonomous model simply implies that local government operates as a separate legal entity with some degree of legal independence whilst also being granted powers of rule adjudication (Totemeyer, 2000). The World Bank’s (2001) guidelines take a somewhat different stance. In terms of legislative framework in ensuring local government’s legal autonomy, local government should be acknowledged in national legislation and if possible in the constitution as legal autonomous sub-national entities with a positive potential to contribute to national planning and development. In doing so, the national government have to determine the manner in which the local authorities are constituted, the nature of their powers, the scope of their authority, responsibilities, duties, and functions. In addition, legislative provisions or legal texts should clearly articulate the roles and responsibilities of local authorities, and only those roles and duties beyond their scope and competence should be assigned to another authority (World Bank, 2001).

As was stated previously, an integrational model of local government is part of a larger institutional order with no exclusive decision-making autonomy. This implies that local government’s autonomy is integrated into the larger legal framework where major policy decisions remain at central level. In this perspective, the role of local government is that of recipient of national government’s decisions in law making (Kjellberg, 1985; Mahwood, 1993).

2.6.2.2 Financial autonomy (fiscal decentralisation)

In a broader framework, fiscal decentralisation entails shifting some responsibilities from central to sub-national levels of government for both revenue and expenditure. There are two advocates of fiscal decentralisation, namely economists and non-economists. Economists argue that fiscal decentralisation provides citizens with choices in public services as they differ across sub-groups of the population and this leads to efficiency as revenue will be spend on the communities’ priorities. On the other hand, a non-economist argument is anchored in the ‘first generation’ theory of bringing government closer to the people (Schoeman, 2005; Yemek, 2005; Brand, 2007). Participating in government’s decision-making provides an outcome that is closest to the preferences of the median voter, and will
allow the political process to guarantee a more efficient operation of local government. Basically, fiscal decentralisation has the ability to address the problems of allocative inefficiency by allowing communities to take responsibility for governance making it more relevant and more accountable to the community (Yemek, 2005).

Under an autonomous model of government, financial autonomy is evident when local government can at least raise, collect, and spend its own revenue. To achieve this, it is also necessary for local councils to be elected, and for local chief officers to be appointed by the council. Otherwise neither will be accountable to the local voting population and the efficiency and gains of decentralisation will be lost. There are three ways in which financial autonomy can be ensured namely, raising revenue, revenue expenditure, and borrowing capacity (Mawhood, 1993; Bahl, 1995; Yemek, 2005).

Firstly, raising revenue implies that local government should have their own treasury, separate budget and accounts, as well as their own taxes (Mawhood, 1993). There are two ways in which these funds are obtained; the first one is the tax autonomy of local government (Bahl, 1995; Yemek, 2005) and the second on the size and character of transfers from central government (Yemek, 2005). What is important to note is that transfers from central government should not be high as they are likely to threaten the autonomy of local government as some transfers might be accompanied by conditions on how to spend the budget. Secondly, financial autonomy is achieved when local government is granted powers to decide how to spend the revenue (Bahl, 1995; Yemek, 2005). Thirdly, local government can be achieved by granting local government borrowing capacity. This simply refers to local government having a right to borrow money when necessary to cover the costs of its functions (Yemek, 2005).

Under an integrational model of local government however, local government has no autonomous sources of revenue; their main source of revenue is intergovernmental transfers, mainly conditional grants. In this case, a decision on the implementation of the revenue is centrally determined, leaving local government with the responsibility to implement national government policies (Kjellberg, 1985; Mahwood, 1993).

2.6.2.3 Functional autonomy

Under an autonomous model of local government, functional autonomy is achieved, firstly, through constitutionally separating local authorities from central government, and
secondly, through local government maintaining responsibility for a significant range of services (Mawhood, 1993). This suggests that central government is to act in an advisory, supervising and inspecting role. Totemeyer (2000) however, presents a slightly different view arguing that functional autonomy of local government falls under administrative decentralisation. In this view local government is supported by an administrative body, which makes decisions and implements them, and most significantly, this administrative body has been assigned legally entrenched functions. Consequentially, this grants citizens control over government’s activities, since resource allocation is formally decentralised (Mawhood, 1993).

On the other hand, one major characteristic of integration model is functional interdependence between levels of government (Kjellberg, 1985; Mahwood, 1993). In this perspective, local government may be required to implement national policies; and the transference of workload from central to local government is acceptable when necessary.

### 2.6.2.4 Human resources

In theory, there are three types of personnel models, namely separate, integrational and unified models, with the latter considered as a combination of the previous two models. Under the autonomous model of local government, local government’s control of staff is an essential contributor to its autonomy. This suggests that local government should have their own personnel, but most importantly, that local government must have a right to appoint and dismiss their own personnel i.e. power of recruitment (Mahwood, 1993; Totemeyer, 2000). A separate model of personnel is strongly desired for the autonomous model of local government with every local authority acting as a completely autonomous employer. This means that local government is an employer with a full right to appoint and dismiss its own personnel without being subject to central interference. Consequently, this model is considered as a “natural response to a legal decentralisation of powers” (Mahwood, 1993: 17).

On the other hand, the integrational model is mostly evident in the integrated model in which local government’s executive is composed of central civil servants. This model is mostly found in countries with a weak tradition of decentralised government (Mahwood, 1993; Cameron, 2006). This system is not an ideal personnel system for political decentralisation as it is likely to lead directly to control by central government or the ‘deconcentrated’ offices of government (Cameron, 2006).
Furthermore, the third model is a unified model, which is a combination of separate and integrational models of personnel. This model occurs when local government staff is employed locally but organised nation-wide in a single civil service, parallel to the central one. It can be a separate central body, but not the one which controls the public service, meaning that it can be national government’s department or ministry. The separate central body’s responsibilities include the establishment of a national grading scheme; setting up equivalences with the government service; procedures for the recruitment of senior officials, which usually involve the participation of employing authorities; and control of the promotion and discipline of these officials (Mahwood, 1993).

2.6.2.5 Public participation

Under the autonomous model of local government, conceptualisation of public participation has evolved from being “an input by those with expertise or power” (Fakir, 2003) to being a “process whereby every decision and action needs to be sanctioned and approved by community...” (de Visser, 2005). The former definition is problematic as it excludes poor and marginalized societies from participation, as it is often dominated by elite interests with considerable resources. The latter definition suggests that public participation implies the incorporation of citizens into the government’s decision-making processes, and it can be justified on two levels (Oldfield and Parnell, 1998; Fakir, 2003; Hemson, 2006). On the first level, public participation is a democratic requirement that allows citizens to engage in decisions about the social, environmental and service-related issues at a local level. This suggests that public participation provides an opportunity for communities to voice their opinions in matters concerning their own lives. On the second level, the effectiveness of government in providing services can be improved through the articulation of issues causing dissatisfaction. This stipulates that promoting citizens’ control over aspects of government decision-making enhances development and service delivery, which in turn results in more effective governance and a deepened democracy (Oldfield and Parnell, 1998; Hemson, 2006).

Based on the study conducted by Shah (1998), it is evident that there is a positive correlation between decentralisation and citizen participation. It is believed that citizen participation improves the quality of decision-making. In addition, according to Bergh (2004), participation and decentralisation have a symbiotic relationship as successful decentralisation requires some degree of local participation to ensure the responsiveness of local government to local needs. The process of decentralisation itself enhance the
opportunities to participate by placing more power and resources at a level of government that is closer to the people and therefore influences local officials more easily. Hence, public participation is seen both as a means to, and as a goal of, successful democratic decentralisation (Bergh, 1998).

On the other hand, what is significant to note is that integrational model of government is mostly found in countries with weak tradition of decentralisation (Cameron, 2006). For instance, weak decentralisation can be administrative decentralisation in which local government functions based on delegation and deconcentration. This implies that local government is accountable to central government for the services provided. In this case public participation is not a priority as it under democratic decentralisation. The nature of the integrational model is that it does not enable public participation as local government is integrated with other levels of government and its purpose is to work towards the same goal, and it is not intended to empower citizens at local level (Kjellberg, 1985; Mawhood, 1993).
CHAPTER 3

Development of democratic decentralisation in South Africa

3.1 Introduction

This chapter examines the process of developing democratic decentralisation in South Africa. It does this by, firstly, examining the rationale of democratic decentralisation in South Africa. This is followed by the process that local government underwent in achieving democratic decentralisation. On a broader framework, the collapse of apartheid in early 1990s signified a major transformation in South Africa. One of the reforms undertaken is the adoption of decentralisation policy. Nonetheless, the evolution of local government in South Africa dates back to the apartheid era when local government was serving the then white minority. During this period, local government served as an administrative arm of central government and as such was used to enforce apartheid at the local levels.

The transition from apartheid to democratic local government occurred in three phases, namely pre-interim, interim and final phase. The final phase signified empowerment of local government as a sphere as opposed to being a tier as it was under the apartheid government. This is evident in the five areas of local government that were empowered to promote local government namely, legal, financial, functional, human resources and public participation.

3.2 Rationale of democratic decentralisation

The rationale to promote local government in South Africa is multifaceted; these include developmental, political, and administrative and the political-administrative rationales.

As in most developing countries, one of the main drivers for empowering local government was to contribute in social and economic development of the country. Firstly, it is suggested that local government was promoted due to economic developmental objectives in which cities are perceived to be key players (Cameron, 1999). For instance, over 80% of South Africa’s Gross Domestic Product (GDP) is urban based, with economic nodes concentrated in the country’s metropolitan centres. Secondly, local government is empowered to promote social development due to its ability to involve communities. Steytler (2005) argues that it is the developmental policy perspective’s belief that in order to develop
successfully, local community engagement is essential. This is the case in South Africa in which during the time of restructuring, the main aim of transformation was to remove the racial basis of government and make local government a mechanism to integrate society and to redistribute resources equally.

Secondly, the political motivation to decentralise was a result of a compromise since both the National Party (NP) and the African National Congress (ANC), did not intend to empower local government in the first place. The NP opted for a federal system in which local government would be an exclusive provincial power. However, this federal system was feared in the democratic South Africa due to the likelihood of it reinforcing the ethnic division of the past (Cameron, 1999; Steytler, 2005). On the other hand, the ANC held a centralist view that central government could affect the transformation required for the fractured society (Cameron, 1999; Steytler, 2005).

In addition, post-apartheid restructuring entailed the creation of five more provinces and it was evident that these newly created provinces faced administrative difficulties. However, this was not the only challenge; on the other hand, the four already existing provinces were struggling to merge with the former homelands administration. It was, inter alia, due to this administrative difficulty that local government was created as it (Cameron, 1999). Local government was entrusted with this responsibility in order to provide essential and emergency services effectively and efficiently, so as to improve the general welfare of the community (Ballard and Schwella, 2000).

Finally, Cameron (2004) argues for a political-administrative motivation in which the establishment of a local government sphere was a response to the hierarchical system of the apartheid government, which was centralised due to the then necessity of enforcing apartheid at the local level. Therefore, by dismantling this centralised structure, the aim was to empower all South African citizens at a local level (Cameron, 2004).

### 3.3 Democratic decentralisation process

“The dramatic changes in South Africa have created a new area for local institutional-building leading to all major parties to the constitutional negotiation agreeing that effective non-racial local government is an essential part of the future solution” (Mawhood, 1993: x).
The creation of local government in South Africa came along with the new democratic regime that emerged in 1994. Until the early 1990s, the South African local government was characterized by racial and ethnic segregation (Cameron, 2004). In terms of decentralisation, the apartheid local government had no powers and it was prohibited from carrying out any activity that was not specifically defined by provincial ordinances; thus the apartheid local government system could be considered a form of administrative decentralisation (Tapscott, 2000; Steytler, 2005). During this era, only urban white local government could be described as having a proper functioning system of local government with legitimately elected leaders and a viable tax base (Cameron, 2004). In Bantustans, limited local government was established and powers were granted to traditional leaders over land allocation and development matters in areas with communally owned land. Some small rural townships (“R293 towns”) were given their own administrations, but these lacked real powers.

