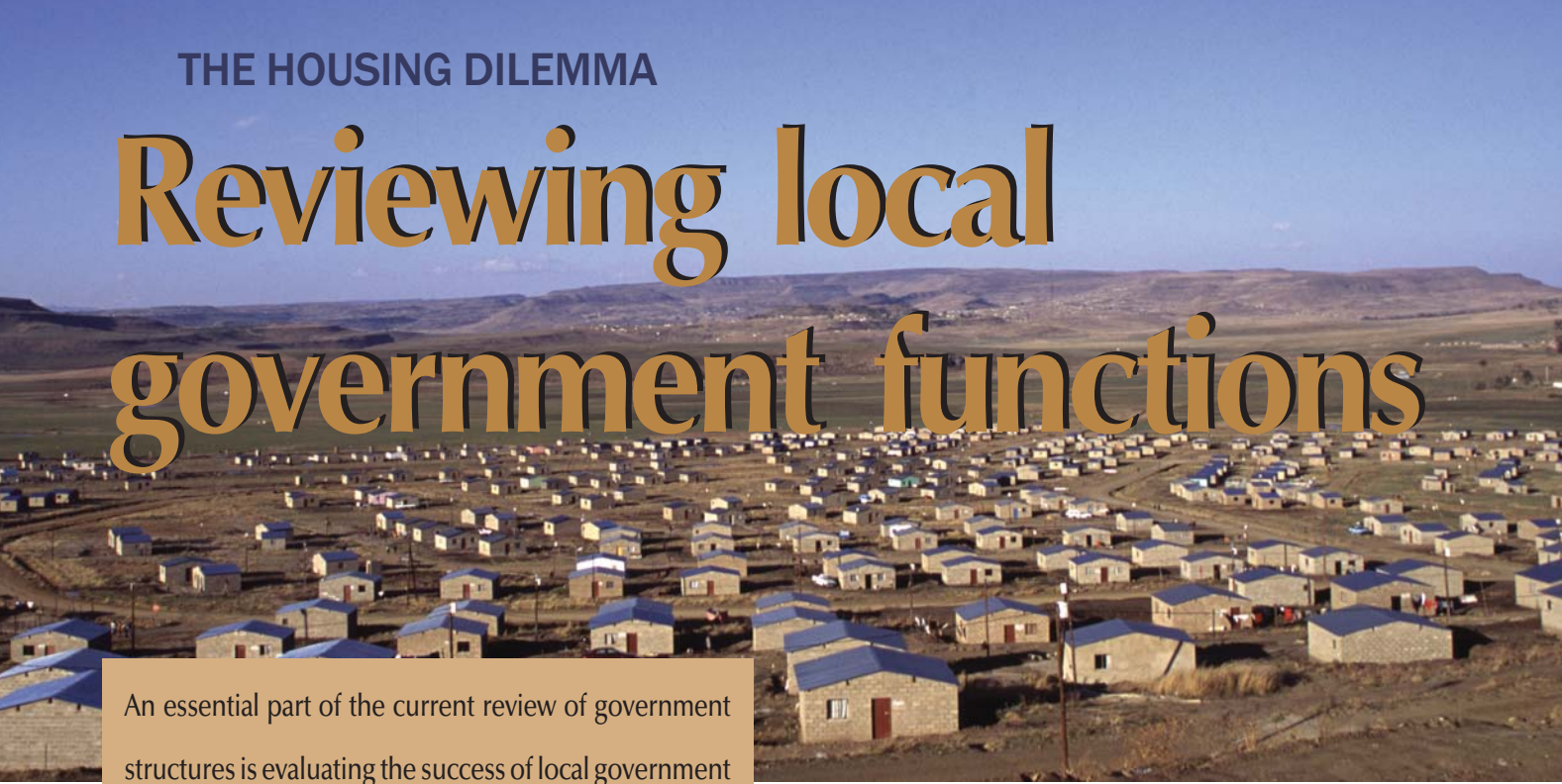


Reviewing local government functions



An essential part of the current review of government structures is evaluating the success of local government in meeting its constitutional obligations to citizens. Key to the current review of structures is the extent to which the powers and functions designated to local government enable it to meet its developmental mandate. This article proposes a model for analysing which functions should be performed by local government and applies this model to housing. It concludes that the location of housing as a national/provincial competency needs to be revisited.

