

Local Government Accountability, Oversight, and the Intervention Mechanism in South Africa

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Abstract

Since democratization, South Africa has struggled to create a stable system of local governance. There are constant municipal failures. Higher levels of government have to intervene in municipalities regularly. This study, therefore, set out to assess the effect of intervention mechanisms, including preventative measures, as part of the broader accountability and oversight setting. Based on a qualitative research approach, this paper argues that both prospective and retrospective accountability forms are weak. Post factum interventions yield only limited results. Overall, these mechanisms are not able to form stable local governments and prevent municipal failures. Ultimately, this paper inferred that strengthening prospective accountability and oversight mechanisms has the capacity to increase the stability of the local governance system. This finding has important implications for developing new accountability and oversight practices in South Africa and elsewhere.

Key Words: Local Government, Accountability, Oversight, Intervention, South Africa

Introduction

More than 25 years ago, South Africa moved to establish a democratic governance system. In this new system, local governments were envisaged to play a central role in reversing governance injustices and discriminations from the past. Kauzya argues that local governments were to: “correct the socio-politico-economic injustices and segregation” that the apartheid system had created.¹ Aiming to correct these injustices, the local governance system has passed through different phases, as Heymans observes, from: “undoing the apartheid legacy and deracializing municipalities,” including “far-reaching demarcation of jurisdictional boundaries”, to the: “stabilization and consolidation of structures and systems.”² This context helps us better understand the current day dynamics of the South African local governance system.

One major theoretical issue that has dominated the field for many years concerns the widespread failure of municipalities and how weak accountability lines and poor administrative oversight are influencing this phenomenon. Previous studies have failed to draw adequate theoretical implications to address this problem at its core. It is therefore that this study examines monitoring, support, and intervention practices and highlights the importance that these processes play for accountability and oversight and the local governance system in general. This paper argues that weak ex ante prospective accountability and oversight mechanisms lead to frequent and repeated ex post interventions by higher levels of government in municipalities. These interventions typically fail to address and solve the core problems. Therefore, a vicious cycle is created that leads to local government instability.

¹ John-Mary Kauzya, “Political Decentralization in Africa: Experiences of Uganda, Rwanda, and South Africa,” in *Decentralizing Governance-Emerging Concepts and Practices*, eds. Denis A. Rondinelli and Shabbir G. Cheema (Washington D.C.: Brooking Institution Press and Ash Institute for Democratic Governance and Innovation, 2007), 83.

² Chris Heymans, “Local Government Organisation and Finance: South Africa,” in *Local Governance in Developing Countries*, ed. Anwar Shah (Washington D.C.: The World Bank, 2006), 47-48.

A qualitative approach is used in this study. Data for the research is collected from the general literature on accountability, oversight, fiscal and financial prudence, and from in-depth interviews with government actors and document analysis (internal government documents and documents related to financial performance). Data is analyzed using the constant comparison analysis method. Finally, interpretation is based on inductive reasoning by creating inductive arguments to show specific patterns and tendencies and to support the claim of conclusions, which are not absolute. The paper begins by giving a theoretical background on the meaning, concepts, forms, and applications of accountability and oversight, fiscal and financial discipline and crisis prevention, and intervention mechanisms in a local government context. It will then consider legal provisions and practices on monitoring, support, and intervention in South Africa.

Accountability and Oversight in Theory

Recent developments and reforms in local government across the globe have heightened the need to establish a local governance system centered around the needs of its citizens. This system of governance should evolve around three main principles. Local governments should be responsive, where citizens drive governance choices. It should be responsible, committed to quality, effectiveness, and efficiency. And it should be accountable to the local constituency and respect the formal rules of the system.³ Accountability, as the third principle, is the key concept used throughout this study. The dictionary of politics and government describes accountability as: “the situation of being required to explain what has happened and take responsibility for it.”⁴ In the academic literature, the term accountability tends to be used to refer to: “exercise of counter power to balance arbitrary action.”⁵ In terms of local governance, this would mean that the local government is obliged to report and justify its decisions and, on the other hand, face the consequences if the decisions contradict legal and democratic rules and expectations.⁶ Local governments are accountable to: “those who will be affected by its decisions or actions,”⁷ either its citizens or higher levels of government. For accountability to be functional within an institutional environment, Schaeffer and Yilmaz argue that: “formal systems, institutions, laws, regulations, as well as the informal day-to-day practice of government” must exist.⁸ The effective functioning of these mechanisms determines good governance and institutes a stable and coherent governance system.

The term accountability embodies a multitude of concepts that should be distinguished based on their various forms and applications. In most cases, accountability is defined as horizontal or vertical, upwards or downwards, and Ex Ante or Ex Post. Horizontal accountability, according to O’Donnell, refers to the: “existence of state agencies that are legally empowered—and factually willing and able—to take actions ranging from routine oversight to criminal sanctions or impeachment in relation

³ Anwar Shah with Sana Shah, “The New Vision of Local Governance and the Evolving Roles of Local Governments,” in *Local Governance in Developing Countries*, ed. Anwar Shah (Washington D.C.: The World Bank, 2006), 22.

⁴ P.H. Collin, *Dictionary of Politics and Government*, third edition (Bloomsbury Publishing, 2004), 3.

⁵ Jesse C. Ribot, “African Decentralization: Local Actors, Powers and Accountability,” *UNRISD programme on Democracy, Governance and Human Rights*, Paper No. 8 (2002): 29.

⁶ Rob Jenkins, “The Role of Political Institutions in Promoting Accountability,” in *Performance Accountability and Combating Corruption*, ed. Anwar Shah (Washington D.C.: The World Bank, 2007), 138.

⁷ Helmut Drücke, “Can E-Government Make Public Governance More Accountable?” in *Performance Accountability and Combating Corruption*, ed. Anwar Shah (Washington D.C.: The World Bank, 2007), 61.

⁸ Michael Schaeffer, Serdar Yilmaz, “Strengthening Local Government Budgeting and Accountability,” *Policy Research Working Paper 4767*, The World Bank (2008): 11.

to possibly unlawful actions or omissions by other agents or agencies of the state.”⁹ This includes ombudspersons, auditors, anticorruption bodies,¹⁰ electoral commissions, the judiciary, and the local legislative branch of government.¹¹ Schmitter points out that horizontal accountability is an interaction between institutions that form part of the same governance apparatus.¹² According to Jenkins, vertical accountability refers to the relationship between the state and its citizens, where various actors that are not formally part of the state try to hold the government to account.¹³ This description is often used in the literature to more specifically refer to downward accountability. Elections are a central element of downward accountability. The effectiveness of this accountability mechanism in developing countries, where the election process is prone to capture, remains questionable.¹⁴ Upward accountability refers to lower levels of government being accountable to higher levels of government.¹⁵ According to Yilmaz and Beris, this accountability form refers to: “a given hierarchical structure within government.”¹⁶ Schmitter maintains that vertical accountability reflects the: “power relations between citizens, representatives, and rulers” in a complex system where: “information, justifications, and sanctions (...) move up and down the chain in an ongoing exchange.”¹⁷ Hybrid accountability forms can also be shaped by combining various elements of both horizontal and vertical accountability.¹⁸ In terms of time, the accountability process can be distinguished between Ex Ante (prospective accountability) and Ex Post (retrospective accountability). Taken together, these terms explain the environment in which local governments operate. They are held to account by local citizens on the one side and higher levels of government and state agencies on the other side. This research focuses on the vertical upwards accountability form and the relationship between higher levels of government and local governments.