To support this system, separate local government structures were created in line with the apartheid government’s policies such as the Group Areas Act of 1950 and the Reservation of Separate Amenities Act of 1953. The Group Areas Act of 1950 essentially assigned different racial and ethnic groups to different residential and business sections in the urban areas. Therefore, this Act aimed to exclude non-White South Africans from living in the most developed urban areas by reserving these areas for White South Africans only. The Reservation of Separate Amenities Act of 1953, on the other hand, legalised the racial segregation of public premises, vehicles and services.

The system of local government was amended in the 1960s with the creation of “Coloured” and “Indian” management committees as advisory bodies to white municipalities. In 1971, The Bantu Affairs Administration Act was introduced with the aim of removing responsibility for black townships from white municipalities. In 1977, Community Councils as elected bodies were introduced, however they did not have meaningful powers and they had few resources. Community Councils were later abolished and were replaced by Black Local Authorities (BLA) in 1982. However, BLAs had no significant revenue base, and they were seen as politically illegitimate from the start. They were rejected by popular (and sometimes violent) community mobilisation in the mid-1980s (Pycroft, 1996).
Towards the end of apartheid, transformation that was occurring had a profound effect on the local levels of government, as policies such as the Reservation of Separate Amenities Act of 1953 and the Group Areas Act were repealed following the introduction of the Abolition of Racially Based Land Measures of 1991. This Act essentially allowed all non-white South Africans to legally reside in areas that were formerly reserved for white South Africans only. This Act however did not afford non-white South Africans the right to vote nor did it remove the racial discrimination imposed by local authorities (Pycroft, 1996). In response to the flaws of the Abolition of Racially Based Land Measures of 1991, the Interim Measures for Local Government Act of 1991 was established, and this provided provincial administrators authority to recognize, or veto, local settlements, and included the powers to dissolve existing local authorities and introduce new joint local authorities.

However, it was argued that a major flaw of this act was that it proposed a balance of power that favoured the NP government and the apartheid structures of local government at the expense of the non-government organs i.e. the civil society organisations and the ANC. Thus, it was necessary to establish a framework for the future negotiations that would eventually determine the new structures of local government. In response to this, in September 1992, provincial administrators and organised local government met with representatives from the South African National Civic Organisations (SANCO) to create the Local Government National Forum (LGNF). The main purpose of creating LGNF was to achieve local democracy as per the Local Government Transitional Act (LGTA)’s main focus. To achieve this, municipalities throughout the country were created; councils were de-racialised; and former white-only towns with their outlying non-white informal settlements were amalgamated under unitary administration control and into a single tax base (Cameron, 1995; Pycroft, 1996).

In March 1993, the LGNF in consultation with the Multi-party Negotiating Council—the body responsible for the interim constitution – was empowered to create democratic, non-racial, non-sexist and a financially viable local government system. In July 1993, the LGNF body was established on a 50-50 basis between statutory and non-statutory organisations. Statutory organisations represented members of the existing apartheid government bodies; whilst the non-statutory represented those who were not part of the statutory forum in the political restructuring of local government, most notably members of the ANC. LGNF provided for three phases, namely pre-interim that took place from 1994 to 1995; interim that
took place after the 1995/1996 municipal elections undertaken in terms of the interim constitution; and the final phase to be implemented after the negotiation of South Africa’s final constitution by the National Assembly.

The pre-interim phase was the ‘holding phase’ for the first municipal elections that took place in 1995/1996 and it served to usher in the interim phase, as structures and systems that were put in place during this phase formed the basis for democratically elected local councils that were introduced in the second phase. The interim phase, on the other hand as previously stated, was ushered in by local government elections that took place in November 1995 in seven provinces except for Kwa-Zulu Natal (KZN) and the Western Cape in which elections took place in June 1996. During this phase the appointed councils from the pre-interim phase were utilised until the November 2000 elections. The fundamental objective of this phase was to strengthen the role of municipalities in the coordinated, integrated planning by giving local authorities greater autonomy within democratic principles so that they could provide more effective and efficient services to their respective communities (Pycroft, 2000; Ballard and Schwella, 2000).

The main characteristics of the interim phase include power sharing at electoral level where 60% of ward councillor were elected by a Proportional Representative (PR) system and 40% were elected on a ward-basis (Pycroft, 1996; Cameron, 2003). The 60% of the ward representatives were further divided, with 30% representing historically white local areas including Coloureds and Indians, and the other 30% representing BLA. In addition, Regional Councils (RCs) were created and further democratised and transformed into one of South Africa’s new forms of primary local government. More specifically, this phase was characterised by:

“a number of power-sharing constitutional measures; rationalisation of local government structures to 843 due to demarcation; amalgamation of many, but not all, black areas with surrounding white cities and towns; creation of metropolitan government in the larger cities; as well as introduction of democratic two-tier local government in most rural areas in the country” (Cameron, 2004).

The final phase of local government was further launched by the White Paper on Local Government (1998) and was ushered in by the 2000 local government elections. The beginning of the final phase signified the ‘end’ of transitional phases and the start of new
local government dispensation (Nel and Binns, 2003). The facilitating role played by transitional phases proved significant as the constitutional provision along with other legislations and structures of local government became fully effective after the 2000 elections (Cameron, 2004; Beall, 2005). The restructuring that occurred included a reduction of municipalities from 843 to 284 (which were later reduced to 283), the finalisation of new local government structures as well as the municipal demarcation process (Cameron, 2004).

Most importantly, the final phase of the development of local government structures was guided by principles provided in the RSA Constitution (1996). Section 151 provides for a more assertive role of local government where local government is afforded the status of a separate and a distinct sphere of government of equal importance to national and provincial government. The RSA Constitution (1996) suggests a unique role for local government as a sphere of government mandated with implementing social and economic development in areas under its jurisdiction. The RSA Constitution requires local government to structure and manage its administration and budgeting and planning processes to give priority to the basic needs of the community. What is significant to note is that the constitutional provision of local government is in line with the principle of co-operative governance underpinning intergovernmental relations. Section 54 of the RSA Constitution requires national and provincial government to “support and strengthen the capacity of municipalities to manage their own affairs, exercise their powers and perform their functions” through legislations and other means.

This suggests an upliftment of local government from being an inferior tier to being a sphere in its own right. The main aim is to strengthen the role of local government and to ensure its autonomy by putting local bodies at the centre of the developmental activities of the government. This is one of the reasons why local government was made an epicentre of development, thus terming it DLG, which represented a bold exploration of the linkage between development and decentralisation (de Visser, 2005). The aim of local government in terms of DLG goes beyond democratisation to a transformation of local governance with a new focus on improving the standard of living and quality of life of previously disadvantaged sectors of the community (Pycroft, 2000).

The objective of local government powers is to imitate and lead development, to involve and empower citizens, and to act as a primary buffer between central government and
the country’s citizens as per the Constitution, and this have been enshrined in policy and in a series of acts that includes the following:

<table>
<thead>
<tr>
<th>Table 3: Local Government Legislations</th>
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<tbody>
<tr>
<td><strong>The White Paper on Local Government (1998)</strong> outlines a policy framework for local government, elaborating the vision of DLG. This Act represents a major paradigm shift in terms of how municipalities should democratise development and integrate development with community-based goals.</td>
</tr>
<tr>
<td><strong>The Municipal Demarcation Act (1998)</strong> enables the re-demarcation of municipal boundaries. The re-demarcation process did away with the racially based municipal jurisdiction and reduced the number of municipalities from 834 to 284 and later reduced them to 283.</td>
</tr>
<tr>
<td><strong>The Municipal Structures Act (1998)</strong> defines the structures of local government by providing for the establishment of new metropolitan, local and district municipalities, and a two-tier system in non-metro areas to ensure service delivery where local government lacked capacity. The Act charged district municipalities with the role of building “the capacity of local municipality in their area to perform their functions and exercise their power where such capacity is lacking”.</td>
</tr>
<tr>
<td><strong>The Municipal Systems Act (2000)</strong> regulates key municipal organisational planning, and participatory and service delivery systems. This Act lays a foundation for the systems and processes that give effect to DLG as it stresses the need for more accountability, and an inclusive and participatory approach to governing in the local arena, with strong emphasis on efficient and effective service delivery. It highlights the significant role of community participation and goes on to prescribe the content and approach of participation in the system of local governance. Furthermore, this Act notes that it is the role of the municipality to ensure that an appropriate and skilled workforce is in place to deliver services and manage the development and growth of the municipality.</td>
</tr>
<tr>
<td><strong>The Municipal Financial Management Act (2003)</strong> provides the financial management framework for local government. It elaborates the powers and functions of national treasury in relation to municipalities, financial management approaches to municipal budgets, roles and responsibilities of councillors and municipal officers, as well as financial conduct. Chapter 5, Section 34 of the MFMA stipulates that “national and provincial” governments must, by agreement, assist municipalities in building the capacity of municipalities for efficient, effective and transparent financial management”.</td>
</tr>
<tr>
<td><strong>The Municipal Property Rates Act (2004)</strong> provides a strong legislative frame within which municipalities can enhance their own revenue through the setting and collection of rates on property.</td>
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<tr>
<td><strong>The Intergovernmental Relations Framework (2005)</strong> gives substance to the concept of “co-operative government”. The Act speaks directly to local government planning and capacity; it acknowledges that local government’s realm is the shared responsibility of a wide range of stakeholders in and across government. It creates the legislative platform for joint responsibility for local government. The act enables a more structured form of co-ordination and implementation, which will impact on the roles of all three spheres.</td>
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</table>
3.4 Evidence of democratic decentralisation in South Africa: Towards an autonomous model of local government

By the end of the local government’s transformation phase, along with the accompanying provision of the Constitution and the series of the above mentioned acts, local government in South Africa is an example of democratic decentralisation. This suggests that local government is awarded with the power and authority that ensures its status as an independent sphere. Most significantly is that local government in South Africa is an example of an autonomous model of local government as the five indicators are empowered to ensure autonomous local government.

In achieving democratic decentralisation in South Africa, there are at least five areas that were vested with powers namely,

- legal autonomy;
- financial autonomy which empowers local government to raise their own revenue, decide how to implement the budget as well as borrowing capacity;
- functional autonomy by providing local government with decision-making capacity where service delivery is concerned, but most importantly being provided with functions to perform that are in schedule 4(b) and 5(b) of the RSA Constitution (1996);
- autonomy over human resources giving local government power to appoint and dismiss its own staff as per S160 (1) of the RSA Constitution (1996) and the Municipal Systems Act (2000);
- as well as public participation to ensure incorporation of citizens in government’s decision-making, thus ensuring democratic decentralisation.

3.4.1 Legal Autonomy

As a result of South African law, local government is a political institution with elected councillors and a representative mandate. Local government’s provision in the RSA Constitution (1996) has been based on its objective of embracing an equitable society – where everyone is treated equally and given equal opportunities – and it is through this view that local government is perceived as the best mechanism to carry out these intentions.

As Chapter 7 of the RSA Constitution S151 (3) stipulates:
“Municipality has the right to govern, on its own initiative, the Local Government affairs of the community, subject to the national and provincial legislation as provided for in the Constitution”.

