

CHAIRPERSON OF SALGA CLLR PARKS TAU TO THE NATIONAL COUNCIL OF PROVINCES (NCOP)
PROVINCIAL WEEK: 08-12 SEPTEMBER 2014

Programme Director

Honourable Premier of Gauteng.

NCOP Delegation leader.

Speaker of the Gauteng Provincial Legislature.

Permanent Members of NCOP

Members of the Provincial Legislature

House Chairpersons and Chair of Chairs

Executive Mayors

Councillors

Ladies and Gentlemen

On behalf of the collective leadership of SALGA under the stewardship of Cllr. Thabo Manyoni, let me express our sincere gratitude and appreciation for this opportunity to address this gathering under the theme: "Together making service delivery work for our people". As we move towards the next local government elections, scheduled for 2016, a year and half from now, it is critically important, in our view, to bear in mind the tremendous strides and progress that government has made, with Local Government playing a critical role, in expanding the provision of services to our people. While acknowledging and addressing the challenges, we should equally succeed to overcome the obstacles before us.

The triple challenges of poverty, unemployment and underdevelopment manifest themselves at Local Government level, the face of service delivery. To some communities, there is no distinction between National, Provincial and Local Government and sometimes the state enterprises. Transformation from a society rooted in discrimination and disparity, to a constitutional democracy will continue to pose profound challenges for Local Government. It is at this level that acute imbalances in personal wealth, physical infrastructure and the provision of services are glaring.

In the light of this, it is clear that local government is the microcosm of government of the entire state. Chapter 3 of the Constitution of the Republic of South Africa encourages all three spheres of government to observe and adhere to the principles of co-operative governance and intergovernmental relations. Section 41 (1) outlines the following principles which all organs of state must adhere to:-

- a) preserve the peace, national unity and the indivisibility of the Republic;
- b) secure the well-being of the people of the Republic;
- c) provide effective, transparent, accountable and coherent government for the Republic as a whole;

- d) be loyal to the constitution of the Republic and its people;
- e) respect the constitutional status, institutions, powers and functions of government in the other spheres;
- f) not assume any power or functions except those conferred on them in terms of the Constitution;
- g) exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere; and
- h) co-operate with one another in mutual trust and good faith.

1. LEGISLATION AND POLICIES FROM NATIONAL AND PROVINCIAL GOVERNMENT IMPEDING ON SERVICE DELIVERY

Since 1994, local government has experienced a deluge of laws from national and provincial government. While the provinces have been modest in their contribution to the regulations of local government, the old provincial ordinances cling tenaciously to statute books.

The aim of all new legislation developed for local government was to give practical effect to the vision of developmental local government envisaged in Chapter 7 of the Constitution of the Republic of South Africa of 1996. Of paramount importance was legislation that sought to structure the institutions and process of local government, including the Municipal Structures Act 117 of 1998, the Municipal Electoral Act 27 of 2000, the Municipal Systems Act 32 of 2000, the Municipal Finance Management Act 56 of 2003, the Municipal Property Rates Act 6 of 2004, the Municipal Fiscal Powers and Functions Act 12 of 2007, and most recently, the Spatial Planning and Land Use Management Act of 2013. Following in the wake of these Acts were regulations which further sought to regulate the matters covered in the principal Acts. In addition to these institutional arrangements which form the back-bone of municipal governance, regulations also flowed from sector departments directed at managing functional areas of Schedule 4B and 5B. Local government, has therefore, due to the inherent nature of its diverse functioning, become the point of convergence for a barrage of legislation and regulations.

The legislation is ostensibly geared towards ensuring that local government indeed fulfils its constitutional mandate of development. All the legislation and regulations viewed in isolation are arguably necessary and important to regulate its composite functions and achieve intended outcomes. The question posed is whether the sheer volume, style, nature and scope of the legislative framework that has emerged, is facilitating or impeding the achievement of the mandate of local government? Is the legislative framework undermining the fundamental constitutional principle that “a municipality has the right to govern, on its own initiative, the affairs of the local community, subject to the national and provincial legislation”? In other words, is the collective impact of the national and provincial legislation hampering local government’s right to govern on its own initiative?

