



## **PAPER V: \_REDEFINING THE POLITICAL STRUCTURE OF DISTRICT MUNICIPALITIES**

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## **EXECUTIVE SUMMARY**

The reality of the current functioning of district municipalities is that even where the context suggests that there is potential for the district system to work in rural areas, the instances of success are limited. A key problem is the dysfunctional relationship between districts and local councils. This paper explores some options on the restructuring of the political structure of district municipalities.

### **Problematic functioning of district councils and their failure to integrate local municipalities**

The experience of the past seven years suggests that instead of developing an integrated, interdependent and interrelated government between district and local municipalities, a distinctive two-tier system has developed. The system is characterized by relations of hierarchy, a lack of co-ordination and, in the end, of competition. There is also poor communication between district and local councils. There is also a disjuncture between the political decision-makers and those who are held accountable for the decisions. In the district municipalities the PR councillors usually dominate the council. However, these councillors have no wards to which to report and be held accountable.

A part of the problem is that most often the leadership of the local councils is not represented on the district councils and local councillors do not take ownership of the council. Local councillors are less likely to be elected to district leadership positions. While the mandatory introduction of district intergovernmental forums (DIFs) has been beneficial to district-local relations, DIFs have not proved to be a panacea for all ills besetting district-local relations. Where there is a conflictual relationship between the district and the local, the DIF is unlikely to solve it.

### **Options for change**

There are numerous options for the addressing the challenges besetting district local relations. Some are merely tweaking the system, others entail more radical changes. Any option should be assessed in terms of three criteria. First, does the option promote the values of district wide governance, including enhancing integrated planning for the district as a whole, the provision of services and developing the skills base for the district. Second, does the option address the problems of the hierarchy of councils, a lack of communication and coordination and a lack of district accountability? Third, the importance of stability should also be borne in mind.

*Option 1: Increasing the representation of local leadership on district council:* The 60% local council representation on district councils should be revamped to ensure that the local leadership councillors are fully represented in the district council. The mandatory election of local councillors to district leadership positions would, however, be more difficult to implement.

*Option 2: District council comprising of local councillors only:* To do away with the dual nature of the district councils and the marginalisation of local councillors in that council, local control can be effected by removing all district PR councillors. A district council would thus be composed of only indirectly elected local councillors. An alternative model is an executive-based system – the governing structure of the district comprises the mayors of the local municipalities.

*Option 3: Replacing district with multi-jurisdictional entities:* The district's political structure could be removed by establishing the district as a multi-jurisdictional entity (or entities) with participating local municipalities as joint shareholders. This model places the emphasis on providing services, but lacks appropriate forms of local accountability.

*Option 4: Absorbing local municipalities into the district:* This option involves establishing the district council as the sole local authority and doing away with local municipalities as independent entities. The local authorities are absorbed into the district municipality by becoming sub-councils of the district council. The district council has all powers and functions but may delegate those functions currently performed by local municipalities to the sub-councils.

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# REDEFINING THE POLITICAL STRUCTURE OF DISTRICT MUNICIPALITIES

## 1 BACKGROUND

Perhaps the most controversial aspect of the restructuring of local government in 2000 was the establishment of two tiers of local government across the whole country. In reality, with the exception of metros and district management areas (the latter having very low population densities and no human settlements of significant scale), 99% of South Africans living outside the metros have two local governments serving them. Although there has been a history in South Africa, in common with many other countries, of having districts responsible for rural areas and local municipalities responsible for urban areas, there no such differentiation made in the current structure of local government. A notable feature in most countries with a two-tier system of governance is the special status of large cities, reflecting an urban/rural divide. In countries with a two-tier local government, large cities often fall outside that structure. In Germany, cities with a population of over 100 000 usually do not form part of the *Landkriese*, thus allowing these cities to combine the competencies and resources of two tiers into one municipal structure. A further example is India's preference for a single tier system for urban areas, in contrast to the multi-layered local government in rural areas.

