

Decentralization and the Delivery of Water and Sanitation Services in South Africa

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Draft 2, 5 June 2017

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Acronyms

ANC	African National Congress
COGTA	Department of Cooperative Governance and Traditional Affairs
DM	District municipality
GVA	Gross value added
LM	Local municipality
O&M	Operations and maintenance
R	South African Rand
SDU	Service delivery unit
StatsSA	Statistics South Africa
W&S	Water and Sanitation
WASA	Water and Sanitation Authority

1 Introduction

1.1 Study Rationale

As part of the political settlement in the transition to democracy, South Africa introduced a three-tier devolved system of government in 1996. The system was embedded in the Constitution, and the responsibility for the provision of water and sanitation services was assigned to local government, the third tier of government. The Constitution also included a Bill of Rights requiring the government (national, provincial and local) to progressively realize the right to water and adequate sanitation for all citizens within its available means.

How well has the decentralized provision of water and sanitation served ordinary South Africans, particularly the poor? What are the binding constraints to improving and sustaining reliable water and sanitation services in South Africa in the context of decentralized provision?

This case study on South Africa is part of an international comparative study on the decentralized provision of water and sanitation services, each using a common methodology set out in section 1.3 below.¹

1.2 Overview of Water and Sanitation Provision in South Africa

Improvements in access to water and sanitation have been impressive. Over 7 million households were provided with a house or yard connection from 1996 to 2016. This means that services now reach 74 percent of all households (by 2016, up from 56 percent in 1996). The percentage of households *without* a piped supply declined from 20 to 10 percent over the same period.² Improvements were experienced in both urban and rural areas. However, service levels are much higher in urban areas for both water and sanitation (Table 1.1). Notwithstanding this good progress, access to piped water has been more or less static in percentage terms since 2010 (Figure 1).

	Urban		Rural	
	1990	2015	1990	2015
Improved water (%)	98	100	66	81
Piped on premises (%)	86	92	24	38
Improved sanitation (%)	64	70	38	61

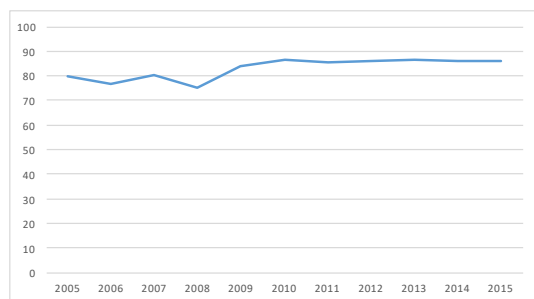
Source: *Joint Monitoring Program: 2015 Update*.

¹ See World Bank. 2017. "Decentralized delivery of water and sanitation services: An Overview of Selected Country Experiences". Washington, DC: The World Bank.

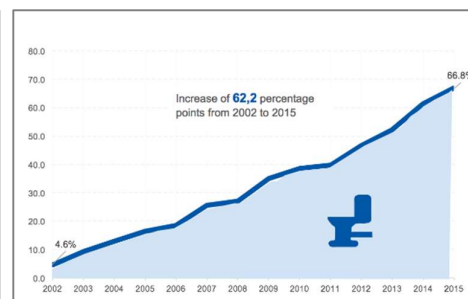
² StatSA (1996, 2016).

Figure 1: Access to Piped Water 2005-2015 (left), and Improved Sanitation 2002-2015 (right)

Access to Piped Water, 2005-2015



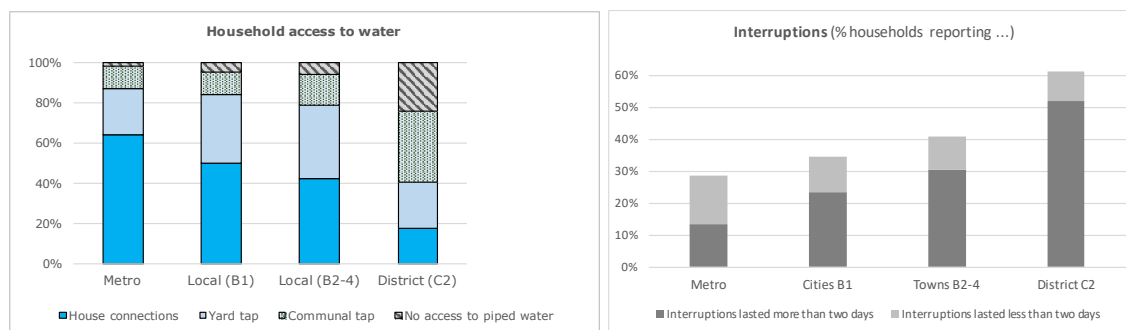
Improved Sanitation, 2002-2015



Source: StatsSA (2015)

Access to, and reliability of, water varies according to the size of the settlement (Figure 2). Metros are the largest urban settlements, followed by secondary cities (B1 municipalities), large and small towns (B2-4 municipalities) and then rural districts (C2 districts).³

Figure 2: Access to Water, and Reliability, by Urban Settlement Type



Source: StatsSA (2015)

Although access to water and sanitation infrastructure has seen major improvements over the last 25 years, challenges with respect to the reliability of this infrastructure are increasing, particularly in rural areas.

1.3 Methodology

The methodology for assessing the decentralized delivery of water and sanitation services in a country hypothesizes that the *nature and quality of decentralized institutional arrangements* has an important impact on service delivery performance. This report seeks to examine decentralization arrangements in a systematic way, using a structured narrative form. It is guided by a series of leading questions for different dimensions of decentralized governance and service delivery to assist in inter-country comparison and inference.

The working hypothesis is that institutional weaknesses have a negative impact on sector outcomes, and that resolving these institutional weaknesses will strengthen the enabling environment and result in better sector performance.

Specifically, this study seeks answers to the following questions:

³ Local government categorization and terminology is explained in Section 2.3.

- What is the role of decentralization in the local delivery of water and sanitation (W&S) services?
- What are the special characteristics of the W&S sector that make decentralization a more or less feasible policy option for improving service delivery?
- What is the role of subnational governments vis-à-vis water utility companies in a decentralized system of W&S service delivery?
- What are the institutional (that is, organizational and political) arrangements necessary for the effective decentralization of W&S services?
- What are the fiscal and financial arrangements necessary for the effective decentralization of W&S services?
- What are the enabling policies that national governments should put into place to facilitate the decentralization of W&S services?
- How can the contradictory demands for local accountability be matched with the need for high levels of technical expertise and financing required for W&S services?
- What are the potential risks in the decentralization of W&S services and how can they be mitigated?

In answering these questions, this study is interested in identifying the binding constraints that impede or prevent improvements in access and sustained reliable provision of both water and sanitation services, particularly as these relate to the institutional arrangements in general, and devolution/decentralization in particular. The same structure and approach have been used across all of the international case studies.

2 Overview of the Public Sector Structure

2.1 Country Background Information

The Republic of South Africa has a population of 56 million (2016), of which about 65 percent live in urban areas.⁴ Twenty-three million people (41 percent) live in the six major cities. Per capita gross national income was US\$ 12,880 in 2015 (purchasing power parity). South Africa has an area of 1.2 million square kilometers and its overall population density is low, at 45 people per square kilometer (2015), but unevenly distributed.⁵ The dry western half of the country is very sparsely populated and population density in the rural areas is highest in the north and east. South Africa is a water scarce country, with less than 1000 kiloliters (kl) of fresh water resources per person per annum.⁶

South Africa is a constitutional democracy, with three tiers of elected government – national, provincial and local. The government is set up to operate in a quasi-federal manner (Murray, 2004). Functions are assigned across the tiers of government by the Constitution. The tiers of government enjoy constitutional protection, a guaranteed share of national revenue and have rights to raise revenues. However, the national government has significant powers to regulate the affairs of provincial and local government, including ‘step-in’ rights to take over the administration of functions under circumstances defined in legislation.

South Africa’s administrative tradition is largely British, but with American influence. Appointments to senior administrative posts (at all three tiers of government) are made using term-limited contracts, and typically change when there is a change in the political head. South Africa’s legal tradition is mixed and has been influenced by a civilian law tradition (Roman-Dutch), as well as common law (introduced during the British colonial period).

Local government reforms were implemented after the adoption of the new Constitution in 1996. Local government with contiguous borders was established in 2000 following a suite of local government legislation enacted between 1998 and 2000 (Local Government Structures Act of 1998 and Municipal Systems Act of 2000). The Municipal Financial Management Act, which followed in 2003, together with its attendant regulations, has detailed prescriptions related to how finances are managed at the local level, including detailed controls on procurement processes.

There are eight metropolitan governments in South Africa’s large cities (with over 40 percent of South Africa’s population). In the rest of South Africa, a two-tier local government system exists, comprising district and local governments. There are 226 local municipalities and 44 district municipalities.⁷ There is an allocation of functions between the district and local governments. This is undertaken through a political-administrative process by the national government. For example, the responsibility for water services provision resides either at the district or at the local government level. While all districts have planning and coordination functions, only 21 of the 44 districts are responsible for the provision of water supply and sanitation services.

Local governments receive a constitutionally guaranteed share of the national revenue, called the equitable share. This is an unconditional transfer of national funds. In addition, the national

⁴ StatsSA (2016). South Africa does not have a formal definition of urban areas.

⁵ World Bank data, <http://data.worldbank.org> (accessed 30 November 2016).

⁶ www.environment.gov.za/sites/default/files/docs/water.pdf (accessed 30 November 2016).

⁷ <http://www.gov.za/about-government/government-system/local-government> (accessed 30 November 2016).

government provides conditional grants to local governments, mainly for capital investment purposes.

2.2 Public Sector Structure

The basic structure of the public sector in South Africa is set out in Table 2.1.

	Tier	Number of jurisdictions	Total population (million)	Average population (thousand)	Share of the National government budget (%)²
	National government	1	56		49
1.	Provincial government	9	56	6,200	42
2.	Local government, <i>comprised of</i>	278	56	200	9
2M	<i>Metropolitan government</i>	8	22.4	2,800	
2D ¹	<i>District government</i>	44	33.6	760	
2L ¹	<i>Local government</i>	226	35.6	150	

Source: Prepared by Author based on census and published financial data.

Notes: ¹ District (2D) and local government (2L) overlap each other geographically.

² Excludes own revenues at the provincial and local levels.

The three tiers of government (national, provincial and local) are constitutionally defined and protected. The forms of local government (metropolitan, district and local) are defined in the country's legislation.

Provincial government

There are nine provincial governments, each with their own legislature. Provinces are assigned functions in the Constitution. The most significant functions are the provision of health and education services, and these constitute the major share of the provincial budgets (72 percent in 2016).⁸ Provinces obtain most of their funds from the national government in the form of unconditional and conditional grants (95 percent in 2016). The former is the constitutionally guaranteed equitable share of national revenues. The provinces play a very limited direct role in the provision of water services. However, they have a joint responsibility, together with the national government, to monitor local government performance. Together with national government, they also have administrative step-in rights in certain circumstances and through processes clearly defined in legislation.

Local government

Local governments are responsible for the provision of local services such as roads, solid waste collection, water supply, sanitation, electricity distribution, libraries, community centers, and so on. Local governments raise local revenues from property taxes and service charges, accounting for 70 percent of their total revenues. They also receive unconditional and conditional grants from the national government (operational and capital grants), which accounted for 30 percent of their total aggregate revenues in 2016. They also have the power to borrow. All local government functions are constrained by national legislation pertaining to minimum norms and standards, as well as what local governments are allowed and not allowed to do. These are clearly set out in legislation that must conform to the Constitution (the supreme law).

⁸ National Treasury Provincial Budgets 2015/16. www.treasury.gov.za (Accessed November 2016)

The largest metropolitan governments serve a population of several million each and have thousands of employees. The smallest local governments have a population of just a few thousand and a staff of less than one hundred. (See Section 2.3.)

Differences between urban and rural organizational structures

South Africa does not have a formal definition of rural structures, and the structure of local government is the same across urban and rural areas outside of the metropolitan areas (comprising both the district and local municipalities, as described above and in more detail in Section 2.3 below).⁹ Nevertheless, there are politically, socially and geographically determined differences in both the capability and scope of district and local governments arising from South Africa's particular political history. Prior to 1994, the Apartheid government had created nominally self-governing areas in the traditional rural areas (see Traditional Authorities below). Government capacity at a local level in these areas was very weak because services, where provided, were typically administered by a regional administrative entity. Consequently, in the post-1994 political dispensation, capacity has been built at the district municipality level (rather than the local municipality level) to provide water and sanitation services in many of these areas. Districts that have been assigned water services provision responsibilities are called C2 districts, and are differentiated from those districts without this responsibility (C1 districts). C2 districts are located in the traditional rural areas.