In addition, S151 (4) goes on to say

“National and provincial government may not compromise a municipality’s right or ability to exercise its powers or perform its functions”

This implies that the local government in South Africa is an example of an autonomous model of local governance. Nonetheless, it is significant to note that this autonomous local government is established within the boundaries of an intergovernmental framework. This has been entrenched in the RSA Constitution (1996) when providing for three distinct, but interrelated and interdependent spheres, suggesting a less hierarchical structure of inter-governmental relations to achieve constitutional objectives. The main objective behind this system is to limit national (and provincial) government’s powers to abolish laws or to change the nature of local government, thus ensuring the independence and autonomy of local government (Wittenberg, 2003; Hadenius, 2003).

This signifies a major shift from the apartheid system when provincial government used to oversee local government’s functions. Under the post-apartheid system, provincial government was confined to perform a technical support role and to improve municipalities’ capacities. They can only intervene when municipalities fail to perform executive obligations, and even then only for a limited period of time as per S155 (7) of the RSA Constitution (1996).

A number of constitutional conditions are meant to ensure the independence of each sphere (Steytler, 2008). The Intergovernmental Relations Framework Act (2005) stipulates that,

“where the implementation of a policy, the exercise of a statutory power, the performance of a statutory function or the provision of a service depends on the participation of organs of state in different governments, those organs of state must coordinate their actions in such a manner as may be appropriate or required in the circumstances, and may do so by entering into an implementation protocol”. 
In addition, an implementation protocol must be considered when, among others, “[it] will materially assist the national government or a provincial government in complying with its constitutional obligations to support the local sphere of government or to build capacity in that sphere; and an organ of state to which primary responsibility for the implementation of the policy, the exercise of the statutory power, the performance of the statutory function or the provision of the service has been assigned lacks the necessary capacity”.

This suggests that spheres should respect each other’s constitutional status, institutional powers and functions; they can only assume powers and functions that are conferred on them by the terms of the constitution; their powers and functions must be exercised in a way that does not encroach on the geographical, functional or institutional integrity of government in another sphere; they have to co-operate with one another in mutual trust and good faith; and they should avoid legal proceedings against each other (Steytler, 2008).

### 3.4.2 Financial autonomy

The Local government’s fiscal powers are entrenched in the RSA Constitution (1996) whereby it is granted power to raise its own revenue by imposing rates on properties and surcharges on user fees for services provided, through borrowing capacity, as well as by receiving a proportion of nationally raised revenue through Intergovernmental Relations Framework (IGRF). The White Paper on Local Government (1998) further provides a plan for the development of local government finance by providing local government with, real taxing authority, and where feasible, borrowing authority; and a well-developed system of intergovernmental finance based on an objective formula, relying primarily on unconditional grants. In addition, financial powers are also elaborated in the Municipal Property Rates Act (2004), which allows for municipalities to enhance their own revenue through setting and collection of rates on property.

Basically, what this suggests is that the system of local government’s revenue has two components. The first component is the existence of autonomous sources of revenue, which includes borrowing capacity. The second component is characterised by intergovernmental transfers/grant systems, which entail unconditional grants in the form of equitable share and
conditional grants, which can be indirect or in-kind transfers from national and provincial government.

Autonomous sources of revenue

S229 and S230 of the RSA Constitution (1996) provide municipalities with taxation powers that are subject to national legislations and regulations. The bulk of local government’s revenue comes from property taxes and user charges, such as electricity, water and sewerage. National Treasury posits that municipalities can generate 90% of their own revenue. This consists primarily of revenue generated through service charges, property rates and income generated through investments or other public contributions (National Treasury, 2008). This system of raising revenue is crucial, as the ability to generate its own revenue enables local government to make its own decisions when implementing that revenue.

Local government has three different types of categories, namely Category A, the metros; Category B, the local municipalities and category C, the district municipalities. Sources of local revenue vary with different categories of local government. Revenue sources for Category A include a single tax base consisting of property taxes and income from the sale of services. Revenue sources for Category B include property taxes and in most cases, income from utilities. Finally, revenue sources for Category C include in some cases, the sale of government utilities. In most cases, sources of revenue of Category B and C are shared. This, however, becomes problematic due to lack of financial resources especially in extending services to rural areas with existing sources of revenue (Wittenberg, 2003; Cameron, 2004; Van Donk and Piertese, 2008).

Secondly, Section 230 of the RSA Constitution gives general power to municipalities – which may be regulated by national legislation – to issue debt. This implies that municipalities are allowed to borrow in accordance with the national legislation. In addition, Section G of the White Paper on Local Government (1998) emphasises the importance of municipal borrowing for generating additional finance to meet infrastructure backlogs.

The legal framework on municipal borrowing is partly market-based as sub-national entities can generally borrow as much as they want. Municipalities may borrow in the long-term for capital expenditure, but this has to be suggested and approved by the council. Short-term borrowing on the other hand can be done for operating capital, which is permitted on the
condition that municipalities settle their account by the end of the current fiscal year and within 12 months in terms of the RSA Constitution (1996).

The aim of granting municipal borrowing powers is based on the national government’s objective to maximise private sector investment in the municipal sector. This however, has to be done in a way that will not compromise fiscal discipline. To ensure fiscal discipline, the legislation provides that municipalities cannot borrow simply to balance their budgets or to pay for over-spending. This implies that the objective of borrowing is not to produce a short-term inflow of subsidy funds to municipalities, but rather to develop a sustainable market for municipal debt where the risk is properly priced (Yemek, 2005).

*Intergovernmental transfers*

The Intergovernmental Fiscal Relations Act (1997) and Division of Revenue Act (DORA) (2007) state that equitable share is paid directly to all 283 municipalities. It is worth noting that equitable share is formula-based in terms of the given municipality’s needs. In 1998, the National Treasury announced a local government equitable share formula, which, according to Wittenberg (2003), has significantly evolved since the 2003 budget. As shown in Table 3, equitable share formula included I-grant, R293 grant, S-grant, Nodal allocations, free basics, free electricity as well as guaranteed amount. As stated in the Financial and Fiscal Commission (FFC) report (2010) this formula changed. The new formula retained I-grant and Basic Services component and added Development grant, Correction component and Revenue Raising component.

<table>
<thead>
<tr>
<th>2003 equitable share formula</th>
<th>2010 Equitable share formula</th>
</tr>
</thead>
<tbody>
<tr>
<td>R293 grant</td>
<td></td>
</tr>
<tr>
<td>Institutional grant= I-grant</td>
<td>I-grant</td>
</tr>
<tr>
<td>Service grant = S-Grant</td>
<td></td>
</tr>
<tr>
<td>Nodal allocation= N-grant</td>
<td></td>
</tr>
<tr>
<td>Free basic services grant</td>
<td>BS- Basic Services grant</td>
</tr>
<tr>
<td>Free electricity</td>
<td></td>
</tr>
<tr>
<td>Guaranteed amount</td>
<td></td>
</tr>
</tbody>
</table>
Secondly, direct transfers are made directly to the municipality and in-kind transfers come in the form of goods and services that are supplied to municipalities by the transferring authority (DORA, 2007). Table 5 shows the type of transfers made in direct transfers and in-kind transfers.

<table>
<thead>
<tr>
<th>Direct transfers</th>
<th>In-kind transfers</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Municipal Infrastructure Grant (MIG) = BPENM (DORA, 2007)</strong></td>
<td>Water and sanitation operating subsidy</td>
</tr>
<tr>
<td>• B= basic residential infrastructure e.g. water and sanitation</td>
<td>National electrification</td>
</tr>
<tr>
<td>• P= funds for new and rehabilitated municipal service infrastructure</td>
<td>Regional bulk infrastructure</td>
</tr>
<tr>
<td>• E= construction of social service institution and micro-enterprise</td>
<td>Backlogs in water and sanitation at schools and clinics</td>
</tr>
<tr>
<td>• N= Nodal development and renewal programme in targeted urban and rural municipalities.</td>
<td>Backlogs in the electrification of clinics and schools</td>
</tr>
<tr>
<td>• M= performance related adjustments to the total MIG allocated for a municipality.</td>
<td>Neighbourhood development partnership grant</td>
</tr>
<tr>
<td>• Special Municipal Infrastructure Fund (SMIF)</td>
<td></td>
</tr>
</tbody>
</table>

National electrification

Implementation of water services projects

Disaster relief

Poverty relief funds

Public transport infrastructure and systems grants

Neighbourhood development partnership grant

2010 FIFA world cup stadiums development grant

Municipal drought relief fund

Municipal System Improvement grant (SMIG)

Water Service Bulk Infrastructure

Capacity Building
3.4.3 Functional autonomy

As stated previously, one of the ways to ensure democratic decentralisation is to entrust local government with service provision responsibility. Functional responsibility of local government has shifted from a traditional role of local service delivery and administration in terms of only providing basic services such as water, electricity, sanitation and reticulation, to having a responsibility to promote social and economic development. The new functions of local government have been stipulated in Chapter 7 Section 152 of the RSA Constitution (1996) which states that,

“local government has the responsibility of providing democratic and accountable government for local communities; they are responsible for ensuring the service promotion to communities in a sustainable manner; they are responsible for promoting social and economic development; they are responsible for promoting a safe and healthy environment; as well as to encourage the involvement of communities and community organisations in a matter of local government” (RSA Constitution, 1996).

In addition, the White Paper on Local Government (1998) states that local government has a responsibility of building sustainable and integrated human settlements. This suggests that local government’s focus is on increasing the capacity of its institutions in line with its developmental responsibilities.

More specifically, as shown in Table 6, Schedule 4(b) and 5(b) of the Constitution (1996) includes a list of local government functions. Schedule 4(b) lists local government functions which national government and the provincial governments have the authority to monitor municipalities’ performance. On the other hand, schedule (5b) lists local government functions in which it is the responsibility of provincial government to monitor municipalities’ performance on.

<table>
<thead>
<tr>
<th>Schedule 4(b)</th>
<th>Schedule 5(b)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Air pollution; Building regulations; Child care facilities; Electricity; Ferries, jetties, piers and harbours; Fire fighting services; Local tourism; Municipal airports; Municipal planning; Municipal public transport; Municipal public works; Storm water; management systems in built-up areas;</td>
<td>Beaches and amusement facilities; Billboards and display of advertisements in public places; Cemeteries, funeral parlours and crematoria; Cleansing; Control of public nuisances; Control of businesses that sell liquor to the public; Facilities to accommodate and bury animals; Fences; Licensing of dogs; Licensing and control of businesses that sell</td>
</tr>
</tbody>
</table>
3.4.4 Human resources

The availability of human resources is one of the contributing factors to the autonomy of local government i.e. power of recruitment. It has been highlighted however, that local government’s recruitment powers require a central impetus to avoid malpractices such as corruption and nepotism (Cameron, 2006). In South Africa, local government powers to appoint and dismiss staff are outlined in S160 (1) of the RSA Constitution (1996) which provides that “municipal council may employ personnel that are necessary for the effective performance of its functions”. This suggests that the local government personnel system is a separate employer with every right to appoint its own staff and pay that staff accordingly (Cameron, 2006).

