

# UCLG COUNTRY PROFILES

## Republic of South Africa



**Capital:** Pretoria (*executive*)  
Bloemfontein (*judicial*)  
Cape Town (*legislative*)

**Inhabitants:** 43.700.000 (2008)

**Area:** 1.221.037 km<sup>2</sup>



The Republic of South Africa is situated in Southern Africa with Namibia, Botswana, Zimbabwe, and Mozambique as its neighbouring countries. The country is rich in natural resources of gold, platinum, diamonds and coal. There are over 44,8 million people living in the country, and 58% of this population currently resides in the urban areas. To assess the impact of decentralisation policies on local democracy, citizenship, development and poverty reduction in South Africa, we need

to contextualise decentralisation prior 1994, during the apartheid era to understand what the complex spatial, social and economic problems the democratic government had inherited. The table below is showing others general indication.

Since 1994 the government has been on a vigorous transformation process to address the imbalances of the apartheid era. The transformation process was broadly outlined in the Reconstruction and Development Programme (RDP). The RDP was underpinned by the vision of "A better life for all". The RDP contained interrelated objectives of meeting people's basic needs, building the economy, democratizing the state and society, developing human resources, and building the nation.

Table 1: General Indicators

Human Development	Human Development Index	0.666	
	Total GDP (millions \$US)	501 667	
	GDP/per capita (units of \$ US)	10 603	
	Annual Growth	3.7	
	Life Expectancy	49.0	
	Literacy (%)	Men	84.1
		Women	80.9
Decentralization	Access Internet/1000 ctzn)	68.20	
	Communalized Population	100%	
	Average Communal area		
	Urban Population	56,9	



The RDP set out the social development targets for the country and laid the context for a people-centred approach to development including the establishment of a developmental local government system. The White Paper on Local Government outlines the characteristics and outcomes of developmental local government system, which provides the legislative framework for local government.

## 2. Territorial structure

The first five years of democracy was essentially marked by the adoption by the new Constitution, the establishment of the three spheres of government and the legislative framework towards changing the apartheid state and society.

Based on the constitution South Africa is a unitary state subdivided into nine provinces. The Constitution makes provision for three distinctive but inter-dependent and inter-related spheres of government; namely: national, provincial and local government. While each sphere has exclusive powers and functions, they also share concurrent powers.

The head of state is the President who is elected by the National Assembly for a period of five years. The president appoints a cabinet drawn from the ruling party or

other parties using his or her own discretion. There is a bicameral national legislature consisting of the 400-seat National Assembly and the 90-seat National Council of Provinces, which is elected by each of the nine provincial legislatures.

Each Province has a unicameral legislature with representatives elected according to proportional representation for a term of five years. Provincial Premiers are elected by the legislature and Provincial Ministers (MECs) are appointed by the Premier.

The Local Government Transition Act (LGTA) of 1993, sketched out the process of change for a new local government. The three phases of transition included the:

- Pre-interim phase which made provision for the establishment of local forums to negotiate the appointment of temporary councils, which would govern until the municipal elections
- Interim phase which would begin the municipal elections and lasting until the new local government system has been designed and legislated upon
- Final phase, which would be the establishment of a new local government system

Table 2: Administrative and territorial organisation

Territorial Division		Local Govt	Constituency	Delib. Organ	Executive Organ
Name	No.				
Provinces	9	Yes	No	Provincial Assembly	Provincial Premeir
Metropolitan Municipality (Cat. A)	6	Yes	No	Metropolitan Council	Mayor
Local Municipality (Cat. B)	231	Yes	No	Municipal Council	Mayor
District Municipality (Cat. C)	47	Yes	No	District Council	Mayor



Since 1994, the local government system has reformed through the abolition of racially demarcated local authorities, the first democratic local elections held in 1995 and the publication of the White Paper on Local Government in 1998. A new demarcation of local government boundaries reduced the number of local authorities from 843 to 284 in December 2000, also substantially reducing the number of elected members.