Traditional authorities

Traditional authorities exist alongside the formal democratic structures in their respective areas of jurisdiction. The role of traditional authorities in South Africa is contested.¹⁰ Traditional authorities exert significant power in the allocation of use-rights with respect to land which is held in common trust, as well as natural resources and other aspects of social, cultural and economic life in rural areas. The traditional authorities do not have any formal role in the provision of water and sanitation services (and other municipal services), though local governments are required to consult with them. In this regard, their informal and political influence is significant.

2.3 Demographics and the Classification of Local Government

South Africa does not have a formal definition of rural that is associated with the structure of local government or with how demographic statistics are collected. Instead, the country uses the categorization set out in Table 2.2.

Category	Characteristics	Number¹	Population (million)	Average # of people
Metros	Category A Municipalities	8	22.1	2,700,000
Secondary cities (B1)	All local municipalities are referred to as secondary cities.	19	8.0	420,000
Large towns (B2)	This includes all local municipalities with an urban core. These municipalities have large urban-dwelling populations, but the size of their populations vary widely.	27	4.5	167,000
Small towns (B3)	This includes municipalities without a large town as a core urban settlement. Typically, they have	110	7.6	69,000

⁹ The metropolitan areas also include some rural communities.

¹⁰ See, for example, Sithole and Mbele (2008) and Claassens (2016).

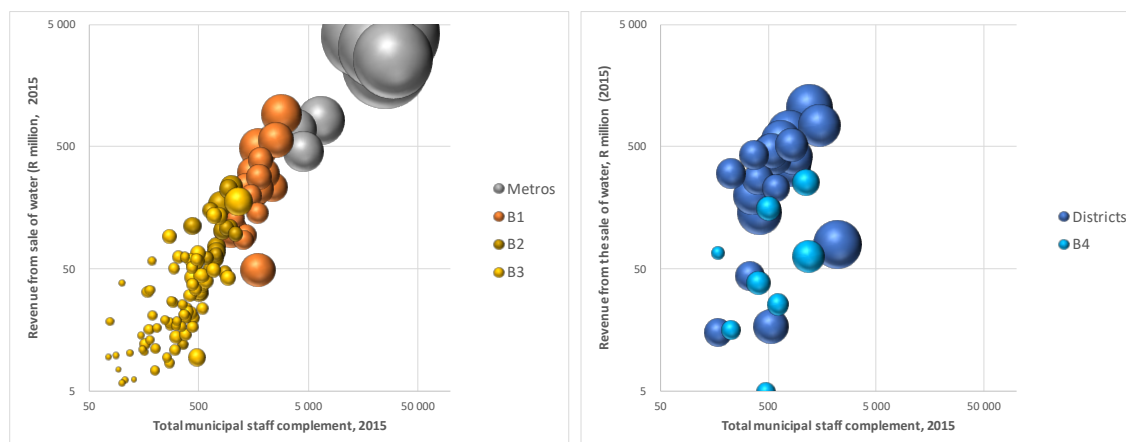
	relatively small populations, of which a significant proportion is urban and based in one or small towns. Rural areas in this category are characterized by the presence of commercial farms because these local economies are largely agriculture-based.			
Mostly rural (B4)	Municipalities that contain no more than one or two small towns and are characterized by communal land tenure and villages or scattered groups of dwellings, and are typically located in former homelands.	70	13.3	190,000
Total (local/B)		226	33.5	148,000
Districts (C2)	Districts assigned responsibility for provision of water services (typically but not exclusively with B4 local municipalities)	21	18.2	867,000
Districts (C1)	Other districts (typically in areas of commercial farm land with B1, B2 or B3 local municipalities)	23	15.3	665,000
Total (district/C)	Districts overlay the local (B) municipalities	44	33.5	762,000
Total	Total for metros, locals and districts	278¹	55.6	

Source: Finance and Fiscal Commission (2016). Note ¹: Table is based on 2015 information. The number of municipalities was reduced from 278 to 257 through mergers in 2016.

For the purposes of this report, rural is assumed to be all the people living in the C2 districts with a total population of 18.2 million people.¹¹

The scale distribution of local governments given the responsibility for water services provision is shown in Figure 3 (using log scales for the x and y axes, and where bubble size represents the total population in the municipal area). The left-hand side shows the categories of municipality that are predominantly urban in character, and the right-hand side shows those categories of municipality that are predominantly rural in character (see Table 2.2 for definitions of each category).

Figure 3: The Scale of Local Governments responsible for Water Services (by category of local government)



The very significant range in scale is evident. Revenue from the sale of water ranges from South African Rand (R)5 million (US\$ 0.4 million equivalent) to R5 billion (US\$ 420 million equivalent)

¹¹ More accuracy would be achieved if the B4 municipalities (with another 2 million people, or an additional 10 percent of the population) that are assigned the water services responsibility are also included, as well as portions of some of the metro areas.

per year, with full-time staffing ranging from 50 to 30,000. The relationship between organizational scale, capability and performance is explored in Section 10.

2.4 Organizational and Governance Structure

South African subnational tiers of government (provincial and local) are fully devolved. They are corporate bodies with clearly defined functions assigned by the Constitution or legislation. They have their own elected political leadership, with elections taking place every five years, and they develop and pass their own budgets annually.¹²

The executive is indirectly elected. Elections of local government councils are based on a dual system of proportional representation (party lists), and first-past-the-post ward councilors. (Citizens have two votes in a local election, one for the party and one for the local ward councilor). The controlling party (or alliance) nominates the executive, which is then ratified by the elected representatives (councilors). The national and provincial legislatures are elected based on proportional representation (party lists).

2.5 The Assignment of Functions and Expenditure Responsibilities

Assignment of legal responsibilities

The responsibility for the provision of the services (that is, the assignment of expenditure responsibilities) for **primary education, public health and outpatient services** (but not municipal health services¹³), and for **agriculture extensive services** is allocated to provincial governments according to national policy and legislation.¹⁴

Local government also has the responsibility and expenditure authority for **solid waste management**.¹⁵

Local government is responsible for **municipal public works** related to the services they are responsible for, including roads, community facilities, and so on.¹⁶

	Personnel	O&M	Supplies	Capital
Primary Education (70912)	Provincial government			
Public health and outpatient services (7072,7074)	Provincial government			
Agricultural extension services (70421)	Provincial government			

¹² The definition of devolved regional and local government typically includes the requirements that: (i) it is a corporate body; (ii) it performs one or more public functions within its territorial jurisdiction; (iii) it has its own (often elected) political leadership; and (iv) it prepares and approves its own budgets (Public Expenditure and Financial Accountability, 2016).

¹³ Municipal health services are defined in the National Health Act (2003) to include: (i) water quality monitoring; (ii) food control; (iii) waste management; (iv) health surveillance of premises; (v) surveillance and prevention of communicable diseases, excluding immunizations; (vi) vector control; (vii) environmental pollution control; (viii) disposal of the dead; and (ix) chemical safety, but excluding port health, malaria control and control of hazardous substances.

¹⁴ Responsibility for education, health and agriculture services are “functional areas of concurrent national and provincial legislative competence” according to the Constitution. This means that both national and provincial governments can enact legislation with respect to these services.

¹⁵ The 1996 Constitution states that local government has the “executive authority and right to administer ... refuse removal, refuse dumps and solid waste disposal” in their area of jurisdiction (Section 156 and Schedule 5B).

¹⁶ The Constitution defines municipal public works as “only in respect of the needs of municipalities in the discharge of their responsibilities to administer functions specifically assigned to them under this Constitution or any other law.”

Solid waste management (70510)	Local government
Construction and maintenance of local public works (70451)	Local government

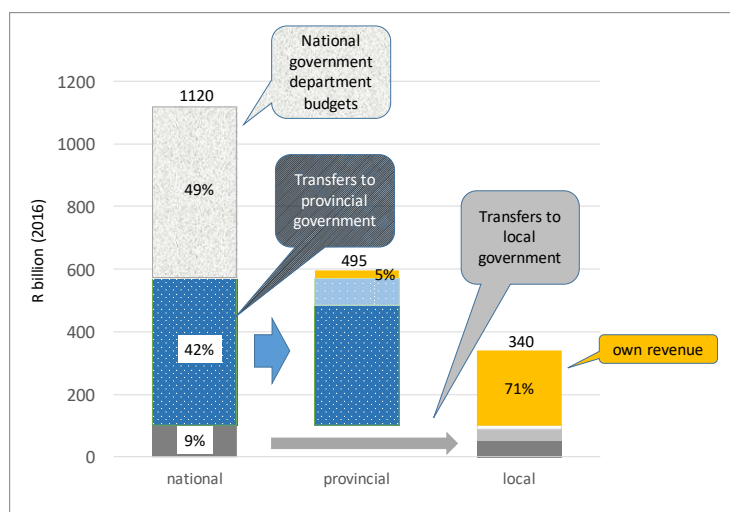
Source: Prepared by Author.

Note: O&M= operations and maintenance. Code numbers are from International Monetary Fund (2014).

Distribution of expenditure responsibilities

Expenditure responsibility follows the legal assignments. The overall division of expenditure between the tiers of government is shown in Figure 4.

Figure 4: Division of Expenditure across Government Tiers



Source: Prepared by Author based on published financial data.

Of the national government budget of R1120 billion (US\$ 93 billion equivalent) for 2016, excluding debt service costs, 42 percent is transferred to provincial governments and 9 percent to local governments, leaving 49 percent for national government departments.

Ninety-five percent of the R495 billion (US\$ 41 billion equivalent) expenditure by the provincial governments comes from national government transfers, and only 5 percent from own revenue sources. The two major budget items of provincial governments are education and health, which comprise 71 percent of total provincial expenditures.

Of the R340 billion (US\$ 28 billion equivalent) in expenditure by local governments, 29 percent comes from national government transfers (operating and capital grant transfers of R89 billion (US\$ 7.4 billion equivalent) and the sharing of a fuel levy with the metros of R11 billion [US\$ 0.9 billion equivalent]). Seventy-one percent of local government revenues comes from own sources, primarily property taxes and user charges for electricity, water, sanitation and solid waste services.

The education and health expenditure across both the national and provincial governments is heavily weighted in favor of the provincial governments (with a ratio of 80:20 for health and 90:10 for education).

Agriculture expenditure is weighted in favor of national government (with a ratio of 4:1). Provincial governments spend R8 billion (US\$ 0.7 billion equivalent) on extension services, compared to the national agriculture budget of R25 billion (US\$ 2 billion equivalent).

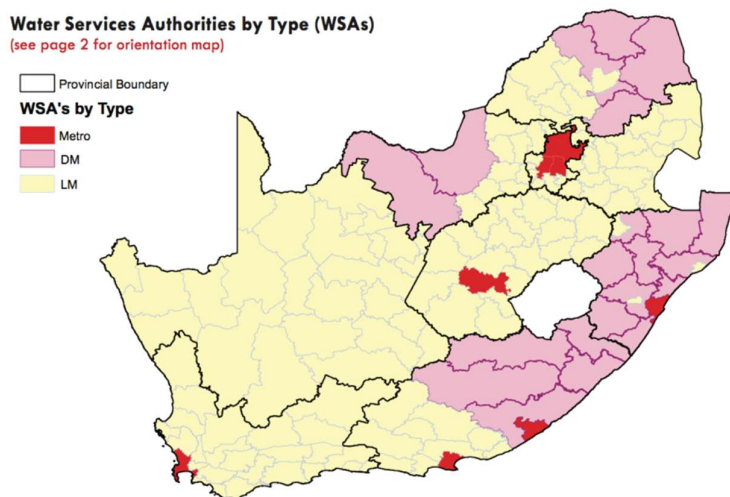
3 Organizational Structure of Water and Sanitation Services

3.1 Overview

The responsibility for the provision of the water services function is fully devolved to local governments in South Africa through a constitutional assignment of function between tiers of government (national, provincial and local). There are three kinds of local government – including metropolitan municipalities, district municipalities and local municipalities. District municipalities (DMs) are an overlay of a grouping of local municipalities (LMs). The water services function is allocated either to the district or to a local municipality for any particular given area. The assignment of the water services function between the district and local government is done through an administrative process defined in legislation.

A map of the type of local government responsible for water services is shown in Figure 5.

Figure 5: Map of Municipalities responsible for Water Services (by type of local government)



Source: Department of Water and Sanitation (2016b).

Municipalities that are responsible for the water supply and sanitation function are called Water Services Authorities. The municipalities may undertake the production function themselves or contract this function (or a component of the function) to a service provider.

The National Department of Water and Sanitation is the sector lead department and undertakes both a regulatory, as well as a support function for municipalities (including the technical aspects of water services through norms and standards). Municipalities are also regulated by the Department of Cooperative Governance and Traditional Affairs (human resources and norms and standards regulation) and the National Treasury (procurement and financial management regulation).

Water Boards are national public entities responsible for the provision of regional bulk water services. They also support water services infrastructure development in rural areas, and can manage water services infrastructure on behalf of municipalities. The shareholder is the Minister of Water and Sanitation who appoints the board of directors.