3.4.5 Public participation

The history of public participation at the local level in South Africa dates back to the apartheid era, which is the period when working class mobilisation played a role in driving political transformation and democratisation; and the ANC played a role as a mass movement at the local level (Heller, 2001; Darraaq, 2006). In the democratic South Africa, public participation has been provided for in various legislations and policies such as the Municipal Structures Act (1998) and the Municipal Systems Act (2000). The Municipal Systems Act (2000) S2(b) defines a municipality as being made up of political structures, administration, and the community. This Act instructs municipalities to develop a culture of municipal governance that complements formal representative government with a system of participatory governance. Formal participation comes in the form of municipal elections, and informal participation comes in the form of sub-councils, ward committees and Integrated Development Planning (IDP).
1. Formal participation

*Elections*

Formal public participation in this context refers to local government elections. The electoral system currently employed in South Africa is a hybrid system – representation at the local level combines a PR system and ward based representation, with each accounting for 50% of votes (Cameron, 1998). Category A and B use this electoral system, while Category C representation is made up of two types of councillors – 40% are elected to district council by all voters in the area according to PR, and the remaining 60% of councillors are drawn from elected councils of municipalities in the district who are sent to represent them on the district council, and representatives from District Municipality Areas (DMA) in the district who are already elected by voters in the area.

2. Informal participation

However, local democracy in South Africa does not depend on elections alone; the effectiveness of local authority also depends on the ability of local citizens to participate in local government affairs and to hold councillors and officials accountable between elections (de Visser, 2005). This is usually accomplished via ward committees, sub-councils and IDP structures.

*Ward Committees*

Ward committees were established as a pre-emptive response to criticisms of single-tier metropolitan government that suggest that single-tier government is remote from its citizens. Ward committees were thus created with the intention of bringing government closer to the people (Van Donk and Piertese, 2008). Ward committees are made up of the ward councillor who serves as chairperson, and up to 10 members of the community who represent diverse interests. Members of the ward committees do not get paid for the service they render.

Ward committees are established in Category A and B municipalities, with the main role being to advise the ward councillor, municipal councillor, mayoral committee and executive committee on matters affecting the ward. In addition, the municipal council may
also delegate specific duties and powers to be performed by ward committees and if they are not performing well, the ward council has a right to dissolve these committees.

Sub-councils

Legislation has made provision for the creation of sub-councils, which are made up of ward councillors of a number of adjoining wards represented in the sub-council areas, along with proportional councillors (Cameron, 2005). This suggests that all members of the sub-council are also members of council; and they serve a representative role at the neighbourhood level. Their main objectives are to prioritise the needs of the community, represent the interests of the sub-council and the community within council, as well as supervise the effectiveness and fairness of council’s service systems (William et. al, 2002). It is worth noting that this system is however only operational within the City of Cape Town.

Integrated Development Planning (IDP)

IDP was first introduced in the Amended Local Government Transition Act (No 97 of 1996) and is considered a critical instrument of local government within post-apartheid South Africa. The intention behind its establishment was to assist newly constituted municipalities in performing their functions in a coordinated, strategic, developmental and fiscally responsible way (Van Donk and Piertese, 2008; Harrison, 2008). In its introduction, IDP was faced with several challenges which included the one created by the competition between the IDP and other instruments of planning, particularly Land Development Facilitation Act 67 of 1995. This created confusion and in response to this, the White Paper on Local Government (1998) clarifies the role of the IDP as the lead instrument of local planning, and provincial governments aligned their planning systems with the IDP, while the concept of land development objectives was eventually dropped from legislation (Harrison, 2008). This was further supported in the Municipal Structures Act (1998), which required municipalities to engage in consultation with civil society in meeting their objectives. Section 19 of the Municipal Structures Act (1998) stipulates that each municipality is required to develop mechanisms to consult with the community and community organisations in performing its functions and exercising its powers.

There are two objectives in terms of the outcomes of the IDP processes, namely autonomy and strengthening of democracy. The autonomy objective is based on the belief
that IDP is an instrument of local empowerment. Factors that contribute to autonomy include an appropriate decentralisation of planning powers; deepening of local democracy through the planning process; providing channels for citizens to express their desires and assess whether these desires are properly reflected within the plans; and mobilizing local planning processes (Harrison, 2008). The second objective is to strengthen democracy by letting people participate in making decisions about their society and their individual preferences. This system of IDP achieves democratic accountability in two ways, namely through a plethora of participation instruments that link in and out of the IDP cycle, and through democratic accountability that is through partnership with the community and community organisations for improved service delivery (Van Donk and Pieterse, 2008).

3.5 Summary

This chapter examined the process that South African local government undertook in achieving democratic decentralisation. In doing so, this chapter starts with the rationale of adopting decentralisation policy which ranges from developmental, political, and administrative, to a political-administrative rationale. Secondly, the discussion of the democratic decentralisation process in South Africa takes apartheid local government as the starting point, arguing that during this era there was no form of democratic decentralisation, local government served as central government’s administrative arm and local government was used to enforce apartheid laws at the local level. Following this, the transition from apartheid to democratic local government was examined, arguing that post-1994, democratic decentralisation went through three phases namely, pre-interim, interim and final phase.

The final phase of decentralisation can be considered as democratic decentralisation, signifying the evidence of autonomous local government. Powers and functions of local government are entrenched in the RSA Constitution and further supported by legislation that ensures the independence of local government. The five indicators discussed in the contextual framework are evident in ensuring autonomy of local government in South Africa. These indicators entail legal autonomy, financial autonomy, functional autonomy, autonomy on human resources and public participation.
CHAPTER 4

Evidence of centralisation

4.1 Introduction

Following the discussion on the five indicators of democratic decentralisation in the third chapter; this chapter examines evidence of centralisation. In doing so, challenges facing each indicator are also presented. However, this is not to suggest that the evident centralisation practices are due to these challenges; however, they do influence national government’s decision to intervene in local government’s affairs.

4.2 Towards an integrational model of local government

In examining the growing evidence of centralisation in local government, it is significant to look at the underlying motivations for this change. The decentralisation and the recentralisation trend is not unique to South Africa, decentralisation has/occurred and is still occurring within many developing countries. The recentralisation trend has also been noted by numerous scholars. Gershberg (1998), Kulipossa (2004) and Mosca (2006), argue that recentralisation is favourable in developing countries because decentralisation has not revealed itself to be an effective strategy.

The recentralisation shift in South Africa follows the experiences of other African countries that adopted decentralisation and later reverted to centralisations (Galvin, 1999). As Galvin (1999) explains:

“South Africa will eventually face pressures to follow the centralising trend of other African countries. Pressures to recentralise will arise in response to local government’s lack of capacity and the desire of the national government to control planning and development” (Galvin, 1999).

Therefore, local government’s lack of capacity will make it necessary for national government to intervene in order to control planning and ensure development.

The political motivations seem to be the key underlying factor. It was never the intention of the ANC-led government to decentralise in the first place; decentralisation was adopted as a result of a political compromise. Nevertheless, the ANC’s actions were justified by the government’s overall developmental policy framework (Steytler, 2008).
In addition, as Heller (2001) argues:

“if in South Africa, the relationship between national or provincial and local government has been closer to one of suffocating tutelage rather than co-operation (as originally envisioned in the White Paper on Local Government) the reason lies in the ANC’s determination to consolidate its political control and in its dominant technocratic ethos of state-led transformation in which process has been sacrificed to product” (Heller, 2001).

To determine whether South Africa reflects an integrational or autonomous model of local government; it is evident that local government is autonomous towards provincial government and integrational towards central government. From as early as establishment of the Reconstruction and Development Programme (RDP), that is from 1994-1996, elements of the integrational model were evident within central government.

According to Cameron (2001), the minister in charge of RDP held an integrational view, referring to local government as the ‘legs and arms’ of RDP. During this phase, local government’s role was confined to implementing national government’s policies. This view was supported by the view of functional ministries such as water, electricity and health who perceived the primary role of local government to implementing national government’s policies. This was, further, exacerbated by “the adoption of an orthodox macro-economic strategy, that is, the Growth, Employment and Redistribution (GEAR) by the state to position itself within the global economy” (Cameron, 2001). The problem with GEAR is that it was a nationally driven economic plan which had a top-down impact on local areas (Galvin, 1999). Moreover, the government’s efforts, within the auspices of GEAR, had largely been devoted to streamlining management systems; cutting costs and emphasizing administration performances rather than mobilising participation; and training ordinary citizens and engaging in sustained consultation as desired for decentralisation (Heller, 2001). In addition, even the Municipal Systems Act (2000) shows integrational tendencies as it introduces provision for municipalities to comply with the sectoral planning requirements of various national departments (Municipal Systems Act, 2000).

**4.3 Evidence of centralisation**

More specifically, there is emerging evidence of the growing centralisation in terms of the areas that were empowered to promote local government, namely legal, financial,
functional, human resources and public participation. This signifies a shift to an integrational model of local government.

4.3.1 Legal autonomy

(a) Challenges of legal autonomy

The process of promoting local government to a sphere and ensuring legal autonomy has been accompanied by a series of legislations and policies by national government. In essence, this should not be a constraint, as central steering is necessary to ensure that what local government is doing is in line with the country’s policy objectives. However in South Africa, due to a relatively high number of these policies and legislations, this has led to ‘strangulation’ of local government. Strangulation of local government occurs “when the extent and style of regulation defeat the [larger objective of] being regulated” (Steytler, 2008). Whilst this is a problem in and of itself, the impact of this is significantly great as it prevents local government from executing its developmental mandate. When these legislations are issued, municipalities have to shift their priorities in order to comply with new legislation, and compliance often comes with a price tag which not all municipalities can afford (Steytler, 2008).

Secondly, with the issuing of legislations there is an assumption of uniformity of functional capacity, which works at the detriment of the majority of municipalities, particularly the poor ones (Steytler, 2005). Basically, when establishing legislations for local government, differences between different categories of local government are not considered. In South Africa, there are three municipal categories, namely Metros (A), local municipality (B) and District municipalities (C). These municipalities differ in their capacity, with big cities being the most empowered in terms of human and financial resources, inter alia, as compared to their rural and township counterparts.

(b) Evidence of centralisation

Constitutional Seventeenth Amendment Bill

The attempt to centralise legal autonomy has been due to a combination of factors, and not only due to the challenges facing legal autonomy. For instance, lack of capacity and failure of local government to provide services as per constitutional requirements has made it necessary for national government to intervene in local government affairs by threatening to
take some of the significant powers of local government. In essence, constitutional provision for local government’s legal autonomy is undermined in a way that promotes national government’s powers at the expense of local government.

A potential threat to legal autonomy is the Constitutional Seventeenth Amendment Bill (2009). This Bill was recently put before parliament (2010) and as such, its future is uncertain. The reason for putting this bill on hold is that it is no longer relevant since its objective i.e. the idea of creation of Regional Electricity Distributors (REDs) is scrapped.

When it was proposed, this Bill explicitly stipulates that it intends to empower the national government to:

“further regulate the executive authority of municipalities in respect of local government matters listed in Part B of Schedule 4 and Part B of Schedule 5 to the Constitution when it is necessary to achieve regional efficiencies and economies of scale in respect of a specific municipal function” (Department of Justice and Constitutional Development, 2009).

According to Powell (2009), this Bill is a bid to centralise control of state resources under national government, using the pretence of efficiency and economies of scale (Powell, 2009). Its main objective is to pick local government’s functions and put them under the control of more parastatals, as it was the case with REDs under Electricity Distributing Industry (EDI) before the idea was scrapped in December (Business day, 2010). This is stipulated in the proposed new section 156(1A), which is designed to facilitate not only the intended EDI restructuring, but also the regionalisation of other municipal functions when necessary. This plan implies centralisation as it suggests taking away local government’s constitutionally protected functional power and can potentially reduce local government’s powers drastically (de Visser, 2009; Powell, 2009).

