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SUPERVISION OF LOCAL GOVERNMENT

Introduction

Local governments require some form of autonomy if they are to be effective in delivering on their functions. Equally important is the need for higher levels of governments to supervise local governments to ensure the promotion and protection of both local and national goals. Supervision is also important to deal with the ills often associated with decentralisation such as incapacity, corruption and resource wastage.

Who supervises local government?

Three trends have emerged:

- In federal countries such as **Ethiopia** and **Nigeria**, local government is supervised by the states and regions.
- In **South Africa**, provinces are the primary supervisors of municipalities but the national government also plays a role.
- In unitary countries, local government is directly supervised by the central government.

What are the main forms of supervision?

Supervision generally takes four main forms: regulation, monitoring, support and intervention. The regulatory framework for local government is often established by a constitution and/or legislation, and in some cases policies may provide further details.



1. Monitoring

Once the regulatory and policy framework is in place, senior governments must monitor how local governments are complying with it. There are various ways of monitoring: requiring regular reports, auditing of financial statements, requesting specific information, and appointing investigators. There are two principles that should guide monitoring mechanisms:

- the autonomy of local government must be respected;
- the administrative burden of complying with monitoring mechanisms must not overwhelm local governments and distract them from their core mandate to provide services.



2. Support

Monitoring may reveal problems that hamper effective governance by a local authority, but which are beyond its capacity to solve itself. The local authority may need external support to address these issues. In such cases, the senior government should provide relevant support. Support may also be necessary in circumstances where there are no specific local problems. In this context, the objective is to ensure that the necessary level of capacity is maintained so that local government can perform its duties and obligations. Support can take several forms: the provision of financial resources, technological resources, training of staff, and secondment of staff to a local authority. Even though higher levels of government may be required to provide support, this does not mean that they must then meet a local government's obligations, for instance, to service its debts. This would encourage irresponsible fiscal behaviour to the detriment of macro-economic stability.



3. Intervention

Even if support is provided, it is still possible that a local problem remains unresolved. In such cases, the relevant senior government can consider whether to intervene directly to get the local authority back on its feet. However, the power of higher levels of government to intervene should not necessarily be tied to the prior provision of the necessary support. In emergencies, intervention is warranted even when the senior government has not rendered some form of support.

Guiding principles for intervention measures

Intervention is the most intrusive form of supervision. It involves a senior authority acting or taking decisions on behalf of a local authority. It thus ought to be exercised under very limited and clearly stipulated conditions, and must also be subject to oversight. Intervention measures must be temporary and corrective in nature, so that the local authority resumes its duties as soon as possible.

There are several forms of intervention but the common forms, in order of their encroachment on local autonomy, are:

- a) the power to issue directives to a local authority,
- b) the assumption of a local responsibility, and
- c) the power to suspend and/or dismiss an elected council.



In many countries, interventions take the form of **directives** that are issued to a local authority, and which detail the problem and the expected action(s) to address it. When the relevant entity fails to comply with these directives and/or continues to fail to deliver a function, the senior government is often empowered **to assume performance of the relevant local obligation or function**. For instance, if the local authority is failing to supply potable water, a senior government may assume the delivery of water until such time that the local government is in a position to carry out this function. There should then be control mechanisms in place to prevent the senior government from overstepping or abusing this power. For example, in Uganda the President may only assume executive and legislative power of a district council after securing the approval of two-thirds of Parliament. Such oversight mechanisms are necessary to put a check on the possible abuse of intervention power.



In many countries, the law makes provision for a senior government to **suspend and/or dismiss an elected council** under certain circumstances. This form of intervention is the most intrusive as it enables a senior government to override the democratic will of the people. It speaks to the core of local democracy and, thus, should be exercised under very limited circumstances, in particular when the council itself is the cause of the problem. An administrator or commission is usually appointed to act in place of the council until a new one is elected. There are a number of mechanisms in place in different countries to ensure that local democracy is not unjustifiably limited.

In Zimbabwe, for instance, the grounds upon which councillors may be dismissed from office are stipulated in the Constitution and such dismissal can only be carried out by an independent body. In South Africa, the removal of a council must be approved by the second house of Parliament and the national Minister responsible for local government.



In a nutshell, supervision of local government is necessary. But such supervisory powers should be regulated and limited so that their (mis)use does not undermine local autonomy. This depends again on, among other things, an independent judiciary and respect for the rule of law to effectively protect the autonomy of local governments.