3.2 The Organizational Structure of Water Services in South Africa

3.2.1 Evolution of Policy and Institutions

While local government has always played an important role in the delivery of water and sanitation services in cities and towns in South Africa, this role was formalized and extended to rural areas in 1996 after South Africa's post-Apartheid democratic transition. The new Bill of Rights placed a strong emphasis on the right to water and the role of the state to progressively realize this right. In the first few years after 1994, and in the absence of democratic local government in rural areas, the national government launched a project-based Reconstruction and Development Programme. The goal of the program was to accelerate the expansion of water and sanitation services in rural South Africa.

Although nationally driven, the program involved extensive community participation in project design. It also required communities to assume responsibility for operating and maintaining the service. Democratic local government with contiguous boundaries was formally established in 2000, and responsibility for rural water and sanitation was devolved over the following several years. Municipalities increasingly assumed responsibility for the provision of water and sanitation services and the direct role of communities diminished. The role of the central government with respect to water and sanitation was then relegated largely to that of policy makers, regulators and providers of finance. However, in recent years, the nationally-owned regional water boards have become more active in the provision of water and sanitation services in underdeveloped rural areas.

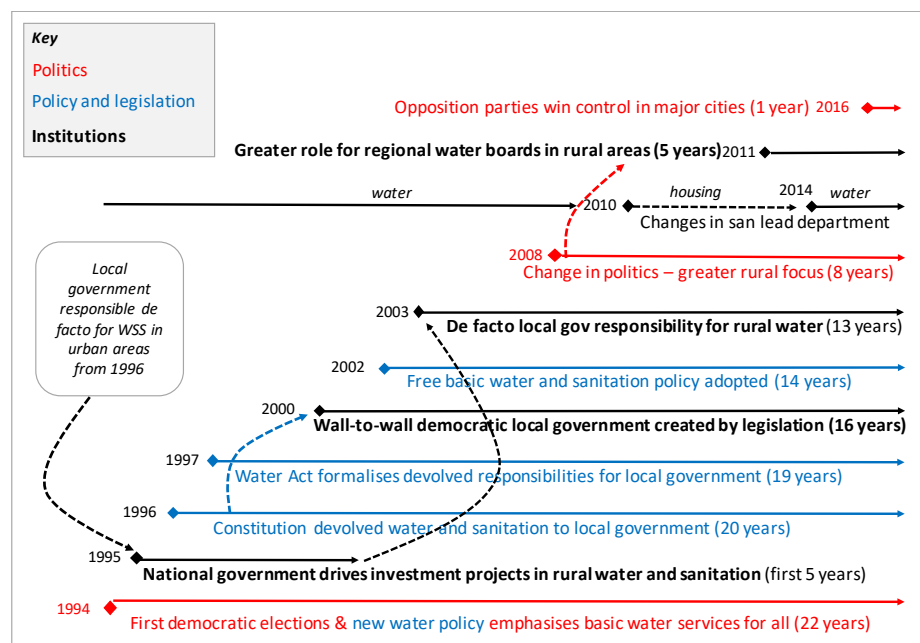
Major events in the sector reforms arising after South Africa's first democratic elections in 1994 are set out in Table 3.1. The key dates are 1996, when the Constitution was adopted, and 2000, when democratic local government with contiguous boundaries across the whole country was formally established with devolved responsibility for water and sanitation provision.

Year	Event	Year	Event
1994	<i>Water Policy adopted and nationally-driven investment program launched, with an emphasis on meeting the basic needs of all citizens.</i>	2003	<i>Water services policy updated with more emphasis on performance, higher service levels and sustainability, and alignment with local government legislation.</i>
1996	<i>Constitution adopted, allocating the functions of water supply and sanitation services provision to local governments.</i>	2008	<i>Change in national politics (within ANC); stronger emphasis on rural development and social transformation.</i>
1997	<i>Water Services Act promulgated, defining the role of national government as regulator, water boards as bulk providers, and municipalities as responsible for provision.</i>	2009 / 2014	<i>The sanitation function moved from the Water Ministry to the Housing Ministry in 2009, and then back again in 2014.</i>
2000	<i>Democratic local government established, local government legislation introduced, new decentralized financial framework introduced. Department of Water and Sanitation shifts its role from implementer and operator of rural schemes to supporter of local government.</i>	2010	<i>Department of Water and Sanitation changes emphasis from support to regulation. Drinking water and wastewater quality monitoring started with Blue & Green Drop Program. Turnaround strategy for local government approved by the Cabinet (supporting local government).</i>
2001	<i>Basic Household Sanitation Policy adopted, with a focus on grant-funded basic sanitation in rural areas.</i>	2013	<i>New water policy positions gazetted. Free water restricted to the indigent. Rationalization of water boards – fewer in number with larger service areas.</i>
2002	<i>Free Basic Water Policy introduced with intention to provide all poor households with a free basic supply of water (25 lcd or 6 kiloliters per connection per month).</i>	2016	<i>Ruling party for 25 years loses control of 3 (of 5) major cities to opposition parties.</i>

Source: Adapted and updated from World Bank (2011). *Note:* lcd= liters per capita per day.

A timeline of major events is shown in Figure 6.

Figure 6: Timeline of Major Events in Evolution of Water Policy, including Legislation and Institutions in South Africa



Source: Prepared by Author. Notes: WSS= water supply and sanitation. Gov= government. San= sanitation.

Local government has had *de facto* responsibility for water and sanitation in the urban areas for many decades. However, in rural areas, this has been the case for only about 13 years.

3.2.2 Key Stakeholders in the Sector

Key sector stakeholders are listed and their roles described in Table 3.2.

Table 3.2 Key Stakeholders in the Water and Sanitation Sector (at each level)			
Stakeholder	Level / Type	Number of entities	Main responsibilities
Department of Water and Sanitation	National government, under the Ministry of Water and Sanitation	1	Oversees urban and rural water and sanitation policy; appoints boards of the Water Boards; runs a regional bulk water infrastructure program. Also, responsible for water resources management.
Water Boards	Public utility with national government shareholding.	9	Water boards supply about 2.600 million kl/year of bulk potable water (55 percent of the total domestic supply). Water boards sell water to municipalities and directly to some industries. They also act as project implementation agents for some municipalities (capital projects) and provide contracted services to municipalities.
Metropolitan municipalities (water department)	Local government	8	Full water services responsibility (metropolitan areas)
District municipalities (water department)	Local government	21	Full water services responsibility (in predominantly rural districts)

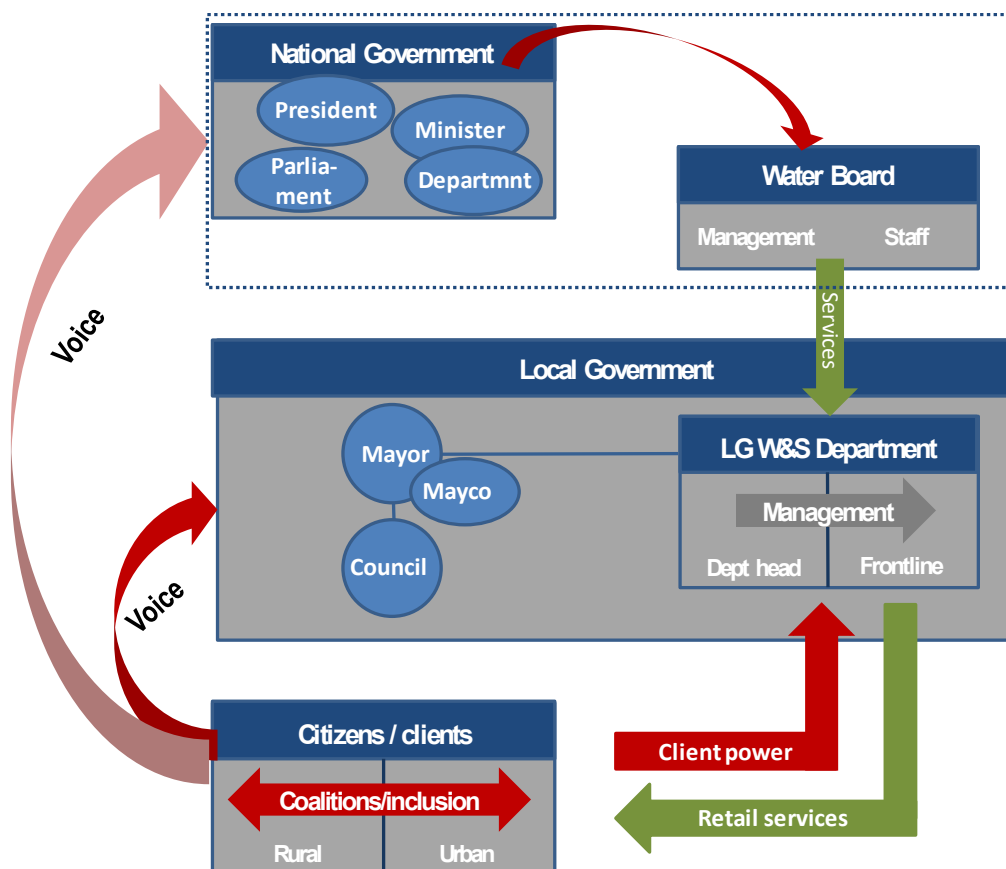
Local municipalities (water department)	Local government	123	Full water services responsibility (predominantly in cities and towns that are not metropolitan areas)
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Source: Prepared by Author.

3.2.3 Organizational Structure and Accountabilities

The basic organizational structure of the sector is shown in Figure 7. In the vast majority of cases, local governments provide water and sanitation services themselves through a department of the elected council. The management is appointed by the political executive. In a few cases, the provision function is housed in a separate municipally-owned entity, or is contracted to a private provider. Regional water boards provide bulk water to the municipalities, and may also support or provide retail services for or on behalf of the municipality. The boards of the Water Boards are appointed by the Minister of Water and Sanitation.

Figure 7: Organizational Structure of Water Sector in South Africa (with respect to provision of water supply and sanitation)



Citizens exercise political voice through participation in regular national, provincial and local elections and, as clients, through a direct customer-relationship with the service provider (in most cases, the municipality). The relative strengths of these accountabilities are discussed later in this section and again in Sections 5 and 8.

3.2.4 Direct Provision of Water Services by Municipalities

In the vast majority of cases, water services are provided through a municipal department that is an integral part of the local government itself. Water and wastewater departments are typically combined in one department. The municipality is responsible for both networked infrastructure (that is, piped water and sewer networks) as well as the management of human waste collection (as necessary) from on-site sanitation systems (including septic tanks, conservancy tanks, chemical toilets, and pit latrines requiring emptying). Most municipalities are responsible for wastewater treatment. Many municipalities treat raw water for potable water use, although in some cases this is done by a regional water board that then sells the bulk treated water to municipalities and industries.

Appointments of senior management

By law, senior (executive) appointments (head of department, reporting to the City Manager) are made by the City Council (elected representatives, in consultation with the City Manager (senior bureaucrat) for each municipality. In practice, these appointments are strongly influenced or determined by the political executive (Executive Mayor and the Executive Mayoral Committee), which are in turn strongly influenced by regional and provincial political party structures.¹⁷ See Section 5.

Not all water departments are headed by a senior executive (reporting to the municipal manager). In many cases, the head of the water department is from a third or lower tier of management.

	Leading Questions	Summary
1.	Is there a public entity practically responsible for WSS within local jurisdictions? To what degree do residents rely on (regulated or unregulated) self-provision?	Local government is responsible for the provision of water and sanitation services in both urban and rural areas. Water boards (national public entities) sell regional bulk water and play a supporting role as contracted service providers.
2.	Is the organizational status of the WSS provider local in nature? If so, does the provider cover a single local jurisdiction, or does a single Service Delivery Unit (SDU) cover multiple local jurisdictions (or even an entire region or the nation as a whole)?	Apart from the regional water boards, which can sell water to multiple municipalities (or support multiple municipalities), all entities are local (operating as a department within a municipality, or contracted in a one-to-one relationship with a municipality, if an external provider).
3.	Is the WSS provider a department of a local government? Alternatively, is the provider a corporate body? In the latter case, who legally owns the Water and Sanitation Authority (WASA)?	Municipal-level water providers are predominantly departments within a municipality, with some exceptions (two municipal entities and some private contracted providers).
4.	In practice, is the WSS SDU executive (and/or board) appointed (and does it work under the guidance) of the local government (LG)?	Local governments exert both <i>de jure</i> and <i>de facto</i> authority over municipal-level water and sanitation providers, whether internal (the municipality itself) or external (a municipal entity or a contracted public or private service provider). The municipality will appoint its own executive and oversee/influence the appointment of the board and executive of the two municipal entities. However, it does not influence appointments of privately-contracted providers and water boards.

¹⁷ See, for example, Olver (2016).