### 3. Institutions

Local government in pre 1994 had been fragmented, based on racially determined, apartheid "group areas". There were virtually no formal structures of local government in rural areas. Whites (except those in rural areas) elected fully democratic councils to govern themselves. From 1983, Coloured and Indian citizens were able to vote for local councils with limited powers under the Tricameral parliamentary structures. Africans living in Black townships were legally able to vote for councilors to the "Black Local Authorities". Local government in the "Black Local Authorities" and the local Tricameral structures in Coloured and Indian communities were constantly challenged. Rent and service boycotts, election stay-away and physical intimidation of councilors left these governments barren of leaders, bankrupt and illegitimate. For Africans in the independent homelands or "self-governing territories", local government was even in greater disarray, with some urban areas having nominal local councils, and most rural areas being governed by a mixture of traditional leaders, regional service councils or development corporations.

The 1995 Community Elections were widely seen to be the closing chapter in South Africa's transition to democracy. These elections provided citizens with a direct

and equal voice in government at the most basic level. They were also seen as the vehicle, which would restore to local government the legitimacy necessary to begin the process of reconstruction and development.

The electoral process for local government elections in South Africa is a combination of proportional representation (PR) party list electoral system and simple majority constituency based electoral system. In a PR party list system, political parties present a list of candidates that will be contesting the elections representing their political parties, thus the electorate vote for political parties directly. The list system affords a higher representation of women in local democracy.

In contrast to the constituency based electoral model, individual candidates contest the elections and are directly voted for by the electorate. There has been an increase in independent candidates in this local election due to internal factions amongst political parties. A higher expectation is demanded of independent candidates to deliver on their promises to the governed or else they would not be re-elected in the next elections. Although this electoral process owes allegiance to the electorate, it limits the participation of women. Also in counting of votes a simple majority is required, which is open for discrepancies especially if electoral officials are unable to understand how the electoral system works. To avoid contentious legal battles the PR list system is preferred.

The Local Government Elections in 2000 took place after the demarcation of new boundaries that included the subsequent reduction in the number of municipalities. Since 2000 councils are to be elected every 5 years. There are basically two types of elections: one for metro councils and one for local councils.



In a metropolitan municipality each voter will vote once for a political party on a proportional representation ballot. The parties will then be given seats according to the percentage of votes that they received in the metropolitan area as a whole. Each party has a list of candidates and the councilors are drawn from this list. Each voter will also receive a ballot for their ward with the names of the ward candidates. The person receiving most votes in a ward will win that seat. Ward candidates may stand as representatives of parties or as independents.

In a local municipality each voter will vote once for a political party on a proportional representation ballot. The parties will then be given seats according to the percentage of votes that they received in the area as a whole. Each voter will also receive a ballot for their ward with the names of the ward candidates. The person receiving most votes in a ward will win that seat. Ward candidates may stand as representatives of parties or as independents.

Every voter in a local municipality will also vote for the district council that their local area is part of. The district municipality ballot will have party names on it and the seats will be allocated according to the percentage of votes parties gained in the whole district municipal area. Not all councilors serving on a district council are directly elected. Only 40% of the seats will be given to parties on the basis of the votes they get on the PR ballot. The remaining 60% of seats on the district council will be allocated to the local councils in that area. Each local council will be given a number of seats and must send councilors from their ranks to fill those seats. The seats should be filled according to the support that parties have in a specific council

The Independent Electoral Commission (IEC) who is responsible for administering

the elections in South Africa ensures that the elections and election processes are free, fair and transparent. In this regard the IEC certifies the parties' candidates' list and would prepare the necessary ballots forms for the countrywide elections.

Political parties are also required to sign the Electoral Code of Conduct with the IEC. This commits political parties and their candidates to good conduct during the municipal elections. The code of conduct is aimed at promoting conditions that are conducive to free and fair elections, including tolerance of democratic political activity, free political campaigning and open public debate. The code further guides the contestants' behaviour as competition mounts while it also explicitly states the consequences and sanctions should parties or individuals breach this code. It lists all prohibited conduct so that all parties are aware of the dos and the don'ts. It also offers protection to contestants, voters and all role players in an election.

Each sphere of government is made up of three parts:

- The elected members represent the public and approve policies and laws
- The cabinet or executive committee co-ordinates the making of policies and laws and oversee implementation by the government departments,
- The departments and civil servants – who are responsible for doing the work of government

They are working with recruit agents. About them, Both Presidential and provincial Imbizos (community meetings) revealed deficiencies in service delivery to communities and therefore a need was identified to examine where the state currently stands regarding delivery of services to the poor and how service delivery can be improved.