Existing research recognizes the roles that local governments and higher levels of government play in a democratic governance system. Local governments operate with a certain degree of autonomy within their legal domain, while higher levels of government, using various mechanisms, oversee their work. Ribot maintains that the autonomy of local governments is a distinctive element of decentralization.¹⁹ Prud’homme, however, reminds us that local governments are: “never *totally* independent of some form of higher levels of government.”²⁰ Similarly, King points out that devolution of authority to the local level requires ‘counterbalancing’ measures by higher levels of government.²¹ The need for administrative oversight, as the words of Prud’homme and King can be interpreted, has initially been identified by Madison, who argued that: “In framing a government which is to be

⁹ Guillermo A. O’Donnell, “Horizontal Accountability in New Democracies,” *Journal of Democracy* 9, no. 3 (1998): 117.

¹⁰ Jenkins, “The Role of Political Institutions in Promoting Accountability,” 140.

¹¹ Schaeffer, Yilmaz, “Strengthening Local Government Budgeting and Accountability,” 11.

¹² Phillippe C. Schmitter, “The Ambiguous Virtues of Accountability,” *Journal of Democracy* 15, no. 4 (2004): 53.

¹³ Jenkins, “The Role of Political Institutions in Promoting Accountability,” 140.

¹⁴ O’Donnell, “Horizontal Accountability in New Democracies,” 113. Ribot, “African Decentralization: Local Actors, Powers and Accountability,” 30.

¹⁵ Schaeffer, Yilmaz, “Strengthening Local Government Budgeting and Accountability,” 11.

¹⁶ Serdar Yilmaz and Yakup Beris, “Good Governance and the Emergence of a New Accountability Agenda,” in *Finding the Money*, ed. Gábor Péteri (Budapest: Open Society Institute, 2008), 20.

¹⁷ Schmitter, “The Ambiguous Virtues of Accountability,” 52.

¹⁸ Christopher G. Reddick, Tansu Demir, and Bruce Perlman, “Horizontal, Vertical, and Hybrid: An Empirical Look at the Forms of Accountability,” *Administration & Society* 52, no. 9 (2020): 1418.

¹⁹ Ribot, “African Decentralization,” 48.

²⁰ Rémy Prud’homme, “On the Dangers of Decentralization,” *Policy Research Working Paper* 1252, The World Bank, Washington D.C. (1994): 3.

²¹ Loren King, “Cities, Subsidiarity, and Federalism,” in *Federalism and Subsidiarity*, eds. James E. Fleming and Jacob T. Levy (New York and London: New York University Press, 2014), 293.

administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.”²²

Central government control and oversight mechanisms can take many forms. Mikesell distinguishes and groups them into ‘restrictive,’ ‘statutory,’ and ‘regulatory’ forms. The restrictive form is based on legal and constitutional rules and regulations. The statutory form is based on formal structures and procedures of government, while the regulatory form is based on the right to interpret legal compliance.²³ Accordingly, the central government sets the rules of the game for local governments.²⁴ Furthermore, it gives directions, monitors its operations,²⁵ reviews the implementation of local government policies,²⁶ and sets national minimum standards.²⁷ In his work, Mullins recognizes two forms of control, the ‘traditional administration or rule-based control,’ which has been described above, and a new ‘performance-based control’ that concentrates on outcomes. The second form is slowly overtaking the first form in importance and application.²⁸

Thus far, previous studies have established some basic principles that should be followed in the oversight context. Forms of restrictive oversight that require complex approval procedures based on extensive detrimental formal rules from higher levels of government should be avoided.²⁹ As Modlin writes: “Heavy oversight and influence can limit flexibility and capacity for local governments.”³⁰ To avoid arbitrary interventions, legal provisions should be explicit.³¹ There should be: “primacy of fixed procedures over discretion.”³² The oversight authority must have the capacity and adequate methods to monitor and evaluate local governments objectively.³³ In the same vein, Pelizzo and Stapenhurst, while analyzing legislative oversight, have concluded that the success of oversight is dependent on the legal ‘oversight mandate,’ the ‘resources available’ for oversight, and ‘political will’ to intervene when necessary.³⁴ Finally, some important principles are also embedded in the European Charter of Local-Self Government, adopted more than thirty years ago. This charter stipulates that: “Any administrative supervision of local authorities” should be based on legislative and constitutional provisions and that it: “shall be exercised in such a way as to ensure that the intervention of the controlling authority is kept in proportion to the importance of the interests which it is intended to protect.”³⁵ Overall, this

²² Citation from Ricardo Pelizzo, “Oversight and Democracy Reconsidered,” in *Legislative Oversight and Budgeting*, eds. Rick Stapenhurst et al. (Washington D.C.: The World Bank, 2008), 45.

²³ John L. Mikesell, “Fiscal Administration in Local Government: An Overview,” in *Local Budgeting*, ed. Anwar Shah (Washington D.C.: The World Bank, 2007), 38.

²⁴ Schaeffer, Yilmaz, “Strengthening Local Government Budgeting and Accountability,” 11.

²⁵ Reddick, Demir, and Perlman, “Horizontal, Vertical, and Hybrid,” 1432.

²⁶ David M. Olson, “Legislatures and Administration in Oversight and Budgets: Constraints, Means, and Executives,” in *Legislative Oversight and Budgeting*, eds. Rick Stapenhurst et al. (Washington D.C.: The World Bank, 2008), 324.

²⁷ Daniel R. Mullins, “Local Budget Process,” in *Local Budgeting*, ed. Anwar Shah (Washington D.C.: The World Bank, 2007), 242.

²⁸ *Ibid.*, 242-243.

²⁹ United Nations Development Programme, *Decentralization: A Sampling of Definitions* (Working paper prepared in connection with the Joint UNDP-Government of Germany evaluation of the UNDP role in decentralization and local governance, 1999), 22. Ribot, “African Decentralization,” 49.