5.	Does the LG have authoritative decision-making power over key aspects of the WSS SDU's operations, including staffing decisions (establishment, hiring/firing/promotion, pay)?	Municipalities are responsible for their own staffing, oversee/influence staffing of municipal entities (as the sole shareholder). However, they would not influence staffing of water boards and contracted providers, but would exert influence through contracts.
.6	Does the LG have authoritative decision-making power over key aspects of the WSS (UW, US, RW, RS) provider's finances, including budgetary decisions and tariff-setting authority?	Municipalities are responsible for setting tariffs for municipal water and sanitation services.

Source: Prepared by Author.

Note: LG= local government; RS=rural sanitation; RW=rural water; SDU= Service Delivery Unit; US=urban sanitation; UW=urban water; WSS= water and sanitation.

3.2.5 Municipal-owned Companies as Providers of Water and Sanitation Services

Of the 152 municipalities that have been assigned the responsibility for the provision of water and sanitation services, two municipalities (both large cities) have chosen to undertake the provision of the service through a municipal-owned company – namely, Johannesburg Water, in the case of the City of Johannesburg, and ERWAT in the case of the Ekurhuleni Metropolitan Municipality. The former provides retail water and sanitation services and treats wastewater. (Water is purchased from Rand Water, a water board.) The latter treats wastewater only.

These companies are subject to both national municipal legislation (Municipal Systems Act) and national public management legislation (Municipal Financial Management Act). In addition, their powers and functions are circumscribed by this legislation.

These companies have Boards of Directors, manage their own administrative and staffing systems, approve budgets and publish annual reports and financial statements. In practice, the companies have limited independence from their parent municipalities, who are the sole shareholders. The political leadership in the municipality influences appointments (particularly of the senior management), decides on the capital budget, and may be involved in the day-to-day management decisions of these nominally independent companies. The municipality may allocate (pass on) capital and operating grants from the national government at its own discretion.

The Mayoral Committee of the City of Johannesburg recently decided (in 2016) to disestablish Johannesburg Water and to re-establish it as a department within the City Administration.

3.2.6 Water Boards

Company structure

Water boards are national state-owned entities whose primary role is to provide regional bulk water to municipalities and, in some cases, directly to industry. They are created by legislation (Water Services Act, 1997). They are a body corporate and are also subject to the Public Finance Management Act (1999), where they are characterized as a National Government Business Enterprise. They are expected to be financially self-sustaining through charging tariffs and fees for services provided. Their primary income is from the sale of bulk water.

Mandate

The primary role of a water board is to provide regional bulk water and wastewater services by selling water to municipalities and treating wastewater from municipalities. Water boards may also undertake other activities, but only if it is *not* likely to limit the water board's capacity to perform its primary role or likely to be to the financial prejudice of itself or existing consumers.

Governance

The Minister of Water and Sanitation appoints the board members and is the sole shareholder on behalf of the national government. The Minister may terminate the term of office of the Board and replace it with other Board members. In practice, party-political influence over the appointment of board members is strong.

Reporting and regulation

Both the shareholder and regulation functions for water boards are undertaken by the national Department of Water and Sanitation. The Minister must approve business plans and tariffs. The Minister must table a number of documents in the National Assembly. These include the water board's annual report, financial statements and the audit report pertaining to those financial statements. A water board must submit, on an annual basis: a business plan relating to the following five financial years; a projection of revenues, expenditures and borrowings; and a corporate plan (in prescribed formats).

Water boards are required by law to account for, and report on, their primary and secondary activities separately. This has been inconsistently implemented by water boards. While there is good data on revenue from the sale of water, it is not always clear how water boards have spent their money between their regional bulk water supply function and other activities.

Services provided and funding/revenue for these services

Water boards must enter into contracts for the sale of bulk water to their customers. Water boards also fulfill other roles in support of municipalities. They may undertake capital works and manage infrastructure on behalf of municipalities. Funding for this should come directly from the municipality and be undertaken in terms of contracts with municipalities, but this is not always the case. Some funds are provided directly by the national government through, for example, the regional bulk water infrastructure and other grants.

The relationship between water boards and municipalities

By law, the relationship between water boards and municipalities is clear. Water boards provide two types of services, each of which is regulated and treated differently under the law.

Regional bulk supply. This function is regulated by the national government (through tariffs, conditions of supply, and so on). However, water boards must enter into long-term supply contracts with the municipalities for bulk water supplies. This function must be undertaken on a cost-recovery basis through tariffs for the sale of water.

Municipal water services. Municipal water services include all activities required for the provision of water and sanitation to customers, or components of this service. Water boards can either support a municipality to provide these services, or provide some or all of these services on behalf of a municipality. In both cases, the constitutional and legal responsibility still rests with municipalities (who are the water services authority). In turn, water boards must provide these services through an agreed contract with municipalities. Water boards are required to recover the costs of providing these services, either from the municipality or from a grant from the national government — but not from its primary customers through the bulk water tariff.

However, in practice, this distinction is not clear. Water boards undertake 'municipal water services' (typically in rural areas where municipal capacity is weakest) without formal contracts with municipalities. Such services are also not conducted on a cost recovery basis. There is strong political pressure for water boards to fulfill this developmental mandate. However, the result is

reduced transparency and accountability. As such, it is not easy to determine how much these services cost and who is paying for these services. Concerns have been raised about the value for money of services provided in this way, as well as the impact on primary customers (purchases of bulk water from a water board) —and on the financial viability of the water board itself.¹⁸

3.2.7 Private Water Service Providers

South African policy, legislation and political preferences favor the public management of water services, so private involvement remains the exception. Some municipalities have entered into concession arrangements, and lease or management contracts with private companies to provide (or support the provision of) water services in their areas. There are two long-term concession contracts in South Africa (Mbombela and Ilembe local municipalities). There have been various medium-term lease contracts, for example, a 25-year lease contract for provision of services in Queenstown, part of the Chris Hani District which is due to end in 2017. Johannesburg Water was supported through a private management contract during its establishment phase from 2001 to 2006.

Private water services providers are supervised and regulated by the contracting municipality. These providers are also subject to norms and standards legislation, which may be enforced by the national government.

3.2.8 Differences between Urban and Rural Areas

The formal organizational structure of the water and sanitation sector is the same across urban and rural areas. Municipalities have fully devolved responsibility for the provision of both water and sanitation services. In most cases, local governments provide the function themselves (as a department within the municipality) and exert full control over the services. However, there is an asymmetry in capability across local governments which affects service outcomes. The role of water boards also differs somewhat across urban and rural areas. For instance, water boards play a stronger support function in the rural areas to make up for capacity shortfalls at the local government level in these areas. (See section 3.2.6.)

Where water boards provide water supply and sanitation services, these services should be undertaken in terms of an enforceable contract with the municipality. However, in practice, water boards may have more autonomy of action because of a combination of political and capacity factors. This scenario plays itself out more in the rural areas where service needs are high, but local governance capacity is weakest.

3.3 Assessment

Local government

The legal status and role of municipalities (and other stakeholders) with respect to the provision of both water and sanitation services is very clear. Full responsibility is assigned (devolved) to municipalities by the Constitution, and there is a clear legislation-based administrative process to assign the function to either district or local government for any particular municipal area (it cannot be both). The national government plays a supportive (including financing) and regulatory role.

The scale of provision differs very widely — from metropolitan areas serving a few million people, to the smallest municipality serving a few thousand people. In poor rural areas, responsibility has

¹⁸ For example, eThekweni metropolitan municipality has disputed Umgeni Water's bulk water tariff on a number of occasions in the past. Concerns related to the financial viability of the Amatola Water Board have been repeatedly raised in Parliament. This is related to the fact that secondary activities (such as support services to local government) account for a large share of its expenditure budget.

been assigned to district governments. The 21 districts that have been assigned responsibility for the provision of water supply and sanitation services have sufficient scale to provide an efficient and effective service (with an average service area population of close to one million people). However, some of the districts have struggled to develop effective capability. It has been argued by some that, in the case of the smallest local municipalities, the scale of provision is too small to be effective and efficient.

However, there are examples of small-scale local governments in South Africa providing effective and efficient services. The issue is more likely to be related to the level of economic development in the area, as well as issues of financial capacity and affordability. Consideration has been given to provide scaled (regional) technical support service to municipalities that cannot otherwise afford the services of a full-time professional engineer. The relationship between scale and performance is explored more fully in Section 10.

Water boards

There is a grey area with respect to the role of water boards. The legal status of the water boards is clear; they are owned and controlled by the national government, with a mandate to provide regional bulk water to municipalities and to otherwise support local government. However, there is strong political pressure for water boards to play a more direct role in the provision of water and sanitation services, particularly in the rural areas. Water boards must maintain financial viability and must operate their regional bulk water schemes on a cost-recovery basis. Funding to support the provision of water services in rural areas must therefore come either from municipalities (through a contracted support service), or directly from the national government (through the Department of Water and Sanitation). Water boards do not receive an operating subsidy from the national government, whereas municipalities do. Water boards may receive capital subsidies from national government for making investments in regional bulk infrastructure and other development-related infrastructure.

Municipal-owned water companies

One advantage of water service provision through a company structure is that companies must report on their performance and finances annually. Thus, provision through a company structure has the potential to make both performance and finances more transparent (compared to a service that is provided as one function among many within local government). Another advantage of a company structure is that the Board should, in theory, be focused on the long-term sustainability of the business; it not be subject to short-term political pressures. These benefits were realized in South Africa when the entities were newly established. However, over time, political influence in the management of these entities has increased. Recently a decision to disestablish Johannesburg Water has been taken, ostensibly to establish consolidated direct political control over the function. Company structures do not prevent an entity from being politically captured, a subject discussed in more detail in Section 5.¹⁹

Summary assessment of binding constraints

In summary, the institutional design of the sector, in which the responsibility of water and sanitation services are devolved to local government (and assigned to either the district or local level of local government), does not present a binding constraint to the effective and efficient provision of water and sanitation services in South Africa.

¹⁹ For a description of the early governance gains for Johannesburg Water, see Water Dialogues (2009).

4 The Assignment of Functional Responsibilities in Water and Sanitation Services

4.1 Overview

A clear understanding of the organizational structure of the delivery of W&S services provides a basis for identifying the exact assignment of functional responsibilities with respect to these services. This section addresses the question of: “Who actually does what?” when it comes to providing water and sanitation services to households and businesses.

In South Africa, the functional assignments follow the overall allocation of responsibilities, as discussed in the previous section. Thus, municipalities (that have been assigned responsibility as water services authorities) have full responsibility for the water supply and sanitation services function. This includes: the management of network infrastructure (such as the water and sewer networks); the treatment of water (where this is not done by a regional water board); wastewater treatment; fecal waste management; management of communal toilet facilities in informal settlements; hygiene promotion activities; the emptying of septic and conservancy tanks; the emptying of pit latrines; and the regulation of private boreholes. The functional assignment includes planning, budgeting, capital investment, financing, financial management (billing, cash collection), staffing (appointments, salaries), operations and maintenance, rehabilitation, and so on. As noted, some of these functions may be undertaken by a service provider (public or private) through a contractual arrangement. The national government contributes indirectly to the cost through capital and operating grants.

Nationally-owned regional water boards sell bulk potable water to municipalities, as well as directly to some mine and industries. These water boards may also play a ‘developmental’ function, managing capital investment for, and/or the operations of, water supply and sanitation services in rural areas. In this context, they can take the place of, or act on behalf of, the municipalities. (This grey area was discussed in more detail in Section 3.2.6.)

4.2 Assignment of Functional Responsibilities

4.2.1 *De jure* and *de facto* Assignment of Functional Responsibilities

A summary of the assignment of functions is provided in Table 4.1.

	Leading Question	Summary
1.	According to the legal framework , are WSS provided by local governments in line with the subsidiarity principle? If so, which specific responsibilities are assigned to local governments and/or other local entities by the policy/legal framework?	Yes, local governments are assigned full responsibility for the main functions of providing WSS services, within the national policy and regulatory framework, and with financial support from the national government. (See description in the overview.)
2.	In practice, are local governments responsible for the recurrent provision of WSS in line with the subsidiarity principle? If so, which services do they provide in practice?	Practice matches the legal assignment. (See the description in the overview.)
3.	In practice, are local governments responsible for planning and procuring the capital infrastructure required for providing WSS in line with the subsidiarity principle?	Yes.

4.	Does the <i>de facto</i> assignment of functions (authority and responsibility) match <i>de jure</i> functions (authority and responsibility)?	Yes
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Source: Prepared by Author.

An elaboration of the *de jure* assignment of functions and responsibilities between national and local governments is presented in Table 4.2. There is no substantive difference between this *de jure* assignment and what happens in actual practice.