Whilst many government departments have community development initiatives, the majority of people who fall in the poorer segment of the population are still unable to access the full potential of government programmes. Among the reasons for this gap between service provision and effective utilisation by the intended recipients are access to information about services and access to the services themselves.

The programme thus envisaged to deploy CDWs to maintain direct contact with the people where they live and to ensure that government sharply improves the qualities of the outcomes of public expenditure and the delivery of essential services.

#### 4. The relations between central government and local government

Assignments require the transfer of the entire authority role and are permanent and cannot be revoked. Delegation means the temporary transfer of the provider role from national or provincial government to local government

Research conducted by the Gauteng Department of Local Government in 2003, on powers and functions noted a number of problems. These include amongst others:

- General lack of capacity in terms of finance, skills and staff, in municipalities to carry out the function;
- Because of lack of capacity, municipalities performed authorised functions mainly in "urban" areas and not "rural" areas, which has serious implications for the objectives of developmental local government
- Serious gaps in the definition of constitutional functions
- Duplication, fragmentation and lack of co-ordination

Not much has changed since this report was released and Sections 8, 9, 11 and 12 of the draft guidelines (No. 27518) April 2005, attempts to address the problems. Section 8 specifically addresses the issue that functional definitions should be 'comprehensive and unambiguous'

The South African Local Government Association (SALGA) is an organization mandated by the Constitution to assist in the transformation of local government in South Africa from the pre-1994 regime to the new dispensation under the country's first democratically elected government.

The Constitution envisages an important role for organized local government in the new South Africa, with a unique focus on developmental service delivery. As such, SALGA plays a core role in a variety of areas related to local government transformation and as a national representative of the local government sector and its employees.

In line with its constitutionally defined mandate, SALGA set out its role as follows:

- Represent, promote and protect the interests of local government.
- Transform local government to enable it to fulfill its developmental role.
- Enhance the role of provincial local government associations as provincial representatives and consultative bodies on local government.
- Raise the profile of local government.
- Be recognized by national and provincial governments to be the national representative of local government and consultative body in respect of all matters concerning local government.
- Ensure full participation of women in local government.
- Act as the National Employers' Organization for the municipal and provincial member employers.



- Regulate the relationship between the members and the employers within the meaning of section 213 of the Labour Relations Act, No. 66 of 1995.
- Provide legal assistance to its member in its discretion in connection with matters, which affect employee relations.

## 5. Local finances

There are considerable variances across municipalities to provide services. The total municipal budget has nearly doubled since 1996-97 to 2003-04. The larger metropolitan municipalities makes up 58,8% of the combined budgets of municipalities (Trends in Intergovernmental Finances: 2000/01 – 2006/07). The situation in the Categories B and C municipalities varies substantially depending on the number of households the municipality must provide services to.

“Of all government expenditure (national, provincial and local), municipalities were responsible for 23%” (Nico Steytler: Local government in South Africa: Entrenching decentralized government). The local government operating and capital budget increased by 15,3% in 2003-04 over the previous year. The six metropolitan budgets combined for 2003-04 totaled R50.5 billion which represents 58,8% of all municipal budgets. The large metro budgets are equal to or larger than the smaller provincial budgets. The combined budgets of Johannesburg, Ekurhuleni and Tshwane metropolitan municipalities are equal to that of the Gauteng province. The four main sources of revenue for municipalities are user charges, property rates, Regional Services Council (RSC) levies and intergovernmental grants.

User charges for providing services such as water, electricity, sanitation and refuse

removal made up 31% of local government revenue in 2003-04. Property rates are levied in metropolitan and local municipalities. The new Municipal Property Rating Act aims to assist municipalities to broaden their rates base, to include previously excluded property. The Act also aims to provide uniform national rules regarding valuations and appeals, rating policy and rate setting. RSC levies make up 7% of the total revenue for 2003-04 and is an important source of revenue for metropolitan and district municipalities.

Another source of revenue is national transfer. There are three streams of national transfers, namely; equitable share, infrastructure and current transfers. Municipalities equitable share which is based on a formula may not be affected if they raise additional revenue, or fail to exploit their fiscal capacity or tax base.

The creation of the Municipal Infrastructure Grant (MIG) assisted with the delivery of infrastructure to poor communities. MIG makes it possible to systematically eliminate the backlogs in basic infrastructure over a 10-year period, which started in 2004.