SALGA has, over the last few years, , engaged with Parliament, NCOP, Department of Cooperative Governance (DCOGTA), Portfolio Committee, and Select Committee on Cooperative Governance and other sector departments on a number of aspects relating to the impact of legislation on service delivery. SALGA also participated in the legislative review process of DCOG in 2010, where legislation

impacting on service delivery in municipalities were considered and identified. The process is still ongoing and SALGA will continue to advocate and lobby for these policy/legislative reviews.

In our view, it seems that national and provincial spheres of government have lost trust in local government's ability to self-govern and seem intent in their moves 'to protect' local government by over-burdening it with more laws and regulations. It is against this background that as the voice of organised local government, we will ensure that we protect the status, autonomy and integrity of local government as enshrined in the Constitution of the Republic, clearly outlined in the aforementioned section on co-operative governance and intergovernmental relations.

Programme Director, we are gathered here today as three spheres of government with the view to listen and respond to the challenges raised by our communities and provide possible solutions to these challenges. Accordingly, I note that this week ordinary South Africans will have an opportunity to interact with their public representatives and share their views about government programmes.

I am sure that representatives of government across all spheres will take heed of our people's views and concerns. After all, it is only through regular interaction and listening to the people that government can give effect to the goals of reconstruction and development. As organised local government we will support other spheres of government in their endeavour to better the lives of our people.

2. AUDITOR-GENERAL'S CONSOLIDATED REPORT ON AUDIT OUTCOMES 2011/12

The other important issue that SALGA requires is the support and intervention of Gauteng permanent members to the NCOP and from our Provincial Executive is the reputational damage and perception generated by the clean audit concept. This continues to be the pursued outcome for South African municipalities. We need to bear in mind that not every municipality that does not get a clean audit has poor financial management issues or lagging behind in delivering services.

Local government has, and continues to improve the livelihoods of South Africans. The 2001 and 2011 census reports concluded that there were significant improvements in the access to a range of basic services delivered by local government such as water, sanitation, electricity and refuse removal. Furthermore, the recently released Quality of Life Survey conducted by the Gauteng City Region Observatory (GCRO), indicates that between 2009-2013, 91% of households received pipe water in their dwelling or their yard, 81% of households (with a significant decline in Midvaal) have access to adequate sanitation and only 1% of households still use the bucket system in Gauteng.

There was a slight decline in access to refuse removal- 90% in 2009 compared to 87% in 20....(date incomplete)for Gauteng, with significant decline in Johannesburg, Emfuleni and Westonaria. Access to electricity currently stands at 91% with big improvements in Westonaria and Merafong Local Municipalities and significant decline in Johannesburg, Tshwane and Midvaal. Overall, 62% of the people of Gauteng are satisfied with services they receive from government. While SALGA continuously promotes and advocate for good governance in municipalities, it must be emphasized that local government problems are somewhat complex and cannot be resolved by local government alone. While the responsibility to implement such initiatives rests with municipalities, SALGA calls for more coordination on the support initiatives provided by the organs of state for a more visible impact. In the quest to attain the vision to provide a better life for all complemented by

accountability, we cannot turn a blind eye to the need for collaboration between local government, other spheres of government, business and the community at large as promoted by Intergovernmental Relations Framework.

As SALGA Provincial leadership elected in 2011, we will continue to throw our weight behind municipalities by providing leadership and guidance in improving sound financial management and promoting good governance. Our plea is for all spheres of government, SOEs, business and the community at large to join hands to restore and profile the already damaged image of local government with the view to win hearts and minds of our people.

As organised local government, we acknowledge the challenges of high levels of unemployment particularly affecting our youth. We remain mindful of the importance of economic empowerment as well as efforts to increase access to land. With these priorities in mind – through its governance structures and engagements in intergovernmental platforms, SALGA continues to advocate for the implementation of policies and programmes that respond to these challenges. We recognise the importance of managing the informal economy as a buffer for extreme poverty but also as a fertile ground for entrepreneurship development.

We acknowledge the need for regulatory reforms in relation to procurement policies so that they advance the economies of scale, fairness, and equal opportunities. The collective of government is committed to addressing the inherent disparities in the spatial development and apartheid spatial configurations characterized by segregation along racial line. We are committed to collaborating with other spheres of government to promote access to land, establish settlements that reflect the country's demographs and encourage social cohesion.