	National government	Local government
Determining policy	Yes.	Yes (within the national and provincial policy frameworks).
Setting standards	Yes (national minimum norms and standards).	Yes (municipal by-laws; within the national and provincial regulatory frameworks).
Monitoring compliance to standards	Yes.	Yes (municipal by-laws; within the national and provincial regulatory frameworks).
National targets	Yes.	No.
Municipal targets	No.	Yes.
Guidance / regulating cost recovery	Yes.	Yes.
Financing construction	Indirectly (through capital infrastructure grants).	Yes (through national capital grants and own sources).
Financing O&M	Indirectly (through an unconditional equitable share operating grant).	Yes (through tariffs and user charges, plus national government operating grants).

Source: Prepared by Author.

Note: O&M= operations and maintenance.

The role of provincial government

Provincial governments share concurrent responsibilities with the national government for the regulation and oversight of local government. This right is established in the Constitution. Provincial governments are empowered to establish specific local government and, by extension, water services-related policies, standards and legislation (within the national framework and without contradicting national policy and law). However, in practice, provincial governments have not done so. Provinces, however, must and do play a role in monitoring local government and by extension, water supply and sanitation services undertaken by local government. They must also be involved in any regulatory interventions by the national government with respect to the local government.

Regarding water supply and sanitation services, the key differences between *de jure* and *de facto* responsibilities arises in relation to the role of the provincial government. While the legal framework allows for provinces to legislate with respect to WSS services (as long as this legislation does not contradict national legislation), the exercise of this right has not been encouraged (politically). Therefore, it has not been taken up either legislatively or administratively. In effect, then, for the purposes of WSS, South Africa operates as if it had a two-tier governmental system.

This is not the case for the functioning of municipality governments more broadly, in which provincial governments (both administratively and politically) play a more significant role.

Appointments and staffing procedures in local government

The following requirements apply to staffing appointments in municipalities:

- Senior appointments must meet specified criteria, as set out in legislation and related regulations.²⁰ However, in practice this is not always adhered to.²¹
- Senior appointments are for contracted for a fixed time-bound period and are subject to a performance contract.²²
- Senior appointments may not hold political office.²³
- Senior appointment salary scales must be published.
- Staffing structures and job descriptions are approved by the municipal manager.
- A municipality must develop and adopt (by the elected municipal council) appropriate systems and procedures to ensure fair, efficient, and transparent personnel administration — including recruitment, supervision, promotion, demotion, retrenchment and dismissal, all subject to the Employment Equity Act of 1998.

Appointment processes and compliance with staffing rules are not always followed in practice. Political influence plays a significant role in both appointments and the extent to which rules are enforced, if at all. See, for example, the case of the Nelson Mandela Municipality in Olver (2016), which is discussed in more detail in Section 5.

Management of performance in municipalities

Municipalities are responsible for setting up and managing their own performance systems. They are also required to report on financial and technical performance to the three government departments noted above.

4.2.2 Differences between Urban and Rural Areas

The local government functional assignments are the same across both urban and rural areas. In rural areas, some local governments (assigned the water services responsibility) may not execute the production functions fully (that is, the actual provision of services). These functions may be implemented either formally through contracts with water boards or other service providers, or less formally by water boards (by agreement rather than formal contract with the municipalities). See Section 3.2.6.

²⁰ “The appointment of a person as a senior manager and any contract of employment entered into between the municipality and the person appointed as a senior manager is null and void, if the appointee does not meet the prescribed skills, expertise, competences and qualifications or [if] the appointment was made in contravention of the Municipal Systems Act”. (Department of Cooperative Governance and Traditional Affairs [COGTA] Circular 29 of 2016).

²¹ There is a well-known case of a person without a school-leaving certificate who was found to have forged this certificate. This person retained a senior position in a government entity (ostensibly due to political connections) — notwithstanding court rulings against him. (de Vos, 2016).

²² Section 57 of the Municipal Systems Act provides that the employment contract of a municipal manager must be for a fixed term of employment, not extending a period ending one year after the election of the next council of the municipality. (COGTA Circular 29 of 2016).

²³ “The Municipal Systems Act prohibits municipal managers and managers directly accountable to municipal managers from holding political office in a political party, whether it is on a permanent, temporary or acting capacity.” (COGTA Circular 29 of 2016).

4.3 Assessment

There is full assignment of responsibilities of water supply and sanitation (across all dimensions) to local government. This is in line with the subsidiarity principle, which also takes into account the appropriate scheme-based regional aggregation of bulk water provision. Furthermore, it is established by law in the Constitution. There is also good correspondence between the *de jure* and *de facto* assignment of responsibilities. There are some grey areas in the overlap in responsibility (in practice) between municipalities and water boards with respect to a ‘developmental mandate’ given to the water board. The mandate supports the provision of water and sanitation services in poor rural areas.

In summary, the functional assignments do not present a binding constraint to the effective provision of water and sanitation services in South Africa.

5 Effective and responsive local political leadership

5.1 Overview

Political leadership is considered to exist if there is a degree of authority and autonomy vested in local leaders to make decisions about the affairs of the local jurisdiction. This section seeks to answer the question: Is the local political leadership given the necessary political space, and is it effective in identifying and responding to the needs of its residents and the local business community? It also examines the nature and strength of the respective local and national accountabilities (or “voice”), as shown in Figure 7.

Box 1: South African Politics – Hegemonic Democratic Centralism under Stress

South Africa’s negotiated political settlement in 1994 resulted in a multi-party competitive democratic system with constitutional protections, operating across the three tiers of government – national, provincial and local.

In practice, the African National Congress (ANC) has enjoyed political hegemony at all three levels of government over the last 22 years, with few exceptions. The ANC’s share of the national vote exceeded 60 percent in all five national elections since 1994. The ANC has had control of the provincial governments, with the exception of KwaZulu-Natal, (1994-2004) and the Western Cape (1994-2004 and 2009-present).

The vast majority of local government elections have been controlled by the ANC since 1994. After the latest local government elections (2016), the ANC controlled 4 of the 8 metropolitan governments (losing 3), and 163 of the 203 directly-elected local governments (losing 13). (District governments are partly indirectly elected.)

The proportional representation system places significant power in the hands of political parties that control the party lists of their candidates for election. Together with a hierarchy within the party whereby national-level politics carries more weight and status compared to provincial and then local government politics, this has resulted in considerable centralization of power within the country. This power plays out in the choice of candidates and the appointment of senior officials at all levels of government.

Strong central control resulted in factionalism within the ANC to gain access to power, as well as access to the patronage-based resources available to those in power.

In this context, the local-level political voice is muted. However, opposition parties won control of four of the six largest metropolitan local governments in 2016. This provided the possibility that local political voice might strengthen over time, as citizens push-back against a system that has been captured by a centralized political elite.

Source: Prepared by Author.

5.2 Political Accountability with regard to Water Services

Local government and political accountability

Local and metropolitan government councils are elected on the basis of a combination of direct (ward) and proportional representation (party-list) systems – each voter has two votes, one for his/her ward councilor and one for a party. District councils are partly directly elected (40 percent), and the remaining councilors are assigned to the local councils within the district who then delegate councilors to sit on the district council.²⁴

The local governments appoint their own staff and are responsible for management of human resource systems, subject to national legislation.

While local government elections are competitive and are monitored and overseen by the Independent Electoral Commission, South Africa’s overall political landscape is democratically centrist.²⁵ The African National Congress has been the dominant political player since 1994 at the national, provincial and local levels. However, in recent years the ANC’s majority has been decreasing, and opposition parties control one province (out of nine) and 44 metropolitan and local governments (out of 211). These are signs of increasing competition. (See Box 1.)

	Leading Questions	Summary
1.	Does the local government level have meaningful “political” decision-making space (that is, responsibility and authority), separate from higher-level governments?	Local government is constitutionally protected and the national government can only intervene in clearly defined circumstances as set out by law. Interventions are the exception. However, national political influence may be strong (see Boxes 1 and 2).
2.	Does the Local Government or Local Administration have the power to recruit, appoint and hold human resource authority over the core local administration team?	Yes.
3.	What is the local power structure? Is the Local Government (LG) Executive directly (or indirectly) elected? Is the Local Government Council directly (or indirectly) elected?	Councils are directly elected, and the Council elects the Executive.
4.	Are the LG election systems and elections competitive?	South Africa has a notionally competitive democratic system, but it is democratically centrist. There is limited competition. See Box 1.
5.	Does the LG Executive have broad support from the LG Legislative Council and the LG’s administrative apparatus/staff?	Yes.
6.	Is the LG effective in achieving results in the service delivery areas that constituents care about?	Mixed (See Section 10).

²⁴ See <http://www.etu.org.za/toolbox/docs/localgov/local.html> (accessed November 2016).

²⁵ The Independent Electoral Commission (IEC) is a creation of the Constitution and its independence is guaranteed. See www.elections.org.za.

Political accountability of water boards

Water boards are accountable to the national government. The board is appointed by the Minister of Water and Sanitation and senior management is appointed by the board.

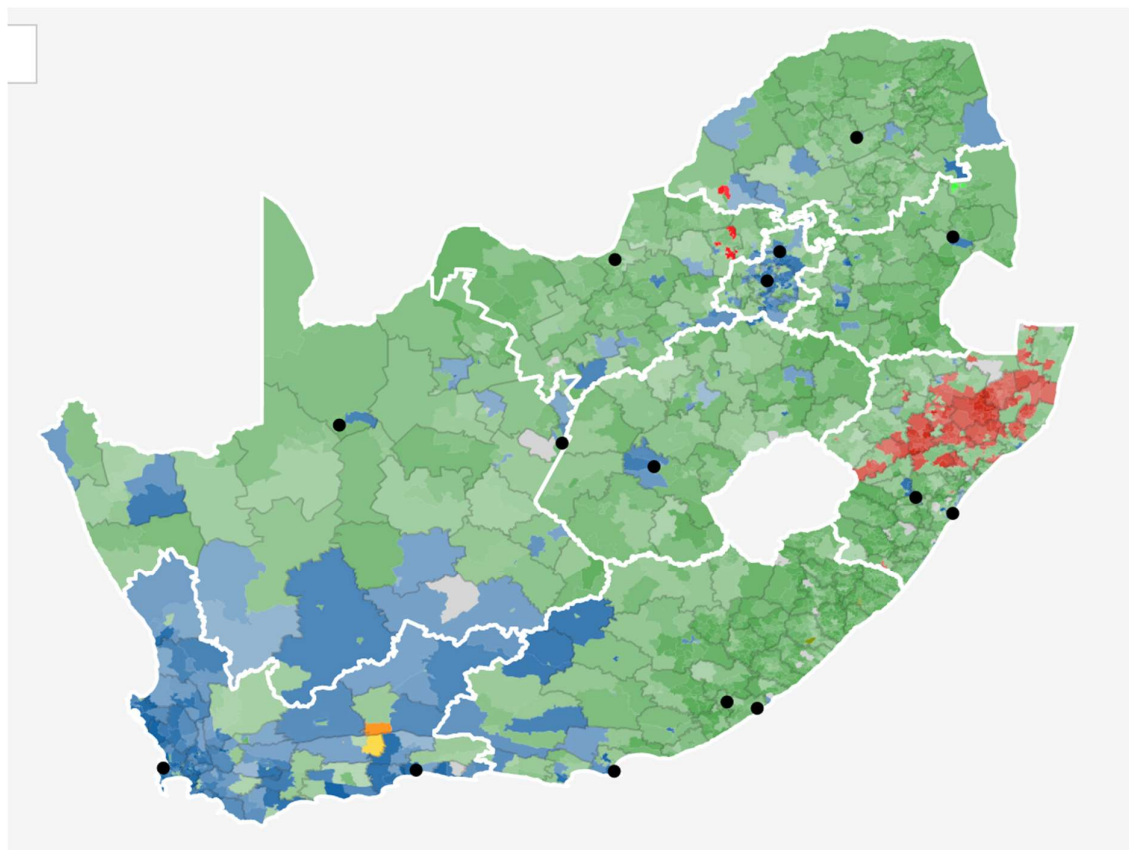
Democratic centralism with limited competition

While South Africa's political system is, in theory, a competitive democracy, the extent of political competition is limited. The ruling party has been in power at the national level for 22 years, and has controlled the large majority of the nine provinces and 278 local governments throughout that period. Power within the ruling party is highly centralized. The party-list system means that the party itself has control over the choice of candidates for election. This leads to elected representatives with a primary loyalty to the party rather than to the electorate. As such, it limits political accountability and responsiveness at the local level. This system appears to be slowly breaking down with the prospect of greater political competition in the future.

Changing political dynamics in urban and rural areas

The politics in the urban and rural areas of South Africa appear to be diverging. In the recent local government elections (2016), there was a distinct shift away from the ruling African National Congress (ANC) in the metropolitan areas — although support for the ANC remained strong in the rural areas. The ANC lost control of three major metropolitan areas in the last elections, retaining control of only 2 of the 6 largest metropolitan municipalities. See Figure 8.

Figure 8: Local Government Elections by Ward, 2016



Source: <http://www.news24.com/elections/results> (accessed November 2016).

Note: Green areas are ANC, and opposition parties are in other colors.