It has been argued elsewhere<sup>1</sup> that in urban areas district municipalities have not played much, if any, role in the governance of the urban areas. The local municipalities covering secondary cities and large towns have provided most services, including the water and sanitation services. The argument has thus been that in the urban areas, single tier municipalities should be established, having all local government powers. A role for a two-tier system has, however, been advocated for rural areas.

The practice of the past seven years has shown that districts are the most active in the rural areas, including the performance of their water and sanitation authority function. They play a key role in performing the main priority functions<sup>2</sup> because local municipalities are relatively weak and lack capacity. In keeping with the most common objects of second-tier local government internationally, districts utilise economies of scale to provide certain bulk-infrastructure and basic services of water and sanitation as well as directly support weak locals where necessary.

The availability of scarce skills to perform municipal functions is a major problem, which is most acutely felt in the rural areas. Moreover, it is likely that such a situation would continue for the foreseeable future, particularly in the local municipalities in the former

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<sup>1</sup> Baatjies R & Steytler N (2007) "Redefining the role and application of district municipalities" CAGE report, Community Law Centre, UWC.

<sup>2</sup> Priority 1 functions are water and sanitation, municipal roads, municipal health services and municipal planning, electricity and gas reticulation, traffic and parking, stormwater management systems and refuse removal services, firefighting as well as cemeteries and crematoria. Municipal Demarcation Board Capacity Assessment Report 2006-2007.

homelands where there are no established towns. The advantage of a district municipality is, then, that it could attract suitable skills both in terms of location and compensation.

The reality of the current functioning of district municipalities is that even where the context suggests that there is potential for the district system to add value to the governance of rural areas, the instances of success are limited. A key problem has been the governance structure of districts; it is been an uncomfortable combination of district-wide representatives with local council representation which has not resulted in an integrated system of district government. This paper explores some options of how the political structure of district municipalities could be improved to secure better governance.

## **2 PROBLEMATIC FUNCTIONING OF DISTRICT COUNCILS AND THEIR RELATIONSHIP WITH LOCAL MUNICIPALITIES**

The district council was perceived as a vehicle that brought together the local municipalities in the district in order to benefit from integrated planning for the district, economies of scale for the provision of bulk services and mutual support. The fact that 60 percent of a district council comprises indirectly local councillors suggested a municipality under the control of and working for the benefit of its constituent local municipalities. With the exception of a few cases, this has not materialised in practice. The experience of the past seven years suggests that instead of developing an integrated, interdependent and interrelated government between district and local municipalities, a distinctive two-tier system has developed. The system is characterised by relations of hierarchy, a lack of co-ordination and, in the end, of competition.

District municipalities have been known to be sites of fierce political contestation. This is attributable to the fact that alignment in the council is according to political party allegiance, rather than local councillors versus the 40 percent directly-elected district councillors. Even in the case of single party dominance at both local and district level, intra-party differences and competition have also been prevalent in district councils. With the dominance of party politics, political hierarchy plays an important role in this context. Political parties 'deploy' more senior party members with district, rather than local council positions. In hierarchical political parties, councillors who are 'higher up' assume their party superiority carries over into their elected role and that they are the 'bosses' of their local counterparts. This conception causes strife and results in local municipalities distancing themselves from the district. With a strained relationship between the district and the local, a lack of co-operation would be inevitable.

The communication between the two tiers is also problematic. Local councillors are uncertain whether they are delegates of the local council or district councils in their own right. District issues do not often feature on local council agendas and feed-back from the district council is also rare. The sense is that the two councils are de-linked, operating in isolation from each other. This is particularly the case where leaders are polarised according to party allegiance. A lack of co-ordination, then, easily degenerates into

unproductive competition. As there are overlaps in functions and powers, district and locals often compete for the same resources and opportunities.

