

The Municipal Finance Management Act and the Role of Parliament in the Oversight of the Budget

Presentation made to the workshop of the National Council of Provinces by Dr David Mohale

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Introductory Remarks

- “Humans are not a resource, they are the **source**. They are the source of everything a company does” (Pascal Finette quoted in Shorkend, A and Golding, A, 2018)
- “People are your most important asset turns out to be wrong. People are not your most important asset. The **right** people are. Three broad stages: disciplined people, disciplined thought and disciplined action (Collins, J: 2001).
- The right people develop systems and processes (heartbeat of every organization) in order to cultivate an institutional culture of performance and accountability.
- Formal rules versus ‘institutional rules-in-use’ (Klijn & Koppenjan, 2006); although institutions provide social infrastructure for human behavior, individuals convictions are likely to triumph when in conflict with formal rules (legislation, policies etc) [Mohale, 2018]

...Introductory remarks continued: Setting the context

- For obvious reasons (*mismatch between policy goals and actual performance*) that often emerge from government own periodic reviews, numerous studies/reports, Stats SA data on development indicators, the ANC and its government publicly shifted towards a developmental state approach for the first time between 2003-2005 (declaration of intent).
- Developmental states: structures (institutional arrangements) + roles/functions = soaring outcomes (*economic growth and possibly **happy life** which is the ultimate objective of the Chinese Dream*); theoretically, a developmental state is thus a cause for development.
- What is the overarching strategic objective of the political program of the post-apartheid state? “If there were to be any single measure of the civilizing mission of NDR, it would be how it treats the **most vulnerable** in our society” (ANC Strategy and Tactics, 2012; 2007).
- Given this background, what then becomes the role of parliament in response to the line in the Preamble of the Constitution that reads “Improve the quality of life of all citizens and free the potential of each person”?
- The ANC proposes an intervention: “As such, if there were any central factor to the progress of the South African nation in this period of movement to a new phase, **it is the quality of the ANC**: its leadership, its cadreship and its membership”.
- Given that political parties provide the state **institutional repertoire** (personnel, policies, programs), the development and multiplication of the right people – disciplined people, disciplined thoughts and disciplined behavior – becomes the strategic imperative for state capacity.

A glimpse of where we are: What do parliamentarians say?

- “One of the crucial elements of our constitutional vision is to make a decisive break from the unchecked abuse of State power and resources that was virtually institutionalised during the apartheid era. To achieve this goal, we adopted accountability, the rule of law and the supremacy of the Constitution as values of our constitutional democracy. For this reason, public office-bearers ignore their constitutional obligations at their peril. This is so because constitutionalism, accountability and the rule of law constitute the sharp and mighty sword that stands ready to chop the ugly head of impunity off its stiffened neck.” (Mogoeng, 2016)

...continued

- Those that are required to supervise and monitor adherence to fiscal management laws are not doing so or are not effective in the steps they have taken so far. This problem is compounded by the indisputable reality that the money allocated to the delivery of certain specified outcomes is no longer in the bank and that for which it was earmarked has not been delivered or achieved. There is not much to go around, yet the right hands are not at the till. (Makwetu, 2019).
- The outcomes were characterised by a lack of basic financial disciplines, an unwillingness to comply with legislation, and a general disregard for internal controls and accountability. Last year we reported on the total breakdown in internal control and poor leadership responses towards improving the situation. The trend continued this year, inevitably leading us to the conclusion that there is a deliberate lack of accountability by the political and administrative municipal leadership in the province. The failure of infrastructure projects and the lack of infrastructure maintenance are costing municipalities millions, with little consequences for the responsible officials and contractors and no effort to recover the losses, with communities suffering the most for the poor tone set by the leadership. (Makwetu, 2019).
- Whereas the role of legislature in traditional developmental states was reduced to a “safety valve” (Johnson, 1999) and deliberately “kept ineffectual” (Wade, 1990) by the executive branch of government, Section 44 (2), (3) and (4) of our National Constitution accords prominence to the developmental role of our parliament.

Municipal budget in the context of development

- Section 152 of the Constitution sets out the developmental functions of a municipality; Sections 153 and 154 establish the available mechanisms (IGR)
- “Cities inhabit the space where implementation occurs, where the policy rubber has to hit the road, where policymakers come face to face with society’s problems. Although the role of municipal actors is frequently overlooked, their direct influence is often greater than that of presidents.” (Mills, Obasanjo, Herbst & Davis, 2017)
- “Local government is the context of the everyday lives and the only level of government that has constant impact on the physical and social environment within which humans live” (Box, 1998)
- “The problems of the bottom billion for whom poverty and high mortality persists can only be resolved with the necessity to reconstruct life from below (Schorburgh, 2014)
- “National politics can obviously support or undermine specific decentralization policies. They influence, for instance, which functions and revenues are devolved, the degree to which the central government is willing grant subnational autonomy, and the process and support structures that enable local governments to assume new roles” (Smoke, 2015). **What’s the feeling about less than 10% fiscal allocation to local government?**
- Development in South Africa is a function of inter-institutional harmony, coordination and economies of scale.

MFMA: An enabler or disabler?

- Purpose: establishment of sound and sustainable management of financial affairs is lofty;
- Bulkiest piece of legislation with 180 sections comprising over 1000 provisions? Is local government strangulated? Steyller (2018) charges that local government “has become the point of convergence for a barrage of legislation and regulations”. The sheer volume, style, nature and scope has the potential to inhibit local government from fulfilling its constitutional mandate”.
- Does it unlock or suffocate innovation? Section 21 (2) (b) i.e. compliance with the national fiscal and macro-economic policy. It’s reported that the state of Kerala in India often leveraged on true independent policy thinking hence better policy performance compared to its national government.
- IDP is the source of municipal budget? What does the parliament do when sector departments do not honour IDP representative fora?

From the horses' mouths: mixed feelings (Mohale, 2018)

- “Promotes compliance over developmental work”
- “Development needed to be pursued within specific parameters”
- “Straight jacket rules had adverse impact on municipalities”
- “During consolidation phase, municipalities had to compile 221 reports annually. This requirement placed a huge burden even on big municipalities”
- “General lack of understanding of the public about terms such as unauthorized, irregular and wasteful and fruitless expenditure created panic in municipalities; society tends to think that these terms are equivalent to corruption”
- “By the time they (councilors) begin to have minimal understanding of legislation, time is no longer ample for them to concentrate on implementation of policies...the last two years are dedicated to self-preservation”
- It is reasonable to believe that local government must execute its developmental agenda within the confines of legislative framework”
- Good governance delineates roles to different members of the institution in order to foster a culture of accountability. Problems arise when administration to comprehend the relationship between legal framework and performance or when politicians put fingers in administration and undermine the legislative framework”.
- “The introduction of the MFMA eroded the moral structure of the ANC”

CONCLUSION

- [Innovation is the soul driving a nation's progress and an inexhaustible source of a country's prosperity. It is also an essential part of the Chinese national character. This is what Confucius meant he said, "If you can in one day renovate yourself, do so from day to day. Yea, let there be daily renovation."]
- The collective knowledge we now have regarding South Africa's journey of progress, and the contribution or lack thereof of local government, needs the entirety of government to think innovatively in search of lasting solutions.
- At some point there was a talk of "rethinking" the model of our local government system.
- The National Assembly cannot be a spectator in a quest to construct a democratic developmental state, centred on transparency and accountability. In pursuit of a dream of what we may call a happy life of all citizens, the Parliament must act consistent with Section 44 (4) of the Constitution: When exercising legislative authority, Parliament is bound **only** by the Constitution....

THANK YOU.