Box 2: Political Voice and Patronage in South Africa's Urban and Rural Areas

The ANC lost control of 4 of the 6 largest metropolitan municipalities in the 2016 local government elections. They include: Cape Town, the City of Johannesburg, the City of Tshwane and Nelson Mandela Bay. Together, these municipalities have a combined budget of R120 billion (US\$ equivalent) (or 33 percent of the total budget for all local governments) and a population of 14 million (or 25 percent of the total South African population).

The Eastern Cape province has been one of the heartlands of ANC support since 1994. However, the ANC lost control of the main city in that province, Nelson Mandela Metropolitan Municipality, in 2016. This happened notwithstanding a concerted effort on the part of the national ANC to reform the regional and local party structures (and the metro administration) prior to the election.

The extent of the patronage-based corruption within the province and the city (both in the party and government structures), and efforts to address this by the ANC (within both the party and government), are chronicled in Olver (2016), who concluded as follows: “In the end, the local ANC leaders that did have integrity and a commitment to serve were not able to turn the tide of public opinion. The interventions that were made were late, and were not initially sufficiently comprehensive to deal with the situation.”

Corruption is not limited to the largest cities. In fact, the city governments are relatively well governed and managed compared to many of the municipalities in rural areas. (See, for example, the audit outcomes reported in Figure 11.) Nevertheless, opposition parties have not managed to penetrate the small towns and rural areas in most parts of the country. Indeed, opposition support in most of the rural areas is negligible. The reality is that most jobs in their areas are dependent on the state, and getting a job with the state is increasingly dependent on support for the ruling party (Steinberg, 2016ab).

The ANC's national electoral majority is dependent on the provinces with large rural populations and it has the means, through the state, to buy or manipulate the loyalty and support of this electorate. Rural citizens get the worst deal in South Africa – they are deprived of land ownership, are subject to the undemocratic whims of the local chief for land and other rights. For example, chiefs are able to dispense favors for support and punish those who oppose them. They also receive poor quality public services (education, health, water and sanitation). However, so far, they have remained loyal to a ruling party that claims the mantle of having freed them.

Source: Prepared by Author.

The shift appears to be a response on the part of the urban electorate to real and/or perceived corruption. (See Box 2.) There is a contradiction, however. The extent and quality of services provided by the government is much better in the metros compared to rural areas (see Figure 2). Further, the extent of corruption (measured as a ratio of total public spending in the area) is manifestly greater in the rural areas compared to the metropolitan areas (See Box 2). Yet political responsiveness to real and/or perceived corruption has been greatest in the metro areas — but

hardly existent at all in the rural areas that are controlled or heavily influenced by traditional authorities (see Figure 8).

5.3 Assessment

In answering the question “Is the local political leadership given the necessary political space, and is it effective in identifying and responding to the needs of its residents and the local business community?”, it is necessary to separate the formal political system, comprising a multiparty competitive democracy across three tiers of government, with the strong central hegemony enjoyed by the ANC over the last 22 years. Local political voice has been muted as a result of the democratic centralist structure of the ANC, although this voice appears to be strengthening in the metropolitan areas. Ironically, this is in areas where service delivery performance in general (and also in the case of water supply and sanitation) is arguably the strongest, but remains weak in rural areas where public services are poorest. The local political voice would be strengthened if a stronger constituency-based electoral system were to be adopted. This would also weaken the power of the political parties with their inherent tendency toward the centralization of power.

6 Local Control over Administration and Service Delivery

6.1 Overview

This section considers the extent to which local government officials have administrative powers over local (water and sanitation) services, and/or the extent to which local water and sanitation providers have control over their own operations (as separate from central authorities).

Local governments that are designated as water services authorities (that is, responsible for the provision of water and sanitation services at the municipal level) have full administrative control over the service. This includes: the appointment of the head of the service delivery unit/department; the determination of the organizational structure; development of human resource systems; appointments and retrenchments; and the procurement of services (including capital works). All of these areas are subject to nationally legislated norms and standards.

As discussed, there is evidence of party political influence, particularly in senior appointments and in procurement. The nature and extent of this vary.

Local governments do not have administrative control over the water boards. In theory, control is exercised through contractual relationships. In practice, the exercise of this control may not be strong and may be trumped by nationally-driven political interests.

6.2 Local Control over Administration and Service Delivery

6.2.1 Service Provision by Local Government

A summary of the main elements of local control over administration and service delivery is provided in Table 6.1.

Leading Questions	Summary
Does the LG (Executive or Council) appoint the head of the SDU for WSS?	Yes.
Does the LG approve the budget of the SDU for WSS?	Yes.
Does the LG determine its own organizational structure, as well as the staff establishment for the WSS provider?	Yes.
Does the LG have control over its human resource decisions with respect to WSS?	Yes.
Does the LG plan and manage the procurement of capital investments /infrastructure required for WSS?	Yes.

Source: Prepared by Author.

Note: LG= local government; SDU= Service Delivery Unit; WSS= water supply and sanitation.

Technical supervision and support

Municipalities are fully responsible for the provision of water and sanitation services. There is no formal external supervision of municipalities. In the case of weak municipalities, technical support may be provided through the secondment of engineers and related support staff. This is conducted

in concert with a national program with identified vulnerable or priority municipalities.²⁶ Municipalities may also contract technical support, typically from engineering consultants. Feasibility, design and construction supervision are typically done by private engineering companies, and construction by private construction companies. Water boards also support municipalities either through the support of their functions or by providing the functions on their behalf.

Enforcement

Enforcement of legislation and related norms and standards regulations is done by three government departments, including the Department of Cooperative Governance and Traditional Affairs (for municipal processes), the Department of Water and Sanitation (for technical aspects related to water and sanitation, and water tariffs) and the National Treasury (for public financial management).

6.2.2 Service Provision by a Municipal-owned Company

Local government officials do not have direct administrative control in this case. See the discussion in Section 3.3.

6.2.3 Service Provision by Parties Contracted to the Local Government

The local government is able to contract external parties to provide water and sanitation services on its behalf. Where this is done, control over the contracting process remains with local government. Local governments must assume control of processes as defined by law, demonstrating public benefit and value for money. The policy preference for public provision (built into the legislation) means that provision of water and sanitation services by private parties is rare. It is more common for an external contracted party to be a water board (see 6.2.3).

6.2.4 Service Provision by Water Boards

Although responsibility for water supply and sanitation is devolved to the local government, the local government can contract with water boards to provide these services on its behalf. Formal authority rests with local government. However, given the political hierarchies described in Section 5, municipalities may play ‘junior partner’ to the water board, and may not exert effective control over the water board. See sections 3.2.6 and 6.2.4 for further discussion.

6.2.5 Differences between Urban and Rural Areas

There is no difference in the administrative structures and controls between urban and rural areas. The same rules apply equally to local governments operating in urban and rural areas.

However, in practice, political influence in administrative outcomes (particularly as these relate to appointments and procurement) may be more pervasive in rural areas as compared to urban areas — although there is evidence of strong influence in urban areas too (Olver (2016)).

It is more likely that administrative control is ‘outsourced’ to external providers either formally (by contract) or informally (by agreement) in rural areas where administrative capacity is weak. Water boards are under strong (national) political pressure to provide services in rural areas. They may undertake these functions either formally (by contract) or informally (by agreement), even though *de jure* responsibility rests with local government.

²⁶ A Municipal Infrastructure Support Agency, housed within the national department responsible for local government, was established specifically for this purpose. See <http://www.nationalgovernment.co.za/units/view/249/Central-Government-Administration/Municipal-Infrastructure-Support-Agent-MISA> (accessed December 2016).

6.3 Assessment

In the context of full devolution of the responsibility for water and sanitation to local government, local government officials have extensive administrative powers over local water and sanitation services, either directly or through contract (whereby the production function is contracted out). Where water boards play a strong developmental role (typically in undeveloped rural areas where local government capacity is weak), then administrative control of local government officials is likely to be weak for reasons that are mostly likely to be political in nature (see Section 5).

7 Local Fiscal Autonomy and Financial Management

7.1 Overview

Access to adequate financial resources — as well as effective public financial management — are important prerequisites for effective local service delivery. This section assesses the degree of local fiscal autonomy and the nature of local and intergovernmental financial management as it pertains to local water and sanitation services.

The funding of local water and sanitation services in South Africa is provided through a combination of national government grants (capital and operating) and user charges. Local governments receive a constitutionally guaranteed share of national revenues. Although this grant is unconditional, it is intended to support the provision of basic services by municipalities, including water supply and sanitation services. In addition, the national government provides conditional capital grants intended to support infrastructure investment by local governments, including for water and sanitation. Apart from these two sources of funds, local governments must fund the cost of service provision from user charges.

7.2 Local Fiscal Autonomy and Financial Management

7.2.1 Financing Water and Sanitation Services

Since 2000, improvements in access to water and sanitation have been financed primarily by the central government through clearly defined and predictable capital and operating grant transfers to local governments. In the early years after 1994, the national government funded water and sanitation projects through the Reconstruction and Development Program, and later through the National Community Water Supply and Sanitation Program.²⁷ With the creation of a formal democratic local government in 2000, funding was reformed into a constitutionally-guaranteed unconditional grant to local governments (to support the operating costs of providing basic services), as well as conditional capital grants to support investments in municipal infrastructure, including water and sanitation.

7.2.2 Local Financial Management

South Africa has a well-defined and well-regulated system for managing municipal public finances. It is comprised of the following elements:

- Three-year rolling budgets must be prepared and approved by the Council on an annual basis. These budgets are detailed documents and are available to the public.
- Expenditures may not be incurred unless there is an approved budget line item related to that expenditure from which the expenditure can be allocated.
- Annual Financial Statements are prepared, audited, published and made available to the public on the National Treasury's website.²⁸
- Auditing standards are exacting and are strictly applied by the Auditor-General who reports annually on auditing outcomes.²⁹

²⁷ Muller (2002). The National Water and Sanitation Programme in South Africa: Turning the 'Right to Water' into Reality. Water and Sanitation Program, World Bank. Blue Gold.

²⁸ See mfma.treasury.gov.za.

²⁹ See www.agsa.co.za.

- Municipalities are able to structure their own user charges and set the fees and tariff rates, within nationally defined and legislated norms and standards. Municipal tariff schedules are published and are available on municipal websites for most municipalities.
- Municipalities may set their own property tax rates, and structure these within nationally defined norms and standards.
- Local governments may not implement new revenue raising instruments without authorization from the National Treasury.
- Municipalities are required to take full costs into account when setting user fees and tariffs; however, they seldom achieve full cost-recovery in practice.
- Municipalities are empowered to bill customers and collect revenues, and most have the administrative systems and capability to undertake this function.
- Municipalities receive unconditional operating grants (a share of nationally-raised revenue, guaranteed by the Constitution). This grant is formula driven and is predictable and stable. The intention of the grant is to support the costs of providing services to poor households, but the grant is unconditional.
- Municipalities receive various grants for capital investment, including general infrastructure grants, as well as specific water services-related grants. These grants vary in purpose and the conditions imposed. For example, a regional bulk water infrastructure grant supports specific project-based bulk water investments. A Municipal Infrastructure Grant supports general municipal infrastructure, including water and sanitation. A Water Services Grant supports investments in water services infrastructure. A Bucket Eradication Grant supports investments to eliminate the bucket sanitation system. The grants are predictable, being well-defined in the medium-term national budget forecasts, including allocations by municipality. However, the timing of grant payments may be less predictable depending on the fulfilment of conditions and administrative capability.

A summary of key elements related to local fiscal autonomy is presented in Table 7.1.

	Leading Questions	Summary
1.	Does the WSS provider (and/or its parent government entity) have an orderly and participatory annual budget process?	Yes, local governments follow well-defined and well-regulated annual budget processes.
2.	Are expenditure out-turns for local WSS providers consistent with the original approved budget?	Yes, expenditures cannot be incurred unless it they from an approved budget line item.
3.	What is the quality and timeliness of annual financial statements for the WSS provider?	Generally good, though with some mixed and poor performance.
4.	To the extent that LGs have functional responsibilities for WSS, are LGs free to define their own local revenue instruments (for example, specifying user fees, adopting new revenue instruments, or modifying existing local revenue instruments)?	Local governments set their own user charges and property tax rates, but are not free to implement new revenue-raising instruments without explicit authorization from the National Treasury.

5.	To the extent that LGs have functional responsibilities for WSS, do LGs have the right to set the tax base or tax rate for all local revenue instruments?	Yes.
6.	Does the WSS provider (or its parent government entity) take into account full-cost recovery (including user cost of capital) when setting W&S user fee rates?	Yes, but actual tariffs are seldom truly cost-reflective.
7.	Does the WSS provider (or its parent government entity) effectively and equitably collect water and sanitation user fees?	Performance is generally good in the larger urban areas, but mixed in other areas.
8.	Does the WSS provider (or the LG, if owned and controlled by the LG) have access to borrowing from financial institutions to fund local capital infrastructure expenses?	Some municipalities (metros) have a credit rating and the capacity to borrow.
9.	Does the WSS provider (or the LG, if owned and controlled by the LG) receive (conditional or unconditional) grants/transfers from a higher-level government agency to support local government operations and water and sanitation services to the poor?	Yes.
10.	Does the WSS provider (or the LG, if owned and controlled by the LG) receive formula-based grants/transfers from the higher-level government agency in a complete and timely manner, without unnecessary administrative impediments?	Yes.