4.3.2 Financial autonomy

(a) Challenges of financial autonomy

Generally, the constitutional provision of financial autonomy for local government has not been enjoyed by poor municipalities, particularly those in rural and township areas due to a lack of economic activities within the municipal boundaries. This variation can be due to various reasons such as that larger urban municipalities are often responsible for a
range of functions and services, and have larger tax bases, while rural municipalities generally provide fewer services, with many rural municipalities having little or no fiscal autonomy and a limited economic activity and tax base. As municipalities are responsible for raising the majority of their revenue, in the case of municipalities’ failure to do this, the autonomy of local government is affected. This implies that citizens may potentially be unable to hold local officials accountable, as accountability will be linked to the sources of revenue i.e. the transferring authority (Steytler, 2007).

Factors challenging revenue-raising autonomy therefore include inability of municipalities to raise their own revenue and instead obtaining most of their revenue from national and provincial government. This is referred to as grant dependency and in South Africa; this is further caused by the culture of non-payment as well as ‘unfunded and underfunded mandates’. Moreover, municipal borrowing capacity is challenged by restricted borrowing powers while, intergovernmental transfers are challenged by funding windows as well as the preference for the in-kind transfers.

(i) Grant dependency

In principle, transfers from central government should not be larger than local government’s own revenue as this undermines local autonomy (Steytler, 2007). However, it is evident that municipalities are in practice not able to do so. The State of Local Government (2009), for instance, states that 26.6% of municipalities are in financial distress. This results in an inevitable increase in intergovernmental transfers, which in turn leads to grant dependency. Poorer, rural municipalities are much more reliant on transfers and in most cases this dependency amounts to more than 90% of the municipal’s revenue (Steytler, 2005). Nevertheless, these transfers play a small role in the budget of the larger municipalities, including all the metros. As shown in Figure 1, it is evident that metros have the most revenue and is estimated to be up to 55% as compared to less than 40% and less than 10% for local and district municipalities respectively.
While these results display a varying degree of grant dependency, Nonetheless there has been an increase across the three local government categories between 2003/2004 and 2009/2010. More specifically, the amount of dependency increased from 4.6% to 20.3% in Category A; 22% to 38.1% in Category B; and 79.1% to 96.5% in Category C for this time period. This increase is particularly evident from 2005/06 onwards, due to the abolishment of RSC levies, which had been an important source of revenue for municipalities in Category A and C. When examining dependency relating to individual categories, municipalities in Category C have been the major dependents, even before the abolishment of RSC levies, with dependency levels reaching 79.1% in 2003/2004 as opposed to 22% for municipalities in Category B and 4.6% for municipalities in Category A. By 2009/10, district municipalities’ grant dependency was projected to rise to 96.5% as compared to 38.1% and 20.3% of local and metropolitan municipalities respectively.
Cause of grant dependency

Culture of non-payment

As stated previously, grant dependency is largely due to a lack of financial capacity, and the inability of municipalities to raise sufficient revenue to finance their functions and resources. Causes of limited financial capacity in the South Africa context, among others, include culture of non-payment with regard to rates, rent and service charges (Cameron, 2001; Cameron, 2004). The culture of non-payment dates back to the 1980s. It was utilised then as a strategy to boycott the apartheid government and it has continued to be used similarly as a mechanism to fight service non-delivery (Cameron, 2001).

However, Wittenberg (2003) and Beall (2005) argue that to a large extent, this culture of non-payment is rather due to poverty; people simply cannot afford to pay for services provided particularly in rural and township areas. Fjeldstad (2004) on the other hand argues that the culture of non-payment extends beyond the inability to pay and that it is rather based on the issue of trust. That is, trust in the local government to utilize revenue wisely in meeting expectations; trust in authorities to provide fair procedures for equity, and trust in other citizens to pay their share (Fjeldstad, 2004). This is further evident in the Afrobarometer findings regarding citizens’ perceptions of local government responsiveness, only 25% of South Africans thought local councillors performed their functions and 34% perceived corruption among local government councillors (Bratton, 2010).

As early as 2004, municipalities’ revenue collection was already under strain as municipalities had accumulated R28 billion in unpaid consumer bills, with 65% of this debt being owed to Category A (Steytler, 2005). By 2008, it was evident that category A municipalities were still the most burdened; the money owed amounted to 54.7% of the money owed, compared to 40.4% for Category B and 2.1% for Category C (Local Government Budget Review, 2008).

Nevertheless, the point is that this places local government in a vulnerable financial position by limiting its own revenue and thus making it dependent on grants. As shown in Figure 3, in all three municipal categories, the highest percentage of debtors are those with outstanding payments of over 90 days with 81.5% in Category A, 80.1% in Category B and 82.9% in Category C. This is followed by debtors who owe for 0-30 days ranging between
8.5% and 11.8% across categories; and the lowest percentage is that debtors for 31-60 ranging between 2.6% and 5.5% across categories.

![Figure 3: Money owed to municipalities per local government category (Local Government Budget Review, 2008)](image)

‘Underfunded and unfunded mandates’

Furthermore, ‘underfunded and unfunded mandates’ have further contributed to local government’s lack of financial capacity, leading to increasing grant dependency (Savage, 2006; Reschovsky, 2010). ‘Underfunded and unfunded mandates’ occurs when municipalities perform functions that are supposed to be carried out and funded by other spheres without any compensation to do so. These policies, norms and standards are often set at national level without proper consultation with regard to their budgetary implications on local government (Cameron, 2004). This might force municipalities to cover the remaining expenditure gap out of their budget. This issue remains unresolved despite the Municipal Systems Act (2000) stipulations which affords local government the right to govern on its own initiative and limits national government’s ability to transfer functions to local government without providing the necessary finance. The South African Local Government Association (SALGA) has also launched a complaint about this, arguing that national government has delegated some functions to local government without ‘commensurate finance’ (Cameron, 2004; Savage, 2008).
‘Unfunded and underfunded’ mandates are, in and of themselves, due to a lack of delineation of each function, which leads to provinces using local governments to fulfil functions without being compensated for (Savage, 2006; Van Donk and Pietersere, 2008). There are a number of functions including provincial health, libraries, and museum administration, where provinces have been accused of trying to devolve responsibilities to municipalities without the adequate resources (Cameron, 2004; Steytler and Fyesha, 2005). Another example is that of national government raising the standards for the supply of adequate housing, which is a national and provincial government ‘concurrent’ function, but the available funding does not reflect the additional costs. And as a consequence, the allocation of housing to local government’s budget was expected to increase from R658 414 to R4 220 797 between 2003/04 and 2009/10 as shown in Figure 4 (Local Government Budget Review, 2008).

Moreover, it is evident that the intergovernmental system has been practised at the expense of local government. A case in point is the national government’s policy of providing free basic services that has become local government’s responsibility. These free basic services include a monthly 6 kilo litres (kl) i.e. 6000 litres of water and 50 kilo Watt-hour (kWh) electricity per household. The provision of free basic services was part of the ANC’s campaign strategy for the municipal election in 2000, and was later adopted as national policy. The policy requires municipalities to subsidise a part of it from their own resources.

The increasing equitable share is aimed at covering these costs; however it is insufficient and is likely to result in grant dependence. A case in point is noted in the Local Government Budget Review (2008). Here it is indicated that water and sanitation, and electricity expenses, are among the highest. As shown in Figure 4, there has evidently been a significant increase in water and sanitation costs from R1 839 377 to an estimated R 8 664 349 between 2003/04 and 2009/10. On the other hand, electricity cost is expected to rise from R1 267 114 to an estimated R4 063 457 between 2003/04 and 2009/10 (Local Government Budget Review, 2008)
In addition, as stated previously municipal borrowing capacity is another feature of financial autonomy. However in South Africa, local government’s borrowing powers are very limited; they can only raise loans for capital and bridging purposes. The aim of controlling local government’s borrowing powers came as part of the national government’s plan to reduce the overall government’s expenditure and structural weaknesses that were inherited from the apartheid regime, which used a unitary system with local government as a tier (Cameron, 2004).

(ii) Challenges of intergovernmental transfers

(i) Funding windows

Equitable share is considered to be an unconditional grant as the municipalities can spend as they please to achieve their objectives. However, this is being challenged by the notion of ‘funding windows’, which refers to the portions of a grant that are intended for different funding purposes, which use a different set of allocation criteria or formulae (Whelan, 2004). In legal terms, ‘funding windows’ can be interpreted as suggesting priorities on how to implement the revenue (Whelan, 2004). For instance, local government’s equitable share allocated an additional R5 billion over 3 years, growing from R18.1 billion in 2006/07 to R29.4 billion in the 2009/10 budget. This represents a significant stepping up of national government’s contribution to the cost of providing free basic services to qualifying households (National Budget Review, 2008). In addition, the 2010 budget of R6.7 billion was given to support municipalities with a specific objective to cushion poor households for the rising cost of electricity and water (National Treasury, 2010).
(i) **In-kind transfers**

Generally, the autonomy of local government becomes challenged under conditional grants (Reference). As Whelan (2004) argues, grant conditionalities seem to pull in opposing directions and undermine local government autonomy (Whelan, 2004). However, the in-kind transfers exacerbate the threat posed by conditional grants. The administration of conditional grants for municipal infrastructure that was previously done by provinces is now done by the national departments. When presented with the choice of direct and in-kind transfers, transferring authorities seem to prefer in-kind grants and these have the disadvantage of limiting municipalities’ influence over determining the content of spending (Steytler, 2005).

(b) **Evidence of fiscal centralisation**

In theory, financial autonomy is threatened when the central government still has control over local government’s financial resources particularly via legislations set by national government and sources of local government’s revenue. In South Africa, despite the apparent revenue-raising autonomy, municipalities have no authority to set tax rates (Dickovick, 2005). Sub-national government rates, fees or taxing powers are determined by the national Minister of Finance who sets the national norms and standards for imposing municipal user fees and surcharges (Municipal Fiscal Powers and Functions Act, 2007). This particular challenge therefore suggests that local government has simply become an implementer of national and provincial policy.

Specifically, there are three areas in which fiscal centralisation is evident and these entail, MFMA (2003); Removal of RSC levies in 2006, and conditional grants.

(i) **MFMA (2003): Upward accountability**

Intervention and monitoring of national and provincial government have been clearly stipulated in the MFMA (2003). MFMA emphasizes fiscal discipline which is best supported by rules, greater central government oversight and control over local government’s own revenue capacity, as well as through efficient local revenue administration. The role of the national treasury in the local government has therefore been to secure sound and sustainable management of the financial affairs of local government (Van der Westhuizen and Dollery, 2009). To achieve this, the National Finance minister is empowered to provide guidelines on budget parameters and to restrict an annual rate in property rates. As a consequence of this, national treasury has implemented a strategy for financial and technical support for local
government that include conditional grants, subsidies, technical guidelines and policy advice among others (Dolley and Graves, 2008).

On the other hand, provincial intervention and monitoring is provided for in S139 (1) of the RSA Constitution (1996), while MFMA (2003) provides for both discretionary and compulsory provincial intervention in the case of a financial crisis in a municipality. MFMA (2003) gives provincial treasuries an important role in supervising municipalities. Cooperation of Governance and Traditional Affairs (COGTA) formerly known as DPLG used to be in charge of most aspects of local government, including the monitoring of municipalities’ financial well-being; however this has changed as under MFMA (2003) this responsibility has been given to provincial treasuries (Steytler, 2004; Mettler, 2008).

In this process, municipalities are obliged to provide regular reports on their financial affairs to the national treasury, the relevant provincial treasury, COGTA in the province, the auditor general and the provincial legislature. The provincial and national treasury are key institutions in the overall public financial management system and must both assist municipalities and monitor their performance. Significant to note is that MFMA (2003), together with Property Rates Act (2004), stipulates that municipalities are responsible for their own financial well being. However, the national statutory regulation of local finances is extensive. For instance, as part of the budgeting process, mayors must refer to provincial and national budgets and national government's fiscal and macro-economic policy, inter alia (Property Rates Act, 2004).