³⁰ Steve Modlin, “Rationalizing the Local Government Decision-Making Process: A Model for State Oversight of Local Government Finances,” in *Public Performance & Management Review* 33, no. 4 (2010): 571.

³¹ Reddick, Demir, and Perlman, “Horizontal, Vertical, and Hybrid,” 1428.

³² Jenkins, “The Role of Political Institutions in Promoting Accountability,” 146.

³³ Mullins, “Local Budget Process,” 241-242.

³⁴ Ricardo Pelizzo & Rick Stapenhurst, “Oversight Effectiveness and Political Will: Some Lessons from West Africa,” *The Journal of Legislative Studies* 20, no. 2 (2014): 257.

³⁵ Council of Europe, *European Charter of local Self-Government*, (Strasbourg, 1985), Article 8.

part has shown how and when higher levels of government oversee the work of local governments, which mechanism they use, and which principles they (tend to) apply.

As explained above, it is clear that higher levels of government, using various oversight mechanisms, play a critical role in holding local governments to account. Now, the most important oversight aspect is the fiscal and financial discipline of local governments. This is the area where higher levels of government are inclined to exercise rigorous scrutiny. In decentralized systems of governance, powers to raise revenues and expenditure management become core competencies of local governments. With the power to manage local fiscal and financial matters, the risk of 'fiscal distress and imprudence' increases.³⁶ Fölscher points out that governments have a general tendency, because of financial limitations, to overspend their budget. To cover their deficit, they either turn to borrow or increase taxes. In the long term, this creates fiscal and financial distress.³⁷ Assuming that local governments, as they often do, slip into fiscal and financial distress, this would not only have a negative impact on the local government itself but also on higher levels of government and, ultimately, the whole state. It is, therefore, that states turn to fiscal discipline and enact rules, regulations, and, most importantly, constraints on local government revenues and spending. Thus, as Kloha, Weissert, and Kleine conclude: "States have oversight responsibility and must take action when local governments run afoul of responsible fiscal behaviour."³⁸

Before considering the final part on crisis prevention and intervention mechanisms, it is essential to explain the concepts of hard and soft budget constraints and their implications. Dafflon and Madiés, in their extensive study on decentralization principles from the theory of fiscal federalism, describe hard budget constraints as being the: "the 'golden rule' of a balanced budget and balanced public accounts," while the soft budget constraints, in their understanding: "equals-or almost-a lack of budget rules."³⁹ By drawing on the concept of fiscal federalism, Dafflon and Madiés have explained the soft budget constraint problem. They observe that: "A soft budget constraint problem arises more specifically when local governments know (even if they are not certain) that the central government will grant them additional funds (transfers) in the case of financial difficulty. Local governments then take into the higher government's difficulty committing to not bailing them out (problem of ex ante commitment and moral hazard) and will pursue strategies that may increase their financial difficulties."⁴⁰ The most critical question remains, will higher levels of government stay firm on their initial position to not bail local governments out?⁴¹ To avoid short-term irreparable damage beyond the local government, higher levels of government may opt for bail out. This decision, however, bears high risks. Knowing that assistance will arrive, other local governments can unhindered cause large budget deficits, thus triggering a national fiscal and financial emergency. Therefore, stable fiscal systems tend to have hard budget constraints in place. The importance of this general rule has also been analysed by Christofzik and Kessing as applied to a case study in Germany. The authors concluded that lack of budget constraint rules and the lack of effective oversight, including enforcement, will lead

³⁶ Alta Fölscher, "Local Fiscal Discipline: Fiscal Prudence, Transparency, and Accountability," in *Local Budgeting*, ed. Anwar Shah (Washington D.C.: The World Bank, 2007), 82.

³⁷ *Ibid.*, 80.

³⁸ Philip Kloha, Carol S. Weissert, Robert Kleine, "Developing and Testing a Composite Model to Predict Local Fiscal Distress," *Public Administration Review* 65, no. 3 (2005): 313.

³⁹ Bernard Dafflon and Thierry Madiés, "Decentralization: A Few Principles from the Theory of Fiscal Federalism," *Notes and Documents No. 42* (Paris: Agence Française de Développement, 2011), 59.

⁴⁰ *Ibid.*, 60.

⁴¹ *Ibid.*

to higher local government debt levels.⁴² A policy of hard budget constraint is accordingly an effective mechanism to reduce the chances of local fiscal and financial distress.

In a study that set out to determine how local government fiscal crises can be prevented, Coe found three methods that states apply to prevent such crises from occurring. First, higher levels of government track and analyze local governments' fiscal and financial data. The goal is to detect fiscal and financial distress signs and anticipate possible crises in the future. Second, if this systemic analysis of fiscal and financial data exposes any signs of distress, then higher levels of government have to support local governments in overcoming the situation. At this stage, the goal is to minimize or alleviate any potential damage. Third, if higher levels of government fail to alleviate the damage, and the situation spills into an emergency, then higher levels of government are obliged to directly intervene and take the situation into their hands. This may involve, but is not limited to, binding local governments to reduce spending and increase taxes, or in more severe cases, to take over the administration of the local government.⁴³ These three methods (or three steps) described by Coe (monitoring, support, and intervention) can be used as overarching topics for further analysis. Let us now consider what each of these methods imply.

Monitoring. The essential element of effective monitoring is access to information. Higher levels of government in charge of overseeing local governments must have unhindered access to accurate fiscal and financial data. Brixi identifies three predispositions for effective monitoring. First, oversight institutions must have a databank in place that keeps records and catalogues all the important data, especially on debt. Second, oversight institutions must have the capacity and the necessary resources to collect and evaluate data, and they must be able to detect fiscal and financial distress. Third, oversight institutions must have instruments in place that can be used to ensure proper implementation of the oversight process. In addition, there should exist: "a supportive political and legal environment."⁴⁴ Brixi further argues that the analyzed information should be available to the public. She points out that: "Disclosure benefits scrutiny, fiscal discipline, and contestability of resources. Information that is disclosed invites scrutiny by people outside the government and by the government itself. When disclosure rules have broad coverage, they enable the government at its different levels to improve its monitoring of lower-level governments and public sector units, and expand the share of government activities open to public scrutiny. Scrutiny is likely to generate pressure for greater discipline—applied by, as well as on, the local governments."⁴⁵

According to Andrews and Shah, detecting and uncovering fiscal and financial distress is not difficult from an expenditure perspective. High levels of debt and consecutive deficits are good indicators. Allocations dedicated to covering operational costs instead of service delivery and infrastructure maintenance and development are also good indicators. In general, any discrepancy between the planned budget and spending levels may show signs of fiscal and financial distress.⁴⁶ Similarly, in the United States, several monitoring systems, as analyzed by Coe, have based their measures on indicators such as operating positions of municipalities, their debt levels, and legal compliance.⁴⁷

⁴² Désirée I. Christofzik, Sebastian G. Kessing, "Does fiscal oversight matter?" *Journal of Urban Economics* 105 (2018): 83.