Source: Prepared by Author.

Note: LG= local government; W&S= water and sanitation; WSS= water supply and sanitation.

7.2.3 Differences between Urban and Rural Areas

The same financial management system applies across urban and rural areas with the following variations:

- Metropolitan governments are given more discretion with respect to capital grants from national government, and can choose how they spend this money across a range of functions, with limited conditionality.
- Other municipalities receive a conditional Municipal Infrastructure Grant. This grant must be used for municipal infrastructure that supports the provision of basic services targeted to poor people in their municipalities (for water, sanitation, solid waste, roads, and so on).
- Various other water-specific and targeting grants are made available for specific purposes.

The general outcome of the system is that municipalities operating in predominantly traditional rural areas are much more dependent on national government grants as compared to municipalities that are predominantly urban, particularly those in the major cities and metros.

7.3 Assessment

Local governments in South Africa are given access to adequate financial resources (through operating and capital grants, and the ability to charge user fees). They are also able to manage their own financial affairs (in terms of strict national regulations) so that they can effectively fulfill their mandates and responsibilities. Municipalities operating in rural areas are much more dependent on national government grants. This creates a set of dependencies that can be unhealthy because the direct client accountability voice (Figure 7) becomes muted in this context.

8 Local Participation and Accountability

8.1 Overview

The assessment of local participation and accountability mechanisms seeks to broadly consider the impact of institutional participation and accountability mechanisms across political, administrative and fiscal systems. In this regard, the question to consider is: Are participation and accountability mechanisms in place and effective in ensuring that W&S services are delivered in a responsive and accountable manner?

Municipalities are required to consult residents and affected parties through a public participation process during the key planning and budget approval steps in providing services (including water and sanitation). They must report publicly in an annual report and financial statements on what they have achieved and what they have spent. Minimum consultation requirements are set out in law, and processes can be halted by affected parties if these consultations have not been carried out. Also, a municipality cannot abrogate these responsibilities in cases where the production function has been outsourced.

8.2 Local Participation and Accountability

8.2.1 Description of Generic Participation and Accountability Mechanisms

Key elements of participation and accountability are described in Table 8.1.

Leading Questions	Summary
Is a local performance framework in place and being applied to water and sanitation services (for example, through a Service Charter?) Is this performance framework adopted by the elected local government or imposed by the national government?	Municipalities are required to develop and publish a consumer service charter, but performance is mixed. Municipalities are also required to implement and report on a performance framework called the Service Delivery and Budget Implementation Plan that includes performance indicators.
Who monitors the performance of the WSS provider? An elected local government? The central government?	The performance of the provision function is monitored by the elected council and by the provincial and national governments (specifically, the departments of finance, water and local government).
Are local budgets and finances (for WSS) managed in a participatory and transparent manner?	Local government budget development processes are transparent and allow for public comment.
Does the local WSS provider have its own effective participatory planning / social accountability / oversight mechanisms that are separate from its parent government entity? What is the frequency of public interaction between the WSS provider and citizens?	Water services providers (the local government department doing the provision) do not have participatory or social accountability mechanisms that are separate from broader municipal processes. Local governments are required to undertake participatory planning and to develop mechanisms that facilitate customer and public engagement, but practices and performance in this area are mixed.
Does the parent government (separate from WSS provider) have an effective mechanism in place to receive and resolve complaints about services?	Local governments are required to implement mechanisms to receive and resolve customer complaints, but performance in this areas is mixed.

Source: Prepared by Author.

Note: WSS= water supply and sanitation.

8.2.2 Participatory and Accountability Mechanisms specific to Local Government in South Africa

The main points of citizen engagement with local government regarding water supply and sanitation services are as follows:

Municipal policies and bylaws. Municipalities are required to public draft policies and bylaws for comment prior to finalization. Policies and bylaws must then be approved by the elected council.

Planning. Municipalities are required by law to develop an Integrated Development Plan, as well as a Water Services Development Plan. Municipalities are required to consult with the public on the basis of a draft plan before finalizing it. The plan must then be approved by the elected council.

Budgeting. Municipalities are required to publish the draft municipal budget (including planned expenditures for water and sanitation) for public comment prior to finalizing it. The budget must then be approved by the elected council.

Service charter. In terms of national policy, municipalities are required to develop a water services customer charter, which must also be approved by the council.

Performance framework. Municipalities are required by law to develop a performance management framework, and to report results against this framework. This is called the Service Delivery and Budget Implementation Plan, and it is regulated and published by the National Treasury.

Reporting on expenditures. Municipalities are required to report on actual expenditures against the budget, and to publish annual financial statements.

Mechanisms to resolve complaints. Municipalities are required, by law, to put in place mechanisms to receive and resolve complaints.

The implementation of plans that have not been subject to a public participation process, in terms of the minimum requirements established in law, may be contested by affected parties in court. As such, their implementation may be suspended or halted.

Municipalities are not allowed to incur expenditures that have not been approved by the elected council. and officials may face criminal sanction for doing so.

Although a service charter is required in terms of national policy, its implementation is not legally enforced.

The National Treasury regulates all financial reporting, including reporting against an agreed performance framework. It may withhold transfers where municipalities fail to report as required.

8.2.3 Water Board Accountability

Water boards are accountable to the Minister of Water and Sanitation. By law, they are also accountable to local government, by which they are contracted to provide services. In practice, the accountability to the Minister trumps local accountability due to the hierarchy of political power in South Africa (see Section 5).

8.2.4 Differences between Urban and Rural Areas

The same accountability mechanisms apply in both urban and rural municipalities. Water boards are likely to be more accountable to metropolitan government than to weaker rural municipalities

for pragmatic commercial reasons. Accountability to the Minister (who appoints the board) overrides accountability to the local government.

8.3 Assessment

Legal requirements for public participation and accountability are strong in South Africa. Affected stakeholders can and do successfully contest decisions in court in cases for which the legal minimum requirements for public participation have not been met.³⁰ The National Treasury requires strict financial accountability and money flows can be made dependent on these requirements being met. Nevertheless, there is a risk that the public participation requirements are done legalistically (that is, to fulfill minimum process requirements) rather than substantively (that is, for the purposes of listening and being responsive to the voice of the people.)³¹ This is not always the case. For example, strong technical and financial arguments have been made for the preferential treatment and reuse of domestic wastewater (rather than the next best alternative, sea-water desalination). However, there is strong public sentiment against treatment of human waste for potable reuse, based on religious and cultural preferences. Local governments have been sensitive to these public concerns and have not, to date, proceeded with the treatment of wastewater for potable use.

³⁰ A current example, unrelated to water, relates to the proposed nuclear building program.

³¹ There is a fear that the consultation processes, which are the same for the nuclear building process, have been manipulated to obtain a desired outcome irrespective of public sentiment.

9 The Vertical Composition of Water and Sanitation Expenditures

This section provides an answer to the question: How much does the public sector spend on water and sanitation services, and how is this spending financed?

9.1 The Overall Vertical Composition of Water and Sanitation Expenditures

A vertical expenditure profile for water and sanitation services is shown in Table 9.1.

	Personnel Expenses	O&M Expenses	Capital Expenses	Total Expenses
National government expenditures at the central level (C) ¹	0.4	0.6		1
National government expenditures at the regional level (C) ¹			7.4	7.4
Devolved expenditures (local government) (D) ²	16	35	15	66
Water boards expenditures (P) ³	2.3	10.2	5.5	18
Total Expenditures	18.7	45.8	27.9	92.4

Sources: ¹ National government expenditures at the central level and regional levels are from the Department of Water and Sanitation (2016a). ² Devolved local government expenditures are from National Treasury reporting. Actuals for 2014/5. ³ Water Board expenses are from their Annual Reports for 2015.

Note: O&M= operations and maintenance.

National Transfers to Local Government for the Water Sector

Of the R66 billion (US\$ 5.5 billion equivalent) spent by the local government, at least R21 billion (US\$ 1.8 billion equivalent) (that is, about one-third) comes through transfers from the national government. It is divided roughly as follows: about R12 billion (US\$ 1 billion equivalent) as an operating grant through the unconditional equitable share, and R9.6 billion (US\$ 0.8 billion equivalent) as capital grants.

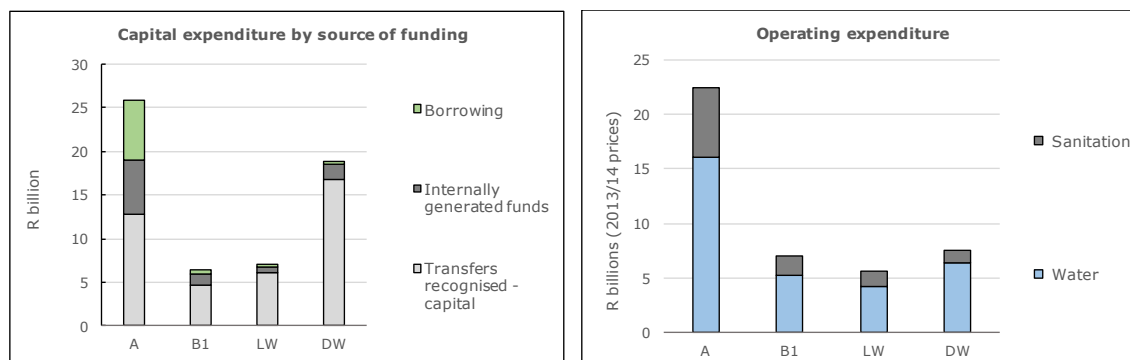
Differences between budgeted and actual expenditures

There was a difference between the budgeted and actual capital expenditures for water and wastewater. The actual expenditure of R15 billion (US\$ 1.3 billion equivalent) was about 80 percent of the budgeted capital expenditure of R18.5 billion (US\$ 1.5 billion equivalent). The budgeted and actual operating expenditures are closely aligned.

9.2 Funding of Local Water and Sanitation in Urban and Rural Areas

Data on capital and operating spending by category of local government is shown in Figure 9. Rural expenditures can more or less be equated with the District (DW) expenditures. Expenditures are dominated by the 8 metropolitan municipalities, and water expenditures comfortably exceed expenditures on sanitation. The heavy reliance on grant funding for capital expenditures outside of the metros is evident. Only the metros borrow substantially to finance capital investment in the water and sanitation sector.

Figure 9: Capital and Operating Spending (by category of local government, 2013-2014)



Source: StatsSA (2015).

Note: A are the metros, B1 secondary cities, LW other local governments and DW district governments.

9.3 Assessment

Water and sanitation expenditures are substantially devolved in South Africa. Although a significant share of water and sanitation funding for rural areas comes from the national government (in the form of the equitable share and capital grants), most of this expenditure is under the control of local governments. Their role is also constitutionally protected.

Nevertheless, in the context of centralized political power, there are strong pressures to use national resources to support political ends (See Section 5). In the water sector, this manifests through increasing demands for a stronger role for the nationally-controlled water boards in both the funding and management of water services, particularly in rural areas. While this funding and management should take place through contracted agreements with local governments, with water boards acting on behalf of the municipality, this is not always the case. The asymmetry of power between the national and local levels means that national political interests may override local interests in these interactions. Thus, rural client and political voice is muted (see Section 5).

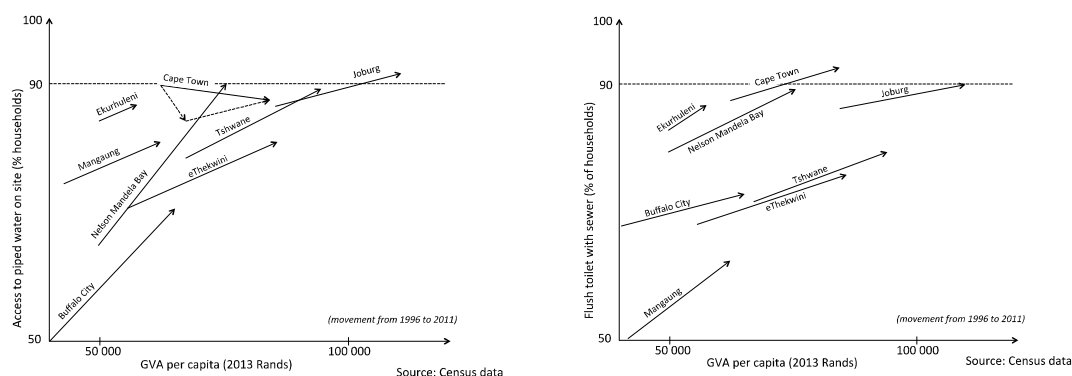
10 Conclusions

10.1 Sector Performance in Context

Improved access is associated with higher levels of economic development

Access to water and sanitation services is highest in the more economically developed metros. Between the metros, the same relationship between economic development and access is evident, as shown in Figure 10.³²

Figure 10: Access to On-site Water and Flush Toilets Connected to a Sewer (as a function of GVA per capita)



Source: Prepared by Author from published economic and census data.