Finally, there is a disjuncture between the political decision-makers and those who are held accountable for the decisions. In the district municipalities the PR councillors usually dominate the council. However, these councillors have no wards to which to report and be held accountable. Inevitably, where the district performs the water delivery service, it is local municipalities, and especially ward councillors, that are the most likely targets of resident's dissatisfaction with service delivery. Moreover, there is little evidence that local councils hold, through their representatives, the district council accountable for its decisions.

### **3 DISTRICT COUNCILS: THE FAILURE TO INTERGRATE LOCAL MUNICIPALITIES**

As noted above, the policy underpinning the district council composition of 60 percent indirectly elected councillors from the local councils in proportion to their size and 40 percent directly elected councillors in terms of a proportional representation (PR) system, is that the indirectly elected local councillors, constituting the majority of the council, would take ownership of the district council and as such dominate the council.

This has not materialised in practice. Most often the leadership of the local councils is not represented on the district councils and local councillors do not take ownership of the council. The local mayor and his or her mayoral committee members or portfolio chairs, are usually not elected to represent the locals.

With local leadership not often elected to the district council, they are even less likely to be elected to district leadership positions. Even where local leadership is represented on the district council, they are unlikely to take on further responsibilities. They are already in a full-time position and may be unwilling or unable to take up another such position.

The mismatch between local and district leadership has significant consequences for the governance of the district. First, the locals do not own or control the district council through their elected leadership; in contrast the district council functions independently rather than interdependently and cooperatively with its constituent parts. In other words, the district functions as a stand-alone independent institution rather than a representative body which exists to create synergy across the district. A 2003 report by the national Portfolio Committee on Provincial and Local Government suggested that some of the conditions in which a district council is effective include good quality leadership of the local councils or, in the best case scenario, that local mayors serve on the district council. It has thus been said that if there are quality local representatives on the district municipality, relations are productive. In the absence of local leadership on the district council, the questions of communication between the two tiers become problematic. Structured procedures for local councils to formulate mandates for their representative councillors on the district councils do not exist nor are there adequate report back duties on such local councillors.

Given the difficulties in not having the local leadership in the district council (or local councillors in leadership positions of the district council) there is much confusion about the role of the local councillors elected to the district council: is he or she a delegate from the local council, forming a communication channel between the district and the local council and answerable to the latter? Does he or she have the mandate to bind the local municipality in decisions taken at the district council? In the absence of a structured report-back system and clearly defined roles, local councillors ‘go-it-alone’ and the district is then seen by the locals as just another municipality, rather than an institution serving its constituent local municipalities.

#### **4 DISTRICT INTERGOVERNMENTAL FORUMS – A SALVE?**

With the establishment of District Intergovernmental Forums (DIFs) in terms of the Intergovernmental Relations Framework Act of 2005 (IRFA), comprising the district and local mayors, a body other than the district council was deemed necessary to facilitate intergovernmental relations and perform a coordination function. The mandatory establishment of DIFs by 31 August 2006 was thus a penchant critique of the failure of the indirectly elected local councillors to effect coordination and cooperation between the district and the local councils.

The object of the DIFs is to create a forum for dialogue between the locals and the district by bringing the mayors of the various municipalities together in a consultative forum. The responsibility of managing the forum was placed on the district mayor, with the task of convening meetings, setting agenda and generally leading the forum. The IRFA prescribes a number of functions that the DIFs must perform: It must facilitate discussion on national and provincial policies and legislation affecting municipalities. It must give effect to the statutory duty of mutual assistance. It can also serve as a channel for the “co-ordination and alignment of the strategic and performance plans and priorities, objectives and strategies of the municipalities in the district”. All-in-all, the functions are hardly different than some of those that a district council should perform.

The mandatory introduction of DIFs has seen a definite improvement in district intergovernmental relations. At the very least, it has forced some district and locals to meet, which surprisingly, did not happen before. However, DIFs have not proved to be a panacea for all ills besetting district-local relations. Where there is a conflictual relationship between the district and the local, the DIF is unlikely to solve it. An overlording attitude by a district mayor does not lead to constructive relations, nor does a dismissive attitude by a local mayor if it questions the very existence of the district.