⁴³ Charles K. Coe, "Preventing Local Government Fiscal Crises: Emerging Best Practices," *Public Administration Review* 68, no. 4 (2008): 759-760.

⁴⁴ Hana Polackova Brixi, "Addressing Contingent Liabilities and Fiscal Risk," in *Fiscal Management*, ed. Anwar Shah (Washington D.C.: The World Bank, 2005), 181 & 185.

⁴⁵ *Ibid.*, 180.

⁴⁶ Matthew Andrews and Anwar Shah, "Assessing Local Government Performance in Developing Countries," in *Public Services Delivery*, ed. Anwar Shah (Washington D.C.: The World Bank, 2005), 69.

⁴⁷ Coe, "Preventing Local Government Fiscal Crises: Emerging Best Practices," 760.

Another alternative will be to monitor if local governments meet citizens' needs, which is their central *raison d'être*. However, this is difficult and complex, as this cannot simply be extracted from budget tables and financial reports.⁴⁸ In brief, as argued by Kloha, Weissert, and Kleine, the value of monitoring lies in the fact that it: "may avoid more costly involvement when an emergency is recognized."⁴⁹

Support. Another significant element of a sound governance system is the ability of higher levels of government to support and assist local governments in stabilizing and improving their fiscal and financial situation. As previously mentioned, higher levels of government, in this stage, try to prevent any further damage to the fiscal system. In general terms, support is an ongoing process that starts even before any wrongs are detected. In this vein, higher levels of government must provide overreaching policy direction and instructions to local governments. They must also offer capacity building and advising services to local governments. They must encourage local governments to conform to the constitutional and legislative norms and suggest alternative recommendations if they fail.⁵⁰ This final compliance element is also dependent on the existence, as described by Von Hagen, of: "ex ante-controls, constitutional constraints on budgetary aggregates," which: "impose quantitative limits either on deficits or on spending."⁵¹ In cases of fiscal and financial distress, as the US example shows, higher levels of government can offer 'on-site technical assistance,' loans and grants that might help local governments to overcome the financial situation, 'backing of local government debt,' and for a certain period suspend the cap on the local property tax.⁵² If the offered support and assistance is insufficient in ameliorating fiscal and financial distress, other institutions can finally directly intervene and, in some cases, take over the local government.

Intervention. The final stage of managing and controlling a fiscal and financial crisis on the local level is often mentioned as a 'subnational insolvency mechanism.' Liu and Waibel note that: "Although ex ante regulation helps minimize the risk of defaults, it cannot prevent all defaults."⁵³ Liu and Waibel further distinguish between two different types of interventions once local government insolvency occurs, 'the judicial' and 'administrative.' Courts lead the judicial intervention. They take key steps to bring the local government unit into a stable fiscal and financial position. This usually includes a complete rearrangement of budget deficits and debts. But as courts, as a rule, do not have competencies over budget and other relevant fiscal and financial issues, the authors further argue, this type of intervention tends to be limited. On the other side, the administrative intervention implies a right of higher levels of government to take over either the complete local government unit or to administer and operate specific fiscal and financial policies for a particular time.⁵⁴ Apart from intervening for financial reasons, higher levels of government often intervene to tackle local government service delivery failures. Now both these intervention mechanisms can be considered as the sanction element mentioned at the beginning while discussing accountability. The main object of this study is the administrative type of intervention.

⁴⁸ Kloha, Weissert, Kleine, "Developing and Testing a Composite Model to Predict Local Fiscal Distress," 314.

⁴⁹ Ibid.

⁵⁰ Ribot, "African Decentralization," 30.

⁵¹ Jürgen Von Hagen, "Budgeting Institutions and Public Spending," in *Fiscal Management*, ed. Anwar Shah (Washington D.C.: The World Bank, 2005), 3-4.

⁵² Coe, "Preventing Local Government Fiscal Crises: Emerging Best Practices," 762.

⁵³ Lili Liu and Michael Waibel, "Subnational Borrowing, Insolvency, and Regulation," in *Macro Federalism and Local Finance*, ed. Anwar Shah (Washington D.C.: The World Bank, 2008), 226.

⁵⁴ Ibid., 227.

Monitoring, support, and the intervention mechanism in the South African local governance system

So far, very little attention has been paid to the effectiveness of intervention mechanisms in South Africa. For this reason, this part of the study takes a closer look at the legal provisions and practices of intervention. First, the study dives deeper into monitoring practices. Furthermore, the study considers the types and forms of support that higher levels of government provide to local governments. Finally, the study investigates the effectiveness of intervention mechanisms. All these three processes and mechanisms form the core part of the South African vertical upward accountability and administrative oversight system of local governance.

Monitoring local governments

The Municipal Systems Act refers to monitoring as an important part of inter-governmental oversight and accountability. This act stipulates that the provincial institutions *must* have ‘mechanisms, processes and procedures’ to monitor the work of local governments and determine the type of support municipalities need.⁵⁵ Apart from regular compliance monitoring, higher levels of government monitor the fiscal and financial situation of municipalities. The Municipal Finance Management Act (MFMA) regulates the scope of this type of monitoring. This Act foresees that the national and provincial treasuries *may* monitor local governments’ budget planning and budget implementation and launch probes into the administration of municipal finances.⁵⁶ The monitoring system serves the national and provincial institutions to determine either the type of support offered to municipalities or the type and form of intervention.

To assess monitoring systems and practices, we can use the three predispositions described earlier by Brixli, gathering of information, analysis of information, and available oversight instruments, including the political will. From the interviews conducted, it can be said that the National Treasury (NT) has formal systems to gather and analyze information on the fiscal and financial situation in municipalities. The formal monitoring there starts with municipal budget planning and continues with regular in-year monitoring.⁵⁷ On the other hand, the provincial level monitors information on a variety of issues concerning municipalities, from local planning, local economic development, infrastructure, disaster management to fiscal and financial issues, institutional arrangements, and capacity development. So each provincial department has its own, as one interviewee put it, ‘monitoring tool that they use.’⁵⁸ However, it is important to note that there is often a lack of cooperation from the side of municipalities when it comes to monitoring. One interviewee reported that many municipalities: “do not provide the information you require on time, they do not respond to questions you raise, there is some kind of tension,” and concluded that: “the kind of monitoring that we are supposed to be doing is not well received by municipalities.”⁵⁹

The NT also has an advanced database where all the information is stored.⁶⁰ As illustrated by Rossouw: “We collect everything that we receive from municipalities and we store that in a sequel database, per municipality, per financial year, per the period that they are reporting for.”⁶¹ All the gathered information is analyzed, both on the national and provincial levels. However, concerns were expressed about the quality of the data analysis. As Ruplal said: “If we look at the number of municipal financial

⁵⁵ Act 32, Local Government: Municipal Systems Act, 2000, Section 105.