A significant implication of the MFMA (2003) is that it weakens the accountability framework since top-down monitoring is underdeveloped in South Africa (Savage, 2008). The specific problem with this accountability framework is that it refutes the very principle of fiscal decentralisation to enable citizens to influence government’s budgeting process and implementation, and in turn the ability to hold government accountable. This top-down accountability is unlikely to provide the oversight and interests of citizens (Savage, 2008).

(ii) Removal of RSC levies in 2006

Until July 2006, RSC levies used to be one of local government’s autonomous sources of funds to both category A and C; and were the main source of revenue for many poor
municipalities. RSC levies were derived from business taxes and had two components namely a rate on payroll and turnover (Pycroft, 2000). As indicated in Figure 5, the contribution made by RSC levies to local government revenue was estimated between 6.7% and 8% between 2003/04 and 2006/2007 (Local Government Budget Review, 2008). This suggests that in the absence of RSC levies, larger urban municipalities, in particular, would be without an important source of revenue for direct fixed investment or security for loans (Savage, 2008). With Category C municipalities, taking away sources of revenue undermines autonomy as budgeting and operation largely depends on allocations from national government (Mlokoti, 2007).

![RSC levies Contribution](image)

*Figure 5: RSC levies contribution 2003/04-2006/07 (Local Government Budget Review, 2008)*

Abolishing a significant source of local government’s revenue means that careful consideration of its replacement has to be given to ensure that it is not taken over by national transfers. Nonetheless, the RSC levy replacement grant has been incorporated into the equitable share, which explains among other things, the significant increase in the equitable share since 2006. In principle, this should not pose a threat to local government’s financial autonomy since equitable share is considered an unconditional grant (Steytler, 2005). However, as stated previously equitable share comes with ‘funding windows’, whose intention is to influence and control the content of municipal expenditure (Whelan, 2003).

The most concerning factor is the lack of trust in local government’s capacity to make sensible allocation decisions and to manage spending adequately (Whelan, 2004). Since the removal of RSC levies, national government has increased local government’s equitable
share by a considerable amount and specifies the objectives of the revenue transferred. For instance, there is an increase of 19% per year on R5 billion in national transfers to local government, from R27.1 billion in 2006/2007 to an estimated R45.6 billion in 2009/2010 in order to speed up service delivery (Local Government Budget Review, 2008). This represents a significant increase in national government’s contribution to the cost of providing free basic services to qualifying households; but more than that, it is significant to note the clear objectives of the increase in national transfers, namely, the speeding up quality of service delivery.

(iii) Conditional grants

As stated previously, transferring authorities seem to prefer in-kind transfers and as indicated in Figure 6 the amount of in-kind transfers to municipalities is estimated to have increased over the years. The increase of in-kind transfers suggests increasing influence of transferring authorities to decide on the content of the budget, and its budget implementation (Local Government Budget Review, 2008).

![Figure 6: Indirect/ in-kind transfers to municipalities R'000 (Local Government Budget Review, 2008)](image)

Conditional grants together with equitable share are rising, mainly due to a lack of financial resources that to a certain extent is caused by the removal of RSC levies. Equitable share were estimated to have risen from 55.1% to 63.3%; while conditional grants were estimated to have risen from 36.7% and 44.9% between 2003/04 and 2009/10. Significant to note is that equitable share as an unconditional grant is higher than conditional grants. This is not all negative as the high rate of equitable share means municipalities have more powers and influence on the content of their budget, as opposed to when the case is reversed and they have high conditional grants.
4.3.3 Functional autonomy

(a) Challenge of functional autonomy

Firstly, with regard to functional autonomy, there is a problem that stems from legal and constitutional ambiguity and omissions in schedule 4 and 5 of the RSA Constitution (1996) on how functional areas have been divided. Steytler and Fessha (2005) refer to this as the ‘concurrency’ of functional areas between provincial and local government (Steytler & Fessha, 2005). One of the overlaps is evident in supervisory areas as provincial government has regulatory and monitoring powers over schedule 4b and 5b matters in terms of Section 155 (6)(a) and Section 155 (7) of the constitution. In this regard, one obvious challenge with this arrangement is the lack of clear definition in terms of functional areas belonging to each sphere of government, as it results in a lack of clarity about the cut-off points between functional areas (Steytler and Fessha, 2005).

In addition, ‘concurrency’ of functions has also been evident where the two-tier system between district and local municipalities exists, in which it has presented a risk of some services not being performed at all (Mlokoti, 2007; Van Donk and Pieterse, 2008). In this case, Category C municipalities often lack a clear rationale on service provision, and often act as municipal service providers of last resort when their constituent municipalities do not have a key role in the provision of bulk infrastructure and basic services, particularly water, sanitation and electricity (Cameron, 2004). A lack of clear rationale in service provision threatens accountability, as Category B municipalities. This is often the case when district and local municipalities hesitate to provide services or bulk infrastructure and they both claim it is not their function (Mlokoti, 2007).

The second constraint with regard to local government’s functional autonomy is related to a lack of capacity, which is also closely related to limited resources at local
government level. As early as 2004, local government was already battling with limited resources and expanded responsibilities for service delivery (Beall, 2005). By 2005, it had been argued that there was a large number of municipalities that were unable to perform over half of their functions (Steytler, 2005; Capacity Assessment, 2005/06). More specifically, 203 out of a total 284 municipalities could not provide sanitation to 60% of their residents; 182 municipalities were unable to provide refuse removal to 60% of their residents; and 155 municipalities could not provide water to 60% of properties (DPLG, 2005). In the State of Local Government (2009), it is stated that 64 out of 283 municipalities, that is 26.6% of municipalities in South Africa, are in financial distress (State of Local Government, 2009). It is crucial to note however, that the limited resource challenge is not experienced by all municipalities. Mega-cities such as Cape Town, Durban and Johannesburg, being multi-billion rand sophisticated municipalities, have an ability to raise their own revenue. To a large extent, limited resources can be linked to the country’s apartheid history in which most municipalities, especially rural and township municipalities were not empowered to perform like the then white-only municipalities (Cameron, 2001).

(b) Evidence of centralisation

i. ‘Unfunded and under-funded mandates’

On a broad level, the lack of delineation of functions leads to a bigger problem associated with ‘unfunded and underfunded mandate’. Despite this being a financial challenge, this threatens the local government’s autonomy. It has previously been noted that unfunded mandates are policies, norms and standards that are often set at national level; this gives provinces the power to use local government to perform functions without being compensated to do so. It has been further stated by the CEO of the Msunduzi Municipality that district municipalities are likely to dump their functions on local councils without getting any levy income in which district municipalities accumulate. As noted by Beall (2005), this has serious implications for local government:

“if Developmental Local Government simply refers to central government shifting responsibility for service delivery to the local level through a series of unfunded mandates, decentralisation in South Africa has to be characterised as managerial or weak” (Beall, 2005).
ii. **Limited power on ‘high impact areas’: delegation and assignment**

In attempting to respond to the issue of ‘unfunded and underfunded mandates’, the Municipal Structures Act (1998) introduced allocation of powers and functions to local government through delegation and assignment. Delegation refers to transfer of provider responsibility, and assignment in this context refers to the transfer of authority. However, it has been argued that assignment is lacking, and delegation is mostly preferred, which often occurs without clear contractual agreement and financial arrangement (Cameron, 2004).

Significant to note is that municipalities lack policy-making and financial authority to achieve developmental objectives in critical ‘high impact areas’ such as housing and Local Economic Development (LED) (Steytler, 2005; De Visser, 2007). Specifically for housing, local government is performing core functions on an agency basis for provinces, in other words, through delegation and assignment. This is further exacerbated by the establishment of the Housing Development Agency (HAD) to manage and co-ordinate housing development across the country (HAD, 2008). The implication of allocating powers to local government on an agency basis is a reduction of local government’s powers (de Visser, 2007). Considering that local government deals with all housing related issues such as building regulations, water, electricity and sanitation inter alia, housing is supposed to be allocated as local government’s functional area (de Visser, 2007).

4.3.4 Human resources

(a) **Challenge of human resources**

Availability of skilled human resources has been noted as one of the problematic areas in local government with a key obstacle being attracting and retaining skilled personnel in many local municipalities (Cameron, 2009). This suggests that this challenge is largely evident in rural local governments with weak financial resources, where skilled staff cannot be afforded. The great concern is the lack of experience of key municipal staff. According to Municipal Demarcation Board (MDB) (2007) and Local Government Sector Education Training Authority (LGSETA) (2006, 2007) reports, approximately 30 per cent of managers, are with less than 5 years experience in local government; and a large number of
management staff, approximately 25%, is in acting positions. This shows the challenged ability of municipalities to retain skilled personnel.

In addition, there is a shortage of personnel in occupational areas such as civil and electrical engineering, environmental health, as well as emergency and disaster management. Furthermore, there are areas in which skills-upgrading is essential. In this regard, 31% of municipal managers have qualifications other than those related to finance, legal, public administration, planning, and development; 28% of CEOs do not hold finance related qualifications; 24% of corporate service managers do not have public administration related experience; in technical services, 35% of managers are without engineering related qualifications; and only 14% of IDP managers have qualifications in planning (LGSETA, 2006, 2007). A study conducted by Human Science Research Council (HSRC) in 2009 indicated that among municipal finance managers, 11% have a matric certificate; 25.9% have matric certificate as well as a college certificate; 34.2% have a university degree; 10.8% have a university degree and postgraduate diploma; 12.6% have a postgraduate degree and 3.2% have a postgraduate degree plus diploma (Ndletyana and Muzondidya, 2009).

This challenge to attract skilled human resources is not only due to weak financial resources, in fact patronage and clientelism plays a major role in placing unskilled staff into positions for which they are not competent (Cameron, 2009). This, moreover, leads to a fragile skills base (Atkinson, 2003). In fact, new appointments in local government are rarely made for good reasons. While perhaps having been justified these appointments in terms of affirmative action, there is evidence that many of these appointments are also based on political patronage in terms of the ruling party (Atkinson, 2003). Indeed, Cameron (2004) suggests that “patronage is the order of the day” when in comes to appointments at municipal level (Cameron, 2004).

It has been suggested that this signifies the process of ‘politicisation’ of human resource by which some of these appointments, as Cameron (2004) argues, are based on political affiliations whereby an immense amount of power is granted to executive politicians. This then provides political officials with the ability to ‘micro-manage human resource issues, which are actually supposed to be handled by managers (Cameron, 2006).

Issues of corruption, nepotism and clientelism have been evident in cases reported to the Public Protector. These include hiring of one’s family, as was the case in Kopanong
municipality where the municipal manager hired his aged father as Assistant Technical Supervisor, appointed his ex-girlfriend as a receptionist, and oversaw the appointment of an unqualified Senior Manager (Public Protector, 2010).

Nevertheless, the local government personnel system is itself problematic. Cameron (2009) classifies the South African personnel system as a weak separate system, as the local government’s right to appoint its own staff is subject to national labour legislation (Cameron, 2004; Cameron, 2009). More specifically, a weak separate system refers to the existence of strong regulations regarding local government’s ability to manage their own staff. In other words, the state sets their service conditions, including salaries and required qualifications. In short, this means that local government can decide who they want to employ, but the overarching rules are determined by national government (Cameron, 2009). This is the case for instance, where council’s appointment of personnel must be in accordance with Employment Equity Act, which inter alia, makes it compulsory for councils to change the racial make-up of their staff.