#### **5 LOOKING FORWARD: TWEAKING THE SYSTEM OR RADICAL CHANGE?**

The question to be addressed is how the districts could be structured to be more functionally governed. Is there scope to improve the current system or is more radical restructuring required? A number of options are discussed below. In redesigning the

governance system, it is important to remember the basic principle of reform, namely structure follows function. The district councils should be composed in such a manner that they are able to perform their designated functions. As stated above, district governance finds its best application in rural areas where it can provide district wide planning, generate economies of scale in the provision of bulk infrastructure, the provision of basic services (including water and sanitation) and the ability to attract and retain skilled staff.

The options discussed below are, then, evaluated in terms of three broad criteria. First, which option would best promote the values of district-wide governance? Enhancing integrated planning for the district as a whole, the provision of bulk services, the delivery of basic services and developing a skills base for the district as a whole are some of the key considerations. Second, which option would address the key governance problems that the district councils are experiencing, namely, the hierarchy between district and local councils, a lack of communication and coordination as well as the absence of district accountability? These problems have arguably been the Achilles heel of the current district governance arrangement. Third, the importance of stability should also be borne in mind. The local government sphere has been subject to a significant and prolonged process of transition, resulting in “transformation fatigue”. Officials and communities have endured considerable upheavals of transition and unpredictability. Major changes would cause further disruption which may be inimical to service delivery. Changes to the current system should thus not be made too readily.

Some of the options not only address the problems of dysfunctional councils and the lack of integration; they also deal with the fundamental problems of two-tier local government such as the unclear division of powers and functions as well as the competition for resources.

### **5.1 Option 1: Increasing local leadership in the district**

Bearing in mind the need for stability, the first question is whether the current system can be tweaked to enhance its functionality and efficiency. The principal line of inquiry is how local councils can assume more control over the district.

As the dysfunctionality of district councils is due in part to the lack of local ownership, improving the present system should be aimed at promoting better local representation. First, the 60 percent local representation could be revamped to ensure that the local mayors and leadership councilors are fully represented in the district council. Local leadership includes the mayor, deputy mayor, the speaker and members of the executive or mayoral committee. Their compulsory membership would, at the very least, improve communication on a routine basis between the executives of the district and the local municipalities. More generally, making the representation of local leadership compulsory on the district council ensures that it is a forum where local needs and priorities can be addressed, thus enabling the purpose of the district council to be served. The question is whether local representation should be comprised only of the elected leadership or should the political composition of the local council be represented as well. Depending on the

size of the representation of the local in the district, if a choice is to be made, the district should reflect the executives rather than the full spectrum of political parties in the local councils.

Second, and more problematic, is the question of how to elect more local councillors to district leadership positions. Can such positions be reserved for local representatives (which may include local leadership or other councillors) to the exclusion of the 40 percent PR councillors? The difficulties with this proposition may be that, first, full-time local leadership positions may not be compatible with another full-time position, and, second, it may not be acceptable to preclude the PR councillors from standing as mayor. While it is feasible to ensure that local leadership is represented on the district council, the exclusion of the PR councillors from district leadership positions seems untenable.

In the above model measures still need to be taken to ensure that the lack of communication between district and local councils is addressed. To this end, local councillors serving on the district council need to have clearly defined mandates from their local councils. Clear channels of regular reporting must be followed and could, for example, be cemented into the committee system of the local municipalities to ensure that synergy is created in the functioning of the district and its constituent local municipalities. Communication should therefore not be limited to the few meetings of the district council but should rather become an inherent feature of district-local relations.

With regard to the three criteria proposed, this option will result in little, if any, radical change and would thus retain a measure of stability. It may have, however, a subtle impact on the two other areas. First, in having the local leadership represented on the district council, integrated planning for the district as a whole may be facilitated, since the local leadership can ensure that local concerns are high on the district council's agenda. Such an approach may result in much debating and contesting the integrated plan for the district, but should ultimately result in an agreed integrated plan binding the local municipalities. Second, the provision of bulk services by the district, or supporting local municipalities' capacity to deliver services more efficiently, can be put high on the district agenda by the local leadership and ensure that it is a focus of the district council.