⁵⁶ Act 56, Local Government: Municipal Finance Management Act, 2006, Section 5.

⁵⁷ Elsabé Rossouw, interview by Lenhard Hamza, May 25, 2021.

⁵⁸ Anonymous 1, interview by Lenhard Hamza, May 24, 2021.

⁵⁹ Anonymous 2, Interview by Lenhard Hamza, June 1, 2021.

⁶⁰ Rossouw, interview. Kavitha Ruplal, interview by Lenhard Hamza, June 1, 2021.

⁶¹ Rossouw, interview.

failures today, it definitely indicates that there are deficiencies in the way we analyze the data.”⁶² Another interviewee, when asked about the quality of the data analysis, said:” I would wish there are clear systems for data analysis and management, and therefore there are people with all the necessary skills and capabilities to do the analysis.”⁶³ Although there are specific teams available for data analysis in most cases, both on the national and provincial levels, they often lack the necessary skills, adequate resources, and political support to scrutinize the available data more effectively. Therefore, the quality of the analyzed data remains limited.

Finally, all the important data on the fiscal and financial situation in municipalities is publicly available. The NT makes sure that the available information is user-friendly, as Rossouw said: “we publish it in a very simplified manner, in a robotic type of system that tells them whether their municipality is performing good, not so good, or badly.”⁶⁴ The NT is constantly improving the system to include more relevant information. In contrast, provincial institutions are not publishing any important information on the municipal issues they monitor. This type of data, mainly information on non-financial municipal performance, is not publicly available.⁶⁵ What is essential is that a common view amongst interviewees was that the inter-institutional cooperation on monitoring is limited. Even though formal channels of inter-institutional cooperation exist, their approach to monitoring remains unstructured and uncoordinated. Ruplal mentioned that even within the NT itself, various monitoring systems in place do not connect or talk to each other, let alone connect to monitoring systems established in other institutions that oversee the work of local governments.⁶⁶ Accordingly, there are diversified monitoring systems in different departments within and among different government institutions that do not connect to each other, but are supposed to serve the overall monitoring and oversight system of local governments. Even though some of these monitoring systems produce qualitative data, there is still a long way forward to form an effective monitoring system that would create the necessary atmosphere for the normal and sustainable functioning of local governments. Overall, referring to the preconditions mentioned by Bixi, it can be concluded that there are formal oversight instruments, like gathering of information, data analysis, and publishing, in place. Their effective application on the ground, however, presents a challenge. Thus, the benefits of effective monitoring are missing.

The National Treasury (NT) has recently introduced an ex ante fiscal and financial distress monitoring system that can be used as an example for monitoring practices. This system tracks municipal fiscal and financial data across the country based on in-year quarterly reporting instead of the ex post, yearly audited-based reporting. This system makes it possible to detect crises at an early stage. Therefore, it gives provincial and national institutions a chance to adequately and timely support municipalities to avoid large-scale emergencies. In the form of an excel spreadsheet, the system provides a grim picture of the current fiscal and financial situation in South African municipalities.

The system shows that 80.5% of municipalities met at least one criterion for determining serious financial problems, according to section 138 of the MFMA. This means that the overwhelming majority of municipalities have either failed to make payments on time, have a deficit higher than 5%, have a negative or outstanding audit, or have a negative cash position for two consecutive financial years.⁶⁷ What is interesting about the data in the system is that it shows a clear negative pattern. The latest analyzed quarter shows an increase of around 2% in municipalities meeting one or more criteria for determining serious financial problems compared to the previous year, which had 78.6%. The most

⁶² Ruplal, interview.

⁶³ Anonymous 2, interview.

⁶⁴ Rossouw, interview.

⁶⁵ Anonymous 2, interview.

⁶⁶ Ruplal, interview.

⁶⁷ National Treasury, *Municipalities meeting criteria for determining serious financial problems in terms of section 138 & 140 of the MFMA – Q2 2020/21*.

affected municipalities are metropolitan areas with 87.5%, while local municipalities have a rate of 81%, and district municipalities have 77.2%. In four provinces, all local municipalities were affected.⁶⁸

Another indicator that looks at the serious or persistent material breach of financial commitments shows that 47.5% of municipalities met at least one criterion for this indicator. 20.6% of municipalities are categorized as meeting at least one criterion for *severe* material breach of financial commitments. Compared to the previous year, there is an increase of 1.6% for serious or persistent breaches and 4.3% for severe breaches. For this indicator, local municipalities are the most affected, with 48.8%. District municipalities have a rate of 47.7%, while metropolitan municipalities are faring better in this indicator, having only 12.5%.⁶⁹

The most interesting aspect of the system looks at the number of municipalities where at least one trigger, based on the above-described indicators, applies. The system shows that overall, 222 out of 257, or a staggering 86.4% of municipalities met at least one trigger of financial distress, as described in the legislation. More importantly, the system shows an increase of 4.7% of municipalities meeting at least one trigger compared to the previous year. Now, all metropolitan municipalities met at least one trigger for financial distress. Both District and Local municipalities also have a high rate of 86.4% and 85.9%, respectively.⁷⁰

It is apparent from these financial distress indicators that the fiscal and financial sustainability of South African municipalities is weak. Two conclusions stand out here. First, instead of improving, the situation is deteriorating further. However, as the system has been introduced only recently, it is impossible to make a significant trend analysis covering a substantial amount of years. Second, the result shows no significant difference in fiscal and financial performance between the different types and sizes of municipalities. Metropolitan, District, and Local municipalities, with slight differences, are all equally financially unstable. This NT monitoring example demonstrates the high potential monitoring has in establishing one crucial part for an advanced accountability and oversight system. This system should serve as the basis for initiating support programmes or instituting interventions.

Support provided to local governments

Support from the central and provincial governments to local governments is a core element for inter-institutional cooperation in South Africa. The legal and constitutional norms constantly refer to the need to establish sound cooperation between different levels of government. The constitution stipulates that the central, provincial, and local governments are 'distinctive, interdependent and interrelated' institutions.⁷¹ In addition, the constitution states that all levels of government *must*: "provide effective, transparent, accountable and coherent government" and: "co-operate with one another in mutual trust and good faith." They must, among other things, 'foster friendly relations' and 'assist and support one another.'⁷² Most importantly, the constitution explicitly states that higher levels of government *must*: "support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions."⁷³ The MFMA refers to capacity building, solving financial problems, sharing information, and other types of assistance as possible

⁶⁸ National Treasury, *Municipalities meeting criteria for determining serious financial problems in terms of section 138 & 140 of the MFMA – Q3 2019/20*.