Municipalities are also exploring different ways to raise finance for infrastructure such as borrowing, in the form of loans and bonds, and public-private partnerships (PPPs). The Municipal Finance Management Act, which is discussed in detail below, provides the framework for municipalities to explore these various alternative options to raise finance. For example, the amended Municipal Systems Act and provisions of the MFMA that deals with PPPs provide the legal framework. The MFMA prescribes that PPPs must provide value for money, and present an appropriate allocation of risks between the contracting parties. The Act however, requires that a PPP regulatory framework be developed by National Treasury.



## 6. Local Proficiencies

Municipalities have administrative and legislative power with regard to functional areas outlined in Schedules 4B and 5B of the Constitution. Both national and provincial spheres may intrude on these areas, but in a regulatory fashion as outlined in the guidelines (Notice 636 of 2005) published on 22 April 2005.

Local government also has fiscal powers which are entrenched in chapter 13 of the Constitution. Unlike provinces that require enabling national legislation to impose taxes, according to Section 229 (1), municipalities have the power to impose rates on property and surcharges on user fees for services provided. Finally, within the system of cooperative government, local government has a non-voting right to participate in the National Council of Provinces.

To achieve the objectives of local government as outlined in the constitution, various pieces of legislation which have been enacted. These include, the Municipal Structures Act (1998), the Municipal Demarcations Act (1998), the Municipal Systems Act (2000), the Municipal Finance Management Act (2003) (MFMA) and the Municipal Property Rating Act (2004).

Governance and administration refers to how the local council organises itself internally and externally in relation to constituents and service providers. Furthermore, this driver alludes to the powers that the municipality uses to manage its functions, which include decision-making and legislation through by-laws. Good governance is built upon an effective interface between councilors and officials, strong links between financial and technical divisions, and an appropriate organisational structure.

In the South African context the Constitution defines the functions of local government and its relationship to other spheres of government i.e. provincial and national. It caters for a dynamic relationship and entrenches the allocation of a function to the sphere closest to the consumers. Schedules 4 and 5 of the Constitution relate to the specific functions and how they are allocated to a sphere or shared between spheres. Local government is responsible for all the functions listed in Part B of these schedules.

In addition to the three spheres of government recognised in the Constitution, there is provision for the existence of three categories of local government, namely metropolitan municipalities, local municipalities and district municipalities, which share responsibilities with several local municipalities within their jurisdiction. The two-tier system of local and district municipalities was promulgated to take advantage of economies of scale, to avoid duplication and to improve coordination between local municipalities.

The three different types of municipalities in South Africa are:

### *Metropolitan municipalities (Category A):*

Metropolitan municipalities exist in the six biggest cities in South Africa. They have more than 500 000 voters and the metropolitan municipality co-ordinates the delivery of services to the whole area. There are metropolitan municipalities in Johannesburg, Cape Town, Durban, Pretoria, Port Elizabeth and the East Rand. These municipalities are broken into wards. Half the councilors are elected through a proportional representation ballot, where voters vote for a party. The other half are elected as ward councilors by the residents in each ward.





#### *Local municipalities (Category B):*

Areas that fall outside of the six metropolitan municipal areas are divided into local municipalities. There are a total of 231 of these local municipalities and each municipality is broken into wards. The residents in each ward are represented by a ward councilor. (Only people who live in low population areas, like game parks, do not fall under local municipalities. The areas are called District Management Areas and fall directly under the District Municipality.)

Half the councilors are elected through a proportional representation ballot, where voters vote for a party. The other half are elected as ward councilors by the residents in each ward.

#### *District municipalities (Category C):*

District municipalities are made up of a number of local municipalities that fall in one district. There are usually between 4 - 6 local municipalities that come together in a district council. Some district municipalities also include nature reserves and the areas where few people live - these are called district management areas. They fall directly under the district council and have no local council. The district municipality has to co-ordinate development and delivery in the whole district. It has its own administration (staff).