Communication and coordination between the district and local councils should equally be enhanced by the representation of the local leadership on the district council. It is not clear whether having the local leadership on the district council would per se impact the hierarchy between district and local councils. If local councillors do not assume district leadership positions, the political hierarchy imposed from outside, would still prevail. However, if district leadership positions can be reserved for local representatives, this will, in all likelihood, alleviate the hierarchy. As argued above, the difficulties with this proposition are that, first, local leadership in full-time position may not be interested in another full-time position, and, second, is it not feasible to prevent PR councillors from standing for leadership positions.

On the whole, this option would go some way to ensuring that the district council is a forum where local needs and priorities can be addressed, thus enabling the purpose of the district council to be served.

## **5.2 Option 2: District comprising of local councillors only**

The policy underpinning the district council composition was that the indirectly elected local councillors, constituting the majority of the council, would take ownership of the district council and as such determine the priorities of the district. However, as stated above, this has not materialised in practice. The directly elected district councillors, in most cases, 'run the show'. Most often the leadership of the local councils is not represented on the district councils and local councillors do not substantially impact on the activities of the district council. Rather, they are treated as guests or voyeurs observing the workings of a separate institution.

Another major problem has been that local leaders do not (or are reluctant to) seek leadership positions in the district. As stated earlier, local leadership positions are usually full-time and an additional position at the district only adds more work at no extra remuneration. To deal with the dual nature of the district councils and the marginalisation of local councils, local control can be effected by eliminating all PR councillors. A district council would thus be composed of only indirectly elected local councillors.

There could be variations within this option. The first is an open election by local councils of councillors to the district council. They may or may not include the local leadership as the latter group may not seek election. A district council run by 'junior' local councillors may bring different dynamics to bear on district-local relations. The second option is to make the representation of local leadership compulsory, leaving open the question of who should fulfil the leadership position on the district council.

An alternative model is an executive-based system – the governing structure of the district comprises the mayors of the local municipalities. Already practice has shown that district councils reflecting the leadership of local councils have functioned well. The advantages of this system are that real local leadership would be represented in the district, allowing for authoritative in-put on district-wide matters.

The disadvantages of this model is that mayors and other councillors in leadership positions often serve full-time at the local municipality, making this model time and work-intensive. Also, who will serve as the mayor of the district? Is it feasible that a local councillor has two mayorships? Would it make either the district or local council vulnerable to neglect? This option will also require statutory amendments to accommodate the change in political composition of the district council. More importantly, it would have major political implications; the elimination of 40 percent of district councillors is likely to meet with considerable opposition.

However, the district council would now 'belong' to the local councils. This would counter the hierarchy that political parties have imposed on district councils; all

councillors are elected to local councils first. Questions of representivity and accountability of PR councillors would also be put to rest. With this option, the district council will be comprised of local representatives (including ward councillors) who are accountable to their local councils for their decisions taken in the district council. However, safeguards will be required to ensure that placing the control in the hands of the local councils does not result in, depending on the composition of a district, the dominance of one or two locals at the expense of the others.

With regard to furthering the values of district governance, this option may indirectly have the consequence of improving integrated planning and service provision. It is likely that if local leaders dominate the district council, it may be easier to coordinate an integrated plan for the district as a whole since regular and enhanced communication between the local municipalities would be the new feature of this model. Local priorities with regard to service provision and the bulk provision of certain services would presumably be high on a district agenda dominated by local leaders. It is envisaged that the local leaders on the district council would thus debate the district wide priorities vis-à-vis those of the local municipalities and agree on a binding integrated and service plan which all local municipalities would ascribe to. An unknown factor is whether the council composed of only local councillors will inevitably become the site of conflict over the distribution of resources between the local municipalities, as each local council promotes only its own interests. The absence of district-wide councillors may eliminate an overarching district vision.