(b) Evidence of centralisation

(i) Central appointments- upward accountability

It has been noted that local government is granted power to appoint and dismiss its own staff as provided in the constitution. However, what is evident is that the ANC, as the ruling party, proposes to take this power away from local government by making executive appointments of executive mayors of both metropolitan and non-metropolitan municipalities and of councillors. Executive mayors of metropolitan areas are appointed nationally by the president of the country and the ANC’s National Working Committee; mayors of non-metropolitan areas are appointed by the ANC’s Provincial Executive Committee; while councillors are selected by provincial government. Consequentially, mayors and councillors owe their positions to the party bosses who put them on the list rather than those who voted for them, which suggests an upward accountability rather than the desirable down-ward accountability (Cameron, 2006; Wittenberg, 2003).

(ii) Politicising human resource

It is evident that ANC party structures scrutinise senior management positions in local government (Cameron, 2004; Cameron, 2006). Formally, this is done through ANC deployment committees in charge of deploying party members to senior management
positions at national, provincial and local levels. The ANC’s Deployment Redeployment Strategy is thus based on:

“[S]peciality, aptitude, qualification and capability. Cadres should be correctly placed and promoted at the right time so that they may fully apply their talents and creativity” (Umrabulo, 1998).

According to Zille (2009), the reason why the battle in Polokwane was significant is that it determined which factions in the ANC would define the party’s interests and deploy its ‘loyal cadres’ to control the institutions of the state (Zille, 2009). Nonetheless, it is not only the ANC that is guilty of politicising human resources. A case in point is when the Democratic Alliance (DA) was taking over the City of Cape Town in 2006. The DA made a policy decision to hire ‘politically suitable and acceptable’ officials by firing ANC officials from the previous administration. This policy highlighted significant requirement that of being politically sensitive and having deep commitment to the policy programme of the ruling party. This, basically, meant that senior officials who were not attached to the DA were unlikely to obtain these positions.

(iii) Towards an integrated personnel model: Single Public Service (SPS)

A newly proposed feature of the centralisation of human resources in South Africa is evident in the SPS Bill. The notion of SPS was first proposed by former president Thabo Mbeki in the State of the Nation address in 2003. He stated that SPS would be “for the harmonisation of systems, conditions of services and norms between public service in national and provincial spheres on the one hand, and municipalities on the other” (State of the Nation Address, 2003). Mbeki’s (2003) proposition of SPS was ushered by the ANC’s 51st Conference in 2002 in which emphasis was placed on issues such as building a developmental state; creating a better life for all; addressing the legacy of apartheid colonialism and patriarchy, and acting as the driving force for socio-economic transformation (Powell, 2009). As stated by Geraldine Fraser, the former Minister of Department of Public Service and Administration (DPSA), that the

“[P]urpose [of SPS] is both normative, a core competent of the developmental state, which is a state that intervenes in the economy and society; and instrumental,
which refers to its aim of increasing the pace of service delivery by a single service delivery access point” (Powell, 2009).

The aim of this approach is to combat poverty and underdevelopment. This is driven by the view that local government has failed, and thus involving central government is a necessary solution (Kroukramp, 2008; Powell, 2009). The proposed solutions include establishing “seamless, integrated service delivery through integration of service delivery institutions of government” (Cameron, 2007; Kroukramp, 2008). In the long-term, SPS will enable facilitation of mobility between three spheres of government and between public entities, as well as to provide mechanisms to facilitate managers and other competent personnel. In essence, SPS is meant:

“to establish a common wage policy for the entire public service; harmonised conditions of service, namely medical aid and pension funds; norms and standards for human resource management; legal mechanisms for mobility within a single public service; and a common culture and standard of service delivery across the three spheres of government” (Visser, 2007).

A study that was commissioned by SALGA (2007) focused on the constitutionality of the draft SPS Bill and its likely effect on municipalities. Concerns were focussed more on local government’s ability to govern its own affairs; the possibility of losing skills in the process of forcing deployment of personnel; as well as upward staff accountability, which are likely to be accountable to the central rather than the local government that they serve (Cameron, 2009).

In essence, this Bill challenges the role of local government as a sphere, particularly its power of recruitment. The Bill also bestows widespread regulation-making functions on the minister of DPSA at all levels of government. In 2008, Karel Minnie, former DA Member of Parliament states that these powers would threaten the ability of municipal councils to determine and implement their own policies and practices when it comes to the employed, thus allowing the ANC government to enforce its own policies at local level (Minnie, 2008). He goes on to further argue that this proposed Bill has the capacity to ‘silence’ opposition parties who have been elected by voters to represent them at local level, and prohibit them from introducing their alternative policies and more effective models of service delivery (Minnie, 2008).
4.3.5 Public Participation

(a) Challenges of public participation

(i) Formal participation

Limited number of independent candidates

The challenge facing elections as a form of formal participation is the evident limited number of independent candidates that run and get elected. This implies lack of trust on independent candidates and this result in electorate voting for candidates who are affiliated with political parties. This poses a real challenge for independent candidates as in order for independent candidates to prevail in elections they need to develop a reputation that would give them a support base beyond, and independent of, the organisation (Ndletyana, 2006). To succeed in this, independent candidates need an independent track record within the community upon which to anchor their candidacy. This is crucial for their campaigns, since they lack resources and have limited visibility and media coverage – factors that political party candidates have in their favour.

In post-apartheid South Africa, few independent candidates have enjoyed political success during local elections. In the 2000 municipal elections few independent candidates won. In KZN, for example, only 2 out of 100 independent candidates won, with 2 later crossing the floor to already established parties. Likewise, in the 2006 municipal elections, out of 109 independent candidates that ran for elections in KZN, only 2 were successful. An Independent Electoral Commission (IEC) Report (2006) indicates that in the 2006 municipal elections, nationally out of 3895 ward seats only 34 i.e. 0.9% were won by independent candidates on a national level, while the other 99.1% of the wards were dominated by political parties.

(ii) Informal participation

Challenges of Ward Committees

Ward committees are faced with challenges that constrain them with regard to fulfilling their intended objectives. These challenges more specifically relate to the fact that they are highly politicised (Benit-Gbaffou, 2006). They do not provide the opportunity for the
local municipality to engage with local officials and councillors and in turn hold officials and councillors accountable, mainly due to political party dominance and their use as a source of political patronage (Piper and Deacon, 2006). The problem emerges with the structure of ward committees, where for instance ward councillors serve as chairpersons. Based on this, it can be reasonably suggested that political control of these structures is an aim of the law makers; and this leads to questioning the independence of these structures (Cameron, 2006). This has led to a lack of participation by ordinary citizens that are not affiliated with political parties. On the other hand, it has also been suggested that lack of public participation may partly be due to lack of commitment since ward committee members are not getting paid to serve the community (Mavuso, 2006).

Furthermore, there is a lack of clarity on the legislative provision of powers for ward committees especially concerning the huge gap between theory and practice (Mavuso, 2006). In theory, it is argued that ward committees require inclusivity and participation of all sectors at local level however; in practice ward committees are only provided advisory powers (Mavuso, 2006). In addition, this uncertainty of ward committees’ functions, in most cases results in municipalities misusing ward committees by delegating administrative functions but not allowing them to serve their intended purpose.

Challenges of sub-councils

Sub-councils have been criticised mainly because they do not have taxing powers and because council policies, guidelines and budgets determine the extent to which they can be effective scrutinisers (William, 2002). In practice, sub-councils tend to serve a role of being a ‘rubber stamp’ for the executive (Cameron, 2006). Moreover, when looking at the City of Cape Town’s implementation of sub-councils, they are based on the boundaries of old apartheid system. For instance, historically black areas such as Guguletu, Khayelitsha, Athlone, and Mitchell’s Plain are isolated from the predominantly more affluent and white areas of the Cape Peninsula, such as Simonstown and Camps Bay (William, 2002). These areas still have their own sub-councils and do not need to share their resources with the poor black communities in Cape Town.

Challenges of IDPs
IDP which is trusted to promote public participation seems to experience challenges in its implementation. Generally, IDP tends to bureaucratise the democratic process rather than deepen it in a manner that would make communities take their responsibility to participate in consultative structures (Mlokoti, 2007). Therefore, the challenges of IDP include exclusion of newcomers; local government officials maintaining a view that inclusion of citizens is time consuming, thus excluding them in order to rush the process; and difficulties in turning citizens’ views into a meaningful feedback as they often multiple and contradictory (Beall, 2005).

In addition, IDP is considered as merely reflecting ‘shopping lists’ rather than a strategic and long term vision of the development of a municipal area; and as such is likely to overemphasize infrastructure development at the expense of social and economic development (Cameron, 1998). Additionally, there is a lack of financial analysis regarding the viability of planned interventions; as weak links between the IDP and municipal budgets continue to be a hallmark of IDP. It has also been suggested that municipalities tend to treat IDP and budget processes as separate, even though the MFMA (2003) requires that the budget be aligned with the priorities reflected in the IDP. Heller (2001), when comparing IDP with budgetary and planning processes in Porto Alegre in Brazil and Kerala in India indicates that:

“IDP has been prescriptive and state-led, they have not allowed the kind of creative input innovation, and learning that popular budgeting in Porto Alegre and campaign in State of Kerala have generalized” (Heller, 2001).

For Heller (2001), planning processes in post-apartheid South Africa have served largely as instruments for exerting bureaucratic and political control and as a vehicle for marketisation, rather than institutional spaces for democratic mobilisation. He thus contends that the ANC’s technocratic concern with getting institutions right has all but obviated efforts to build local democracy and build local participation.

In response to the dysfunctional participatory structures, residents opt for other modes of participation. Benit-Gbaffou (2008) argues that these extra-institutional modes of action are utilised as an alternative to the failed participatory structures (Benit-Gbaffou, 2008). South Africa has had a strong protest culture since the apartheid era and it is now regarded as an efficient mode of action of the poor today. In post-apartheid South Africa, protest is
provided for in the Regulation of Gatherings Act (1993) which recognises freedom of assembly and protest as democratic rights. Service delivery protests are motivated by a variety of issues but they can come in the form of mass meetings, petitions, ‘toyi-toying’, blockades on roads, chasing unpopular individuals out of townships and forced resignation of elected officials among others (Boraine, 2010). These usually occur in informal settlements of large metros such as the City of Johannesburg, City of Cape Town, and Ekurhuleni as well as district municipalities such as North West and Mpumalanga – the latter particularly well known for the Balfour protests.

What is common about these places is that these communities are made up of shack settlements and townships rather than suburbs; and they are facing high levels of poverty (Alexander, 2010; Boraine, 2010). Based on survey research conducted by Atkinson (2007), there are three main reasons that lead to outbreaks namely non-provision of services by municipalities, poor responsiveness of municipalities to citizens’ grievances, and conspicuous consumption entailed by a culture of self-enrichment on the part of municipal councillors and staff. According to Boraine et.al (2006), marginalisation and exclusion felt by these communities combined with need for service and lack of communication with the communities lead these residents to feel that they are ‘on the outside looking in’. This often results in an environment that leaves people with no choice but to rely on rumours about what is happening within the municipality regarding mismanagement, corruption and nepotism among others.