The district council is made up of two types of councillors. Also, the Constitution details what the powers and functions local government are. These powers and functions are stipulated in section 156 of Chapter 7 of the Constitution and reads as follows:

#### *Powers and functions of municipalities*

- 156. (1) A municipality has executive authority in respect of, and has the right to administer
  - the local government matters listed in Part B of Schedule 4 and Part B of Schedule 5; and
  - any other matter assigned to it by national or provincial legislation.
- (2) A municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer.
- (3) Subject to section 151(4), a by-law that conflicts with national or provincial legislation is invalid. If there is a conflict between a by-law and national or provincial legislation that is inoperative because of a conflict referred to in section 149, the by-law must be regarded as valid for as long as that legislation is inoperative.
- (4) The national government and provincial governments must assign to a municipality, by agreement and subject to any conditions, the administration of a matter listed in Part A of Schedule 4 or Part A of Schedule 5 which necessarily relates to local government, if that matter would most effectively be administered locally; and the municipality has the capacity to administer it.
- (5) A municipality has the right to exercise any power concerning a matter reasonably necessary for, or incidental to, the effective performance of its functions

It is paramount that in order to understand local government powers and functions one must read section 156 in tandem with Section 152 which sets the objects of local government, that is, the goal of developmental local government that every municipality must strive to achieve. The definition of any power or function must thus be conceived and interpreted with these broad objects in mind. Apart from the object of democratic and accountable





government, that is, how a municipality must function in relation to its constituency, the following objects define the goals or purposes towards which powers in respect of the functional areas should be exercised:

The powers must be defined to ensure the provision of services to communities in a sustainable manner, that is, to provide those services that give members of the communities a dignified life from birth to death. The Municipal Systems Act 32 of 2000 captures the concept of "basic municipal services" as follows: "a municipal service that is necessary to ensure an acceptable and reasonable quality of life, and if not provided, would endanger public health or safety or the environment."

- They must be defined to promote social development which can be interpreted as the improvement of the non-material well-being of communities through culture, sport, recreation and the promotion of social solidarity as well as the quiet enjoyment of life.
- They must be defined to promote economic development, by seeking to improve the material well-being of its communities.
- They must be defined to promote a safe environment, by protecting the physical integrity and lives of residents.
- They must be defined to promote a healthy environment, by protecting and promoting the health and well-being of residents

Although these objects are broad and all-encompassing, they nevertheless give guidance on how both the subject matter as well as the activities relating to those subject matters should be defined. For example, the object of promoting a safe and healthy environment gives meaning to the type of activities that should be brought to bear on, child care facilities, for

example. The objects are not mutually exclusive; hence a particular power or function could be exercised with more than one object in mind.

However, it is quite apparent that with increasing decentralisation of government functions through assignments and delegations, the responsibilities of local government are becoming more and more complex. The major concern with regard to the Constitution is the lack of clear definitions of local government functions. Further concerns stem from the inconsistency of allocations of functions, which results in insufficient attention being paid to capacity and financing.

## 7. Conclusion

As pointed out above local government is entrenched in the 1996 Constitution as a sphere alongside national and provincial government. Local government also has taxing powers of property rates and user charges. As an important partner in the government of the country, local government is included in all significant intergovernmental relations forums. Salga represents local government interest through its membership of a number of key formal intergovernmental forums such as the NCOP, Financial and Fiscal Commission and Budget Forum.

However, it should be noted that even though local government has become an essential element of the South African system of decentralization, this sphere of government still faces considerable challenges. As pointed out above there are vast disparities in relation to skills and capacity in the municipalities. This has resulted in a number of municipalities not being able to deliver services to the people. Therefore major task for municipalities is to convince the public that



they are able to provide effective and efficient services. Municipalities, together with the assistance of national and provincial government, must begin to implement the capacity building programmes much more vigorously.

Linked to the issue of lack of skills and capacity is the question of the present equal system of functions and powers. The metros and bigger urban local municipalities cannot be compared with the rural smaller municipalities. Arguments are thus surfacing for asymmetrical systems where competencies match capacities.

Even though municipalities have fiscal powers which are entrenched in the Constitution, there are considerable challenges ahead in ensuring sound financial management. The implementation of the MFMA and Property Rates Act will assist municipalities to develop sound financial governance and ensure accountability, a culture of transparency and foster greater levels of co-operation across and within the three spheres of government.

Finally, the development of strong municipalities led by metros is questioning the role and place of province. Debates about the role and whether there is a need for provincial government has already surfaced in the political arena a while ago. However, "how the long-term future about South Africa's system of decentralization will evolve, will depend on how municipalities give effect to their constitutional mandate" (Nico Steytler: Local government in South Africa: Entrenching decentralized government). decide to take back such functions and responsibilities to central government. He can abolish an elected local government authority and appoint a Commission to take over its functions.

**Jossy Materu**