### **5.3 Option 3: Replacing districts with multi-jurisdictional entities**

Following on the same tracks as the removal of the 40 percent PR councillors, is the option of moving away from a political structure at district level altogether by establishing the district as a multi-jurisdictional entity (or entities) with participating local municipalities as joint shareholders. Multi-jurisdictional entities are purely business entities, aimed at combining the strength and capacity of all of the constituent local municipalities to deliver a particular service or set of services. This model places emphasis on attracting skilled staff and creating a culture of professionalism at the district level. Depending on the need within the district, a number of multi-jurisdictional entities may be created to fulfill the different line functions of the district, for example water and/or sanitation.

While these business entities can fulfill the administrative functions of the district, the question is whether the governing board(s), controlled by the local municipalities, would be suitable institutions to make the political decisions that underpin the key governance instruments such as the overall budget and the IDP. In terms of the policy prescription of the Systems Act and the MFMA, the board of directors of a municipal entity must be at an arm's length from the council and the administration. A councillor of the municipality or an official of the parent municipality may not be a director. Observing this approach, the board would function in an apolitical manner. It would seem that if the institution of district governance is to be maintained, this model can only be used in conjunction with

the system of a council dominated by local councilors or a council dominated by local executives to ensure its accountability.

This model will, however, do away with the concept of the district as a separate, constitutionally entrenched, category of local government. To the extent that it requires constitutional and statutory amendments and the establishment of complex business entities, it may be a difficult option to pursue. Further complications include deciding how the local representation to the 'board' of the entity will be done, not dissimilar to the problematic debate of local representation on the district council. Thus, the problems associated with the quality of local representation on the district may be, replicated in this model.

An advantage of such a system is that political accountability is still retained as constituent municipalities are joint shareholders in the entity. Depending on the function of the entity eg bulk water supply, the entity would account to the participating local municipality shareholders. The ultimate responsibility for service delivery therefore still vests in the local municipalities, while the councils ensures responsiveness to local needs.

The problems of district accountability and the hierarchy of councils are completely eliminated with this option. However, the lack of district wide integrated planning and a possible lack of communication between local councils may be of particular concern with the exercise of this option.

#### **5.4 Option 4: Absorbing local municipalities into the district**

A fourth option involves establishing the district council as the local authority by absorbing the local municipalities as independent entities. This model thus does away with the concept of local municipalities (in rural areas) as a separate, constitutionally entrenched, category of local government. The local councils are absorbed into the district municipality by becoming sub-councils of the district council. The district would then assume the status similar to that of a metropolitan council with a number of sub-councils. All councillors are district councillors, but both ward and PR councillors (the latter elected on a local list) are automatically councillors of a sub-council.

This model involves the creation of large single tier councils at district scale which have full powers and functions and administers all local and district services. However, many services would continue to be run on a decentralised basis where the local municipalities, now termed sub-councils, were providing those services within their capacity. All local municipal staff becomes district staff. Only on those matters delegated to sub-councils is staff accountable to sub-councils. Scarce managerial, administrative and technical resources are thus pooled into the district municipality.

The argument for this model is that district municipalities, spanning a number of local municipalities, are in a better position to attract skilled resources to provide the basic services. It is also more cost efficient to capacitate a small number of districts rather than a large number of locals. Moreover, districts are able to generate economies of scale to provide services more efficiently and sustainably. The other functions of districts are

equally important. Development planning across a district and the integration of services make scarce resources go further. The provision of bulk supply of services to municipalities provides economies of scale that make rural local government more viable.

