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TOWARDS THE MILLENNIUM DEVELOPMENT GOALS

Decentralisation of water services in South Africa

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Introduction

THE SOUTH AFRICAN Constitution gives responsibility for water supply and sanitation to local government. This role is defined in the Water Services Act as:

- ***ensure access:*** this involves developing policies and systems that enable the sustainable provision of water services;
- ***planning:*** this involves prioritising and planning how services should be extended and how they should be managed;
- ***institutional arrangements for water services provision:*** this refers to making informed decisions in selecting water services providers; and
- ***regulation:*** this refers to passing and enforcing bylaws that govern the provision of water services.

Under this arrangement, local government is not obliged to physically provide services itself. Indeed, both the Water Services Act and the Local Government: Municipal Systems Act allow for a wide range of partnerships which local government can enter into with other parties to ensure that services are provided.

Despite the executive authority given to local government, national and provincial government is required to support, monitor and regulate local government in the execution of its duties. National government also provides the overall legislative and policy environment and promulgates regulations covering key aspects such as standards, tariffs and compulsory provisions for contracts.

Parastatal organisations or water boards have been set up to provide bulk water supply and sanitation services (and in some cases retail services), and are contracted by local government to do this. Some water boards are resource centres of technical and commercial expertise that can be used to assist local government. For example, Rand Water has a number of management contracts with municipalities to establish functional ring-fenced water supply and sanitation units.

The private sector has a role as water services providers, again contracted or appointed by local government. There are a number of concession-type contracts and management contracts operational between private sector operators and municipalities. The private sector, of course, also provides a range of other services relating to the design and construction of new schemes and service contracts for the operation and maintenance of service components such as water treatment works.

National policy encourages the use of community based organisations (CBOs) as providers to operate and maintain services in rural areas where provision by either public or private providers is often not feasible. This arrangement can be facilitated by the municipality, an NGO or a private sector concern. The model that is promoted by the Department of Water Affairs and Forestry (DWAF) is where a CBO is appointed by the municipality to manage a service (normally a water supply), but with support from either the municipality itself, an NGO or a private sector company to build its capacity, undertake maintenance that the community cannot do on its own and to monitor the accounts and administrative procedures.

The environment for the private sector and CBO management of schemes has certain difficulties and these are dealt with later in this paper. It is notable that both the water services act and the local government: Municipal Systems Act, effectively indicate that the public sector is the preferred supplier of services. Furthermore, an agreement between the Congress of South African Trade Unions (COSATU), the South African Municipal Workers Union (SAMWU) and the South African Local Government Association (SALGA) signed in December 1998 includes the principle that the public sector is the preferred option for service delivery (RSDN, 2000).

Observations against key markers of decentralisation

General

Devolution is when national government transfers authority for decision-making, finance and management to local government with clearly defined jurisdictions (both geographical and functional) over which local government can exercise that authority. Devolution also involves the concept of local government being primarily accountable to its constituents as opposed to national government and power and authority is shifted away from the centre. Studies of decentralisation of service delivery have revealed key factors that are crucial in determining the success of

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decentralisation. The South African context is compared below against some of these key markers.

Local government needs the authority to carry out its functions

In terms of legislation, local government in South Africa has great freedom to allocate spending as well as to decide on organisational structures and staffing. Local government, through its statutory Integrated Development Planning (IDP) process, identifies its priorities and decides on strategies to address these, in consultation with the communities it represents. This IDP process should be the basis for determining budgets and spending plans. In practice, however, lack of capacity in local government often means that the task of preparing IDPs is farmed out to consultants. As a consequence these documents are weak, have not been developed in a participatory manner, do not have political buy-in and consist just of a wish-list of infrastructure projects that are also not linked to municipal budgets and spending programmes (National Treasury, 2001). Furthermore, most transfers of funds from national to local government have strong conditionalities attached, and spending is closely monitored (with the notable exception of the equitable share) in order to ensure that national sector priorities such as universal access are addressed.