Local government's developmental mandate

Municipalities must, in terms of the Constitution and the White Paper on Local Government:

1. exercise their powers in a manner that maximises economic growth and social development;
2. coordinate development activities of state and non-state agents in the municipal area;
3. deepen democratic development through community participation; and
4. build social capital for increased sustainability.

This mandate can only be achieved if municipalities have the appropriate powers to fulfil these roles. In this regard, there is growing concern about the manner in which the Constitution distributes powers and functions. In addition, the mechanisms

employed by national and provincial governments to allocate additional functions to local government at times perpetuate the gap between the functional and fiscal resources of municipalities and the vision of developmental local government.

Reviewing the powers of local government

Schedules 4B and 5B of the Constitution list the functional areas that are local government's responsibility. These 'original' powers, however, do not correspond to the above description of developmental government. Municipalities, for example, lack the policy-making and financial authority to achieve developmental objectives in critical 'high impact areas' such as housing and local economic development. Additional powers may be allocated to local government by national and provincial governments by means of assignment, delegation or agency. However, because the developmental mandate of local government is based on the Constitution itself, Schedules 4B and 5B should not contradict this notion and limit a municipality's ability to fulfil this mandate.

The Constitution and the Systems Act outline the appropriate procedures for transferring functions to municipalities. These procedures ensure that the assignment of powers outside of the constitutional competencies of municipalities are well placed, that legislative and executive capacity is transferred and that municipalities are safeguarded against unfunded mandates.

Virtually all sectors acknowledge the importance of municipalities and engage them, but almost never do so by using the appropriate means of transferring functions. Delegation and agency are the most commonly used means of transferring powers to local government, which reduces the role of local government to that of service deliverers or implementing

agents of national and/or provincial government. Other mechanisms for transferring functions include sector-specific instruments that apply within the sector only, such as housing accreditation.

A consequence of these fragmented sector-based efforts to involve local government is that municipalities often end up bearing hidden overhead costs associated with the function. This is because the protection against unfunded mandates offered by the Systems Act is not applicable to the instruments used.

Enhancing the governance role of local government

What, then, is the appropriate way to equip local government with the necessary authority to play a developmental role?

First, there is a strong case for re-defining the existing competences listed in the Schedules as precisely as possible.

Second, additional functions, where an authoritative policy role is envisaged for local government, must be transferred through assignment using the *Guidelines on Allocation of Additional Powers and Functions to Municipalities* that were recently promulgated by the Department of Provincial and Local Government. Importantly, functions can be assigned either to individual municipalities or to local government as a sphere. A differentiated approach to assignment is therefore possible and appropriate, given the variety in capacity and economic and spatial realities of municipalities.

Indicators for local government involvement

Identifying which functions are best performed by local government is a complex task. Six indicators are proposed that could assist this assessment.

1. Economies of scale

If it is more efficient and cost-effective to perform a function at a supra-municipal level, this is an argument against allocating the function to local government.

2. The degree of spill-over effects of a function

Spill-over effects occur when residents from outside the municipal area make extensive use of, or benefit from, the service. Examples of this include 'network' services, such as highways and telecommunications.