As indicated in Table 5 below, 2004 and 2005 saw the largest number of service delivery protests with approximately 19 out of 283 municipalities protesting. In this regard, communities’ complaints are often made up of issues that could have been otherwise discussed in participatory structures. However, due to various challenges facing the participation structures, such as officials’ poor communication with communities, ineffective management, demanding dismissal of representatives, corruption, nepotism, maladministration, as well as lack of service delivery in general, the argument can be made that citizens distrust the formal participation structures as a result they resort to alternative modes of participation i.e. protesting to express their grievances (Atkinson, 2007).
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<tr>
<th>Municipality</th>
<th>Province</th>
<th>Year/Date</th>
<th>Service Delivery Dissatisfaction / slow service delivery/unresponsiveness</th>
<th>Corruption / nepotism /maladministration</th>
<th>Ineffective management</th>
<th>Poor communication with communities</th>
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<td>Harrismith</td>
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Table 7: Causes of Municipal Service Delivery Protests (Atkinson, 2007)
(b) Evidence of centralisation

Based on the evidence on how public participation is implemented at the local level, it is clear that public participation has shifted away from the participatory framework to consultative and negotiation framework that characterised the early days of the ANC (Heller, 2003; Cameron, 2006).

More specifically, evidence of centralisation is apparent in both formal and informal participation. Autonomy on local elections is undermined by the nationalisation of local elections. On the other hand, autonomy of informal participation is undermined by negotiated participatory; politicised participation as well as decentralised centralism, particularly with regard to IDP.

(i) Nationalisation of local elections

There is evident nationalisation of local elections where local campaigns focus more on national issues and personalities. A case in point is that indicated in the EISA election update (2006) whereby the ANC electoral candidates used the same ANC manifesto that was used to campaign for national and provincial elections, which highlighted the role of the ANC as a National Liberation Movement. A consequence of this is the reduction of local democracy as councillors are disciplined into voting with their party regardless of their personal convictions or judgment (Cameron, 2006). The significant concern however, is the lack of clear focus on local issues, treating national and provincial issues as similar to local government issues.

(ii) ‘Negotiated participatory politics’

One of the significant stakeholders, in strengthening participatory democracy, namely civil society, does not seem to have a place in local government. It has been argued that local government has neither the resources nor political will to enter into meaningful partnerships with civil society actors. Instead, the gap between the state and society is bridged by ‘negotiated participatory politics’ through the use of ward committees (Tapscott, 2003). This is a top-down process, characterised by centralised decision-making, which is of salience given the political control over ward committees. Furthermore, IDP structures have been accused of bureaucratising the democratic process instead of enabling community participation (Mlokoti, 2007). Putting it more explicitly, planning processes post-1994 have
served largely as mechanisms to exert bureaucratic and political control as well as vehicles of marketisation rather than institutional spaces for democratic mobilisation (Heller, 2001).

**(iii) Politicized participation**

As previously mentioned the ANC is still reaping the rewards from their historical legacy and thus continues as an ordinary social movement with the objective of mobilising local communities around issues affecting the communities (Darracq, 2006). Due to this, the ANC’s local branches serve as vanguard of the communities with their role being to monitor and implement the ANC’s National Democratic Revolution (NDR) policy on the ground through mobilisation of communities and the interaction with other local actors. Under these circumstances, there is often “a narrower debating of issues, with party rhetoric playing a major role” (Cameron, 2006). This has also been noted by Piper and Deacon (2006) who maintain that ward committees are highly-politicised, and as a result do not provide the platform for local communities to engage and hold officials and councillors accountable.

This is exacerbated by the nature of the make-up of ward committees, namely that ward committees are chaired by ward councillors. Thus, it would be reasonable to suggest political control of these structures was an aim of the law makers, which as stated previously in turn raises questions about the independence of these structures (Cameron, 2006). In addition, there is a concern that accountability channels seem to be directed to political parties and not to the community represented (Mavuso, 2007).

**(iv) ‘Decentralised centralism’: State-led participation (IDP)**

The term ‘decentralised centralism’ refers to a combination of extended powers, functions and democratic rule, with a strong centre in terms of policy and guidelines, finances and political process (Harrison, 2005). They serve as the starting point to coordinate and align public sector resources and programmes within the system of intergovernmental relations (Williamson et.al, 2006). Through their IDPs, municipalities are expected to implement national and provincial policies, guidelines and programmes in a manner that reflects local priorities and responds to local needs. A case in point was the establishment of the IDP nerve centre as the first move towards an intergovernmental planning system. The main aim of this nerve centre, especially the establishment of an internet-based information system, is to allow for the sharing of
IDP related knowledge and for direct communication within and between spheres of government.

4.4 Summary

This chapter concludes that, based on the evidence of centralisation, South African local government is leaning towards integrational model of local government as opposed to autonomous model of local government. This integrational trend has been evident as early as during the RDP era and continue to occur even after the 2000 municipal elections when the autonomous local government became effective. This chapter has presented this evidence by examining each indicator and presented, firstly, evident challenges and then the actual evidence of centralisation. The evidence of centralisation is deduced from the intervention of national government in local government’s affairs with the objective of taking away its powers and authority in a manner that dis-empowers and undermines the autonomy of local government.
CHAPTER 5

Conclusion

5.1 Summary

As stated in the introduction (chapter 1), the main objective of this dissertation is to examine the evidence of centralisation practices on areas that were previously empowered with the aim of promoting local government from a tier to a sphere. The main argument made is that despite the efforts made to ensure local government’ status as an independent and autonomous sphere, there is an occurrence of centralisation that undermines the autonomy granted to local government. In theory, this signifies a shift from the autonomous model of local government that was achieved by adopting democratic decentralisation, to an integrational model of local government in which the role of local government is reduced to being an implementer of national policies with no mandate of its own.

This dissertation examined five indicators of democratic decentralisation with the aims of demonstrating how these were empowered in order to promote the status of local government as an autonomous entity and how they have been challenged overtime.

The process of creating a distinct and independent local government in South Africa was a shift from a tier to a sphere and it was carried out in three phases, namely pre-interim, interim and the final phase. The emergence of the final phase is partly attributed to the legislation systems and structures that were set-up during the first two phases. The final phase of local government is an ideal example of democratic decentralisation. This is evident in terms of the granting of powers, resources and responsibilities to local government. As a result of this, local government has legal powers with regard to its own affairs; the right to raise and spend its own revenue; functional responsibilities; the power of recruitment; and to promote public participation at the local level to ensure citizens’ participation and input in government’s decision-making.

5.2 Findings on centralisation

The indicators of autonomy discussed in chapter 3 are being challenged by various factors which, to a great extent, have motivated central government’s interference in local government’s affairs. There is emerging evidence that South Africa is starting to recentralise. This trend is characterised by national government intervening in local government’s affairs.
and taking over some of the powers and responsibilities that were constitutionally granted to local government.

Firstly, legal autonomy is challenged by the strangulation of local government with various legislations by national government and these legislations assume that municipalities have the same capacity. As a result, not all local municipalities are able to implement them due to varying capacity. In addition, the evidence of centralisation on legal autonomy lies with the proposed Constitutional Seventeenth Amendment Bill (2009), as this Bill has the potential ability to infringe on local government’s autonomy by taking away functions in case local government fails to achieve regional efficiencies.

Secondly, challenges facing financial autonomy include lack of economic activities in most rural and township municipalities which results in limited municipal revenue. This then leads to the greater problem of grant dependency i.e. dependence of municipalities on national for transfers due to the municipality’s inability to raise its own revenue. In addition to the lack of economic activities in a particular municipality, contributing factors to grant dependence include, culture of non-payment, inability to borrow, as well as unfunded and underfunded mandates. The challenge of municipal borrowing capacity is that municipalities’ powers are restricted; and intergovernmental transfers are challenged by funding windows and the preference of in-kind transfers. In addition, the evident growing centralisation on financial autonomy is due to a combination of factors that stem from the National Treasury’s lack of trust in local government to handle its own finances. This is mostly evident in the MFMA (2003) whereby provincial and national government were given a position to ‘baby-sit’ local government on its financial management. This is further exacerbated by removal of RSC levies, which in turn increased transfers from mostly national government, which are accompanied by conditions.

Thirdly, functional autonomy faces challenges such as the lack of clarity in the provision of functions in the Constitution and a lack of delineation in these functional areas leaves local government vulnerable to provincial and national government’s delegation of functions. On the other hand, in cases where local government know which functions to carry out, lack of financial resources usually serves as a constraint on functional autonomy, as national and provincial government transfers come with conditions which guide the implementation of the finances. In addition, the growing centralisation in functional
autonomy is evident in the constitutional provision of provincial and national government to monitor and intervene in local government’s functions should that be necessary. This led to provincial government ‘misusing’ its right and making local government to perform underfunded and unfunded mandates. This has more than financial implications as limited financial capacity forces local government to accept orders on decision-making from provincial and national government. These unfunded and underfunded mandates are not constitutionally provided for, therefore this action by provincial and national government raises questions about the status of local government as perceived by these spheres.

Fourthly, autonomy on human resources is challenged by the inability of most municipalities to retain and attract skilled personnel. This implies that municipality personnel lack skills, experience, expertise and even qualification for the position that they are filling. This is further exacerbated by patronage and clientilistic behaviour that is prevalent at local level as these are people that are not qualified to fill the requirements of the position. Furthermore, the personnel system is in fact considered to be a weak separate system as human resource practices are subject to national government’s legislations. In addition, autonomy on human resources is principally meant to ensure power of recruitment. The significance of this lies with, inter alia, accountability within local government as this is supposed to improve effectiveness. Two channels of accountability that have to be evident in local government are elected representatives being accountable to citizens; and key managerial staff being accountable to political representatives. The former is being challenged in South Africa, particularly with the mayors of the metro municipalities being appointed by the president of the country, which is accountable to the party along with ANC’s National Working Committee, the mayors of the non-metro municipalities being elected by the ANC’s Provincial Executive Committee, and councillors being elected by provincial government. What this suggests is that the upward accountability to the party bosses predominates, rather than accountability to the citizens that elected them

Lastly, public participation is firstly challenged by the limited number of independent candidates running for elections at local level. Secondly, the three structures of public participation are also challenged for instance, ward committees are more accountable to political leaders, i.e. councillors which serve as a chairperson of the ward committee; sub-councils who serve more as a ‘rubber-stamp’ to the executive and IDPs tend to be highly bureaucratised. These dysfunctional participatory structures are signified by the outbreak of
service delivery protests. These grievances are ideally supposed to be channelled via public participation structures and the outbreaks of service delivery strikes prove the failure of these structures. Public participation seems to be for the selected few, namely people that are affiliated to political parties. In addition, the evidence of centralisation is in the attempts of political parties to use public participation to advance their own interests, rather than ensuring that citizens are participating as per the intention. This is done indirectly and directly; indirectly, by having the politically active taking part in the local government’s structure which in turn discourages ordinary citizens from participating. This usually led to advancement of the party’s agenda more than the citizens.

5.3 Areas for future research

Even though the literature points out specific features of centralisation, this might not be sufficient to reach a firm conclusion that it is the plan of the ANC-led government to re-centralise. The evidence may therefore be interpreted quite differently than it has been here.

Based on this, what is required is an extensive and comprehensive research on the status of local government, whether it has failed or not, the objectives and nature of interference. More specifically, this research needs to focus:

- On the status of local government. There is an urgent need for more research work similar to the analysis carried out by the State Of Local Government (2009). Current research suggests that not all municipalities are facing difficulties and it should be on this premise that the influence of context should be explored.

- On the objectives of interference. Research is required to determine if interference is a response to the failures of decentralisation as per the experience of most developing countries, or whether it is a strategy employed by the ANC-led government to maintain power. For instance, there is no evidence that the motivating factor behind MFMA (2003) was a ‘failure’ of local government, even though it cannot be ignored that most municipalities lack capacity to manage their own finances. However, this may not require granting monitoring powers to provincial and national government; rather it may require providing support to municipalities such as appointing skilled personnel and training personnel.
• On the nature of interference. There is a possibility that what is at play is an intergovernmental relations’ response to the problems facing local government as opposed to central government intentionally using its powers to limit local government’s powers whilst strengthening its own.
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