

GGLN Position on the Role and Functioning of Provincial Government in South Africa



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Introduction

The provincial government system in South Africa is a product of a political compromise made during the transition period. In subsequent years, the relevance and desirability of this sphere of government has been the focus of recurring debates within the African National Congress (ANC) and its Alliance partners. The recent invocation of Section 100 of the Constitution to intervene in a number of provinces has again moved this debate to the centre stage. However, the debate tends to be highly polarised, deeply ideological and lacking nuance, as provincial administrations tend to be painted with the same brush thereby failing to pinpoint specific problems and recognise positive practices.

The National Planning Commission's (NPC) *National Development Plan* (NDP) released in November 2011 and the ANC's 2012 *Legislature and Governance* policy discussion document released in March 2012 reflect quite divergent, and contradictory, perspectives on the future of provinces. The NDP calls for more focused attention on provinces as a prerequisite to strengthening intergovernmental relations. Its emphasis is on improving functioning (through a clearer vision and mandate and enhanced capacities for provincial government) with minimal changes to the overall structure of government. While the ANC's discussion document echoes that the problems with provincial government have less to do with structure and more with functioning, it concludes—without providing much in the way of analysis or motivation—with the recommendation to rationalise (merge) provinces.

The GGLN believes that any proposal about the future of provinces can only be meaningfully evaluated in terms of what this will mean for service delivery, social development and governance. As the GGLN has a particular interest in local governance and inclusive local development, our submission stems from a keen desire to strengthen and sustain participatory local democracy and developmental local government in South Africa. Thus, it is critical to carefully assess the relationship between existing and proposed models of provincial government to local government and local governance.

The GGLN proposes that the following principles are vital to inform further decisions about the role and functioning of provincial government:

1. Differentiation based on functioning and institutional capabilities
2. Decentralised and effective service delivery through the capable execution of powers and functions
3. Accountability, representation and participatory democracy
4. Pragmatism

1. Differentiation based on functioning and institutional capabilities

The GGLN recognises that the performance of provinces (and municipalities) is uneven; it has been good in some places and shocking in others. Lessons are yet to be shared on why some provinces have done better than others. Consideration needs to be given to our apartheid history: in terms of politics,

personnel and underlying development challenges, including the concentration of poverty, the provinces had very different starting points. Also, it is logical that provinces that are export-or-services-driven and include large metropolitan regions will fare better compared to provinces that are more oriented towards agriculture and lower-end manufacturing services. There is, therefore, a need to recognise the significant differences between apparently similar units and facilitate learning from best practices. On this basis, the GGLN advocates for a differentiated approach to governance in the country, one that is based on institutional capability and functioning of institutions rather than a 'one size fits all' approach. As such, the GGLN endorses the view expressed in the NDP.

The GGLN specifically supports a differentiated approach to assigning powers and functions to local government and as such welcomes the process underway to accredit metropolitan municipalities with enhanced built environment functions. This calls for the clarification of the relationship between provinces and metropolitan municipalities on the one hand, and between provinces and non-metropolitan municipalities on the other hand. The GGLN further believes that certain provincial functions should be devolved to municipalities where sufficient proof exists that municipalities are best placed and able to perform such functions.

The GGLN suggests that the pragmatic approach to differentiation may also have relevance for provincial government, and that factors such as functioning and institutional capability ought to be considered in considering the role and functions of provincial government.

2. Decentralised and effective service delivery through the capable execution of powers and functions

The GGLN believes that certain services require geographies of scale as well as decentralised institutional arrangements. For example, certain education, health and social development functions

cannot be effectively executed by municipalities, nor can these functions be centralised in national government. The GGLN therefore believes firmly that there is a need for an intermediary structure between national and local government, despite the current shortcomings of provinces.

The GGLN further believes that there is an urgent need to clarify the vision and mandate of provinces, which involves a review of the powers and functions of provincial government. The absence of that clear vision and mandate exacerbates current problems in the intergovernmental system and opens up provincial government to regional power play. Such a review therefore should not deal with provincial government in isolation of its relationship and interaction with national and local government. Instead, a comprehensive approach is called for, one that considers the intergovernmental system as a whole and determines what powers and functions are best performed by which sphere of government, within a differentiated approach to the governance system.

3. Accountability, representation and participatory democracy

As alluded to, provincial governments are important intermediary structures in the system of governance in South Africa, not only in administrative terms but also in political terms. Their legislative and executive functions are set out in Chapter 6 of the Constitution. As such, provincial government provides an important layer of political representation and therefore a vital organising tool for political parties. However, in its current form there are fundamental questions about the extent to which provincial government is accountable to local communities. The directionality of financial flows from National Treasury to provincial governments means that accountability is upwards at best, although the unconditionality of many of these grants significantly weakens this type of accountability as well. Outwards, or downwards, accountability by provincial government to citizens and local communities is negligible. The GGLN

believes that both upwards and outwards accountability needs to be strengthened and routinised. Amongst others, this warrants the introduction of a clear framework of supervision of provinces by national government.