⁶⁹ National Treasury, *Municipalities meeting criteria for determining serious financial problems in terms of section 138 & 140 of the MFMA – Q2 2020/21 and Q3 2019/20*.

⁷⁰ Ibid.

⁷¹ The Constitution of the Republic of South Africa, 1996, Paragraph 40 (1).

⁷² Ibid., Paragraph 41.

⁷³ Ibid., Paragraph 154 (1).

forms of support that higher levels of government can provide to municipalities.⁷⁴ In reality, there is an apparent discrepancy between what is formally enshrined in the legal system and what actually happens on the ground. It appears that higher levels of government are not able to provide the adequate support required for the regular and sustainable functioning of local governments.

Let us turn now to the situation on the ground. In line with the legal provisions, the national and provincial governments provide various programmes and specific measures to support municipalities. The NT, for example, provides continuous policy directions and instructions to municipalities, most commonly through regulations. It generally offers regular capacity-building programmes that include training and workshops.⁷⁵ It also provides specific support, for instance, on budgeting,⁷⁶ municipal revenue, asset management, and audit outcomes.⁷⁷ Provincial governments provide a similar type of support to municipalities, and this support may include issues ranging from land administration and policy development to public participation and human resources.⁷⁸ Local municipalities are also supported by district support centers.⁷⁹ Most importantly, both the NT and provincial governments provide on-site technical assistance to municipalities.

When asked about the ability of the central and provincial levels to provide adequate support to local governments, the interviewees were unanimous in the view that the provided support is simply not generating the desired results. For example, Ruplal argues: “We make adequate funding available for the support. And if you look at it over the years, funding spent in support programmes should actually be declining as the local government system becomes more advanced and sophisticated. But we are actually increasing our funding for support, which means that all the money we have spent in the previous years had relatively a minimal effect.”⁸⁰ Another interesting view from Ruplal was that the support programmes are not properly matching the actual needs of municipalities.⁸¹ In general, lack of human and financial resources, poor planning, political interferences, and lack of consequence management were commonly mentioned as core problems by the interviewees. Above all, the support provided to municipalities is hampered by the unstructured, un-systemic, and uncoordinated approach that various central and provincial institutions provide to municipalities, as one interviewee notes: “we need to have a structured support programme,”⁸² which is missing.

In terms of providing financial assistance to municipalities to overcome financial problems, it seems that the central and provincial governments try to stick to the hard budget constraint policy. One interviewee stated that: “our principle is that we do not bail out any municipalities, they are supposed to manage their own finances,”⁸³ and another commented: “financial problems must be solved by the municipality itself.”⁸⁴ Financially, municipalities are supported through the regular intergovernmental fiscal system, that is, through the provision of conditional and unconditional grants and transfers.⁸⁵ Though there is a hard budget constraint policy in place, the provincial governments tend to use forms of financial assistance to help municipalities overcome fiscal and financial distress. At times they have

⁷⁴ Municipal Finance Management Act, Section 34.

⁷⁵ Rossouw, interview.

⁷⁶ Ibid.

⁷⁷ Ruplal, interview.

⁷⁸ Anonymous 2, interview.

⁷⁹ Anonymous 1, interview.

⁸⁰ Ruplal, interview.

⁸¹ Ibid.

⁸² Anonymous 1, interview.

⁸³ Rossouw, interview.

⁸⁴ Ruplal, interview.

⁸⁵ Ibid.

paid off large amounts of debt accumulated by municipalities to the electricity provider.⁸⁶ As one interviewee said: “it is not something common, but it does happen from time to time when it becomes necessary.”⁸⁷ There were some suggestions that this practice is wrong, as one interviewee put it: “we are saying them, go and become irresponsible again, don’t pay your debts, we as a big brother are going to pay for you, I mean, that is wrong.”⁸⁸ This practice can indeed be considered wrong, as stable fiscal systems can only exist by applying a strict hard budget constraint policy.

The latest Auditor General (AG) report on the local government audit outcomes reveals how effective these forms of support to municipalities are. In many parts of the report, the AG argues that in most cases, district municipalities have failed to support local municipalities, and provincial and central governments have failed to support both district and local municipalities. The AG concluded that in the Free State district municipalities lacked: “capacity and resources to provide required technical, administrative or financial support to their local municipalities,” and that they also failed to share practices of good governance.⁸⁹ A similar situation was observed in Kwazulu Natal. The established *district finance forums* there, as municipal support mechanisms, have failed to foster any improvement or change in the functioning of local governments.⁹⁰ For Gauteng, the AG, signaling the lack of adequate support to municipalities, advises provincial institutions to ‘intensify the level of support’ provided.⁹¹

In Mpumalanga, even though acknowledging that provincial institutions have provided support to municipalities on various issues, the AG argues that the support failed to improve the dare situation on the ground.⁹² Another example from the North West shows that the support municipalities received from the provincial treasury had only a ‘limited impact.’ The support was timely delayed, and the provincial treasury failed to supervise and oversee the support process effectively.⁹³ Referring to the nationwide situation on inter-institutional support, the AG writes: “The inability to adequately implement support initiatives at the identified municipalities hampered progress towards clean administration and improved service delivery. The overall regression in audit outcomes stresses the necessity for improved support interventions. To obtain sustainable outcomes with the desired impact in the long term, support should be enhanced and take the form of a preventative control in the place of the current reactive support approach.”⁹⁴ The AG correctly argues in favor of strengthening prospective ex ante accountability forms instead of concentrating only on retrospective ex post accountability forms. For a sustainable local governance system, both are equally important. These examples show that both local governments and higher levels of government are failing to create an environment of ‘mutual trust and good faith,’ as the utopic constitutional passage envisages. It is, therefore, that the whole system of local government remains unstable.

⁸⁶ Anonymous 1 & 2, interview.

⁸⁷ Anonymous 2, interview.

⁸⁸ Anonymous 1, interview.

⁸⁹ Auditor General South Africa, *MFMA 2018-19 Consolidated General Report on the Local Government Audit Outcomes*, 39.

⁹⁰ *Ibid.*, 66.

⁹¹ *Ibid.*, 58.

⁹² *Ibid.*, 92.

⁹³ *Ibid.*, 113 & 116.

⁹⁴ *Ibid.*, 184.