The question that inevitably follows is whether there is any point in having local sub-councils in these areas. Why not consolidate them into a large district municipality that provides all services? The issue is one of accountability and proximity to the community. The very large districts would be far removed from the community, stretching notions of local accountability in rural areas beyond the reach of most communities. Important functions must still be performed at local level. The absorption of local municipalities into the district will result in one local authority, directly elected by its inhabitants, and politically accountable to that community whilst ensuring local responsiveness and accountability at sub-council level by identifying local needs and priorities and facilitating public input. The focus of sub-councils in the reconfigured district is, however, broader than merely facilitating public consultation and exercising certain delegated functions, as is the case in the City of Cape Town's sub-councils. The current local municipalities would continue to function as strong administrative centres, their ambit of administrative powers determined by capacity and efficiency requirements

#### *Delegations of powers and functions*

The powers of a sub-council would be determined by the district municipality and may vary according to the capacity that a sub-council may have. The delegated powers and functions to sub-councils in the reconfigured district must be based on existing capacity to deliver. In cases of severe capacity constraints in poor municipalities, the new sub-councils in all likelihood would perform limited service delivery functions. The various line departments would be located at the district level with the sub-councils acting as administrative implementers who are directly accountable to the district. The range of powers and functions that the poorest local municipalities are currently exercising, for example, refuse removal, roads maintenance, cemeteries, pounds, fencing and fences, trading regulations, could be delegated to the sub-councils. These are functions that do not require a high professional skills base yet are important to the local community as there is a close connection to local interests.

Therefore if rural local municipalities are currently performing ten service delivery functions, the district would simply delegate those ten functions to the new sub-councils that it continues performing those functions within its capacity. The administrative status quo would thus remain, with only the political makeup of the local municipality (now sub-council) changing. The residual functions which the local municipality should have, but could not, perform would then fall on the district council.

In determining the powers and functions of sub-councils in the reconfigured district, administrative duplication and overlaps would be eliminated. To ensure that sub-councils play an important role, it may be worth exploring the option of directly assigning, by law, certain functions to sub-councils, as opposed to leaving the delegation entirely to the discretion of the district council.

### *Demarcation of sub-councils*

In determining the boundaries of sub-councils, current local municipal boundaries should, in the interest of stability, as far as possible remain intact. The current range of between four and six local municipalities which comprise district municipalities is then maintained. The internal composition of sub-councils may, however, pose challenges to stability. The proposed composition of the reconfigured district could follow the current metropolitan formulation of 50 percent ward councillors and 50 percent PR councillors. If there are, for example, 100 councillors in a district and there are 5 sub-councils with more or less equivalent populations, each sub-council would then have, on average, 20 councillors (both ward and PR) elected in them. Of course, larger sub-councils could have more and smaller sub-councils less than the average number of councillors. Where the boundaries of the local municipalities are retained the difficulty would also be the likely disparities between local municipalities in respect of the quota of voters per ward. The number of councillors for the district as a whole would have to be determined first and then a proportional spread of the councillors across the sub-councils determined. The Municipal Demarcation Board would then have to re-demarcate the wards within existing local municipality boundaries to ensure equivalence in voters per ward in each sub-council. A further difficulty would be the very small local municipalities which have less than seven councillors and thus no wards.

With the election of PR councillors there could be two options. The one would follow the metro model and PR councillors are elected on a district-wide list. The other option is to elect PR councillors on a sub-council list. While the first option would ensure district wide representation, the latter option would ensure that PR councillors all have an elected “home” sub-council.

While the City of Cape Town is the only metro in the country that has adopted the sub-council system, its success is, at best, questionable. Cape Town’s 105 wards have been grouped together in 23 sub-councils with between three and seven wards each. The sub-councils have been delegated limited powers and are largely confined to facilitating community participation. However, the sub-council system could be more workable in the rural context. There would be fewer sub-councils as the current norm is between five or six local municipalities constituting a district. Moreover, the size of the rural local councils averages around 20 with seven councillors the exception. Given their size and infrastructure, the new sub-councils will be able to play a significant governance role.