3. The necessary capacity

The existence of capacity is key to the ability of local government to perform the functions. However, it should not always be the decisive factor in order to avoid a 'chicken-and-egg' dilemma: authority is withheld because of a lack of capacity and capacity will not emerge without

- The powers and functions of local government listed in Schedules 4B and 5B of the Constitution do not correspond with its developmental mandate.
- The review of local government requires a nuanced approach, which focuses on specific functions and assesses whether there is a need for greater local government involvement.
- In particular, consideration should be given to moving the housing function to Schedule 4B so as to afford municipalities' functional and fiscal authority over this function.

key points

the existence of authority. If authority and resources (both financial and human) are transferred jointly, capacity should develop.

4. The degree of intersectoral coordination

All government service delivery comes together in the municipal area, making local government the ideal coordinating agency. Multi-sectoral and multi-sphere integration should be achieved mainly through the Integrated Development Plan. Multi-sectoral coordination is vital in respect of housing, which, by its very nature, is an integrating activity as it includes planning, land administration, housing recipient identification, delivery of a package of services, development facilitation and the provision of the house itself.

5. The degree of grassroots community participation required

A strong indicator is the extent to which community participation is an essential part of the function. It can be argued that all government functions require public input. However, the type of engagement required may differ: public participation for the development of social welfare policies is different from engaging the public on renaming municipal streets or establishing a housing development project. As the intensity of the required engagement increases, municipalities become best placed to perform the function.

Housing is a function that requires high-intensity, grassroots community participation. It is perhaps one of the most 'vulnerable' functions in this respect: if community participation is inadequate, successful implementation is easily hampered by disgruntled residents.

6. The degree of policy control over the built environment

It is often argued that municipal responsibility centres on controlling the built environment, that is, the spatial and physical aspects of public service delivery and government regulation. This is supported by the White Paper vision of municipalities as facilitators of local economic growth. Municipalities facilitate economic growth primarily through the provision of the infrastructure, necessary for economic activity. Key elements of infrastructure for economic growth are:

- a. people's infrastructure (proximity to personnel);
- b. skills infrastructure (availability of skills);
- c. financial infrastructure (currency, banking);
- d. telecommunications infrastructure;
- e. roads (+ ports) infrastructure;
- f. energy infrastructure;
- g. regulatory environment (tax, labour law); and
- h. location (land, building, sanitation).

Local government is the prime actor in establishing a people's infrastructure and controlling location (a. and h.). It plays an important, but not primary role in roads, energy and the regulatory environment (through property taxes). Its role in financial, skills and telecommunications infrastructure is limited. The point is that this sliding scale coincides with the relationship with the built environment. In other words, the more the function has to do with the built environment, the more intense local government's involvement should be.

This indicator demonstrates that it is essential for municipalities to have authority over the housing function in order for them to discharge their responsibilities for the built environment.

What to do with housing?

The above six indicators for local government involvement show that consideration should be given to moving the housing function to Schedule 4B to give municipalities functional and fiscal authority over this function. Many of the arguments against changing the content of Schedules 4B and 5B relate to fears of fragmentation and the deterioration of services as a result. These arguments often overlook the fact that the inclusion of housing in Schedule 4B would not minimise oversight powers of national and provincial government. A municipality's authority over its original functions is anything but unfettered. National and provincial government oversee municipal performance of original functions through a legislative framework within which municipalities must operate.



Photo: Eric Miller/Africanpictures.net

Comment

The review of local government requires a nuanced approach, which focuses on specific functions and assesses whether there is a need for greater local government involvement. This approach should be guided by the following two questions:

First, does the absence of the function from Schedules 4B or 5B make the Schedules an inadequate reflection of developmental local government? If so, there is an argument to revisit the Schedules on this matter.

Second, should (certain) municipalities be afforded policy-making authority over a function that is not in Schedules 4B or 5B? If so, the assignment of the function to local government may be considered. There are two key aspects. First, the transfer of functions to local government must be consistent with the procedures in the Constitution and the Municipal Systems Act. Second, the 'one-size-fits-all' approach to municipal functions needs to give way to a nuanced and differentiated approach that takes into account spatial and economic realities as well as capacity constraints.

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