The intervention mechanism

The right of the national and provincial governments to directly intervene and ‘take over’ an institution of local government represents the central part of this study. The South African ‘quasi-federative’⁹⁵ legal and constitutional system reserves a far-reaching right to national and provincial governments to intervene on various matters under the (formal) authority of local governments. Section 139 of the SA constitution stipulates that if a municipality: “cannot or does not fulfil an executive obligation,” the provincial government can intervene: “by taking any appropriate steps to ensure fulfilment of that obligation.” These steps include guiding the council on how to fulfil its legal and constitutional obligations and ‘taking over’ authority on issues related to the unfulfilled obligations. Finally, the provincial government can even dissolve the council and appoint an administrator for a certain period of time.⁹⁶ The constitution mainly refers to fiscal and financial distress, like failure to adopt the budget or revenue collection plans, as causes for a provincial intervention.⁹⁷ If the provincial government fails to take adequate action, The Constitution gives the right to the national government to intervene instead.⁹⁸

In line with these constitutional provisions, The Municipal Structures Act has foreseen that different municipal functions and powers can also be delegated to another municipality. Failing to deliver basic services to its citizens triggers this kind of intervention.⁹⁹ The Municipal Systems Act gives the authority to the central government to compile a set of national service delivery minimum standards.¹⁰⁰ These minimum standards serve as a benchmark for determining a central or provincial government intervention. In addition, The Municipal Systems Act has foreseen that if a municipal obligation has been fulfilled in contradiction to the law and practices of good governance, or if the obligation has not been fulfilled at all, the provincial government has the right to launch an investigation.¹⁰¹ Finally, The Municipal Finance Management Act also foresees a set of intervention instruments. This Act gives authority to higher levels of government to stop the transfers of funds dedicated to local governments¹⁰² or to discretionary¹⁰³ or mandatory intervene¹⁰⁴ in case of financial problems. The Municipal Finance Management Act determines that a financial problem exists if the municipality: has failed to make payments on time and fulfil its financial obligations; is spending more than it is collecting in revenue; has an operating deficit; does not submit its financial statements to the Auditor General or if these statements are incomplete.¹⁰⁵

Taken together, these legal and constitutional elements constitute the primary relationship between local and higher levels of government, and they form the core part of the vertical upwards accountability system in South Africa. These elements not only describe the intervention mechanisms but also determine a clear procedure to be followed by involved institutions. The system starts with ‘mild’ forms of intervention, like launching investigations and preparing municipal recovery plans. It continues with forms of stricter intervention, like ‘taking over’ different municipal functions and

⁹⁵ OECD defines South Africa as a ‘quasi-federation’, having federalist characteristics while being formally a unitary state. See OECD/UCLG, *Subnational Governments around the world: Structure and Finance* (2016), 66.

⁹⁶ The Constitution of the Republic of South Africa, Section 139 (1).

⁹⁷ *Ibid.*, Section 139 (4) & (5).

⁹⁸ *Ibid.*, Section 139 (7).

⁹⁹ Act 117, *Local Government: Municipal Structures Act*, 1998, Section 87.

¹⁰⁰ Municipal Systems Act, Section 108.

¹⁰¹ *Ibid.*, Section 105 – 106.

¹⁰² Municipal Finance Management Act, Section 5 (2)(e).

¹⁰³ *Ibid.*, Section 137.

¹⁰⁴ *Ibid.*, Section 139.

¹⁰⁵ *Ibid.*, Section 138.

powers or delegating the same to other municipalities. The legal system speaking to intervention is completed with the far-reaching mechanism of giving the right to higher levels of government to dismiss democratically elected municipal institutions entirely and replace them with authority determined and appointed by higher levels of government. These intervention mechanisms are broadly referred to as placing a municipality under administration. Let us now consider what happens in practice.

One account shows that between 1998 and 2019, some 140 interventions in 143 municipalities were initiated, of which 125 were instituted.¹⁰⁶ A summary document compiled by the Department of Cooperative Governance (DCoG) on municipalities placed under intervention for the 2019/20 financial year gives us broader insights into intervention practices and dynamics in South Africa. This summary document reveals that during the 2019/20 financial year, 34 out of 257, or 13.2% of municipalities across South Africa, were placed under intervention. Of these 34 municipalities, 82% were local, 12% district, and 6% were metropolitan municipalities.¹⁰⁷ Intervention durations largely differ depending on the seriousness of the situation. However, on average, the latest interventions have lasted at least 19 months. In 61% of the cases, the most common reasons for intervention were the necessity to retain a certain level of service delivery, prevent municipalities from activities that may cause a negative impact to other municipalities or the province, or ‘maintain economic unity.’ The other significant reason which occurred in 32% of the cases was connected to financial distress. In two cases, higher levels of government have dissolved the municipal council and appointed an administrator. To put the results in broader terms, interventions were triggered by financial issues (35%), governance issues (24%), municipal service delivery (19%), municipal incompetence (15%), and employee unrest (6%).¹⁰⁸

Intervention mechanisms are not an immediate remedy to minimize the failures of the local governance system. The DCoG document further shows that even after an intervention occurs, serious challenges remain. Many municipalities were still not able to provide essential services to the community. Other municipalities were constantly failing to comply with the law, and many were still engaged in ongoing legal procedures and pending court cases. In addition, maladministration, fraud, and corruption were still present in at least ten cases. The intervention did not improve political stability within municipalities, and a high number of critical senior management positions remained vacant. Regarding fiscal and financial distress, the document reveals that it is difficult to improve the situation in municipalities. Many municipalities continued to struggle with revenue collection, and they continued to incur a substantial amount of debt.¹⁰⁹

Having rules of hard budget constraints in place is essential for the overall stability of the system. Still, at the same time, it makes it difficult for higher levels of government to substantially improve the situation in municipalities facing fiscal and financial distress. Even if the financial situation in a short-term perspective can be improved, Von Hagen argues that institutions tend to return to high debt and spending levels in the long term.¹¹⁰ This is also confirmed in the case of South Africa. There were prior interventions in the past years in more than half of the municipalities placed under intervention during

¹⁰⁶ Tracy Ledger and Mahlatse Rampedi, “Mind the Gap: Section 139 Interventions in Theory and Practice,” (Public Affairs Research Institute, 2019), p.7

¹⁰⁷ Department of Cooperative Governance, Republic of South Africa, *Summary of Municipalities Placed Under Intervention for 2019/20 Financial Year*

¹⁰⁸ Ibid. Because of rounding percentages do not sum to 100%.

¹⁰⁹ Ibid. I would like to express my gratitude to Duncan Seoke and Simbulele Sizani for summarizing the data from on the DCoG document on municipalities under intervention

¹¹⁰ Von Hagen, “Budgeting Institutions and Public Spending,” 25.

the 2019/20 financial year. Only in recent years, higher levels of government have intervened more than twice in a number of municipalities. This indicates that improvements through interventions tend to be unsustainable. Therefore, there is a large chance that institutional instability, the failure to deliver services, and fiscal and financial distress will remain in municipalities even during and after an intervention takes place.