A good example of the control exercised by national government is the Community Water Supply and Sanitation (CWSS) programme administered by DWAF. When this programme commenced in 1994, due to the absence of local government, DWAF was directly implementing and operating water and sanitation projects in rural areas, many of which had been inherited from the former homeland administrations. Many of these are reported to have major sustainability problems (RSDN, 1998 and Financial Mail, 2000). A number of local governments are now refusing to take transfer of such projects on the basis that they are unsustainable and were carried out without input from themselves. Thus, DWAF has ursurped the functions of local government and it is now very difficult to transfer these functions, assets and staff to local government as these have been institutionalised within DWAF (based on Leon 2001 and interviews with DWAF and local government officials).

Local government needs capacity to fulfil its mandate

On one hand, literature on decentralisation presses home the point that national government must give local government flexibility to exercise its choices. On the other hand, however, it stresses the need for national government to ensure sound financial management of funds and to make sure that local government is held accountable (World Bank, 2002a). It is reported that in India, the Philippines and Uganda inadequate financial management and technical capacity of local government, inhibits national governments from "letting go".

Similar issues exist in South Africa. Reliable financial information on local government is very difficult to obtain mainly due to outdated budgetary systems and procedures and fragmented data that exists in most municipalities. This is partly due to lack of financial management and budgeting capacity as well as the transitions that have taken place over the last five years. The financial management systems of many local governments often do not allow for identifying costs and revenue streams from a particular service (for example, it is rarely possible to work out the cost of water services provision and revenue gained from it). This in turn means that it is not possible for municipalities to calculate, let alone charge, tariffs that reflect the actual costs incurred for providing such a service (National Treasury, 2001). Thus, national government departments, feel they have to keep a tight control over how funds are disbursed. This creates friction with local government, which feels that the funds actually belong to them, and therefore, object to the conditions laid down by national.

Local government needs adequate financial resources

Another major lesson from international experience is the need to allocate financial resources to local government to enable it to perform its functions. Inadequate funding of devolved functions results in an "unfunded mandate" where resources are lacking to perform a function. This inevitably results in the deterioration of the service. Brillantes and Cuachon, 2002). Experience from Uganda, India and Philippines as well as other countries suggests that for a variety of reasons national governments are not willing to provide adequate unconditional financial resources to local government Brillantes and Cuachon, 2002).

In terms of the distribution of resources, South Africa is a shared revenue model - national revenue is shared between the different spheres of government. However, national government decides on the allocation of the revenue between the spheres. This may account for why the unconditional allocation to cover recurrent costs of basic services to the poor to local government for the financial year 2001/2002 was only 1.3% of total national expenditure (National Treasury, 2001). This translates to R108 per household per annum (National Treasury, 2001). It has been estimated that the typical cost of providing a "basket of basic services" (water supply, sanitation, electricity and solid waste) ranges from R840 per household per month in rural areas to R1,080 in urban areas[1] (Palmer Development Group, 2002). Therefore, it can be seen that this allocation from the national fiscus should be increased eight to ten-fold if it is to adequately cover the purposes for which it is intended. In government's medium-term estimate, local government's share of national revenue will only increase to 3.3% by 2003/2004 (National Treasury, 2001).

The relationship between national and local government

As national government sets the legislative and policy

environment, decentralisation is unlikely to be successful unless there is genuine ownership and commitment from a national level (Saito, 2001). One of the greatest aspects of decentralisation in South Africa is the strong support it appears to have from national government. The legislative and policy environment, therefore, assigns significant powers and functions to local government. However, at an implementation level, national departments such as DWAF have for various reasons made slow progress in decentralising functions, assets and staff to local government. Thus, despite the generally favourable policy environment, there are problems in implementation.

Decentralisation needs time

The simplest, but perhaps most relevant lesson of international decentralisation processes to South Africa, is that wide-ranging institutional change requires time to effect properly. Of the cases examined by Crook and Sverrisson (2001), the case that demonstrated the best link between decentralisation and pro-poor outcomes was West Bengal, which has had a decentralised system for 20 years.

In South Africa, which has recently undergone enormous political and social, it is unrealistic to expect the system to already start delivering positive outcomes across the board. Institutional capacity building programmes aimed at local government must be cognisant of realistic timeframes for implementation.