The provincial electoral system based on proportional representation (PR) enforces horizontal accountability to the party leadership instead of—and at the expense of—downwards accountability to local communities and constituents.¹ In reality, provincial government is far (attitudinally and spatially) removed from local realities, the challenges of service delivery and social development. As anger about service delivery and governance problems is often directed at Councillors, provincial government generally lacks a sense of both urgency and ‘agency’. The GGLN proposes that a mixed electoral system, similar to the one used for municipal elections, be considered to enhance local representation in, and accountability of, provincial government.

The interface between citizens and provincial government also needs to be strengthened and bottom-up mechanisms of accountability need to be put in place. The involvement of citizens in the passing of provincial bills for example, has to be encouraged, replicated where possible and strengthened where necessary. Equally important is the impartial and effective implementation of mechanisms to facilitate community-based monitoring of provincial services and appropriate complaints and redress mechanisms.

It is worth noting that changes in administrative systems and procedures will only be effective if these are managed and implemented by public servants who are competent, thoroughly motivated and responsive to the needs of citizens. Thus, the inculcation of a public service ethos will go a long way in ensuring that provincial government is experienced in a positive way by citizens.

4. Pragmatism

There is undoubtedly merit to the charges that provincial government has frequently been unable to fulfil its role. Examples of weak leadership and capacity

deficits, maladministration, and concerns with procurement and financial systems abound. Despite the shortcomings of provincial sphere of government, the GGLN believes that major structural reforms to the system of governance are neither practical nor desirable. Structural reform takes inordinately long, leads to high levels of uncertainty, significant contestation and polarisation and, in this case, may ultimately not be successfully concluded (if one takes into account the likelihood of a constitutional court challenge). Thus, there is a pragmatic consideration that needs to be taken into account.

While provincial government may have been the result of a political compromise the reality is that, nearly twenty years on, provincial government has become an established geo-political and administrative institution in the country. Provincial boundaries have also consolidated and entrenched political and social identities, a reality that needs to be acknowledged in further discussions about the role and future of provinces.

Monitoring and Support

In the current governance model, provinces (and national government) have an important oversight and monitoring role over local government as stipulated in s.139 of the Constitution. However, the way in which both provincial and national government play this role leaves much to be desired. Provincial and national government only intervene in municipalities at a very late stage, either in a heavy-handed manner or too lightweight to endure resistance from regional vested interests. Furthermore, provincial intervention in municipal affairs is more often than not as a result of financial maladministration and seldom about the lack of service delivery provision to communities.

The GGLN argues that monitoring of and support for municipalities needs to be strengthened to ensure effective service provision to local communities. The GGLN therefore calls for the introduction of a codified system of monitoring and evaluation, which is

supportive rather than punitive in its design. This system has to include regulation, monitoring, early warning indicators, support, and intervention channels.

Conclusion

In this perspective, the GGLN has argued that any debate about the future role and functioning of provinces needs to be pragmatic, recognise difference and nuance, and be guided by the interests of local government and, ultimately, local communities. A number of suggestions and concrete proposals are mooted to enhance intergovernmental relations, public service provision, accountability, representative democracy and citizen engagement.

In sum, the GGLN calls for:

- The need for greater differentiation across the governance system, informed by functioning and institutional capabilities.
- A comprehensive approach to the intergovernmental system, within which a review of powers and functions of provinces (and local government) can take place.

- The retention of the intermediary sphere of government as certain functions in the state are best performed by provincial government (due to their nature and geographies of scale).
- Stronger upwards and downwards systems of routine accountability across government, and especially in provincial government.
- A review of the electoral system for provincial government to enhance local representation and accountability.
- A codified system of monitoring and support in provincial and national government to observe and address municipal failings early on.

The GGLN's perspective echoes many of the observations and proposals made in the NDP. The GGLN further foresees that the Department of Cooperative Government and Traditional Affairs (COGTA) has a vital role to play in providing leadership and guidance on these matters. As an interested stakeholder, the GGLN is committed to further constructive engagement with COGTA and other stakeholders on the role and functioning of provincial and local government.

Notes

- ¹ The GGLN's 2011 State of Local Governance publication highlights the lack of accountability to constituencies and local communities as a contributing factor to service delivery protests in the country.

FOR MORE INFORMATION:



The Good Governance Learning Network (GGLN) is a national network of civil society organisations with an interest in advancing participatory local governance in South Africa.

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Isandla Institute's "The Politics of Local Governance" project aims to deepen and enhance current perspectives and debates on local governance in South Africa.

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