Interviews show that there are structural causes for these intervention failures. The leading cause appears to be the current intervention approach. Instead of sending in an inter-institutional expert team, the provincial and national institutions usually send one person in the municipality to solve complex multidimensional problems. One interviewee argued that: "The intervention that we are doing, we are doing it incorrectly. Because what we do there, we send a 'Lone Ranger,' right. You send one person to go and become an administrator. Now you will find that in that municipality, there are challenges of institutional capacities, there are challenges of your finances, there are challenges in infrastructure, there are challenges all over. Now you have this 'Lone Ranger' who is supposed to go there from CoGTA. It is wrong. The intervention should happen this way. We have a team from CoGTA, we have people from the Treasury, we have people from the office of the premier, we have people from National Treasury, then we have people from national CoGTA."¹¹¹ The interviewee further remarks that: "there is no way that one person can go to a local administration that he doesn't understand, and can make a change, no, it is not possible."¹¹² Equally, Rossouw said that the correct way would be: "To have a full team that goes into the municipality, sit there for six months or a year, and get them all sorted out."¹¹³ In addition, she concluded that: "What we also find is that as soon that that 'Lone Ranger,' or the team, leaves, then the municipality goes back to where they were. So, it is extremely frustrating."¹¹⁴

A number of additional issues were identified as deterrents for successful interventions. Some interviewees argued that there is serious resistance from municipal employees, unions, local politicians, and even community groups to cooperate with the administrators. There is a lack of clear terms of references in other instances. There is no mechanism to hold administrators to account. There is extensive political and administrative instability within municipalities, and there is a lack of consequence management. While other interviewees emphasized that there is a lack of a standard intervention framework, that interventions end prematurely, and that there is politically motivated reluctance to, for instance, dissolve councils when necessary. A report commissioned by the NT to investigate intervention practices came to similar findings. The report summarizes the following problems encountered during interventions: appointment of one person as an administrator, which is mostly 'unqualified and incompetent' to manage a variety of local government competencies; in some cases, administrators were refused access to the municipality; there were often vague terms of reference for the administrators; little or no oversight over the work of administrators; and termination of interventions even if the desired result has not been achieved.¹¹⁵ Apart from these problems, the report shows that late interventions; lack of institutional initiatives to intervene (initiatives often originate from citizens); the selection of incorrect provisions of section 139; serious variations in procedures followed while determining an intervention and its form; weak institutional support during intervention; the tools available based on the legislation not being (properly) used; have also led to poor section 139 intervention results.¹¹⁶ In brief, these examples demonstrate that

¹¹¹ Anonymous 1, interview.

¹¹² Ibid.

¹¹³ Rossouw, interview.

¹¹⁴ Ibid.

¹¹⁵ Ledger and Rampedi, "Mind the Gap: Section 139 Interventions in Theory and Practice," 11-12.

¹¹⁶ Ibid., 22-23.

intervention initiatives, the intervention process, and implementation practices are significantly limited, leading to a system of local governance that is often unable to fulfill its *raison d'être*.

In broader terms, the same report points out that: “the main reason for the dismal outcomes of section 139 – its ‘failure’ – is that the legislation has never been implemented as it was intended, and many of its provisions are either routinely ignored or incorrectly applied.”¹¹⁷ Furthermore, the report sustains that: “Many public sector officials voice this sentiment; that section 139 is a nice idea, but essentially has no relevance in the ‘real world’ of municipal failure.”¹¹⁸ Similarly, talking about this issue, an interviewee said: “Section 139 on its own is a necessary tool to intervene. But section 139 on its own is not enough to bring the necessary stability in the municipal spaces.”¹¹⁹ As a result of this dire situation, the NT is adapting a new intervention strategy that aims to tackle many, if not all, of the system’s deficiencies mentioned above. The new strategy is based on a three-phased approach, as Ruplal points out: “The first phase is recovery, the second phase is stabilization, and the third phase is sustainability.”¹²⁰ Overall, the decision to revisit and adapt the way interventions are instituted shows that higher levels of government are aware of intervention deficiencies. However, implementing additional changes by higher government levels is necessary for a significant improvement of intervention practices.

Conclusion

This study has identified monitoring, support, and intervention mechanisms and processes as the backbone of the South African local government vertical upwards accountability and administrative oversight system. This research has shown that higher levels of government have established a set of formal mechanisms, processes, and procedures, each with its deficiencies, to monitor the work of local governments. Monitoring data is stored in a database, it is analyzed, and it is partially publicly available. The main downside of the monitoring practice is the unstructured and uncoordinated inter-institutional approach to it. This research has also shown that higher levels of government provide various types of support to local governments. This support includes but is not limited to policy guidance, on-site technical assistance, and capacity-building programmes. Forms of financial assistance remain limited, as national and provincial institutions try to stick to a policy of hard budget constraints. As with monitoring, the lack of a systemic inter-institutional approach to support remains a fundamental challenge for the governance system.

Finally, this research has found that for more than 20 years, the intervention mechanism has been extensively used by higher levels of government. The most common triggers of intervention were connected to fiscal and financial distress, governance issues and incompetence, and failure to deliver services. Interventions in most cases have failed to bring municipalities back on the track to, as the constitution foresees ‘manage their own affairs, to exercise their powers and to perform their functions.’ Furthermore, this research found that many structural causes lead to intervention failures. Hence, interventions tend to be unsustainable in the long term. To summarize, South African institutions have managed to create a legal environment that broadly covers monitoring, support, and intervention but have failed to transform these legal provisions into effective practices that have the potential to reduce the chances of local government failures.

¹¹⁷ Ibid., 4.

¹¹⁸ Ibid.

¹¹⁹ Anonymous 2, interview.

¹²⁰ Ruplal, interview.

The principal theoretical implication of this study is that strong lines of vertical upwards accountability, from local governments to higher levels of government, can only be enacted by effective administrative oversight. In South Africa, institutions should aim to strengthen prospective ex ante accountability forms: monitoring and support. This would reduce the number of required interventions. It is important to notice that interventions are instituted only after the damage has already been caused. Ex post interventions can difficultly reverse this damage. Because of this, preventative measures, proper monitoring, and adequate support would accordingly improve the sustainability of the overall local governance system in South Africa. Intervention as a mechanism should thus only be considered as the choice of last resort. The results of this study strengthen the idea that monitoring, support, and intervention should be considered inseparably. The three processes must be connected, ideally in a unique system that links them together. Ultimately, there must exist a structured and systemic inter-institutional approach to this new system that becomes the central part of administrative oversight. Considerably more work will need to be done to determine how this system could effectively be applied in practice.

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