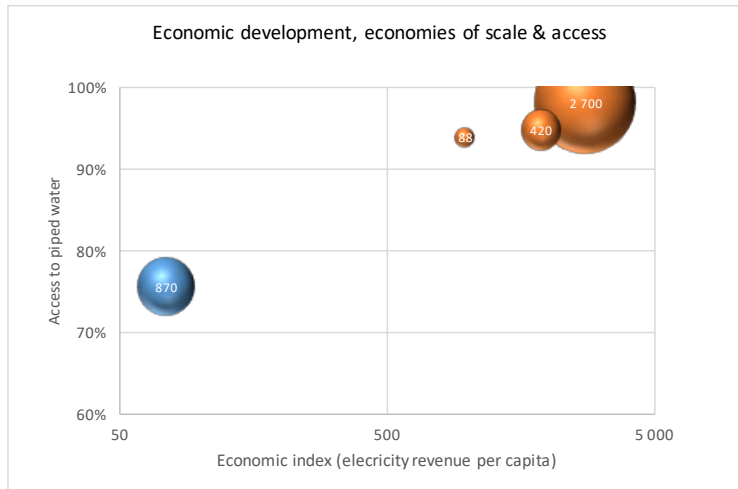
Note: GVA= gross value added. The dotted line for Cape Town shows the Census data for 2001 in between the 1996 and 2011 Census. The decline from 1996 to 2001 may have to do with metro boundary changes.

Economies of scale do not appear to be a determinant of sector performance

The level of access by the average size of the municipality responsible for providing the service is shown in Figure 11. Small towns, with an average size of 88,000 people, do relatively well with respect to access, and they do not appear to be subject to economies of scale problems. The larger rural districts, with an average population of 870,000 have much lower access rates. This is likely to have much more to do with the relative level of economic development rather than with a problem of economies of scale. Indeed, the scale of provision is quite large for the rural districts. (See Figure 3 which shows the economy of scale distribution for municipal providers).

³² Briefing Paper: Securing South African's urban water future – Risks and imperatives. R. Eberhard. November 2016. Prepared for the National Treasury.

Figure 11: Access, Economic Development and Economies of Scale

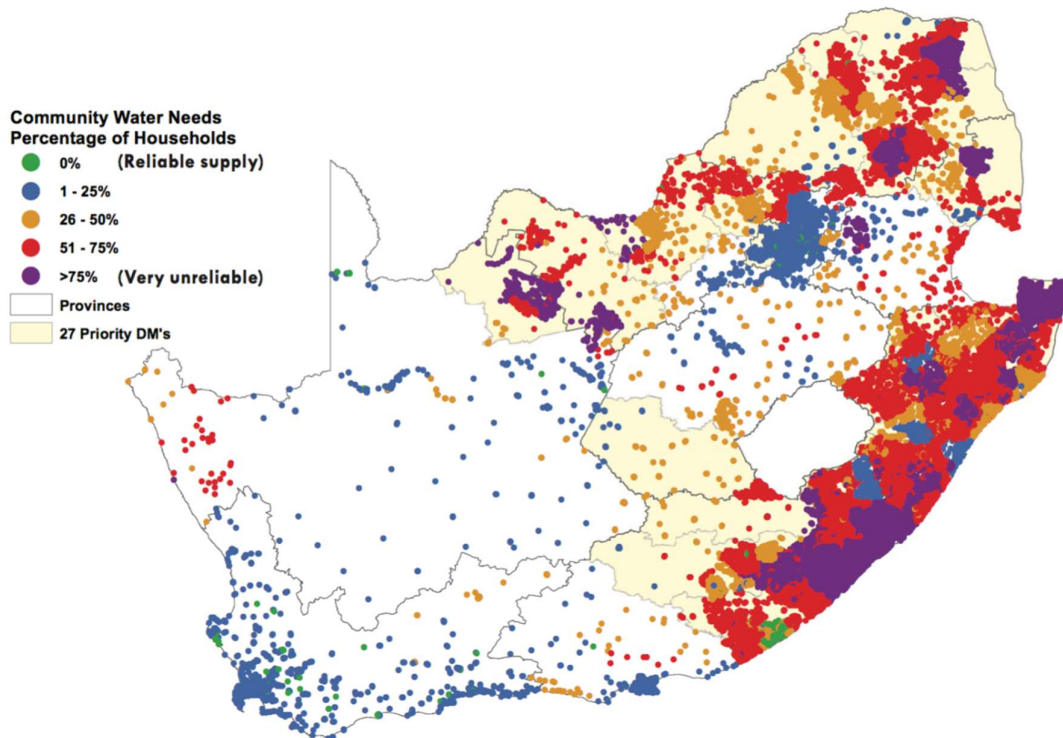


Source: Prepared by Author from published municipal and census data.

Sector performance is weakest in the less-developed rural areas

Data on the reliability of water services is shown in Figure 11 (each dot represents a community). It corroborates the afore-mentioned conclusion.

Figure 12: Access to Reliable Water infrastructure by Community (% households)



Source: Department of Water and Sanitation (2016b).

Note: DM= district municipality.

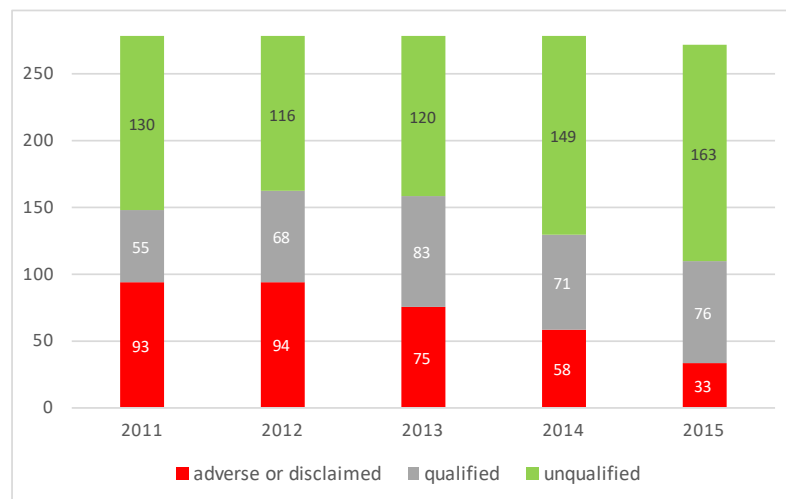
The correspondence between the C2 district municipalities responsible for water and sanitation services (Figure 5) and the map showing reliability of water infrastructure (Figure 1) is visible.

Relatively poor performance and access are to be found in the largely rural districts, which are much poorer compared to the other more urban municipalities.

Accountability and governance is weakest in the rural areas

Audit outcomes are reported for a municipality as a whole (including the water function). There has been an improvement in audit outcomes over the last five years (Figure 9).

Figure 13: Municipal Audit Outcomes



Source: *Municipal Financial Management Act Outcomes 2014/15* (Auditor General, 2016).

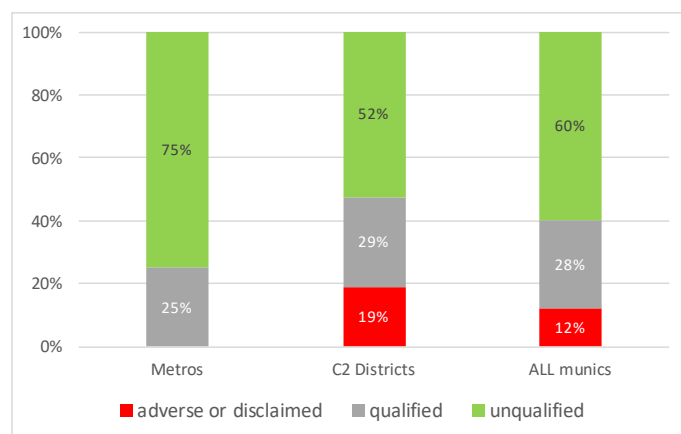
However, the value of irregular expenditures (reported by municipalities and identified by auditors) increased from R7 billion (US\$ 0.6 billion equivalent) in 2011 to R15 billion (US\$ 1.3 billion equivalent) in 2015.³³ Unauthorized expenditures also increased, from R5 billion (US\$ 0.4 billion equivalent) in 2011 to R15 billion (US\$ 1.3 billion equivalent) in 2015.³⁴ The combination of irregular and unauthorized expenditures represents about 10 percent of total municipal expenditures. Less than half of this, by value, was investigated by municipalities for failing to meet the legal requirement that these expenditures be investigated.

There was a difference between how different kinds of municipalities performed (Figure 10).

³³ "Irregular expenditure is expenditure that was not incurred in the manner prescribed by legislation. Such expenditure does not necessarily mean that money had been wasted or that fraud had been committed. However, it is an indicator of irregularities in processes followed in the procurement of goods and services and a measure of a municipality's ability to comply with legislation relating to expenditure and procurement management." (Auditor-General, 2015).

³⁴ "Unauthorised expenditure refers to expenditure incurred by municipalities outside the budget approved by the council or not in accordance with the conditions of a grant." (Auditor-General, 2015).

Figure 14: Audit Outcomes by Category of Municipality



Source: *Municipal Financial Management Act Outcomes 2014/15* (Auditor General, 2015).

The metros performed better than the performance for all municipalities, whereas the C2 districts performed worse. Metros had no adverse disclaimed audits in 2015, although 2 out of 8 had qualified audits. Nearly 1 in 5 (4 out of 21) C2 districts had adverse or disclaimed audits and nearly a third qualified audits.

If audit outcomes are accepted as a reasonable proxy for governance performance, then poor governance could be an important contributing factor to poorer outcomes in the rural districts responsible for water and sanitation services as compared to other municipalities.

There appears to be an inverse relationship between satisfaction and payment for services

General Household Survey data shows that, for the country as a whole, the number of people who say that they do not pay for water has increased from 33 percent in 2004 to 56 percent in 2015. At the same time, perceptions of the water service have dropped: the percentage of people who rate the service as good dropped from the high 70s to the low 60s over the same period.

Client voice, grant dependence, accountability and performance

Grant dependence is highest in the rural areas (Figure 9). Clients who do not pay for a service may be less able to hold their local provider accountable. While political voice exists at the local, provincial and national levels through regular elections, the dominance of the ruling political party has meant that poor performance in rural areas can persist — without threatening the ruling elite. In this context, it can be argued that political accountability is weak. There is some evidence that this is changing. Ironically, this change is taking place in the metropolitan areas where sector performance is strongest.

10.2 Has decentralization facilitated or inhibited good performance?

South Africa has a strongly decentralized system of local government, enshrined and protected by the Constitution. Within this framework, the responsibility for water services has been allocated to local government by the Constitution. There is thus a strong relationship between local government decentralization and the decentralization of water and sanitation services. The institutional structure for the sector, functional assignments, governance arrangements and flow of finances are all consistent with this decentralized structure of service provision.

There is a tension between democratic-centralism tendencies on the part of the ruling political party and this decentralized arrangement protected by the Constitution. However, government is

forced to work within the constitutional and legal framework. Thus, these centralizing tendencies have, to a large extent, been held in check.

Sector performance, overall, is impressive when subjected to international comparison (see World Bank 2017).

Sector performance is best in the metropolitan areas, followed by the large secondary towns, then the medium and small towns. Performance is weakest in the poor and less-developed rural districts.

The level of economic development across these settlement types could provide an explanatory factor for relative performance because there is a strong association between these parameters. Governance is also weaker in the rural areas, and this could be a further contributory factor.

Economy of scale does not appear to be a determining factor of performance.

Overall, then, it must be concluded that this decentralized system of provision has supported good sector performance rather than inhibited it.

10.3 Could Centralized Provision have Yielded Better Outcomes?

There is little evidence to suggest that centralized delivery would have guaranteed better outcomes. The poor performance of Eskom, South Africa's national electricity utility, suggests that central government provision of services is not immune to the influence of malign political forces.³⁵ In fact, patronage may be stronger at this level because the stakes are higher.³⁶

10.4 Does Decentralization promote Better Governance and Outcomes?

Decentralization allows for a distribution of power and resources. The thesis is that this will, over time and on balance, yield better outcomes compared to more centralized systems of delivery. The South African experience appears to support this thesis.

³⁵ See, for example, "Eskom is becoming a problem." December 6, 2016, www.leader.co.za (accessed 31 January 2017).

³⁶ See Public Protector (2016).

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