There could be a number of advantages which may be derived from having one district authority and several sub-councils. First, the ongoing problem of having a district wide IDP and how it relates to the IDPs of the local municipalities would disappear. The district would do integrated development planning for the district as a whole and the sub-councils would implement it. Second, the uncertainty regarding the division of powers and functions which has been a, if not the, major problem affecting district-local relations should also dissolve since the district will have all the powers and may delegate the performance of certain functions to the sub-councils. Further, as all staff members would

be district employees, their deployment would follow the needs of the district. This will undoubtedly enhance the ability or capacity to deliver services more efficiently to the district as a whole, including the provision of bulk services. Third, the unclear mandate of local representative councillors on district councils would be alleviated. Councillors are elected first and foremost to the district but retain their local connections through serving on a sub-council with delegated powers. Finally, the hierarchy of councils is obviously eliminated with this option.

An objection to this option is that it would take local government further away from the community, rather than bringing government closer to the people. This option would certainly place a greater distance between the municipality and the various communities. However, the aim of the option is to maintain the link with the community through the system of delegated powers to sub-councils. If the sub-councils have appropriate delegated powers, they could be responsive to their community's needs.

A further disadvantage of this option could be if it would lead to a major redrafting of boundaries and wards and the reduction of councillors. If all ward councillors in the district should represent more or less the same number of voters, there would have to be a redemarcation of existing ward boundaries (as the quota for wards in each local council is unlikely to be the same) which may entail a loss (or gain) of wards in some sub-councils. Associated with this problem is the issue of the size of district councils. Should they simply comprise the sum of the existing number of local councillors? If too large district councils are the result, a reduction in the number of councillors could be called for. The elimination of 40 percent of district councillors is also likely to meet considerable opposition.

This option requires radical changes, including constitutional and statutory amendments, and the redemarcation of wards. In the face of this instability aside, this option addresses a number of the challenges experienced in the current two-tier system of governance.

## **6. CONCLUSION**

For the district system to function effectively, serious attention should be given to its governance structure. Currently, practice suggests that there is a disjuncture between the districts and the local councils which are supposed to "own" the district council. Once an appropriate role is given to districts – the development of rural areas through the attraction of an appropriate skills base – a simple and effective system of governance must be able to realise this goal. Only four options are discussed and there may be other, more meritorious, ones. The object is to promote a debate on the best way of governing the rural areas which are profoundly lagging behind in development.

## EVALUATING THE OPTIONS

<b>Promoting values of district governance</b>	<b>Option 1: Increasing local leadership in district council</b>	<b>Option 2: District comprised of local councillors only</b>	<b>Option 3: District multi-jurisdictional entities</b>	<b>Option 4: District with local sub-councils</b>
<i>1. Integrated planning</i>	May enhance	Will enhance	No political decision-making	Complete enhancement
<i>2. Bulk provisioning</i>	May enhance	Will enhance	Will enhance	Complete enhancement
<i>3. Skills / capacity to deliver services</i>	Unaffected	Unaffected	Will enhance	Complete enhancement
<b>Addressing problems of current districts</b>				
<i>1. Reduce hierarchy of councils</i>	May reduce if local is mayor	Problem eliminated	Problem eliminated	Problem eliminated
<i>2. Improve communication and co-ordination</i>	May enhance	Will enhance	Problem eliminated	Problem eliminated
<i>3. Lack of district accountability</i>	Lack of district PR councillors' accountability unaffected; accountability to local councils improved	Eliminated since only local councillors on DM	No district accountability structures. Entities only indirectly accountable to local councils	Eliminated
<b>Preserving stability</b>				
<i>1. Statutory and constitutional changes</i>	Minor statutory amendments	Major statutory amendment	Constitutional and statutory amendments as remove district as category	Major statutory amendments
<i>2. Demarcation</i>	Not affected	Not affected	Not affected	Major redemarcation of wards
<i>3. Number of councillors</i>	Unaffected	40% PR district councillors fall away	40% PR district councillors fall away	40% PR district councillors fall away; possible reduction in new district councillors; reduction of councillors in sub-councils
<i>4. Staff shifts</i>	Unaffected	Unaffected	May require skilled district staff to relocate to entities	All local staff of district, but some deployed to sub-councils