3. RESTRUCTURING OF MUNICIPAL MUNICIPALITIES

Programme Director, as much as we support government's initiatives to accelerate service delivery and Gauteng Vision for City Region, we also believe that there is a need for cooperation from all levels to ensure that these initiatives become a reality. The current incorporation of Metsweding, Kungwini and Nokeng Tsa Taemane municipalities into the City of Tshwane has led to serious financial implication amounting to R1.4 billion for the City of Tshwane.

As we approach 2016 local government elections, we have acknowledged the final report from the Municipal Demarcation Board which reflects a significant boundary determination, leading to the dismantling and then followed by the reconfiguration of municipalities in our province. We have already started engagements with the Budget Forum and Financial Fiscal Commission with the view to lobby and advocate for the establishment of restructuring grant which will ensure the merger and establishment of new municipalities, averting the challenges experienced by the City of Tshwane.

4. ACCREDITATION OF HUMAN SETTLEMENT FUNCTION TO METROS

In November 2011 the Human Settlement MINMEC resolved that by 2014 six Metros would be assigned the powers to administer the national human settlements programmes in their areas of jurisdiction. All three Gauteng Metros were identified for this assignment. According to timeframes it was envisaged that all three Gauteng Metros would have signed agreements with the Province on the matter by 15 August 2013. However, in September 2013 the Director General for the National Department of Human Settlements sent a letter to the Head of Departments of the affected

provincial Human Settlements (HS) Departments, requesting to put the process on hold until such time that some of the identified major risk factors have been addressed.

In December 2013, National Treasury shared the allocation formula they intended to use to allocate the new grant for operational funding to the metros (to finance the operational costs related to the transition and administration of national housing programme on behalf of the province).

Subsequently, in March 2014, the National Department of Human Settlements issued an Instruction Note which set out revised timeframes for assignment and instructed all provincial HODs to resume the process of finalising the assignment protocols by May 2014. Sadly, none of the provinces and metros met this deadline. According to the timeline set by the NDHS, HSDG was expected to flow directly to the assigned metro by 1 July 2014.

The 2014/15 Budget introduced a new conditional grant, the Municipal Human Settlements Capacity Grant (MHSCG), the purpose of which is to build capacity in municipalities to deliver and to subsidise the operational costs of administering human settlements programmes. The total grant allocation is R300 million per year, to be shared by the six metros based on an agreed formula.

In accordance with the gazetted conditional grant framework, all six metros submitted their MHSCG business plans by the deadline of 30 June 2014. According to DORA, the MHSCG was to flow to the six metros from 1 July 2014. However, to date, the MHSCG has not been disbursed to the six metros.

On 25 July, the metros each received a letter from the DG: Human Settlement stating that the first tranche of the MHSCG is being withheld. The letter stated that:

A decision was taken during the Human Settlement MINMEC 4 July 2014 to review the accreditation process and the assignment of powers to metros.

MINMEC also requested that transfer of the MHSCG be put on hold until the review is completed. A letter sent to National Treasury from the Department requesting that first tranche be withheld for 120 days.

Upon receiving this information, SALGA initiated a legal process, seeking legal opinion on the constitutionality of the MINMEC's decision on this matter. The preliminary legal opinion indicates that withholding the grant clearly violates DORA (Section 18).

National Treasury has indicated that it cannot legally approve the request from the Department of Human Settlement. It should be noted that the decision to put assignment "in abeyance" and to "re-direct the funds" was taken at a MINMEC meeting at which SALGA (as a representative voice of organised local government) and municipalities were deliberately excluded, at the instruction of the Minister. Given that the decision to review assignment and delay disbursement of the MHSCG has a direct impact on local government; this is countering the spirit of cooperative governance and Intergovernmental Relations to exclude municipalities from such a meeting.

Programme Director, as highlighted already in this presentation, through our advocacy and lobbying role we remain committed to building the capacity required in municipalities to acceptable levels through collaboration. This is mainly because local government is the backbone of government. An effective local government is in the interest of all. We therefore request the support of the Gauteng

permanent members to the NCOP on issues raised by SALGA in the interest of our member municipalities for the betterment of the lives of our people on the ground.

I thank you!!