Impediments to decentralisation in the policy environment

Sector roles and responsibilities require further clarifying

South Africa has now gone through a period of time that has allowed water services institutions to test out the limits of their institutional powers and responsibilities. Many lessons have been learnt from this experience and long-term sector institutional arrangements can be consolidated. Key issues that need urgent attention are:

- defining DWAF's future regulatory and oversight role;
- clarifying the overlaps in responsibility between national and provincial government as well as between district and local municipalities;
- deciding whether local government is the correct body to be responsible for both urban and rural water services or, whether greater economies of scale and efficiencies might be achieved through institutions with larger areas of jurisdiction (regional utilities for example);
- broadening the options for service delivery by removing constraints in legislation and policy that inhibit private sector participation and community management.

DWAF requires an institutional development strategy

DWAF has been innovative and bold in its institutional support to local government. However, these initiatives have not been supported by a coherent institutional development strategy. DWAF needs to bring together the approaches and tools that it is currently applying into a coherent strategy or guideline package to support its programmes. This package should set out DWAF's institutional development priorities (in terms of both geographical areas and types of institutions), its human and financial resource commitments, targets and indicators for measuring success and timeframes. This will give guidance to both DWAF officials and other institutional development practitioners in the sector.

Create an enabling environment for community management

The main issue with regards to CBOs as water services providers is that they are currently categorised in legislation along with the private sector. This means that according to the law, a CBO would have to undergo a competitive tendering process in order to be appointed. There are also a number of impediments in labour legislation (which has been developed with an urban context in mind) that would technically preclude employment of staff by CBOs. A further threat to CBOs is the position adopted by organised labour that all municipal services should be delivered by municipal staff (COSATU, 1998). This stance, alongside a suspicion of CBOs amongst local government officials and politicians, creates a difficult environment for CBOs.

Yet another challenge is the implementation of the free basic water policy, which effectively means that in poor rural areas, all water would be provided for free. Internationally, revenue collection is accepted as being the mechanism by which a community owns a scheme and holds the CBO accountable. Breaking this link between the service provider and the consumer has serious implications for ownership and accountability of community managed rural schemes. Despite this, there has been a number of extremely successful CBO managed schemes in South Africa. However, many of these pre-dated the legislation or were implemented by ignoring the prevailing legislative and policy environment. Thus, rural water supply in South Africa is very much at a crossroads, with international experience of demand-responsive community managed schemes not being adopted, and yet, without any other credible long-term alternative.

In order to address the poor enabling environment for community management of schemes, legislation needs to be reviewed to make it appropriate to a rural context, where the majority of the poor live. This can be achieved by making procurement processes flexible, and giving more discretion to individual municipalities to tailor the processes

[1] The costs in urban areas are higher because the "basic" level of service defined for water supply in urban areas is different for that in rural areas.

to their specific needs. Non-statutory guidelines can assist municipalities to do this. The possibility of exempting CBOs from strict adherence to national labour legislation should also be examined. In all likelihood these recommendations would be opposed by organised labour as a matter of principle; however, government needs to acknowledge that the CBO model is often the only way of achieving sustainable water services in remote rural areas.

Clarify the role of the Private sector

Through the requirements for the procurement of municipal services and certain regulatory provisions, which allow ministerial discretion on tariffs, legislation not only favours public sector provision, but does not promote private sector investment in water services. Government has to some extent tried to address these issues in policy, and the major public-private partnerships that exist in South Africa today have possibly been entered into on the basis of government policy that is expected to favour private sector investment. The Draft Water Services White Paper (DWAF, 2002) does acknowledge the need for private sector involvement, but fails to address the legislative impediments.

Given that government policy does see private sector investment and private sector management of services as an option, a policy process needs to be undertaken to identify those areas of legislation and policy that impede this involvement. This process should look at water sector and local government legislation as well as labour legislation. This policy process should make recommendations to amend legislation that will still maintain the public sector provision as the preferred option, but that does not discourage private sector involvement or saddle them with unacceptable risks.

Conclusion

It is clear that South Africa has made tangible progress towards decentralising service delivery in water supply and sanitation to local government level. However, there are a number of impediments at legislative, policy and programme levels that need to be resolved.

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